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Decent work for persons with disabilities: promoting rights in the global development agenda



Gender,
Equality
and Diversity
Branch

Decent work for persons with disabilities: promoting rights
in the global development agenda

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Work is central to people's well-being. In addition to providing income, work can pave the way for broader social and economic advancement, strengthening individuals, their families and communities. Such progress, however, hinges on work that is decent. Decent work sums up the aspirations of people in their working lives.

ILO Decent Work Agenda

All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. The attainment of the conditions in which this shall be possible must constitute the central aim of all national and international policy.

Declaration of Philadelphia, International Labour Conference, 1944

The International Labour Conference declares that...all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely... the elimination of discrimination in respect of employment and occupation.

ILO Declaration on Fundamental Principles and Rights at Work, 1998

Each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons. The said policy shall aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market [and].. shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected.

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

The promotion of full, productive and freely-chosen employment... should be regarded as the means of achieving in practice the realization of the right to work.

ILO, Recommendation No.169 concerning Employment Policy, 1984

States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.

UN Convention on the Rights of Persons with Disabilities, 2006

Social justice for all lies at the centre of the ILO mandate. Thus, promoting decent and productive work opportunities for women and men with disabilities is at the core of ILO work. This dates back to the time the Organization was established, and is reflected in international labour standards, including the Vocational Rehabilitation and Employment of Disabled Persons Convention - No. 159 – as well as in the Code of Practice on Managing Disability in the Workplace.

The UN Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006 and rapidly ratified by a majority of countries, reflects the fundamental shift that is taking place in how disability is regarded in international and national policies. People with disabilities are increasingly regarded as citizens and as rights holders, rather than as objects of social welfare or charity. The CRPD provides fresh impetus to ILO activities to promote equal opportunities for persons with disabilities in training, employment and occupation.

This shift, however, is not yet fully reflected in the labour market where equal employment opportunities for women and men with disabilities largely remain an aspiration. People with disabilities have lower employment rates, higher unemployment rates and are more likely to be economically inactive than non-disabled persons. When in employment they are more likely to be in low-paid jobs with poor career prospects and working conditions. Throughout the world there is an undeniable link between disability, poverty and exclusion. The lack of equal employment opportunities for people with disabilities forms one of the root causes of the poverty and exclusion of many members of this group.

Decent work for people with disabilities: promoting rights in the global development agenda, is intended as a resource for countries in implementing the provisions of the existing ILO standards, the ILO Code of Practice on Managing Disability in the Workplace, and the CRPD. It traces the growth of attention to disability issues in international and national standards since the early twentieth century, and reviews policy measures in place in countries around the world, along with data on their effectiveness. It shows clearly that progress has been made, but underscores the need to step up national and international efforts, including through the

2030 Agenda for Sustainable Development to break down barriers to the economic and social inclusion of disabled persons, reducing poverty and strengthening economies, and enriching societies at large.

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Shauna Olney

Chief

Gender, Equality and Diversity Branch

October 2015

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This publication originated in 2003 as an ILO contribution to deliberations then taking place in preparation for the development of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD). By examining the development over time of the ‘right to work’ of persons with disabilities,¹ how this matter has been dealt with in international instruments and national legislation to date, and experience around the world in promoting employment and work opportunities, the working paper enabled those involved in the preparation of the proposed CRPD to build on earlier achievements.

The UN General Assembly adopted the CRPD on 13 December 2006 and it entered into force less than two years later, in May 2008. It has since been ratified by over two thirds of UN States and the UN Secretary General has called for universal ratification. In view of the considerable interest generated by the working paper and its relevance to States Parties as they moved to implement the provisions of the CRPD, the ILO published an updated version in 2007, and is issuing this further edition now, to take account, not only of the CRPD, but also of other major developments in this field in countries around the world since 2003.

A summary overview of the principal international legal instruments and policy of relevance to the rights of people with disabilities, with a particular focus on employment and work, is given at the outset. This is followed, in Chapter 1, by a more detailed description of international instruments, policies and initiatives, including reference to the debates which have taken place about their effectiveness in practice.

In Chapter 2, the focus is on the different options open to people with disabilities who wish to work in open/competitive employment, sheltered employment, supported employment and social enterprises. The chapter examines available evidence on the trends in each of these categories and highlights the key issues faced in each case.

¹ The terms “persons with disabilities” and “disabled persons” are used interchangeably throughout this book, reflecting accepted usage in different countries of the world.

Chapter 3 deals with the main approaches which have been adopted at national level to assist people with disabilities in securing, retaining and advancing in employment and work, including legislation; employment services; training for employment; disability management; financial, technical and personal supports; and persuasion measures. The chapter also touches on the processes of consultation, information gathering, monitoring and evaluation which are essential elements of effective policies.

Chapter 4 reviews key areas which still require attention, in spite of the range of measures introduced at international, regional and national levels to improve employment opportunities for people with disabilities. The chapter suggests ways in which progress might be made in these areas, and proposes an agenda for action required in order to implement the CRPD's provisions on work and employment.

Annex 1 gives a historical flavour to the book, by tracing the development of work and employment opportunities for persons with disabilities in different industrialized countries in the early twentieth century. Annex 2 contains definitions of the key terms used.

Summary overview

Human rights and fundamental freedoms are the birthright of all, as stated in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, 25 June 1993. This is the essence of the Universal Declaration of Human Rights, which begins: *“Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...”*. It finds specific application in the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and other international instruments (see Chapter 1). States have affirmed this principle again and again, including in the Copenhagen Declaration and Programme of Action adopted by the World Summit for Social Development, 1995, acknowledging that the promotion and protection of those rights and freedoms are primarily the responsibility of governments. Acceptance of that responsibility should have led to ready ratification and implementation of international instruments and adherence to internationally-recognized declarations concerning the elimination of discrimination and the promotion and protection of human rights. That this did not happen to the extent it should is evident from regular exhortations, including from Heads of State and Government in Copenhagen, for greater compliance and the avoidance, as far as possible, of the resort to reservations.

All human rights are universal, indivisible, interdependent and inter-related. It is the duty of States, regardless of their political, economic, social and cultural systems, to promote and protect all human rights and fundamental freedoms.

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized, as stated in the UN Declaration on the Right to Development, 1986. Because all human rights are inviolable and none is superior to another, the improvement of any one right cannot be set off against the deterioration of another (UN 2001, para. 10). While development facilitates the enjoy-

ment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights, as stated in the Vienna Declaration. In other words, the promotion and protection of human rights should be progressed without conditions attached.

Poverty denies the enjoyment of practically all human rights. The importance of international cooperation in the eradication of poverty and promotion of development is apparent. The principle of international cooperation has been recognized in the International Covenants.

Principal international legal instruments and policy initiatives

One of the earliest international acknowledgements of the right of people with disabilities to work opportunities was made by the ILO in 1944. In a comprehensive and far-seeing Recommendation, the ILO stated unequivocally that disabled workers, “whatever the origin of their disability, should be provided with full opportunities for rehabilitation, specialized vocational guidance, training and retraining, and employment on useful work” (Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)). The ILO said that persons with disabilities should, wherever possible, be trained with other workers, under the same conditions and the same pay, and called for equality of employment opportunity for disabled workers and for affirmative action to promote the employment of workers with serious disabilities.

Four years later, the right to work of everyone, including persons with disabilities, was made binding by the UN. Article 23 of the Universal Declaration of Human Rights (adopted by the General Assembly on 10 December 1948) could hardly be more explicit: “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.”

What proved to be one of the most important international instruments in relation to the right to work of persons with disabilities - the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99) - was adopted by the ILO in 1955. Until the adoption of the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and its Recommendation No. 168 in 1983, almost thirty years later, Recommendation No. 99 served as the basis for national legislation and practice in relation to vocational guidance, vocational training, and placement of disabled persons. It built on the core provisions of earlier instruments in relation, for example, to vocational training, equality of opportunity and 'equal remuneration for work of equal value.

The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the UN General Assembly on 16 December (resolution 2200A (xii)), was drafted in close consultation with the ILO, and reiterates those above-mentioned earlier provisions in binding treaty form. States Parties to the Covenant recognize the right of everyone to work, which includes the right to the opportunity to gain one's living by work freely chosen or accepted, and undertake to safeguard that right (Art. 6). Steps to be taken to achieve the full realization of that right include vocational guidance, training and productive employment. States Parties also commit themselves to fair wages and equal remuneration for work of equal value without distinction of any kind; safe and healthy working conditions; and equal opportunity for everyone to be promoted in employment to an appropriate higher level, subject to no considerations other than those of seniority and competence (Art. 7). The International Covenant on Civil and Political Rights (ICCPR), also adopted in 1966, does not deal specifically with employment, but it does contain an important provision stating that all persons are equal before the law and are entitled to the equal protection of the law, and prohibiting discrimination on any ground (ICCPR, 1966, Art. 26), a clause also contained in the ICESCR (Art. 2).: It also provides for the right to form and join trade unions (ICCPR, Art 22). While disability is not explicitly mentioned in either Covenant as a prohibited ground of discrimination, it is understood to be encompassed by the term "or other status" (UN CESCR 1994, General Comment No. 5).

In 1971, the UN General Assembly proclaimed a Declaration on the Rights of Mentally Retarded Persons (resolution 2856 of 20 Dec. 1971), which affirmed, *inter alia*, their right to perform productive work or to engage in any other meaningful occupation to the fullest extent of their capabilities.

To encourage, assist and enable persons with disabilities to exercise their right to work on an equal basis and without discrimination, the ILO's Human Resources Development Convention, 1975 (No. 142) called on member States to develop and implement open, flexible and complementary systems of general, technical and vocational education; educational and vocational guidance; and vocational training, including continuing employment information.

The accompanying Human Resources Development Recommendation (No. 195) adopted in 2004 to replace the original Recommendation No 150 of 1975, spells out in detail how the provisions of this Convention should be effected, highlighting the importance of policies to promote equal opportunities in accessing education, training and life-long learning, as well as career guidance and job-placement services including for persons with disabilities. The Recommendation recognizes the role of social partners, in particular employers, in promoting further training and work experience and of local authorities, communities and other interested parties in addition to government in providing services for persons with special needs.

In a further measure, the resolution concerning Vocational Rehabilitation and Social Reintegration of Disabled or Handicapped Persons, adopted on 24 June 1975, and again reflecting its perception of the importance of multi-sectoral collaboration among international bodies in pursuit of the exercise of the right to work of persons with disabilities, the ILO called for a comprehensive campaign for vocational rehabilitation² and social integration of disabled persons, in cooperation and coordination with the UN, its specialized agencies, and international, regional and non-governmental organizations (NGOs); a campaign which was to

² "Vocational rehabilitation" is a process which enables disabled persons to secure, retain and advance in suitable employment and thereby furthers their integration or reintegration into society (ILO, 2002).

result in the International Year of Disabled Persons in 1981 and the World Programme of Action concerning Disabled Persons, among other initiatives.

Further affirmation of the right to work and the right to work-related services, including vocational counselling and training, came almost immediately from the UN General Assembly in its Declaration on the Rights of Disabled Persons (resolution 3447 adopted on 9 Dec. 1975).

Building on the “full participation and equality” theme of the International Year and goal of the World Programme of Action (WPA), and conscious that developments since its seminal Recommendation No. 99 in 1955 had made it appropriate to adopt new international labour standards concerning vocational rehabilitation and employment, the ILO adopted landmark Convention No. 159 in 1983. The Convention requires each Member to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons. This policy should be based on a number of fundamental principles, in particular those of equal opportunity and treatment and provide for affirmative measures which should not be regarded as discriminating against other workers.

Measures should be introduced to foster the integration of persons with disabilities into mainstream work-related programmes and services, the development of services for those in rural areas and remote communities, the training of qualified staff. Employers’ and workers’ organizations as well as representative organizations of and for disabled persons should be consulted on the implementation of the policy. The accompanying Recommendation No. 168 details measures which should be taken to promote equitable employment opportunities, including the making of “reasonable adaptations to workplaces, job design, tools, machinery and work organization”, and outlines steps which should be taken to ensure that the consultative processes mentioned in the Convention work effectively.

The 1987 Global Meeting of Experts to Review the Implementation of the WPA proposed that a guiding philosophy should be developed to

indicate priorities for action in the years ahead, and that the basis of that philosophy should be the recognition of the rights (including the right to work) of persons with disabilities. The Meeting recommended that the General Assembly convene a special conference to draft an international convention on the elimination of all forms of discrimination against disabled persons. Following a failure by the General Assembly to reach a consensus on this issue, the Standard Rules on the Equalization of Opportunities for Persons with Disabilities were adopted on 20 December 1993 (resolution 48/96). The Standard Rules are a set of non-compulsory guidelines, though the UN Economic and Social Council (ECOSOC) hoped they would become “international customary rules when they are applied by a great number of States with the intention of respecting a rule in international law” (A/C. 3/48/L.3, 1 Oct. 1993, p. 6). Employment is covered by Rule 7, which calls on all States to take various measures, most of which are contained in earlier relevant ILO Conventions and Recommendations, to ensure that persons with disabilities have equal opportunities for productive and gainful employment in the labour market.

In a further reaffirmation of the right to work, the World Conference on Human Rights, meeting in Vienna in 1993, in a direct reference to persons with disabilities, emphasized in the Vienna Declaration and Programme of Action that “every person is born equal and has the same rights to life and welfare, education and work, living independently and active participation in all aspects of society. Any direct discrimination or other negative discriminatory treatment of a disabled person is therefore a violation of his or her rights” (p. 18). The World Conference called on governments to adopt or adjust legislation to assure access to these and other rights for disabled persons.

Towards the end of 1994, the UN Committee on Economic, Social and Cultural Rights (UN CESCR) pointed out that the effects of disability-based discrimination had been particularly severe in the fields of education, employment, housing, transport, cultural life and access to public places and services (General Comment No. 5). The Committee considered the field of employment as one in which discrimination had been both prominent and persistent. In most countries, the unem-

ployment rate among persons with disabilities was two to three times higher than that for others. Disabled persons were mostly engaged in low-paid jobs with little social and legal security and often segregated from the mainstream labour market. As the ILO had frequently noted, physical barriers such as inaccessible public transport, housing and workplaces were often the main reasons why persons with disabilities were not employed. The Committee drew attention to the valuable and comprehensive instruments developed by the ILO, including in particular Convention No. 159, and urged States Parties to the International Covenant to consider ratifying that Convention.

Heads of State and Government at the World Summit for Social Development in 1995, acknowledging the particular employment difficulties faced by persons with disabilities, committed themselves in the Copenhagen Declaration to putting the creation of employment, the reduction of unemployment, and the promotion of adequately remunerated employment at the centre of strategies and policies of governments, in full respect for those workers' rights. The Programme of Action adopted by the Summit includes taking effective measures to bring to an end all forms of discrimination against persons with disabilities (para.15 (i)).

Echoing the exhortation of the UN CESCR a year earlier, the Programme of Action calls on governments to enhance the quality of work and employment by, *inter alia*, “strongly considering ratification and full implementation of ILO conventions relating to the employment rights of . . . persons with disabilities” (para.54 (c)). Acknowledging the singular role of the ILO at international level in relation to the world of work and the particular tripartite nature of its structure and operation, the Programme urges governments to promote the role of the ILO, particularly as regards improving the level of employment and the quality of work.

The Council of Europe's European Social Charter (as revised in 1966) recognizes the right of everyone to “have the opportunity to earn [a] living in an occupation freely entered upon”, and that all workers have the right to just conditions of work. The Charter specifically acknowledges that disabled persons have the right to independence, social integration and participation in the life of the community.

A European Union (EU) Directive, adopted at the end of 2000, outlaws direct and indirect discrimination in the field of employment on a number of grounds, including disability. The Directive applies, *inter alia*, to selection criteria and recruitment conditions, vocational guidance, vocational training, employment and working conditions, including pay. Importantly, the Directive states that “reasonable accommodation” shall be provided, i.e. that employers are to take appropriate measures, where needed, to enable a person with a disability to have access to, participate in, or advance in employment, or to provide training, unless such measures would impose a ‘disproportionate burden’ on the employer (EU, 2000, pp.16-22).

The ILO Code of Practice on Managing Disability in the Workplace (ILO, 2002) was drawn up to provide guidance to employers on practical means of implementing the types of measures contained in international instruments such as those mentioned earlier. The Code was developed and unanimously agreed at a tripartite meeting of experts (representing governments and employers’ and workers’ organizations), convened in October 2001 based on the decision of the ILO Governing Body, taken at its 277th Session in March 2000. While addressed mainly to employers, the Code should also prove of considerable benefit to governments, which play a primary role in providing the necessary legislative framework for promoting equal opportunities and treatment in the workplace, and to workers’ representatives, whose main concern is to protect workers’ interests. The contents of the Code are based on the principles underpinning international instruments and initiatives.

There is no doubt that general international human rights instruments apply to all persons, including persons with disabilities. Explicit confirmation was given in 1994 by the UN CESCR (General Comment No. 5). The Committee acknowledged, however (para.2), that States Parties devoted very little attention to persons with disabilities in their reports on compliance with that Covenant. The need for explicit, disability-related provisions in international human rights instruments was recognized in later measures, including the Convention on the Rights of the Child (Art. 23), the African Charter on Human and Peoples’ Rights (Art. 18 (4)), and the Additional Protocol to the American Convention on Human

Rights in the Area of Economic, Social and Cultural Rights (Art. 18), leading the Committee to conclude that “it is now widely accepted that the human rights of persons with disabilities must be protected and promoted through general, as well as specially-designed, laws, policies and programmes” (para. 6).

In 1999, a renewed campaign, Rehabilitation International: Charter for the Third Millennium (9 September 1999), was initiated to have a specially-designed law, a UN Convention on the Rights of Persons with Disabilities, elaborated. In December 2001, on the basis of a resolution sponsored by the Government of Mexico, the UN General Assembly established an Ad Hoc Committee (AHC) “to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.”

The AHC commenced work in July 2002. Following an open and transparent elaboration process, which provided for meaningful participation by all interested parties, including persons with disabilities and their representative organizations, the AHC held eight sessions before concluding its work with the adoption on 13 December 2006 by the UN General Assembly of the CRPD (resolution 61/106). The Convention is seen as “a comprehensive and integral convention to promote and protect the rights and dignity of persons with disabilities (which) will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries” (op. cit., preamble (y)).

The principles of the CRPD are: respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance

of persons with disabilities as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

States Parties to the CRPD have general as well as specific obligations. The former include undertaking to:

- adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention;
- take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- ensure that public authorities and institutions act in conformity with the Convention;
- take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
- promote the training of professionals and staff working with persons with disabilities in the rights recognized in the CRPD.

With regard to work and employment, States Parties to the CRPD recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a work environment that is open, inclusive and accessible. States Parties also undertake to take appropriate steps, including those specifically listed in the CRPD, to safeguard and promote the realization of the right to work.

The CRPD restates, reinforces and develops rights contained in other international instruments; confirms that all such rights apply to persons with disabilities; provides for the establishment of a Committee on the Rights of Persons with Disabilities to monitor the CRPD; and obliges States Parties to closely consult with and actively involve persons with disabilities, through their representative organizations, in the development and implementation of legislation and policies to implement the

CRPD, and in other decision-making processes concerning issues relating to persons with disabilities.

Despite existing national, regional and international laws and other instruments, and despite the activities of international bodies and the efforts of NGOs, persons with disabilities throughout the world continue to be subjected to widespread violations of their human rights. This is an undeniable fact. In the field of employment, the available statistics indicate that the labour force inactivity rate of workers with disabilities tends to be much higher than that of other workers. Problems of access to the physical environment, including transportation, housing and workplaces, risk of losing benefits on starting work, coupled with still-held prejudices among many employers, co-workers and the general public, aggravate an already difficult situation. This is not to suggest that there has been no improvement. The significant growth in domestic anti-discrimination legislation in recent years is encouraging, even though adoption of a law does not guarantee its enforcement. The persistent efforts of international agencies, and in particular the ILO, in promoting equal opportunity and treatment in employment continue to make important inroads into the economic and social exclusion of persons with disabilities.

The CRPD has already reinforced and transformed national and international efforts and provided a renewed impetus in eliminating discrimination on the basis of disability and in positively promoting equality and inclusion. This new impetus is reflected in the reports of States Parties to the UN Committee on the Rights of Persons with Disabilities. It has also influenced the work of UN agencies individually and collaboratively through the Inter-Agency Support Group to the CRPD. It has led to the establishment, in 2011, of the UN Partnership on the Rights of Persons with Disabilities, a multi-donor Trust Fund that sponsors UN Country Teams to support CRPD implementation measures at country level. It is also reflected in the 2030 Agenda for Sustainable Development adopted by the UN General Assembly in September 2015, forming the basis for inclusive international development efforts in the coming decades.



Notes

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International legal instruments and policy initiatives concerning the right to work of persons with disabilities

1.1 Introduction

This chapter reviews the principal legal instruments and policy initiatives concerning the right to work of persons with disabilities from the ILO, the United Nations (UN), the Council of Europe and the European Union, as well as the Organization of American States. It includes the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, and the Copenhagen Declaration and Programme of Action, adopted by the World Summit for Social Development in 1995.

1.2 Early ILO measures

The ILO, founded in 1919, is the oldest of the specialized technical agencies of the UN system. It is tripartite in structure, with representatives of employers' and workers' organizations having an equal voice with those of governments of its 186 member States in shaping ILO policies and programmes, through participation in the annual International Labour Conference (ILC) and membership on the ILO Governing Body. The primary goal of the ILO is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. The ILO has four principal strategic objectives:

- to promote and realize standards, and fundamental principles and rights at work;
- to create greater opportunities for women and men to secure decent employment;
- to enhance the coverage and effectiveness of social protection for all;
- to strengthen tripartism and social dialogue.

These objectives are realized through:

- the formulation of international policies and programmes to promote basic human rights, improve working conditions, and enhance employment opportunities;
- the creation of international labour standards, through the formulation and adoption of Conventions and Recommendations, backed

by a system to supervise their application, as well as Codes of Practice, which serve as guidelines for national authorities in putting standards into action. *Conventions* prescribe international labour standards and are binding on ratifying States; *Recommendations* provide non-binding guidelines for members of the ILO on how to apply Conventions or can be autonomous, not linked to a specific Convention; *Codes of Practice* are agreed, non-binding rules and procedures that set out practical guidelines;

- an extensive programme of international technical cooperation, formulated and implemented in partnership with ILO constituents and development partners;
- training, education, research and publishing activities.

The first international instrument containing provisions relating to the vocational rehabilitation of workers with a disability was adopted by the International Labour Conference (ILC) in 1925, just a few years after the establishment of the ILO. The Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No.22) set out principles which should be taken into account in determining compensation payment for industrial accidents. It also recommended that "the vocational re-education of injured workmen should be provided by such means as the national laws or regulations deem most suitable", and urged governments to promote institutions which would provide such "re-education".

Interest in vocational rehabilitation and employment opportunities for persons with disabilities re-surfaced during the Second World War, largely because of the number of people disabled during the war and the need to find trained workers to fill jobs left vacant by mobilized workers. In May 1944, the ILC adopted a comprehensive Recommendation (No. 71) dealing with the organization of full employment in the period of transition from war to peace and thereafter, which emphasized the central role of employment services, including labour market information, vocational guidance and vocational training. One of the groups specifically covered by the Recommendation was disabled workers who, "whatever the origin of their disability, should be provided with full opportunities for rehabilitation, specialized vocational guidance, training and retraining, and employment on useful work". Paragraphs 39 to 44 of the

Box 1 Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)

Section X: Provisions concerning disabled workers - paragraphs 39 to 43

- (39) The criterion for the training and employment of disabled workers should be the employability of the worker, whatever the origin of the disability.
- (40) There should be the closest collaboration between medical services for the disabled and vocational rehabilitation and placement services.
- (41) Specialized vocational guidance for the disabled should be developed in order to make it possible to assess each disabled worker's capacity and to select the most appropriate form of employment for him [or her].
- (42)
1. Wherever possible, disabled workers should receive training in company with able-bodied workers, under the same conditions and with the same pay.
 2. Training should be continued to the point where the disabled person is able to enter employment as an efficient worker in the trade or occupation for which he [or she] has been trained.
 3. Wherever practicable, efforts should be made to retrain disabled workers in their former occupations or in related occupations where their previous qualifications would be useful.
 4. Employers with suitable training facilities should be induced to train a reasonable proportion of disabled workers.
 5. Specialized training centres, with appropriate medical supervision, should be provided for those disabled persons who require such special training.
- (43)
1. Special measures should be taken to ensure equality of employment opportunity for disabled workers on the basis of their working capacity. Employers should be induced by wide publicity and other means, and where necessary compelled, to employ a reasonable quota of disabled workers.
 2. In certain occupations particularly suitable for the employment of seriously disabled workers, such workers should be given preference over all other workers.
 3. Efforts should be made, in close cooperation with employers' and workers' organizations, to overcome employment discriminations against disabled workers which are not related to their ability and job performance, and to overcome the obstacles to their employment including the possibility of increased liability in respect of workmens' compensation.
 4. Employment on useful work in special centres under non-competitive conditions should be made available for all disabled workers who cannot be made fit for normal employment. Information should be assembled by the employment service in regard to the occupations particularly suited to different disabilities and the size, location and employability of the disabled population.

Recommendation provide early examples of a number of concepts such as mainstreaming, equality of opportunity and affirmative action.³

Although Recommendation No. 71 did not specifically refer to gender differences in the provisions concerning workers with disabilities, it did emphasize more than once ‘complete equality of opportunity’ for men and women in respect, for example, of recruitment on the basis of their individual merit, skill and experience, wage rates based on job content, irrespective of sex, and access to further education and training.

The specific concern of the ILO for workers with disabilities continues to run like a thread through its Conventions and Recommendations. In 1946, the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77); Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78); and Medical Examination of Young Persons Recommendation, 1946 (No. 79) concerning medical examination of young people for fitness for employment, call for appropriate measures to be taken by the competent authority for vocational guidance and vocational rehabilitation in respect of young persons with disabilities. The Employment Service Convention (No. 88) and Recommendation (No. 83), adopted in 1948, concerning the organization of employment services, called for special measures to meet the needs of workers with disabilities and recommended “conditions or special studies” on such questions as the placement of disabled workers. Included also was a recommendation that employment services should not, in referring workers to employment, itself discriminate against applicants on grounds of race, colour, sex or belief.⁴

1.3 Universal Declaration of Human Rights

On 10 December 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. There has been some criticism of the fact that the Declaration ignores persons with disabilities; that disabled per-

³ Recommendation No. 71 is not considered up-to-date and is due to be revised by the International Labour Conference.

⁴ This Convention is no longer considered up-to-date.

sons were not included as a distinct group vulnerable to human rights violations, that disability is not mentioned as a protected category.⁵

The UN General Assembly does, however, at the outset, proclaim the Declaration “as a common standard of achievement for *all* peoples . . .”; Article 1 states that “*All* human beings are born free and equal in dignity and rights . . .”; Article 2 states that “*Everyone* is entitled to all the rights and freedoms set out in (the) Declaration, without distinction of any kind, *such as* race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status*” (emphasis added). There can be little doubt that disabled people are covered by the Declaration, even though not specifically mentioned.

Several of the articles of the Declaration relate to employment – Article 22 on the right to social security; Article 23(1) on the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Article 23(2) on the right to equal pay for equal work; Article 23(3) on the right of everyone who works to just and favourable remuneration ensuring for self and family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection; Article 25(1) on the right to a standard of living adequate for the health and well-being of self and family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his [or her] control; Article 26(1) on the right to education, including that technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

1.4 Council of Europe: European Convention on Human Rights

Founded in 1949 by ten Western European States, the Council of Europe – current membership 47 States – is primarily an organization

⁵ See, for example, Degener and Quinn, 2000, p. 16.

of intergovernmental cooperation devoted to upholding parliamentary democracy, the rule of law, and the protection of human rights. The outcome of the work of the Council of Europe falls into three broad categories. First, there are international treaties – normally known as European conventions or agreements – which are binding on the States which ratify them. Secondly, the Committee of Ministers addresses Recommendations to governments regarding policies or legislation. Thirdly, there are reports or studies which may examine and discuss various approaches or opinions on certain issues.

The European Convention on Human Rights, adopted by the Council of Europe in 1950, might be regarded as the European equivalent to the International Covenant on Civil and Political Rights (ICCPR).⁶ From a disability perspective, it is open to criticism because the main non-discrimination provision (Art. 14) does not include disability among the grounds on which discrimination is prohibited, although it could be argued that it is implied in the phrase “or other status”.

1.5 ILO Social Security Standards

The ILO international social security standards include a number of Conventions and Recommendations, which guide the now 186 member States of the ILO in social security matters.

The Social Security (Minimum Standards) Convention, 1952 (No. 102) calls on the institutions or government departments administering medical care to cooperate with the general vocational rehabilitation services, with a view to the return to suitable work of disabled workers (Art. 35). It also provides that “national laws or regulations may authorize such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons”.

⁶ For a more detailed description and discussion, see Degener and Quinn 2000, pp. 60 et ff..

The Social Protection Floors Recommendation (No. 202), adopted in June 2012 provides guidance to member States in establishing and maintaining nationally defined social protection floors as a fundamental element of their national social security systems. These social protection floors should guarantee at least effective access to essential health care as well as a basic level of income security throughout the life course, as defined at the national level. Some of the principles set out in the Recommendation are of particular relevance for persons with disabilities, including the principles of non-discrimination, gender equality and responsiveness to special needs, as well as respect for the rights and dignity of people covered by the social security guarantees. The Recommendation calls on States to provide for basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability (Paragraph 5(c)).

1.6 First ILO Recommendation devoted to vocational rehabilitation

What was to be one of the most important instruments in relation to persons with disabilities, the ILO Vocational Rehabilitation (Disabled) Recommendation (No. 99), was adopted in 1955. Until the adoption of Convention No. 159 and Recommendation No. 168 almost thirty years later, this international instrument served as the basis for all national legislation and practice concerning vocational guidance, vocational training and placement of disabled persons. While not linked to a Convention, the extent to which R.99 influenced national legislation and practice is confirmed the Director-General's comment in his 1964 Report to the effect that while Conventions lay down obligations, it is possible, in certain areas, "that a standard which can be widely accepted may well be more effective in practice than obligations which are unlikely to be equally widely assumed" (ILO, 1998, p. 4).

Using a definition of "disabled person" which is substantively the same as that currently in use by the ILO (see Section 3.11.1), Recommendation No. 99 builds on key provisions of earlier instruments in relation, for example, to mainstreaming of vocational training, equal-

ity of opportunity, non-discrimination in wages or other conditions of employment for equal work, and promotion of research. Methods of widening employment opportunities for workers with disabilities, in close cooperation with employers' and workers' organizations, include quotas, reserved occupations, creation of cooperatives and the establishment of sheltered workshops. The role of the ILO in providing technical advisory assistance, organizing international exchanges of experience, and other forms of international cooperation including the training of rehabilitation staff, is spelled out. The Recommendation also includes special provisions for disabled children and young persons.

1.7 Further ILO measures 1958–68

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and its accompanying Recommendation (no. 111) provide for the adoption of a national equality policy, with a view to eliminating discrimination in employment and occupation. Given the ILO's previous attention to persons with disabilities, it is somewhat surprising that disability was not specifically included in these particular instruments as a prohibited ground of discrimination. Convention No. 111 does, however, make provision for "special measures" in the case of disabled people: "Any Member may, after consultation with representative employers' and workers' organizations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognized to require special protection or assistance, shall not be deemed to be discrimination" (Art. 5(2)). The Convention also provides that additional grounds of discrimination can be determined by member States, after consultation with the social partners and other appropriate bodies (Art 1(1)(b)). Disability is frequently considered under Convention No. 111 in this context.

Mindful of the effects of technological change on jobs, the ILO issued a Resolution concerning Vocational Rehabilitation of Disabled Persons in 1965, concerning techniques employed by member States in the

rehabilitation and training of disabled persons for new forms of employment.

The ILO's continuing interest in workers with disabilities was reflected in the requirement in Article 13 of its Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) that Members should, under prescribed conditions:

- (a) provide rehabilitation services designed to prepare a disabled person wherever possible for the resumption of previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to aptitudes and capacity; and
- (b) take measures to further the placement of disabled persons in suitable employment.

That the ILO was determined to progress policy in vocational rehabilitation and to eliminate all discrimination in relation to the employment of disabled workers was evidenced in 1968 by a Resolution of the International Labour Conference concerning Disabled Workers adopted on 24 June 1968, requesting the Director-General to carry out appropriate studies to enable the Conference to consider the possible revision of the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), or the possible adoption of a new international instrument.

1.8 International Covenants

In December 1966, the UN General Assembly adopted two important International Covenants, on Economic, Social and Cultural Rights (ICESCR), and on Civil and Political Rights (ICCPR). Together with the Universal Declaration of Human Rights (see 1.3 above), they form the International Bill of Human Rights.

The ICESCR, which was drafted in close collaboration with the ILO, contains a number of important provisions relating to work and equal employment opportunity:

Article 6:

- (1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his [sic] living by work which he [or she] freely chooses or accepts, and will take appropriate steps to safeguard this right.
- (2) The steps to be taken . . . to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7:

The States Parties . . . recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his [or her] employment to an appropriate higher level, subject to no considerations other than those of seniority and competence....

The Covenant also guarantees the right to education (Art. 13).

The ICCPR contains no specific provisions on employment conditions, but it does include an important safeguard against discrimination: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, col-

our, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Art. 2).

Although disability is not explicitly included in either Covenant among the prohibited grounds of discrimination, it is encompassed by the term “or other status” (UN CESCR 1994, General Comment No. 5).

1.9 UN Declaration on the Rights of Mentally Retarded Persons

In 1971, the UN General Assembly proclaimed a Declaration on the Rights of Mentally Retarded Persons (Resolution 2956 (xxvi) of 20 Dec. 1971). The Declaration affirmed that mentally retarded persons had the same rights as everyone else. Specifically, they had a right to such education, training, rehabilitation and guidance as would enable them to develop their ability and maximum potential; a right to economic security and a decent standard of living; a right to perform productive work or to engage in any other meaningful occupation to the fullest possible extent of their capabilities.

1.10 ILO measures on the development of human resources

The ILO Human Resources Development Convention, 1975 (No. 142) calls on member States to develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services. Systems of vocational guidance, including continuing employment information, are to be extended to ensure that comprehensive information and the broadest possible guidance would be available to all, including persons with disabilities.

The accompanying Recommendation (No. 150) was revised and replaced in 2004 by the Human Resources Development Recommendation (No. 195) that emphasizes that education and training are a right for all and calls for the development of human resources development, education, training and lifelong learning policies which

among other things, reduce inequality in the participation in education and training. Equal opportunities should be provided for women and men in these spheres and access to education, training and life-long learning should be promoted for people with nationally identified special needs, including people with disabilities, indigenous people, ethnic minority groups and the socially excluded. Of significance for adults with disabilities, the Recommendation calls for the development of approaches for non-formal education and training, especially for adults who were denied education and training opportunities when young. The call for the recognition of formal and informal workplace learning is also of relevance to adults with disabilities. Equal opportunity strategies, measures and programmes should be developed to promote and implement training for people with special needs, with the objective of reducing inequalities; and equal opportunities in accessing career guidance and skills upgrading should be promoted. While governments are seen as holding primary responsibility for education and pre-employment training, the Recommendation calls for recognition of the role of social partners in promoting further training, the important role of employers in providing work experience, and of the role of local authorities and communities and other interested parties in implementing programmes for people with special needs. The Recommendation also calls for data collection to be disaggregated by specific socio-economic categories, so that trends can be established and analysis undertaken to guide policy development.

1.11 ILO call for comprehensive campaign

The ILO Resolution concerning Vocational Rehabilitation and Social Reintegration of Disabled or Handicapped Persons adopted on 24 June 1975 was short, but particularly significant for a number of reasons. Referring to the fact that Rehabilitation International had declared the 1970s to be the Rehabilitation Decade, the Resolution acknowledged growing public recognition of the need for special measures to integrate disabled persons into the community; deplored the fact that too many persons with disabilities, the majority of whom lived in developing countries, had very limited opportunity for work; and called on all

public authorities and employers' and workers' organizations to promote maximum opportunities for disabled persons to perform, secure and retain suitable employment. The resolution called for a comprehensive campaign for vocational rehabilitation and social integration of disabled persons, in cooperation and coordination with the UN, its specialized agencies, and international, regional and non-governmental organizations (NGOs), a campaign which was to result, *inter alia*, in the International Year of Disabled Persons and the World Programme of Action concerning Disabled Persons.

1.12 UN Declaration on the Rights of Disabled Persons

The UN General Assembly, at the end of 1975, proclaimed a Declaration on the Rights of Disabled Persons (resolution 3447 (xxx) of 9 Dec. 1975). The Declaration affirmed that disabled persons had the same civil and political rights as other people, as well as the right to, *inter alia*, education, vocational training, counselling and placement services, the right to secure and retain employment or to engage in a useful, productive and remunerative occupation. The Declaration proclaimed that these rights were for all disabled persons without discrimination on the basis of sex or other grounds.

1.13 International Year of Disabled Persons

On 16 December 1976, the UN General Assembly proclaimed 1981 the International Year of Disabled Persons, with the theme "full participation and equality" (Resolution 31/123). Towards the end of 1981, the General Assembly urged Member States to consolidate and build further on the results of the International Year in order to secure prevention of disability, rehabilitation and full integration of disabled persons into society. The General Assembly also urged the Secretary-General, the specialized agencies and other UN bodies to undertake or expedite measures already under way to improve employment opportunities for disabled persons within these bodies at all levels (Resolution 36/77 of 8 Dec. 1981).

1.14 UN World Programme of Action (WPA) and Decade of Disabled Persons

One year later, the UN General Assembly, stressing that the primary responsibility for promoting effective measures for prevention, rehabilitation and the realization of the goals of full participation and equality rested with individual countries and that international action should be directed to assist and support national efforts in this regard, adopted the World Programme of Action concerning Disabled Persons (Resolution 37/52 of 3 Dec. 1982). On the same day, the General Assembly proclaimed the period 1983–1992 as the UN Decade of Disabled Persons and encouraged Member States to utilize this period as one of the means to implement the WPA (Resolution 37/53 of 23 Dec. 1982).

The WPA contains three overall aims: prevention, rehabilitation, and equalization of opportunities. Equalization of opportunities is defined as: the process through which the general system of society, such as the physical and cultural environment, housing and transportation, social and health services, educational and work opportunities, cultural and social life, including sports and recreational opportunities are made accessible to all (para. 12).

The WPA states that “experience shows that it is largely the environment which determines the effect of an impairment or a disability on a person’s daily life” (para. 21); an acknowledgement which epitomizes the shift from a care/welfare approach to a social/rights one.⁷

1.15 ILO Convention No. 159 and Recommendation No. 168

It will be recalled that the ILO had some years earlier proposed considering a possible revision of the Vocational Rehabilitation (Disabled)

⁷ A traditional approach to disability was to view it as a problem of the person. The policy response tended to be to try to reduce or eliminate the disability largely through medical rehabilitation and/or to provide care/welfare supports. Equalization of opportunities, on the other hand, recognizes that society is disabling when it fails to provide equal opportunities for participation to all its members, opportunities to exercise the equal rights to which all are entitled.

Recommendation, 1955 (No. 99), or the possible adoption of a new international instrument (see 1.7 above).

Building on the “full participation and equality” theme of the International Year, and goal of the WPA, the ILO adopted the Vocational Rehabilitation and Employment (Disabled Persons) Convention No. 159 and Recommendation No. 168 in 1983. The Convention requires member States, in accordance with national conditions, practice and possibilities, to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons. The renewed emphasis on full participation is reflected in Article 1(2), which describes the purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and “*thereby to further such person’s integration or reintegration into society*” (emphasis added), the highlighted phrase being an addition to Recommendation No. 99. The “equality” goal is captured in Article 4 of the Convention:

The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers.

The clear recognition of both women and men with disabilities will be noted. The Convention prescribes the action to be taken at national level to implement the policy. It also reminds Members, as did Recommendation No. 99 nearly thirty years previously, of the need, not only to provide the relevant services, but to evaluate them with a view to their continual improvement. The equality theme runs through Recommendation No. 168: for example,

- disabled persons should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment (Para. 7);

- in providing vocational rehabilitation and employment assistance to disabled persons, the principle of equality of opportunity and treatment for men and women workers should be respected (Para. 8);
- measures should be taken to promote employment opportunities for disabled workers which conform to the employment and salary standards applicable to workers generally (Para. 10).

The Recommendation reminds Members that such measures should include the making of “reasonable adaptations to workplaces, job design, tools, machinery and work organization” to facilitate training and employment. Given the increasing shift away from the “caring” to the “rights” model which was then beginning to take place at national as well as international levels, the Recommendation is forthright in stating that disabled persons should be informed “about their rights and opportunities in the employment field” (Para. 16). Reflecting the widespread provision of programmes and services for persons with disabilities in segregated settings at that time, it deals primarily with services solely for persons with disabilities.

Based on the recommendations of a Working Party on the Revision of Standards, set up by the ILO Governing Body, the Governing Body decided in 2002 that the ratification of Convention No. 159, among others, should continue to be encouraged as it continued to respond to current needs (Cartier Working Party, 2002).

1.15.1 Monitoring the implementation of Convention No. 159

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) is one of two supervisory bodies with responsibility for the regular supervision of the observance by member States of their standards-related obligations. The other standing supervisory body is the Conference Committee on the Application of Standards. Members of the CEACR, appointed by the ILO Governing Body for a renewable period of three years, serve in a personal capacity among impartial persons of technical competence and independent standing, drawn from all parts of the world. The CEACR reviews the periodic reports of member

States on the measures which they have taken in law and practice to give effect to the provisions of Conventions which they have ratified. It also examines any observations from workers' or employers' organizations. As of June 2015, 83 ILO member States had ratified Convention No. 159.

In its report (ILO, 1998) on a General Survey on the implementation of the provisions of Convention No. 159 and Recommendation No. 168, the CEACR commented that the principle of equality of opportunity and equality of treatment in employment for disabled persons requires particular attention in an environment characterized by global competition and deregulation of labour markets, and emphasized the applicability of the Convention to all member States:

Convention No. 159 is promotional: it sets objectives and lays down basic principles to be observed in attaining them. Because its provisions are flexible as to the attainment of its objectives, due account can be taken of the situation prevailing in each country. They can be applied to all member States, regardless of the stage they have reached to their activities for the vocational rehabilitation and employment of disabled persons (ILO, 1998, para. 247).

Recalling the fundamental importance of consultations between governments and the social partners, the CEACR emphasized that consulting representative organizations of persons with disabilities on vocational rehabilitation and employment matters was a crucial element of the consultation process. It went on to strongly urge member States to promote the formation of truly representative organizations of persons with disabilities and to facilitate communication between such organizations and administrative and technical bodies involved in vocational rehabilitation.

The CEACR also commented succinctly on equality of opportunity and treatment between disabled men and disabled women workers:

People with disabilities face many obstacles in their struggle for equality. Although both men and women with disabilities are subject to discrimination, women with disabilities are dou-

ble disadvantaged by discrimination based on gender *and* their disability status. Women with disabilities are more likely than their male counterparts to be poor or destitute, illiterate or without vocational skills, and most of them are unemployed. They have less access to rehabilitation services, they are more likely to be without family or community support and they often suffer greater social isolation due to their disability. The situation is dramatic, and the Director-General of the ILO in 1981 pointed out that poor disabled women are all too frequently deprived of all human rights. (ILO, 1998, para. 114; see also ILO, 1981).

Noting that governments had not supplied detailed information on the situation of people with disabilities living in rural areas and isolated communities, the CEACR observed that these persons are doubly affected, by their disability and by their distance from services available to the general population and to people with disabilities living in urban centres. It highlighted the importance of community-based rehabilitation (CBR) programmes in facilitating the integration of some disabled persons into the economic and social life of their communities.

Having observed a general trend in national practice concerning persons with disabilities towards the use of general services for vocational guidance, training, placement, employment and other related services which exist for the general population, the CEACR noted that this process of mainstreaming has contributed considerably to changing negative ideas and attitudes with regard to the place and role of people with disabilities in working life and in society.

In a final comment, the CEACR emphasized that the implementation of the Convention's provisions and the measures advocated by Recommendation No. 168 did not necessarily require vast resources, but depended on a commitment of the relevant stakeholders. In view of this and the fact that both instruments take into account the diversity of national situations and conditions, it urged member States which had not yet done so to ratify the Convention.

1.16 EU Recommendation concerning employment for persons with disabilities

The original six Member States – Belgium, France, Federal Republic of Germany, Italy, Luxembourg and the Netherlands – of the then European Economic Community (EEC) (now the European Union (EU)) had relatively similar social systems and levels of economic development, and they did not perceive social policy as a major issue of potential disagreement. Hence, between 1957 and the first enlargement of the EEC in 1973 when Denmark, Ireland and the United Kingdom joined, social policy was not a serious preoccupation. There were two exceptions: free movement of workers and equal opportunities. The focus of equal opportunities legislation was, however, primarily on gender. Concern about the need for an active social policy increased with the entry into the Community of Greece in 1981 and Portugal and Spain in 1986.

While the Council of Ministers had no formal competency until the Treaty of Amsterdam in 1997 to adopt legal measures in the disability field, this did not prevent it from adopting non-binding Recommendations and Resolutions (see Degener and Quinn, 2000, pp. 94 et seq.).⁸ In 1986, a Recommendation was adopted urging Member States “to take appropriate measures to promote fair opportunities for persons with disabilities in the field of employment and vocational training” (86/379/EEC, 1).

1.17 UN Convention recommended

The Global Meeting of Experts to Review the Implementation of the World Programme of Action concerning Disabled Persons at the Mid-Point of the UN Decade of Disabled Persons was held in Stockholm in 1987. It was proposed that a guiding philosophy should be developed to indicate priorities for action in the years ahead, and that the basis of that

⁸ Unlike the Council of Europe, the European Community Treaty provides the Institutions of the European Union with legal powers which can be imposed on Member States. Two types of law are used: *Regulations* are directly and automatically effective; *Directives* are binding on Member States as to the result to be achieved but typically allow Member States discretion as to the method of implementation and usually allow a number of years before full implementation. Recommendations and resolutions are also issued, but are not binding.

philosophy should be the recognition of the rights of persons with disabilities. The Meeting recommended that the General Assembly convene a special conference to draft an international convention on the elimination of all forms of discrimination against people with disabilities, to be ratified by States by the end of the UN Decade. A draft outline of a convention was prepared by the Government of Italy and presented to the General Assembly at its forty-second Session. Further presentations concerning a draft convention were made by the Government of Sweden at the forty-fourth Session. On neither occasion could a consensus be reached on the suitability of a convention. In the opinion of many representatives, existing human rights documents appeared to guarantee persons with disabilities the same rights as others (UN 1994).

1.18 Council of Europe: A Coherent Policy for the Rehabilitation of People with Disabilities

Probably the best-known Council of Europe Recommendation concerning people with disabilities was adopted by the Committee of Ministers on 9 April 1992. Recommendation No. R (92) 6, A Coherent Policy for the Rehabilitation of People with Disabilities, is more comprehensive than the title might suggest. In fact, its sub-title, “A model rehabilitation and integration programme for national authorities”, is probably a more useful description of the document, which includes detailed sections on prevention and health education; education; vocational guidance and training; employment; social integration and environment; social, economic and legal protection; personnel training; information; statistics and research.

1.19 Asian and Pacific Decade of Disabled Persons

The Asian and Pacific region has by far the largest number of persons with disabilities in the world. Most of them are poor, their concerns unknown and their rights overlooked. In April 1992, the UN Economic and Social Commission for Asia and the Pacific (ESCAP), recognizing that more needed to be done and building on the results of the UN Decade, proclaimed the period 1993 to 2002 as the Asian and Pacific Decade of Disabled Persons (UNESCAP Resolution 48/3). Thirty-three governments had co-sponsored

the Resolution, which was adopted by acclamation. In December 1992, the meeting to launch the Decade adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region and the Agenda for Action for the Asian and Pacific Decade of Disabled Persons, 1993-2002. In April 1993, the Commission adopted the Proclamation and Agenda for Action (UNESCAP Resolution 49/6). Training and Employment forms one of the major policy categories in the framework of the Agenda for Action (ESCAP, 1994).

On 22 May 2002, ESCAP, while “recognizing that since the inception of the Asian and Pacific Decade, an overall improvement in all twelve policy categories under the Agenda for Action is evident, although achievements have been uneven, with significant achievements in the areas of national coordination and legislation and some improvement in the areas of the prevention of causes of disability, rehabilitation services, access to built environments and development of self-help organizations of disabled persons, but a continuing and alarmingly low rate of access to education for children and youth with disabilities and marked sub-regional disparities in the implementation of the Agenda for Action”, adopted UNESCAP Resolution 58/4: “Promoting an inclusive, barrier-free and rights-based society for people with disabilities in the Asian and Pacific region in the twenty-first century” which extended the Asian and Pacific Decade of Disabled Persons for a further decade, 2003–2012. The theme of this Decade, described in the Biwako Millennium Framework for Action, was *‘Towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific’*.

Following a review of the achievements of the 2nd Decade, governments of the ESCAP region, meeting at Incheon, Republic of Korea from 29 October to 2 November 2012, agreed to a 3rd Decade of Persons with Disabilities covering the period 2013 to 2022, and endorsed the Incheon Strategy to *“Make the Right Real”* for persons with disabilities in Asia and the Pacific. This Strategy, developed by governments of countries in the region in close consultation with civil society stakeholders, builds on the UN Convention on the Rights of Persons with Disabilities and the Biwako Millennium Framework for Action and sets out regionally agreed disability-inclusive development goals.

1.20 UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities

The Standard Rules on the Equalization of Opportunities for Persons with Disabilities were adopted by the UN General Assembly on 20 December 1993 (Resolution 48/96).

In its resolution (A/C 3/48/C.3 1 Oct. 1993) to the General Assembly, the Economic and Social Council described the Rules as follows:

Although these Rules are not compulsory, they can become international customary rules when they are applied by a great number of States with the intention of respecting a rule in international law. They imply a strong moral and political com-

Rule 7

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment. In both rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.

1. Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment.
2. States should actively support the integration of persons with disabilities into open employment. This active support could occur through a variety of measures, such as vocational training, incentive-oriented quota schemes, reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprises employing workers with disabilities. States should also encourage employers to make reasonable adjustments to accommodate persons with disabilities.
3. States' action programmes should include:
 - (a) measures to design and adapt workplaces and work premises in such a way that they become accessible to persons with different disabilities;

- (b) support for the use of new technologies and the development and production of assistive devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities to enable them to gain and maintain employment;
 - (c) provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services.
4. States should initiate and support public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.
 5. In their capacity as employers, States should create favourable conditions for the employment of persons with disabilities in the public sector.
 6. States, workers' organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.
 7. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. It is important that the quality of such programmes be assessed in terms of their relevance and sufficiency in providing opportunities for persons with disabilities to gain employment in the labour market.
 8. Measures should be taken to include persons with disabilities in training and employment programmes in the private and informal sector.
 9. States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities, including flexible hours, part-time work, job-sharing, self-employment and attendant care for persons with disabilities (UN 1994, pp. 25-27).

mitment on behalf of States to take action for the equalization of opportunities. Important principles for responsibility, action and cooperation are indicated. Areas of decisive importance for

the quality of life and for the achievement of full participation and equality are pointed out. These Rules offer an instrument for policy-making and action to persons with disabilities and their organizations. They provide a basis for technical and economic cooperation among States, the UN and other international organizations (p. 6).

There are 22 Rules, ranging from awareness-raising to international cooperation, linked to measures enumerated in the World Programme of Action (see Section 1.14). Employment is covered by Rule 7.

The Rules provide for the appointment of a Special Rapporteur to monitor implementation and provide reports to the UN Commission for Social Development. An international panel of experts may be consulted by the Special Rapporteur or, when appropriate, by the Secretariat, to provide advice or feedback on the promotion, implementation and monitoring of the Rules.

There was inevitably some disappointment that the General Assembly had failed to agree on introducing a Convention on the Rights of Persons with Disabilities and adopted the non-binding Standard Rules instead. For example, Degener and Quinn (2000) refer to the Standard Rules as “a compensatory alternative” (p. 18). Despouy, then Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, described the establishment of an international body or mechanism to supervise respect for the human rights of disabled persons as “one of the most cherished aims of the non-governmental organizations”. Writing in 1993, as the Standard Rules were being finalized, he stated:

Despite the many actions undertaken throughout the Decade and the valuable results that have been achieved for disabled persons in many respects, it must be said that, at the end of this period, persons with disabilities are going to find themselves at a legal disadvantage in relation to other vulnerable groups such as refugees, women, migrant workers, etc. The latter have the protection of a single body of binding norms, such as the Convention on the Elimination of All Forms of Discrimination against Women, the

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, etc. In addition, those Conventions have established specific protection mechanisms: the Committee on the Elimination of Discrimination against Women and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families are in charge of supervising compliance with the Conventions . . . there is no specific body in charge of monitoring respect for the human rights of disabled persons and acting, whether confidentially or publicly, when particular violations occur. It can be said that persons with disabilities are equally as protected as others by general norms, international covenants, regional conventions, etc. But although this is true, it is also true that unlike the other vulnerable groups, they do not have an international control body to provide them with particular and specific protection (Despouy, 1993, pp. 40-41).

The Special Rapporteur also expressed his disappointment “at the virtually total lack of bibliographic material on the specific problems of women with disabilities” (Despouy, 1993 p. 20). The fact that the Standards Rules contain few direct references to the gender dimension of disability was also regretted by the Special Rapporteur of the UN Commission for Social Development in his report to the Commission (UN, 2002, p. 20).

1.21 Vienna Declaration

The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, reinforced the fact that all human rights are universal, indivisible, interdependent and interrelated. The Declaration noted (Art. 22) that “special attention needs to be paid to ensuring non-discrimination, and the equal enjoyment of all human rights and fundamental freedoms by disabled persons, including their active participation in all aspects of society”. The Declaration emphasized (Art. 64) that persons with disabilities should be guaranteed equal opportunity through the elimination of all socially determined

barriers, be they physical, financial, social or psychological, which exclude or restrict full participation in society (UNGA A/Conf. 157/23, 12 July 1993).

1.22 Monitoring the International Covenant on Economic, Social and Cultural Rights (ICESCR) in relation to persons with disabilities

Towards the end of 1994, the UN Committee on Economic, Social and Cultural Rights issued a salutary reminder that, notwithstanding the many international instruments adopted over the years by the ILO and the UN, States Parties to the ICESCR had devoted very little attention to ensuring the full enjoyment of the relevant rights by persons with disabilities (General Comment No. 5). Attributing the absence of an explicit, disability-related provision in the Covenant to the lack of awareness of the importance of addressing this issue explicitly, rather than only by implication, at the time of the drafting of the Covenant over twenty-five years previously, the Committee drew attention to a number of more recent international human rights instruments which had addressed the issue specifically, including:

- the Convention on the Rights of the Child (Art. 23);
- the African Charter on Human and Peoples' Rights (Art. 18 (4));
- the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Art. 18).

Reminding governments that the ultimate responsibility was theirs for remedying the conditions that lead to impairment and for dealing with the consequences of disability, the Committee pointed out that the effects of disability-based discrimination had been particularly severe in the fields of education, employment, housing, transport, cultural life and access to public places and services. Regarding the rights relating to work contained in Articles 6 to 8 of the Covenant, the Committee considered the field of employment as one in which discrimination had been both prominent and persistent. In most countries, the unemployment rate among persons with disabilities was two to three times higher than

the unemployment rate for others. Persons with disabilities were mostly engaged in low-paid jobs with little social and legal security and often segregated from the mainstream labour market. As the ILO had frequently noted, physical barriers such as inaccessible transport, housing and workplaces were often the main reasons why persons with disabilities were not employed. The Committee drew attention to the valuable and comprehensive instruments developed by the ILO, including in particular Convention No. 159, and urged States Parties to the Covenant to consider ratifying that Convention.

The methods to be used by States parties in seeking to implement their obligations under the Covenant towards persons with disabilities are, the Committee pointed out, essentially the same as those in relation to other obligations. They include the need to ascertain, through regular monitoring, the nature and scope of the problems existing within the country concerned, the need to adopt appropriately tailored policies and programmes to respond to what is required, the need to legislate where necessary to prohibit discrimination and to eliminate any existing discriminatory legislation, and the need to make budgetary provisions or, where necessary, seek international cooperation and assistance. International cooperation is likely to be a particularly important element in enabling some developing countries to fulfil their obligations under the Covenant.

The Committee drew particular attention to the situation of women with disabilities: “Persons with disabilities are sometimes treated as genderless human beings. As a result, the double discrimination suffered by women with disabilities is often neglected. Despite frequent calls by the international community for particular emphasis to be placed upon their situation, very few efforts have been undertaken during the Decade.” The Committee urged States Parties to address the situation of women with disabilities, with high priority being given in future to the implementation of economic, social and cultural rights-based programmes.

The right to the enjoyment of “just and favourable conditions of work” (Art. 7 of the Covenant) applies to *all* disabled workers, whether they work in the open labour market or in sheltered employment. The right to join a trade union (Art. 8) similarly applies to *all* disabled workers. Social

security, including social insurance, is particularly important for persons with disabilities (Art. 9). The Committee referred to the UN Standard Rules, which state that States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities. Such support should reflect the special needs for assistance and other expenses associated with disability. Support provided, adds the Committee, should also, as far as possible, cover individuals (who are generally female) who undertake the care of a person with disabilities: such persons are often in need of financial support because of their assistance role.

1.23 Copenhagen Declaration and Programme of Action

The Copenhagen Declaration and Programme of Action, adopted by the World Summit for Social Development in March 1995, acknowledged that people with disabilities, who form one of the world's largest minorities, are too often forced into poverty, unemployment and social isolation. In relation to employment, the Heads of State and Government at the Summit committed themselves, *inter alia*, to put the creation of employment, the reduction of unemployment and the promotion of appropriately and adequately remunerated employment at the centre of strategies and policies of governments, in full respect for workers' rights, and giving special attention to disadvantaged groups and individuals including persons with disabilities. The elimination of all forms of discrimination is emphasized throughout the Declaration, and the Programme of Action includes "taking effective measures to bring to an end all *de jure* and *de facto* discrimination against persons with disabilities" (para. 15 (i)). In a specific employment reference, the Programme states that broadening the range of employment opportunities for persons with disabilities requires:

Ensuring that laws and regulations do not discriminate against persons with disabilities;

Taking proactive measures, such as organizing support services, devising incentive schemes and supporting self-help schemes and small businesses;

Making appropriate adjustments in the workplace to accommodate persons with disabilities, including in that respect the promotion of innovative technologies;

Developing alternative forms of employment, such as supported employment, for persons with disabilities who need these services;

Promoting public awareness within society regarding the impact of the negative stereotyping of persons with disabilities on their participation in the labour market (para. 62).

The Declaration and Programme of Action makes frequent mention of the need to achieve equality and equity between women and men, including women and men with disabilities. In the context of work and employment, parties to the Declaration commit themselves to:

- promoting changes in attitudes, structures, policies, laws and practices in order to eliminate all obstacles to human dignity, equality and equity in the family and in society, and to promote full and equal participation of urban and rural women and women with disabilities, in social, economic and political life, including in the formulation, implementation and follow-up of public policies and programmes (commitment 5a);
- promoting and attaining the goals of universal and equitable access to quality education . . . making particular efforts to rectify inequalities relating to social conditions and without distinction as to race, national origin, gender, age or disability (commitment 6);
- ensuring that persons with disabilities have access to rehabilitation and other independent living services and assistive technology to enable them to maximize their well-being, independence and full participation in society (commitment 6n).

The Programme of Action acknowledges that empowerment and participation are essential for democracy, harmony and social development and that gender equality and equity and the full participation of women in all economic, social and political activities is essential: “the obstacles that have limited the access of women to decision-making, education, health-care services and productive employment must be eliminated . . .” (para. 7).

The Programme calls on governments to enhance the quality of work and employment by, *inter alia*:

- observing and fully implementing the human rights obligations that they have assumed;
- safeguarding and promoting respect for workers' basic rights, including freedom of association and the right to organize and bargain collectively, equal remuneration for men and women for work of equal value and non-discrimination in employment, and fully implementing the ILO conventions in the case of States party to them (para. 54).

1.24 EU Treaty amendment prohibiting discrimination

Within the European Union, disability issues had been largely regarded as a matter of social policy. The European Commission, in a social policy White Paper published in 1994 (EC, 1994):

- acknowledged that there was a need to build the fundamental right to equal opportunities into EU policies;
- said it would ensure, through appropriate mechanisms, that the needs of disabled people were taken into account in relevant legislation, programmes and initiatives;
- said it would prepare an appropriate instrument endorsing the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities;
- promised it would prepare a code of good practice in relation to its own personnel policies and practices on employing persons with disabilities; and
- said that, at the next opportunity to review the EU Founding Treaties, serious consideration must be given to the introduction of a specific reference to combating discrimination on the ground of disability.

In December 1996,⁹ the EU Social Council adopted a Resolution which reaffirmed the commitment of the Member States to:

⁹ Austria, Finland and Sweden became EU Members in 1995.

- the principles and values that underlie the UN Standard Rules;
- the ideas underlying the Council of Europe's 1992 Resolution on a coherent policy for the rehabilitation of people with disabilities (see section 1.18);
- the principle of equality of opportunity in the development of comprehensive policies in the field of rehabilitation; and
- the principle of avoiding or eliminating any form of negative discrimination on the grounds of disability.

Also in December 1996, the Intergovernmental Conference (IGC) – comprising representatives of EU Member States meeting to review the EU Treaties – agreed to include in the draft revised Treaties a new article prohibiting discrimination based on a number of grounds, including disability. What was finally approved in the Treaty of Amsterdam in 1997, however, was a watered-down version of what had been agreed at the IGC:

. . . the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Art. 13).

While generally welcomed as an important step in the right direction, the amendment fell far short – particularly in the requirement for unanimity and the optional nature of the provision – of what many had hoped for.

1.25 Council of Europe: European Social Charter

The European Social Charter deals with economic and social rights. The original Charter was opened for signature in 1961 and entered into force in 1965. It was added to in 1988 and extensively revised in 1996. (All references in this book to the Charter are to the 1996 version.) In developing the Charter, the Council of Europe paid particular attention to the work of, and the measures adopted by the ILO.

Part I sets out general principles which Contracting Parties undertake to accept. These include the rights of everyone to appropriate facilities for vocational guidance (Art. 9) and vocational training (Art. 10); the right of persons with a disability to independence, social integration and participation in the life of the community (Art. 15); and the right of everyone to protection against poverty and social exclusion (Art. 30).

Part II lists the obligations to which Contracting Parties are bound under each of the 31 articles in Part I, which results in protection of rights in over one hundred areas. The breakdown of Article 15, for example, reads as follows:

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible, or where this is not possible, through specialized bodies, public or private;
2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialized placement and support services;
3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

The European Social Charter is a legally-binding treaty. However, the number of rights protected depends on whether the Contracting Party has

ratified the original Charter, the 1988 Additional Protocol or the Revised Charter of 1996. For example, under Part III of the 1996 Charter, a Contracting Party must agree to be bound by at least six of nine listed Articles of Part II. Article 15 is not included in this “core” list. In addition, the Contracting Party must agree to be bound by an additional number of articles or numbered paragraphs of Part II which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs. Member States which have ratified only the original Charter are only bound by a minimum of five out of seven core articles and at least five others or forty-five paragraphs.

Allowing for the unusual “à la carte” manner of obligations accepted, the European Social Charter is still a valuable treaty which more Member States should be encouraged to ratify. NGOs, in particular, need to be made more aware of its potential in terms of promoting and advancing the rights of persons with disabilities (see Kenny 1997; Council of Europe 1997a, 1997b).

1.26 Inter-American Convention

The Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities was adopted in June 1999. It is the first regional treaty to define discrimination against persons with disabilities. The term “discrimination against persons with disabilities” in this Convention means any distinction, exclusion, or restriction based on a disability, record of disability, whether present or past, which has the effect or objective of impairing or nullifying the recognition, enjoyment, or exercise by a person with a disability of his or her human rights and fundamental freedoms (Art. 1(2)(a)).

A Committee on the Elimination of all Forms of Discrimination against Persons with Disabilities was set up to monitor the implementation of the Inter-American Convention and to provide guidance on the gradual fulfilment of its requirements. Following the adoption and entry into force of the UN Convention on the Rights of Persons with Disabilities, however,

this Committee now focuses on supporting the implementation of the UN Convention through monitoring and guiding the implementation of the programme of action of the Decade of the Americas (Flynn, 2011).

1.27 African Decade of Disabled Persons

The African Decade of Disabled Persons (1999–2009) was declared in July 2000 by the Organization of African Unity (OAU) Heads of State and Government. A Continental Action Plan was adopted unanimously by participants at the Pan African Conference on the African Decade in February 2002, and endorsed by the Executive Council of the African Union (AU), meeting in Durban in June 2002. The Action Plan was intended to provide guidance to Member States and Governments of the OAU in achieving the goal of the Decade – the full participation, equality and empowerment of persons with disabilities in Africa. The Action Plan included a range of measures to be undertaken by member States in developing national disability programmes to promote the participation of persons with disabilities in the process of economic and social development, and to ensure and improve access to training and employment.

This Decade has been extended to a second phase, 2010-2019. A Continental Plan of Action (CPoA) for the extended African Decade of Persons with Disabilities (2010 – 2019) was adopted by the 20th Ordinary Session Assembly of the AU in January 2013. The goal of the CPoA is full participation, equality, inclusion and empowerment of people with disabilities in Africa. Eight strategic thematic areas are outlined for implementation at the national level, and priority action areas are identified for each thematic area. The thematic areas include a focus on mainstreaming, disability statistics, non-discrimination legislation, and an adequate standard of living and social protection for persons with disabilities, among others (African Decade Secretariat, n.d.). The Secretariat of the Decade, recently renamed the Africa Disability Alliance, is based in Pretoria, South Africa.

Following a consultative meeting convened by the UN Special Rapporteur on Disabilities in 2012, leaders of regional and national organizations of

persons with disabilities in Africa, meeting in Addis Ababa, Ethiopia in November 2014, established an African Disability Forum (ADF) to enable people with disabilities and their organizations in Africa to have a unified representative voice in promoting their rights and inclusion at pan-African, sub-regional and national levels. The ADF aims to become a representative umbrella organization of member DPOs and will seek to work closely with the Secretariat of the African Decade of Persons with Disabilities.

1.28 EU Charter of Fundamental Rights

The Charter of Fundamental Rights of the European Union was proclaimed at the Nice European Summit in December 2000 (EU 2000a). The Charter sets out, for the first time in the history of the EU, the full range of civil, political, economic and social rights of all European citizens and all persons resident in the EU, including persons with disabilities. In the context of work and employment, the most relevant provisions are:

- the right to human dignity (Art. 1);
- the right to education and to have access to vocational and continuing training (Art. 14.1);
- the right to engage in work and to pursue a freely-chosen or accepted occupation (Art. 15.1);
- any discrimination based on any ground including disability is prohibited (Art. 21);
- equality between men and women must be ensured in all areas, including employment, work and pay (Art. 23);
- the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community (Art. 26);
- the right of access to a free placement service (Art. 29);
- the right to protection against unjustified dismissal, in accordance with Community law and national laws and practices (Art. 30);
- the right to working conditions which respect health, safety and dignity (Art. 31.1); and

- the entitlement to social security benefits and social services (Art. 34.1).

The Charter became legally binding on EU institutions and on national governments with the entry into force of the Treaty of Lisbon in December 2009.

1.29 EU Directive on Discrimination

An EU Directive (EU 2000b) on discrimination in employment was adopted by the EU Social Affairs Ministers at the end of 2000. The Directive prohibits direct and indirect discrimination on a number of grounds, including disability, and applies, *inter alia*, to selection criteria and recruitment conditions, vocational guidance, vocational training, employment and working conditions, including pay. Importantly, the Directive states that “reasonable accommodation” shall be provided, which means that employers are to take appropriate measures, where needed, to enable a person with a disability to have access to, participate in, or advance in employment, or to provide training, unless such measures would impose a “disproportionate burden” on the employer. Member States are obliged to transpose this EU Directive into national legislation within a time frame of three years, extended in the case of disability to six years, if required.

1.30 European Union Disability Action Plan and Strategy

Equality of opportunity is the objective of the European Union’s long-term strategy on disability, which aims to enable persons with disabilities to enjoy their right to dignity, equal treatment, independent living and participation in society. The strategy is built on three pillars: EU anti-discrimination legislation and measures, which provide access to individual rights; eliminating barriers in the environment that prevent disabled people from exercising their abilities; and mainstreaming disability issues in the broad range of Community policies which facilitate the active inclusion of people with disabilities.

To ensure a coherent policy follow-up to the European Year of People with Disabilities of 2003 in the enlarged Europe,¹⁰ the EU Disability Action Plan (DAP) was established by the Commission in 2003 (EC, 2003) to provide a framework to develop the EU disability strategy. Within the EU, disability policies are essentially the responsibility of Member States, but Member States are asked to take full account of the DAP when developing national disability policies. The DAP covered the period 2004–2010 in successive phases: phase 1 ran from 2004 – 2005, phase 2 from 2006 – 2010, with the second phase focussed on active inclusion of persons with disabilities, building on the values inherent in the UN Convention on the Rights of Persons with Disabilities. Priority actions centred around raising employment and activity rates; promoting access to quality support and care services; fostering accessibility of goods and services, including accessible public transport and an accessible public environment; and improving the reliability and comparability of data.

Building on the DAP experience, the European Disability Strategy 2010 – 2020 on the theme '*A renewed commitment to a barrier-free Europe*' aims to empower people with disabilities so that they can enjoy their full rights and benefit fully from participating in society and in the European economy (European Commission 2010a) This is combined with the aim of ensuring effective implementation of the UN CRPD across the EU.¹¹ The Strategy focuses on eliminating barriers in eight main areas, namely accessibility, participation, equality, employment, education and training, social protection, health and external action. In relation to employment the Commission through the Disability Strategy and the Europe 2020 Strategy, undertakes to enable many more people with disabilities to earn their living in the open labour market by supporting and supplementing national efforts to analyse the labour market situation of women and men with disabilities, pay particular attention to young

¹⁰ Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia joined the European Union in 2004; Bulgaria and Romania joined in 2007; and Croatia joined in 2013, bringing total membership to 28.

¹¹ The EU ratified the UN CRPD in 2010 – a historic move in several ways, as it was the first time that the EU became party to an international human rights treaty, and the first time the UNCRPD was ratified by an intergovernmental organization,

people with disabilities in their transition from school to work; address intra-job mobility in the open labour market and in sheltered workshops; as well as addressing the issue of self employment and quality jobs. It aims to fight 'benefits traps' and cultures that discourage people from seeking employment; develop job placement services and support structures, including on-the-job training; as well as taking measures to support labour market inclusion through the use of the Social Fund. It also promotes the use of the Commission General Block Exemption Regulation¹² that allows granting of State aid without prior notification of the Commission (EU Council Regulation No 733/2013).

1.31 Council of Europe – Malaga Declaration

In May 2003, the Council of Europe Ministers responsible for integration policies for persons with disabilities, meeting in Malaga, adopted a Ministerial Declaration on People with Disabilities, "Progressing towards full participation as citizen". The Declaration reaffirmed Member States' commitment to securing human rights and fundamental freedoms for everyone under their jurisdiction, as set out in the European Convention on Human Rights. The main aim in the next decade, according to the Declaration, was to improve the quality of life of persons with disabilities and their families, putting the emphasis on their integration and full participation in society. As an appropriate strategy to achieve this aim, the Declaration called for an Action Plan to promote the elimination of all forms of discrimination against persons with disabilities of all ages, with a special focus on disabled women and persons with disabilities in need of a high level of support.

The Declaration also called for an integrated approach towards the elaboration of national and international disability policies and legislation,

¹² The General Block Exemption Regulation exempts Member States from the usual obligation to notify the Commission of measures deemed to bring benefits to society that outweigh the possible distortions of competition in the Single Market triggered by the public funding of, for example, job creation measures, measures to boost competitiveness and measures that create a favourable environment for Small and Medium Enterprises.

duly reflecting the needs of persons with disabilities in all areas including education, vocational guidance and training, employment, the built environment, transport and social protection. Progress should be made towards the integration of persons with disabilities in the labour market, preferably in the open market, with the focus on assessing abilities and implementing active policies. There is consistent emphasis throughout the Declaration on the need to mainstream equality of opportunity for persons with disabilities throughout all policy areas.

1.32 Council of Europe Action Plan

Building on the 2003 Malaga Declaration, the Committee of Ministers to Member States of the Council of Europe adopted in April 2006 the “Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: Improving the quality of life of people with disabilities in Europe 2006-2015” (Rec (2006) 5). Officially launched in St. Petersburg on 21–22 September 2006 at the European conference “Improving the quality of life of people with disabilities in Europe: Participation for all, innovation, effectiveness”, the Action Plan aims to provide a comprehensive framework that is both flexible and adaptable in order to meet country-specific conditions. It is intended to serve as a “roadmap for policy-makers, to enable them to design, adjust, refocus and implement appropriate plans, programmes and innovative strategies” (para. 1.1.2), ultimately mainstreaming disability throughout all policy areas. It has the potential to serve as an implementation tool for the UN Convention on the Rights of Persons with Disabilities in the European region, supported by the European Co-ordination Forum for the Council of Europe Disability Action Plan (CAHPAH), established to promote, monitor and follow up on the implementation of the Council of Europe Action Plan.

The Action Plan has a broad scope, encompassing 15 key areas of life and setting out 15 “action lines” (objectives and specific actions) to be implemented by Member States. These action lines include information and communication, education, the built environment, transportation, rehabilitation and awareness-raising.

Action line No. 5 on employment, vocational guidance and training, points out that, compared to non-disabled persons, the employment and activity rates of disabled people are very low: policies to increase the activity rate need to be diversified – according to the employment potential of disabled people – and comprehensive, in order to address all the barriers to participation in the workforce. (For more detail see CAHPAH, Annex 5.)

Two objectives are specified:

- to promote the employment of people with disabilities in the open labour market by combining anti-discrimination and positive action measures; and
- to tackle discrimination and promote participation of people with disabilities in vocational assessment, guidance, training and employment-related services.

Social enterprises (for example, social firms, social cooperatives) as part of open employment, or sheltered workshops, may contribute to the employment of disabled people.

Specific actions to be undertaken by Member States include:

- mainstreaming issues relating to the employment of people with disabilities in general employment policies;
- removing disincentives to work in disability benefit systems and encouraging beneficiaries to work when they can;
- considering the needs of women with disabilities when devising programmes and policies related to equal opportunities for women in employment, including childcare; and
- ensuring that support measures, such as sheltered or supported employment, are in place for those people whose needs cannot be met without personal support in the open labour market.

In 2011, the responsibility for the Council of Europe's Disability Action Plan and related activities was transferred from the social policy field of work to the Human Rights and Anti-discrimination Directorate which was replaced in 2014 by the Directorate of Human Dignity and

Equality. The disability-related programme remains part of the Council of Europe's broad work on anti-discrimination measures. Those changes reflect the paradigm shift, mentioned earlier, in the understanding of disability issues in international policy, involving a departure from regarding persons with disabilities as objects of social welfare or charity, to an approach which views them as citizens and as rights holders.

1.33 Arab Decade for Persons with Disabilities

The Arab Decade for Persons with Disabilities, 2004-2013, was formally proclaimed at the Summit Meeting of the Arab League in Tunis in May 2004. Arab States were called on, *inter alia*, to promote the full integration of persons with disabilities in public schools, the labour market and other sectors of society through a wide range of measures, paying particular attention to the requirements of women and children with disabilities. Specifically relating to training and employment, States were called on to establish training organizations for people with disabilities which reflect new technologies and labour market requirements; to encourage persons with disabilities to establish small and medium-sized enterprises through financial support and assistance with sales and marketing; as well as to encourage the private sector to train and employ persons with disabilities and enable them to advance in their careers. Following the declaration of the Decade, growing interest in the rights of persons with disabilities in the region was reflected in the revision of disability-related legislation in several of the Arab States, as well as in numerous regional and national capacity-building events.

In 2013, marking the closure of the Arab Decade, a conference was held by the United Nations Economic and Social Commission for Western Asia (ESCWA) and the League of Arab States to review challenges and achievements in disability policy in the Arab Region. Conference participants adopted a joint outcome statement reaffirming Arab countries' commitment to implementing the provisions of the UN Convention on the Rights of Persons with Disabilities and calling for a new regional framework to support Governments in their efforts to develop suitable policies (UN Social Development Network, 2013).

1.34 Decade of the Americas

In 2006, the Organization of American States (OAS) declared the Decade of the Americas for the Rights and Dignity of Persons with Disabilities 2006 – 2016 on the theme '*Equality, Dignity and Participation*', reflecting the principles of the Inter-American Convention and the UNCRPD. A Working Group was established to develop an associated programme of action for the Decade. In 2008, a Secretariat for the Decade, SEDISCAP, was set up to facilitate information exchange on implementing the programme of action, promote research to support achievement of the Decade's goals, mainstream these goals throughout the OAS system and promote cooperation with the UN Committee on the Elimination of all Forms of Discrimination against Persons with Disabilities (Flynn, 2011).

1.35 UN Convention on the Rights of Persons with Disabilities (CRPD)

In 1999, the General Assembly of Rehabilitation International adopted a new Charter which called for an international convention on the rights of persons with disabilities. Representatives of Rehabilitation International, Disabled People's International, Inclusion International, World Blind Union and World Federation of the Deaf, meeting in Beijing in March 2000, expressed serious concern that UN instruments "have yet to create a significant impact on improving the lives of people with disabilities" and called for international collaboration towards the development and adoption of a new convention.

The UN Commission on Human Rights was also concerned about the adequacy of existing measures. At its meeting in April 2000, the Commission adopted Resolution 2000/51 which invited the High Commissioner for Human Rights to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities. In response, the Office of the High Commissioner for Human Rights (OHCHR) commissioned a study to evaluate existing standards and mechanisms in the field of human rights and disability. The prelim-

inary findings of the study were presented at a meeting in the OHCHR in Geneva in January 2002.

Participants at the meeting in Geneva - representatives of governments, United Nations agencies, intergovernmental organizations and non-governmental organizations - agreed on the need for a multiple approach to disability. There was wide agreement on the need for a focus on the human rights dimension of the issues involved. The findings of the study underlined how the drafting of a new convention should not be seen as an alternative to strengthening attention to disability within the existing international human rights system. This combination of a disability-specific convention and greater consideration of disability issues in existing human rights instruments has been described as a 'twin-track' approach. The discussion broadened that approach further, highlighting the need to strengthen social development efforts in the field of disability and to integrate better the UN work in that domain with reinforced attention to the matter from a human rights perspective (NHRI, undated).

Meanwhile, in December 2001, the UN General Assembly adopted Resolution 56/168, sponsored by the Government of Mexico, which established an Ad Hoc Committee, open to the participation of all Member States and observers to the UN, to consider proposals for a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities, based on the holistic approach adopted in the field of social development.

Following an open and transparent process, which provided for participation by all interested parties, in particular disabled persons and their representative organizations, the UN General Assembly on 13 December 2006 (resolution 61/106) adopted the Convention on the Rights of Persons with Disabilities (CRPD). The CRPD is seen as "a comprehensive and integral convention to promote and protect the rights and dignity of persons with disabilities [which] will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, economic, social and cultural spheres with equal opportunities, in both developing and developed countries" (Preamble, (y)). The CRPD restates, reinforces and

develops rights contained in other international instruments; and confirms that all such rights apply to persons with disabilities.¹³

The principles of the CRPD set out in article 3 are: (a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; and (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

States Parties to the Convention have general as well as specific obligations. General obligations laid down in Article 4 include the following:

- to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention;
- to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- to ensure that public authorities and institutions act in conformity with the Convention;
- to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise; and
- to promote the training of professionals and staff working with persons with disabilities in the rights recognized in the Convention.

Requirements in respect of rehabilitation include taking effective meas-

¹³ Some commentators have remarked that the CRPD modified, transformed and added to traditional human rights concepts in key respects, citing examples such as the right to awareness-raising, social protection and poverty reduction and to international cooperation, as well as the right to an accessible environment. (see, for example, Kayess and French, 2008).

ures to enable persons with disabilities “to attain and maintain maximum independence, full physical, mental, social and vocational ability” and the provision of comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services (Art. 26(1)).

The importance of education in enabling persons with disabilities to participate effectively in a free society, including in employment, is recognized in Article 24 which requires States Parties to, *inter alia*, ensure an inclusive education system at all levels and ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination, on an equal basis with others, and with the provision of reasonable accommodation.

Article 27 is specifically devoted to work and employment and is quoted in full in the following box. Discrimination on the basis of disability is prohibited in all forms of employment. States Parties are called upon to open up opportunities in mainstream workplaces, both in the public and private sectors. To facilitate this, the Convention promotes the access of disabled persons to freely-chosen work, general technical and vocational guidance programmes, placement services and vocational and continuing training, as well as vocational rehabilitation, job retention and return-to work programmes. The provisions cover people with disabilities seeking employment, advancing in employment and those who acquire a disability while in employment and who wish to retain their jobs. The Convention also recognizes that for many disabled persons in developing countries, self-employment or micro business may be the first option, and in some cases, the only option. States Parties are called on to promote such opportunities. The right to exercise labour and trade union rights is promoted. States Parties are also called on to ensure that people with disabilities are not held in slavery or servitude and are protected on an equal basis with others from forced or compulsory labour.

Box 2 CRPD Article 27: Work and Employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, *inter alia*:
 - (a) prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - (b) protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
 - (c) ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - (d) enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
 - (e) promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
 - (f) promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
 - (g) employ persons with disabilities in the public sector;
 - (h) promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - (i) ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - (j) promote the acquisition by persons with disabilities of work experience in the open labour market;
 - (k) promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

1.35.1 Recognition of Multiple Discrimination

The CRPD builds on the earlier recognition that women with disabilities are more vulnerable to discrimination, because they are women

and because they have a disability, and that this double discrimination suffered by women with disabilities is often ignored or goes unnoticed because persons with disabilities are sometimes treated as though they are genderless human beings (see Section 1.22 above). It recognizes the particular situation of women with disabilities in Article 6 which requires States Parties to recognize that “women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms”. States Parties also undertake to “take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention”.

The CRPD also expresses concern about multiple or aggravated forms of discrimination faced by persons with disabilities on the grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status’ (CRPD, 2006, Preamble, para (p)). Implicitly, States Parties should take these multiple forms of discrimination into account in their laws, policies, programmes and services.

By September 2015, the CRPD has been ratified by 159 countries and the European Union, while the Optional Protocol has been ratified by 88 countries.

1.35.2 Optional Protocol

At the time it adopted the CRPD, the UN General Assembly also adopted an Optional Protocol. A State Party to the CRPD has the choice of being a party to this Protocol thus assuming additional obligations. States that ratify the Protocol recognize the competence of the Committee on the Rights of Persons with Disabilities to consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the CRPD. No communication shall be received by the Committee if it concerns a State Party to the CRPD that is not a party to the Protocol.

The Protocol further provides for the Committee to undertake inquiries into systemic or grave breaches of the CRPD.

1.35.3 Monitoring the implementation of the CRPD

Monitoring of implementation is provided for at national and international levels. Domestically, States Parties are required to designate a focal point or focal points within government on the implementation of the CRPD and should consider setting up a mechanism to coordinate action at different sectors and levels of government. An independent framework – possibly the national human rights institution – should be designated to promote and monitor implementation. Civil society and in particular persons with disabilities and their representative organizations, should participate fully in the monitoring process (CRPD, Art 33).

Internationally, the Committee on the Rights of Persons with Disabilities, made up of 18 independent experts, meets at least twice a year to consider reports submitted by States Parties on the implementation of the CRPD, make recommendations as appropriate, and request further information, if considered necessary. In its concluding observations on the implementation of the right to work and employment in State reports reviewed to date, the Committee has expressed concern at the high unemployment and underemployment of persons with disabilities; the lack of disaggregated data on labour force participation; the lack of monitoring of compliance with legal provisions; the additional discrimination faced by women with disabilities as reflected in gender gaps in employment and pay; and cultural barriers and prejudices that hinder labour force participation (Committee on the Rights of Persons with Disabilities n.d.).

The monitoring process provides the opportunity for States Parties to review their laws and policies and bring these more into line with the CRPD, provide for dialogue on human rights, establish a baseline to measure progress, and allow for public scrutiny at national and international levels (Quinn, 2009). The concerns raised and recommendations made by the Committee on the Rights of Persons with Disabilities regarding the right to work and employment will be revisited and further discussed in Chapter 4.

Work and employment options

People with disabilities should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment, according to ILO Convention No. 159 and Recommendation No. 168. The CRPD reinforces and complements the principles of ILO Convention No. 159, requiring States Parties to recognize the right of persons with disabilities to work on an equal basis with others, and stating that *'this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities'*.

It remains common, however, that for many persons with disabilities, only sheltered (often segregated) employment opportunities are available and provided. There are numerous variations of these options across countries, depending on factors such as tradition and culture, economic, social and labour market conditions, social welfare benefit systems, availability of trained personnel, and influence of stakeholders, including organizations of and for persons with disabilities.

This Chapter gives an overview of employment for persons with disabilities under four broad headings:

- Open/competitive employment, including self-employment;¹⁴
- Sheltered employment;
- Supported employment;
- Social enterprises.

It also highlights the situation of women with disabilities, who face particular disadvantages in entering the labour force and finding decent jobs. Chapter 3 discusses measures to facilitate entry to and retention in employment under each approach, with particular reference to employment policy and practice in industrialized countries.

¹⁴ Self-employment is not dealt with as a separate category here, as it can exist under all categories.

2.1 Open/competitive employment

The absence of adequate and comparable data on the labour market situation of people with disabilities in many countries makes generalization difficult. From the information available, however, it is possible to draw some tentative conclusions about the current situation in open or competitive employment (Schur, Kruse & Blanck, 2013).

- People with disabilities are less likely to be in full time employment than non-disabled persons. In countries of the Organisation for Economic Co-operation and Development (OECD) in the decade of 2000s, 44 per cent of people with disabilities of working age were in employment, compared to 75 per cent of the population at large, and their employment rates were reported to be falling in many countries (OECD, 2010). In the European Union in 2010, one in six persons (about 80 million) had a mild to severe disability (EC, 2010a) and additionally, at least 83 million people had mental health problems (Cyhlarova et al., 2010), yet only 45 per cent of disabled people of working age were employed compared to 74 per cent of people without a disability (Grammenos, 2010).
- The employment rates of people with certain disabilities – in particular those with mental health difficulties and those with intellectual disabilities - are reported to be particularly low (WHO, 2011). Women with disabilities are reported to be less likely to have a decent job than either non-disabled women or men with disabilities (OECD, 2010; Eurostat, 2002; Bjelland et al, 2008). Evidence for several low income countries reveal a similar pattern to those in high- income countries (WHO, 2011).
- When they are employed, people with disabilities are more likely to be in part-time, low-paid jobs with poor promotional prospects and working conditions (see, for example, Erikson et al, 2008; Korea MOL, 2007.) For example, 44 per cent of workers with disabilities have been found to be in some contingent or part-time employment arrangement, compared with 22 per cent of those without disabilities (Schur, L. 2003, cited in WHO, 2011).
- The unemployment rate of disabled persons tends to be higher than that of non-disabled persons. Registered unemployment rates of per-

sons with disabilities in OECD countries was generally double that of non-disabled people in the mid-2000s: 14 per cent were registered as unemployed, compared to 7 per cent of non-disabled persons (OECD, 2010). Comparable data is not available for many developing countries.

- The participation rate of persons with disabilities in the open labour market tends to be lower than that of others. Slightly less than half (49 per cent) of persons with disabilities in OECD countries were economically inactive in the late 2000s, compared to one in five non-disabled persons (20 per cent) (OECD, 2010).

Reasons for this high inactivity vary between countries. Benefit traps and risks of losing benefits on starting work are major disincentives. Another possible reason may be the reluctance of employers to recruit disabled workers for fear of having to make expensive workplace adjustments or because of the difficulty of “letting someone go” once appointed (Shur et al., 2013).

Employment data - country examples

In **Australia**, the labour force participation rate for persons with a disability was 54 per cent in 2009, compared with 83 per cent for persons without a disability. The unemployment rate among persons with a disability was 7.8 per cent compared with 5.1 per cent for persons with no disability (Australian Bureau of Statistics, 2012).

In **Canada**, the employment rate for persons with disabilities in 2006 was 53.5 per cent, whereas the rate for those with no disability was 75.1 per cent (Human Resources & Skills Development, 2009).

In **France**, the unemployment rate for persons with disabilities in 2007 was double that of non-disabled people - 19 per cent compared to 9 per cent of persons without disabilities (ANED, 2009).

In **Germany** in 2005, the unemployment rate for disabled persons was 14.5 per cent, compared to 11.1 per cent for non-disabled persons (Waldschmidt & Lingnau, 2007; see also <http://www.disability-europe.net>).

In **Hungary**, as of 2011, the unemployment rate of persons with disabilities was 27 per cent compared to the rate of the entire population at 10.1 per cent (Komiljovics, 2013).

The employment rate of disabled people in **Norway** was 42.7 per cent in 2013, compared to 74.2 per cent for the whole population (4-traders, 2013).

In **Sweden** in 2008, 66 per cent of persons with disabilities participated in the labour force, compared to 55 per cent of persons with disabilities who had a reduced ability to work, and 81 per cent of persons without disabilities. Unemployment rates among these three groups were 6.5, 9.1, and 4.9 per cent respectively. 8.7 per cent of those with reduced work ability were unemployed compared to 4.3 per cent of the total population (Danermark, 2009).

Disabled workers in **Switzerland** were likewise unemployed to a greater degree than non-disabled workers in 2006, but their 52 per cent employment rate is relatively high compared to other OECD countries (OECD, 2006).

In the **United Kingdom**, the employment rate of persons with disabilities was 46.3 per cent in 2012, compared to 76.4 per cent of non-disabled persons (Department for Work & Pensions, 2013). The difference between the two figures represented more than 2 million people.

In the **United States**, the employment rate of people with disabilities aged 21-64 in 2012 was 33.5 per cent, compared to 76.3 per cent of people without disabilities (www.disabilitystatistics.org).

Labour force data for developing countries show a similar pattern of relatively low employment rates for persons with disabilities. In **India**, an employment rate of 37.6 percent was reported in 2002 among disabled persons, compared to 62.5 per cent of the overall population; in **Peru**, 23.8 percent of persons with disabilities were in employment in 2003, compared to 64.1 per cent overall; and in **Zambia**, in 2005, 45.5 per cent of persons with disabilities were employed, compared to 56.5 per cent overall (WHO, 2011, p 238).

In general, persons with disabilities in the labour market tend to have a lower level of education than others. They are also more likely to be in part-time jobs. Unemployment rates vary between types of disability, being highest among those with mental health disabilities. One study shows that the employment rate was as low as 10 per cent for this population (Papworth Trust, 2011).

In **Switzerland**, mental illness has become the single most important basis for persons to receive disability benefits, accounting for over 40 per cent of the total (OECD, 2006, p. 21), a trend that has been evident in other countries (Gabriel & Liimatanen, 2000; OECD, 2011). The World Health Organization (2010) reports that mental and psychosocial disabilities are associated with rates of unemployment as high as 90 per cent.

Based on a review of available information, reasons given for low employment rates among persons with disabilities include:

- low level of education and training;
- declining demand for unskilled labour;
- reductions in the workforce of large enterprises and the public service;
- concern about accidents and insurance costs;
- reluctance to register as having a disability;
- lack of information on work opportunities;
- lack of awareness among employers of needs and abilities of persons with disabilities;
- “benefits trap”;
- fear of losing welfare benefits;
- discouragement due to experiences of failure in obtaining jobs and/or internalized negative images; and
- inadequate technology and technical/personal supports.

Gender gaps in employment

As noted above, people with disabilities in general face difficulties in entering the open labour market. But, seen from a gender perspective, women with disabilities face higher barriers to employment: men with disabilities are more likely to participate in the labour force and almost twice as likely to have jobs than disabled women. For example, according to a study carried out in the US in the early 1980s, almost 42 per cent of men with disabilities are in the labour force, compared to 24 per cent of women. In addition, while more than 30 per cent of disabled men work full time, only 12 per cent of disabled women are in full-time employment. Women with disabilities who work full time earn only 56 per cent of the earnings of full-time employed men with disabilities (Bowe, 1984). Only 3 per cent of disabled women are registered in the labour force in Ghana (1996), 0.3 per cent in India (1991) and 19 per cent in the Philippines (1992). Most working women with disabilities are to be found in the informal sector (Messell, 1997). When women with disabilities work, they often experience unequal hiring and promotion standards, unequal access to training and retraining, unequal access to credit and other productive resources, unequal pay for equal work and occupational segregation, and they rarely participate in economic decision-making (IL, 1996).

2.1.1 More active labour market policy

Many countries are concerned about increasing levels of unemployment among persons with disabilities and their low rate of labour market participation, linked to concerns about increasing social assistance costs. Details of specific measures are contained in the following chapter, but the general thrust of new policy developments reflects increased emphasis on greater activation of labour market policy through:

- strategies to empower people with disabilities to live with greater fiscal independence;
- more effective implementation of anti-discrimination legislation;
- incentives to participate in educational, training, technology, and work initiatives;

- mainstreaming of employment and training services for persons with disabilities;
- increasing the availability of effective employment support services;
- greater involvement of employers;
- measures to prevent and discourage welfare dependency; and
- greater enforcement of existing quota scheme provisions.

At present, passive measures (income transfers) consume a considerably greater proportion of public resources than active labour market measures, making up 95 per cent of total spending on disability in most OECD countries, with only a few countries, namely Germany, Norway, the Netherlands and Denmark, spending over 10 per cent on active labour market programmes for persons with disabilities (OECD, 2010).

While the scope for shifting the balance may appear to be great, relatively high unemployment rates, coupled with a general economic downturn in many OECD countries, especially after 2007, have made it difficult to implement active labour market measures effectively, where these have been introduced.

2.2 Sheltered employment

It is generally but not universally accepted and at times disputed, that for some disabled persons, open employment may not be a practicable option, for various reasons. In calling for measures to promote employment opportunities for persons with disabilities, the ILO has recommended in the past that such measures should include “appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable” (ILO Recommendation No. 168, para 11(b)). The UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities state that while the aim should always be for persons with disabilities to obtain employment in the open labour market, “for persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative” (Rule 7 (7)).

In their survey of sheltered employment in various countries, Samoy and Waterplas (1997, p. 6) found that even the concept of sheltered employment does not have the same meaning for all people:

When government officials are asked to present their system of sheltered employment to foreigners (such as the authors), they will sometimes refer exclusively to organizations providing productive work (in industry or services) to persons with disabilities who have an employment contract and receive a wage. Other officials from the same state or officials from another state may want to include organizations where productive work is certainly not the only and often not even the main aim and where persons with disabilities have no employment contract and receive no wages, but only a bonus in addition to their disability pension. Other interested parties, such as workshop organizations or organizations of and for people with disabilities, may share this view or disagree.

In their report, Samoy and Waterplas adopted a broad view of sheltered workshops, including types of organizations close to occupational centres or day centres. However, a minimum of productive activity was required for an organization to be included. For countries where such institutions are normally not considered as sheltered work, some information was gathered in order to make comparisons possible.

The Council of Europe (1992) also uses a broad definition of sheltered employment:

Sheltered employment should be open to people who, because of their disability, are unable to obtain or keep a normal job, whether supported or not; it can cover a number of diversified situations, amongst which are sheltered workshops and work centres. Sheltered work should have a double purpose: to make it possible for people with disabilities to carry out a worthwhile activity and to prepare them, as far as possible, for work in normal employment. To this end, all ways of facilitating the passage from supported to ordinary employment should be devised, such as: the setting up of sheltered work sections in work centres or work centres in sheltered workshops; the setting up of sheltered

work sections or work centres within ordinary firms; individual or collective detachment of workers in sheltered workshops or work centres to ordinary firms.

Some countries have found it useful, for planning purposes, to make distinctions between certain forms of work and employment. In **Ireland**, for example, a committee set up to advise on a strategy for employment for persons with disabilities in sheltered and supported work and employment used the following definitions:

Work is the undertaking of organized tasks which may attract some forms of remuneration, but which is not covered by employment protection legislation or pay-related social insurance.

Employment is remunerated work which complies with statutory requirements in regard to employment protection legislation, pay-related social insurance and income tax liability.

Sheltered Work is work undertaken by persons with disabilities in workshops specifically established for that purpose. People working in sheltered workshops retain their social insurance benefits and usually receive a small additional weekly payment from the work provider. Sheltered workers are not employed and are not covered by employment protection legislation.

Sheltered Employment is employment in an enterprise established specifically for the employment of persons with disabilities and which is in receipt of special funding from the State (NRB, 1997).

Many countries continue to operate some form of sheltered employment system, as evidenced by the reports of States Parties to the Committee on the Rights of Persons with Disabilities (Committee on the Rights of Persons with Disabilities, n.d). These are generally OECD countries that set up sheltered workshops many years ago, before the policy shift to inclusion started to emerge. Changes are underway, however, given the policy emphasis on inclusion in the open labour market, and increasing attention paid to the cost effectiveness involved as well as to the expressed wish of people working in sheltered workshops to have ‘the

opportunity to work in outside employment', in several countries where studies have been conducted, (McConkey and Mezza, 2001; Migliore et al., 2007; Verdugo et al., 2009).

In the **United Kingdom**, for example, Remploy was established in 1945 to rehabilitate and train disabled people to help them secure 'ordinary' employment. In 2011/12 financial year, Remploy employed more than 2,150 disabled people in its factories, but made an operating loss of £49.5 million (Remploy, 2013). It was supported by government funding from its inception until 2012, when public subsidies were withdrawn and government funding moved to other disability employment schemes, in line with the recommendations of an independent review. All Remploy factories have now either closed or been sold to new owners, following a closure programme which ran from March 2012 to October 2013 (McGuinness and Dar, 2014).

Outside the Remploy factory network, there has been a decline in the number of sheltered factories operated by local authorities and the voluntary sector, coinciding with a decline in the manufacturing industry as well as an increasing government policy emphasis on seeking employment for persons with disabilities in the mainstream workplace rather than a sheltered environment (Prime Minister's Strategy Unit, 2005).

In **New Zealand**, a similar process of reform has been underway since the 1990s. The general exemption of sheltered employment from general wage rates and working conditions ended in 2007 to be replaced by a limited scheme of individually assessed exemptions that allow reduced wages to be paid according to individual productivity – with around 1,200 workers with disabilities remaining under such exemptions (Committee on the Rights of Persons with Disabilities, 2011).

In the **United States**, the U.S. AbilityOne Commission implements the AbilityOne programme, which under the authority of the Javits-Wagner-O'Day Act, employs approximately 50,000 individuals who are blind or have other severe disabilities through non-profit organizations in producing goods and providing services under contract with federal agencies (see <http://www.abilityone.gov/>).

Public policy in the Netherlands, Sweden, Norway and Finland, among other countries, has linked funding of sheltered workshops to specific 'transition' targets, involving a specified percentage of workers with disabilities moving to more open forms of employment each year; and encouraged greater market-orientation and a more business-like approach in these workshops (OECD, 2010).

Comparison between countries is difficult for a number of reasons, not least because the concept of sheltered employment does not have the same meaning to all, even within the same country. A number of general points may, however, be made:

- The philosophy of sheltered employment has been hotly debated in some countries (e.g. Australia, United States) in recent years, with other supported employment measures coming more into favour. In Europe, there appears to be little consensus, with some countries providing a significantly smaller number of sheltered employment places than others, relative to the size of the workforce. The debate continues, given the emphasis in the CRPD on the right to work in the open labour market.
- Many sheltered workshops owe their origin to voluntary effort, often charities, religious groups or groups of concerned parents. Gradually, they became subject to state regulation and eligible for state subsidization.
- In general, sheltered employment was intended for persons who were unable or unlikely to obtain or retain a job in the open labour market because of the severity of their disability or limited working capacity. In many cases, a minimum level of disability is specified as an entry requirement. The majority of those employed tend to have an intellectual disability, though in some cases no distinction appears to be made between intellectual disability and other cognitive and mental disabilities (Blanck et al, 2003).
- In most countries, improving transition to the regular labour market is a stated policy goal of sheltered employment. In reality, transition rates have ranged in the past from under 1 per cent to about 5 per cent, with most countries near the lower end of the scale (see, for example, Thornton and Lunt, op. cit.; Samoy and Waterplas,

op. cit.; Council of Europe, 1993). Reasons given for low transition include reluctance of employers to recruit; reluctance on the part of workshops to release their key workers; the low technological level of workshop activities which restricts the potential skill levels of employees; and skills training which often does not reflect the requirements of the labour market.

- Sheltered employment has been criticized in some countries for failing to provide proper working conditions and employment contracts. In many cases, employees are paid less than the minimum wage. In some cases, they receive only “pocket money” in addition to their normal disability benefit. Employment and occupational safety and health laws often do not apply. There is generally no right to freedom of association (to unionize).

Some of the criticisms of sheltered employment in relation to low transition, lack of employment contracts, and poor pay, may reflect differences – or even uncertainty – in the philosophy underlying the concept rather than inadequacies in policy, management or cost-benefit returns. To assess the performance of sheltered workshops in terms of the issues that have been raised is open to question, when those operating the system see their responsibility more in terms of care and social service rather than employment promotion or economic returns.

2.3 Supported employment

Supported employment originated in the **United States** as an alternative to traditional rehabilitation programmes for persons with severe disabilities. It is defined by US law as paid work in integrated work settings, with on-going support services, for persons with severe disabilities (29 USC Art 705(35)). The provision of a minimum wage was added to US federal regulations in 1997 for persons engaged in supported employment (Wehman et al., 1997).

Supported employment may be provided in a variety of ways. These include individual placement, enclaves, mobile work crews and small business arrangements (Parmenter, 2011). An enclave is a group of indi-

viduals, usually three to eight, who work in a special training group within a host company. Not all members of the group may move into the company's regular workforce. A mobile work crew may be a similar sized group, with one or more supervisors, which travels through a community offering specialized contract services, such as gardening or grounds-keeping. The small business option could be a manufacturing service or a subcontract operation, with a small number of workers with and without disabilities. The business might provide only one type of product or service (Department of Health and Human Services, 2008).

The individual placement option would appear to be the dominant one in the **United States**. In 2012, 83 per cent of supported employment participants were in individual supported employment positions compared to 77 per cent in 1995 (Wehman et al., 1997) and fewer than half of supported employment services provided a group model. However, there is no one "best" model because by definition and regulation, supported employment must be flexible, variable, accommodating, and require a collaborative approach. Collaboration is often necessary to put together the short-term funding needed for an individual to achieve job stability (Haines et al., 2012).

Some of these methods include job coaches, Employment Training Programmes (ETPs), Ticket to Work Programmes, personal assistance services, peer support services, and self-directed models. Each of these methods may be encountered within supported employment in order to meet the very different needs of each person requiring services (**United States**, Medicaid.gov).

The interpretation of supported employment varies from country to country (see ILO 2004a, pp. 78-80; Parmenter, 2011).

- In the **United Kingdom and Ireland**, for example, supported employment includes programmes providing financial subsidies to employers in respect of disabled workers with reduced productivity, as well as job coach-based activity as in the United States.
- **Ireland** implemented a national Supported Employment Programme (SEP) in 2000 providing services to between 2,200 and 2,500

clients at a time. A 2008 review of SEP found that people with intellectual and mental health impairments made up one-third each of the total clients served, and people with physical impairments comprised about one-fourth. However, only about 35 to 40 per cent of clients are actively employed and supported (WRC, 2008).

- In **Norway**, supported employment measures often end when a job has been found. The usual duration is six months, with the possibility to extend follow-up support for a further six months, rising to three years in special cases (OECD, 2013). However, supported employment represents a small proportion of work-related measures for people with vocational disabilities and is typically provided as an “add-on” service (Spjelkavik, 2012).
- In the **Netherlands**, the Parliament in 1992 asked the Government to find a solution to wage differences between supported employment programmes and sheltered employment. In the supported employment programmes, wages were related to productivity and supplemented with a disability benefit of up to 85 per cent of the statutory minimum wage, while in sheltered companies full wages were paid. In addition, the Government was asked to cover the costs of job coaches. As a first step, the supplementary benefit was raised to a limit of the minimum wage and a subsidy was introduced towards the cost of job coaches. Under 1996 legislation, local authorities may fund supported employment (Krug, 1996). Data on the number of people with disabilities using supported employment is limited. Of the estimated 73,000 adults with an intellectual disability in the Netherlands in 2005, 30,000 persons were in sheltered employment and only 3,000 persons were supported in the open job market (Schoonheim & Smits, 2009).
- In **New Zealand**, the supported employment programme provides a wage subsidy for two years (Saloviita, 2000). Similarly, the Mainstream Employment Programme offered through the Ministry of Social Development provides a 100 per cent salary subsidy for the first year and 80 per cent the second year (Ministry of Social Development, n.d.).

- In **Finland**, supported employment is provided as a municipal service under the Social Welfare Act. Additionally supported employment falls under social and health services instead of under employment policy, and has thus been medicalised (Teittinen, 2009). A survey of supported employment projects found that few defined supported employment as supported, paid work in integrated settings: “generally, it was understood to mean a variety of support options for employment or employment-related activities” (Saloviita, op. cit. p. 91).
- Other European countries, including **Malta** and **Slovenia**, provide long-term support during the job-seeking and employment process (EC 2005, Annex 3: 3.3.1). There are contrasting views on this however. According to the former President of the European Union of Supported Employment, Malta lacks the structure and personnel to run such support systems (Federation of Organisations for Persons with Disability, 2012). In Slovenia, new legislation appears to favour sheltered employment over supported employment. Pilot enterprises exist, but lack the accessibility to wide audiences and extension of the programmes (Flaker, Dolinšek & Nagode, 2007).
- In 2013, the **United Kingdom** introduced a Supported Internship scheme to support young people with complex learning difficulties or disabilities to find work. Further Education colleges run the scheme, working with employers to identify a job that suits each intern’s abilities and developing an individualized study programme, including on-the-job training, to enable interns to learn the skills required for the job (Gov.uk, 2013).
- In several countries of **Asia**, supported employment has been introduced by non-governmental organizations, with varying levels of government support. In **Hong Kong**, the Department of Labour provides support to NGOs that run support employment programmes for people with disabilities. One example is the New Life Psychiatric Rehabilitation Association that provides a Supported Employment Service for people with psycho-social disabilities, through work services in cleaning, security, retail and catering to businesses and organizations; and job-coaching and on-going support to individuals it places in open employment and to the employers who hire them (ILO, 2007). In **Malaysia**, the INTOWORK programme of the

Joy Workshop supports the transition of workers from the sheltered workshop environment into supported employment (Parmenter, 2011); and in **Mainland China**, the China Association of People with Intellectual Disabilities has adopted supported employment as a key element of its five-year plan 2014- 2019 , building on the initiatives of several small voluntary associations (ILO, 2014 b). Public funding support for these innovative services has not yet been widely developed, although Guangzhou City in China is about to introduce a provision that funding will be provided for supported employment, drawing on the quota-levy fund.

- In **Peru**, the Centro Ann Sullivan del Peru (CASP) set up a supported employment programme in 1996, and by October 2006, had placed 90 persons with disabilities in 26 businesses. In addition to job-coaching and on-going support, if required, to individual workers the programme involves orientation for co-workers when new employees begin, retraining when new assignments arise, helps manage challenging behaviour and on-going consultations with co-workers and supervisors as needed (Mandic and Heymann, 2008). As in the case of some examples from Asia, however, the programme is challenged by lack of government support and the constant need to fund-raise, with implications for the long-term sustainability of the programme. There is some indication that this may change, however, as the Ministry of Labour initiated a pilot project on supported employment in 2013, coinciding with the entry into force of an employment quota, in which support to the companies is provided through job coaches employed by the Ministry itself.
- In **Africa**, there are very few examples of supported employment for people with disabilities in general, linked to lack of government initiatives to ensure the long-term sustainability of programmes for people with high support needs as well as a remaining tension between the welfare and human rights approaches to support for people with disabilities. Some examples point to the potential of this approach, however. These include the Living Link, a non-profit organization, founded in 2000 in Johannesburg, **South Africa** that supports the inclusion of people with intellectual disabilities in society and facilitates their transition from school to work to independent living; and

a Supported Employment project for people with intellectual disabilities, introduced in **Zambia** with funding from the Government of Finland, leading to over a hundred graduates placed in employment (Parmenter, 2011).

2.3.1 Evaluation

Because of the variations in definitions of supported employment, findings from studies evaluating supported employment carried out in one country are difficult to generalize to others.

A number of studies in the **United States** have shown that supported employment has produced greater social and psychological benefits for workers, as compared with sheltered placements, and has been cost-effective for workers, taxpayers and society as a whole (Saloviita, 2000). There is no up-to-date corroborating evidence of this pattern, so it is not possible to judge whether this continues to occur or how extensive it may be. In 2012, financial benefits of supported employment were highlighted, with relative wages earned by supported employees found to have increased by 31.2 per cent since the 1980s, while the wages earned by sheltered employees decreased by 40.6 per cent over the same period (Cimera, 2012, p.109).

However, the practice of ‘creaming’ has been found to be prevalent. Barbour (1999) reviewed studies that accused many programmes of ‘creaming’, or taking less severely disabled persons as participants, because they are thought to be more likely to succeed and reflect positively on the agency providing supported employment. Cimera (2012) found evidence of the ‘creaming’ effect, “where the most competent workers go into supported employment while those with more limited skills and challenging behaviours enter sheltered workshops.” (p. 115).

In the **United Kingdom**, many supported employment jobs are part-time and below 16 hours per week. Where participants opt to retain their welfare benefit and earn a small allowable amount in addition, welfare benefit expenditures are not reduced and there is little, if any, flow back from tax (Beyer, Goodere and Kilsby, 1996). This is not so much a feature of

the supported employment concept, but is rather due to the relationship between benefit entitlement and job earnings.

The concept of supported self-employment for persons with severe disabilities has been receiving some attention, particularly in the United States. A number of articles which appeared in a special edition of the *Journal of Vocational Rehabilitation* (2002), published to introduce its readers to the concept, show how self-employment may be helpful in promoting individual satisfaction for persons with significant disabilities, but they are also generally forthright in acknowledging the high level of support required at every stage of the business start-up and operation.

2.4 Social economy enterprises

The social economy, according to the European Information Centre for the Social Economy (ARIES), is “based on the values of economic activities with social goals, sustainable development, equal opportunities, inclusion of disadvantaged people, and civil society”.

The European Commission, which sometimes refers to the social economy as the third sector (in contrast to private business and the public sector), describes it as embracing a wide range of community, voluntary and non-profit profit activities. There is a growing number of economic initiatives within this sector, focusing on social aims and driven by a new entrepreneurial spirit (European Commission, n.d.).

Enterprises of the social economy have been defined as

‘those entities that function between the public sector and the private sector, are run and managed in a democratic way, provide equal rights to their members, and adhere to a special regime of property and distribution of profits whereby any surplus is reinvested in the growth of the entity and the improvement of services offered to its members and society at large (USAID, 2009, p. 24).

A wide variety of social economy enterprises exist, all sharing similar values. They include social firms; social businesses; social enterprises; community enterprises; development trusts; community, neighbourhood, worker and social cooperatives; credit unions; and microcredit and mutual guarantee societies.

The European Union (EU) views the social economy as an important part of the European economic model. The social economy in Europe (including cooperatives, mutuals, associations and foundations) was estimated to engage over 14.5 million paid employees in 2009/10, equivalent to about 6.5 per cent of the working population of the EU Member States, compared to 11 million in 2002/03 (EC 2013b). The EU introduced a Social Business Initiative in 2011 to foster and support the growth of these enterprises through improved visibility and recognition; simplification of the regulatory environment; and facilitating access to funding.

Cooperatives, associations and mutual societies are becoming increasingly important for creating and maintaining employment (Campos & Ávila, 2007). Campos & Ávila reported:

- In the EU-27, over 207,000 cooperatives were economically active in 2009. They are well-established in every area of economic activity and are particularly prominent in agriculture, financial intermediation, retailing and housing and as workers' cooperatives in the industrial, building and service sectors. These cooperatives provide direct employment to 4.7 million people and have 108 million members.
- Health and social welfare mutuals provide assistance and benefits to over 120 million people. Insurance mutuals have a 24 per cent market share.
- In the EU-27, associations employed 8.6 million people in 2010; they account for over 4 per cent of GDP and their membership comprises 50 per cent of EU citizens.

The social economy has developed in different ways in EU Member States, largely because of different regulatory frameworks. In **Italy**, for example, a new regulation on social cooperatives has led to a major expansion of the sector, and assisted the reorientation of the cooperative sector from a direct focus on delivering benefits for members to providing wider benefits

to the local community (UK Dept. of Trade and Industry 2002). According to Social Enterprises in **Finland** (n.d.), the Act on Social Enterprises of 2004 defined a social enterprise as being any sort of enterprise on the open market that is entered on the relevant register and at least 30 per cent of the personnel 'are either persons with disabilities or a mix of those and long-term unemployed persons.' As of March 2010, 154 such enterprises had been registered.

In the **United Kingdom**, there has been increasing interest in social cooperatives since the mid 1990s. Recent estimates indicate that there are 70,000 social enterprises, a significant growth since 2006 when 55,000 social enterprises were identified, compared to 15,000 in 2004. (Social Enterprise UK, 2013; Harding, 2006). There is no single legal model for these social enterprises, which include companies limited by guarantee, industrial and provident societies, and registered charities. Just over half (52 per cent) of social enterprises surveyed in 2013 actively employ people who are disadvantaged in the labour market including disabled people (Social Enterprise UK, 2013). Government policy to support this includes the improvement of the legal and regulatory framework governing social investment, the improvement of opportunities for social entrepreneurs through the establishment of a Social Incubator Fund to support the development of new social businesses and a social investment tax relief, among other measures (UK Government, 2014),

In the **United States**, the not-for-profit sector dates mainly from the 1960s. Enterprises in this sector benefit from a range of tax exemptions. In 2006, the Social Enterprise Alliance (SEA), based in the United States with a membership drawn mainly from Canada and the United States, widened its definition of "social enterprise" from "any earned-income business or strategy undertaken by a non-profit to generate revenue in support of its charitable mission" to "an organization or venture that advances its social mission through entrepreneurial earned income strategies". Today, its definition states: "Social enterprises are businesses whose primary purpose is the common good. They use the methods and disciplines of business and the power of the marketplace to advance their social, environmental and human justice agendas." The SEA identifies three characteristics to be found in all social enterprises: directly address-

ing an intractable social need and serving the common good, commercial activity as a strong revenue driver, and the common good as its primary purpose (SEA, 2013). This change brought within its scope for-profit bodies with a social mission.

The **Hong Kong** Social Enterprise Resource Centre was set up in 2008 to provide a one-stop-shop service to social enterprises. The Centre provides advice, consultancy, training and other support services (see www.social-enterprise.org.hk).

Legislation in **Lithuania** on social enterprises aims to improve employment opportunities for persons from disadvantaged groups: 40 per cent of those employed in social enterprises should be from disadvantaged groups, including persons with disabilities. Wage compensation amounts to 50 per cent, or 60 per cent for persons with severe disabilities (EC 2005, Annex 3: 3.3.1). The law further provides that a “social enterprise for the disabled” must average 50 per cent of employees having disabilities. In 2012, there were 137 social enterprises in Lithuania (Ščerbickaitė & Moskvina, 2013). These social enterprises can benefit from government funding schemes in the form of wage subsidies and reduced social insurance premiums, incentives for each position created, grants to cover the cost of workplace adaptations and purchase of equipment as well as funding to cover the cost of the employee’s training, and to hire a disability assistant, interpreter or guide (European Blind Union, n.d.; SESP, 2012).

A key question to be raised in relation to these enterprises is whether they were set up as social enterprises, employing a diverse workforce including persons with disabilities from the outset, or whether they evolved from sheltered workshops and only employ workers with disabilities, inheriting similar practices as in the past.

2.4.1 Current employment of persons with disabilities in social enterprises

A European Commission review of employment policies for persons with disabilities in 18 industrialized countries found little evidence of enterprise strategies directly targeting disabled individuals (EC, 2000). While

a number of countries offered start-up grants to persons with disabilities proposing to become self-employed or to start up a new business, few mentioned social enterprises as specific strategies to create additional employment opportunities for persons with disabilities. The EU Disability Strategy 2010 - 2020 aims to promote employment opportunities for people with disabilities by, *inter alia*, encouraging social entrepreneurship with concrete actions to be rolled out in a “Social Business Initiative”.

In **Italy**, the growth of work integration cooperatives started in 1974 when workers with mental illness rebelled against working without pay, and set up a cooperative to do the same work under contract (quoted in Thornton and Lunt, op. cit, p.225). The movement advanced with the closure of psychiatric institutions in the late 1970s. Law 381 of 1991 introduced a new model of employment for persons with disabilities based on social cooperation. Legislative decree 276/03 (reform of the labour market) provides new paths to widen employment opportunities for people with disabilities through greater involvement of social enterprises (EC 2005, Annex 3: 3.3.1). In 2008, 13,938 active social enterprises employed 317,339 workers (Carini et al., 2012).

In **Spain**, ONCE (the Spanish Organization of Blind Persons) established a foundation (ONCE Foundation for Cooperation and the Social Inclusion of the Disabled) in 1988, involving representation of the most representative national organizations of persons with disabilities. The primary goal of the Foundation is to provide employment for disabled people. In 1989, the Foundation set up Grupo Fundosa as a holding or parent company of more than 50 enterprises, which in 2011 employed more than 16,000 workers, of whom 70 per cent were disabled. The enterprises operate in diverse sectors, including laundry, retail sales in hospitals and community centres, telephone marketing, food production, accessibility services and data processing (Grupo Fundosa, n.d.).

In the **United Kingdom**, approximately 1 million people were employed in social enterprises in 2013, compared to 450,000 people in 2004 (Social Enterprise UK, 2013).

In **Singapore**, examples of social enterprises for persons with disabilities are a car wash ‘crew’ which works in a regular community setting, and a ‘thrift shop’ that sells recycled clothing. In both cases, though, the employees are paid by the welfare associations, rather than receiving wages generated by the business. While sometimes located in regular community settings, these enterprises tend to project a welfare impression, rather than a regular commercial image (Parmenter, 2011).

2.4.2 Future potential

The social enterprise sector has considerable future growth potential and may offer significant possibilities for new employment opportunities for persons with disabilities. For this to happen, adequate specialist support and advice would need to be available from government and businesses; adequate training would need to be provided for managers and staff; measures to facilitate access to finance would need to be introduced and an enabling legal and policy environment be created.

For further discussion of social enterprises providing employment opportunities for people with disabilities, see Katz & Kauder (2011), in the **United States**; Kim (2012), in **Korea**; and Ketszopoulou & Chiaf, (2012), in eastern and southern Europe).



Notes

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Measures to facilitate work and employment

3.1 Introduction

Vocational rehabilitation is a process which enables persons with disabilities to secure, retain and advance in suitable employment and thereby further their integration or reintegration into society (ILO, 2002). That process, according to the ILO Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), involves the provision of certain vocational services, in particular vocational guidance, vocational training and selective placement. In 1983, the ILO, conscious that significant developments had occurred since 1955 in the understanding of rehabilitation needs, the scope and organization of rehabilitation services and the law and practice of many member States, decided that a new international standard was necessary to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community.

3.1.1 ILO Convention No. 159

The ILO Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) (No. 159), adopted in 1983, highlights the inextricable link which exists between vocational rehabilitation and employment by calling on each member State, in accordance with national conditions, practice and possibilities, to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons. Such policy should:

- aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons and at promoting employment opportunities for disabled persons in the open labour market (Art. 3);
- be based on the principle of equal opportunity between disabled workers and workers generally; equality of opportunity and treatment for disabled men and women workers should be respected; special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers should not be regarded as discriminating against other workers (Art. 4); and

- involve consultation with representative organizations of employers and workers, and of and for disabled persons, with regard to implementation of the policy (Art. 5).

Convention No. 159 calls on the competent authorities to provide and evaluate vocational guidance, vocational training, placement, employment and other related services, using, wherever possible and appropriate, existing services for workers generally, with any necessary adaptations (Art 7). Measures are to be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities (Art 8), and to ensure the training and availability of rehabilitation counsellors and other suitably-qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons (Art 9). Convention No. 159 entered into force on 20 June 1985. As of October 2015, Convention No. 159 has been ratified by 83 countries.

3.1.2 ILO Recommendation No. 168

The Recommendation accompanying Convention No. 159 - the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168) outlines measures, which should be implemented. They include:

- measures to create job opportunities for persons with disabilities on the open labour market, including financial incentives to employers and reasonable adaptations to workplaces, equipment and jobs (Art. 11(a));
- government support for sheltered employment, and for vocational training, vocational guidance, and placement services for disabled persons run by NGOs (Art. 11(b));
- promotion of cooperatives and small-scale industry (Art. 11(f));
- elimination of physical, communication and architectural barriers (Art. 11(g));
- dissemination of information on successful instances of employment integration (Art. 11(i));

- exemption from taxes of training materials and specified assistive devices (Art. 11(j));
- flexible job arrangement (Art. 11(k));
- elimination of exploitation in training and sheltered employment (Art. 11(m)); and
- applied research to further the participation of disabled persons in ordinary working life (Art. 11(l)).

Recommendation No. 168 also calls for community participation, in particular of employers', workers' and disabled persons' organizations, in the organization and operation of vocational rehabilitation services (Art. 15). Special efforts should be made to ensure that services in rural areas and remote communities are provided at the same level and on the same terms as for urban areas (Arts. 20, 21). Proper training of personnel involved in the provision of vocational rehabilitation and employment services is essential (Arts. 22-30).

Since Convention No. 159 and Recommendation No. 168 were adopted in 1983, there has been a shift in international policy terms, as reflected in the UN Convention on the Rights of Persons with Disabilities. With the emphasis now on a rights-based understanding of disability issues and on promoting the inclusion of persons with disabilities alongside others in the open labour market and in the mainstream of society, the focus of Recommendation 168 on segregated programmes and services for persons with disabilities needs to be balanced with guidance on how programmes and services for the general population can be opened up to women and men with different types of disabilities.

3.1.3 Current practice

The following sections discuss briefly the main types of measures currently in use to assist and facilitate persons with disabilities to secure, retain and advance in suitable work and employment, under these headings:

- Employment services
- Training for employment

- Financial supports
- Technical and personal supports
- Quota systems
- Anti-discrimination legislation
- Persuasion measures
- Disability management
- Consultation mechanisms
- Information, monitoring and evaluation.

More detailed information on measures in a number of countries may be found in other reports, including ILO 2004a and 2014; EC 2000; and Wynne et al 2006.¹⁵

3.2 Employment services

In providing vocational guidance, vocational training, placement and other employment-related services to persons with disabilities, the competent authorities are exhorted to use services available to workers generally, wherever possible and appropriate, with necessary adaptations (ILO Convention No. 159, Art.7).

The Committee of Experts on the Application of Conventions and Recommendations, in its report on Convention No. 159 and Recommendation No. 168, commented that this use of general services is increasingly found in countries where vocational rehabilitation infrastructures have already been developed (ILO, 1998). This pattern may reflect the understanding of policy makers in these countries that people with disabilities have diverse support requirements and that a range of services is required, including those which are inclusive and those specifically targeting people with disabilities facing additional disadvantages. The range and types of services vary between countries, but may include vocational guidance and counselling.

¹⁵ Case study examples can be accessed at <http://www.eurofound.europa.eu/areas/socialcohesion/egs/search.php>

In **Sweden**, for example, these services are provided to most job-seekers with disabilities through the public employment services, which are responsible for disability issues within the labour market policy. Initiatives focus on guidance, investigation, rehabilitation or preparation for work. Services for persons with disabilities are provided in cooperation with the Social Insurance Office as well as municipalities and county councils, as laid down by law (UN, 2011 (a)). Support for vocational assistive devices and for personal assistance is available for employees with disabilities and for employers.

Employment services also provide information on training and employment opportunities, job search training which encompasses preparation of job applications/resumes, interview techniques, presentation skills, canvassing for jobs, and placement (Rowland & Gilliland, 1993, Wynne et al, 2006). Training in literacy and numeracy is sometimes provided, where necessary. Preferential access to specified jobs is provided in a number of countries.

For persons with disabilities returning to work after an absence, individual back-to-work action plans may be developed (Wynne et al, 2006, Blanke, 2013). Support measures may include job adaptations or job coaching, particularly in supported employment situations. Individualized support assistance in helping, for example, to deal with difficulties with co-workers, may be provided through vocational advisers or through special schemes which provide on-going assistance during the initial integration and follow-up phases, as well as crisis intervention where continuing employment may be threatened for any reason.

Early intervention such as “fresh-start” initiation programmes aimed at young workers with disabilities within six months of their being unemployed, and programmes aimed at assisting long-term unemployed disabled workers return to work, are provided in many countries, for example in **Austria, Denmark, Norway, the Netherlands** and **Switzerland** (OECD, 2010). Because of the particular difficulties faced by workers with disabilities who have been unemployed for a long time, intensified efforts are frequently made to assist them to participate in educational, retraining or other programmes as soon as possible after they become unemployed.

In **Italy**, the public employment services run targeted employment schemes to support people with disabilities in getting jobs in the open labour market. These schemes, delivered by special sections of the Job Centres, include individual job-coaching and vocational training (EC, 2011a). Public employment services in several other countries of Europe (for example, **Ireland** and **Finland**) are centrally involved in the operation of supported employment schemes, playing an administrative, monitoring and quality assurance role, with the job-coaching and related services provided by contracted services.

Convention No. 159 also emphasizes the importance of training for those providing employment services (Art. 9). A number of countries (**Austria** and **Finland** for example) have established specific programmes for this purpose (EC 2011a; Migliore, 1999.).

3.3 Training for employment

Education, training and life-long-learning are central pillars of the right to work. Education and training are also often the first stage at which persons with disabilities fall behind in opportunities related to access to, and advancement in, employment (OHCHR, 2012).

Fitting persons to jobs and fitting jobs to persons multi-faceted processes. The key roles played by education and training in particular continue to be highlighted by the ILO. These issues were again cogently addressed by the International Labour Conference in 2000. The Conference underlined the fact that education and training are essential for economic and employment growth and social development.

Education and training are a means to empower people, improve the quality and organization of work, enhance citizens' productivity, raise workers' incomes, improve enterprise competitiveness, promote job security and social equity and inclusion. Education and training are therefore a central pillar of decent work (ILO, 2000, para. 3).

The Conference emphasized that education and training must cover everyone, and must be carefully targeted at persons with special needs, including people with disabilities. In addition to education and training, vocational guidance and counselling, job placement services, recruitment and selection practices, educational and labour market information, job design, ergonomics, working conditions and rewards, attitudes and motivation, all play inter-related roles in the whole employment process and need to be considered as part of work and employment policy for persons with disabilities. (For detailed suggestions on placement strategies and practices see Heron and Murray, 2003; Murray and Heron, 2003.

The importance of addressing these issues has been recognized in the CRPD. Article 24 deals extensively with education, including an undertaking for States Parties to ensure that persons with disabilities are also able to access vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, and to ensure that reasonable accommodation is provided (Art. 24(5)). Article 27 on Work and Employment also requires State Parties to enable persons with disabilities to have effective access to general technical and vocational and continuing training (Art. 27(d)).

Training for employment for persons with disabilities is undergoing a transition, from programmes in specialized institutions to mainstream programmes available to the general population (US HUD, 2008; UN ENABLE, 2010). For some countries, this transition is in its early stages, with training still mostly in specialized institutions (ILO, 2006). In others, the majority of adults with disabilities receive their training in mainstream programmes (e.g. the **United Kingdom**) (EC, 2011a). In **Sweden**, employment policies for persons with disabilities are part of the general labour market policies (O'Brien and Dempsey, 2004). Almost all countries, however, appear to be experiencing a variety of difficulties. This situation is sometimes aggravated by high rates of unemployment which make it particularly difficult for persons with disabilities, even after completion of training, to find suitable employment.

For those countries in the early stages of mainstreaming training for persons with disabilities, special classes, schools, and training institutions

are still common (Guozhong, 2007; Edmonds, 2005). In many of these specialized programmes both public and private, curricula tend to relate to jobs traditionally thought appropriate for disabled persons rather than to jobs available in the labour market. This mismatch between training and the skill requirements of the labour market hinders job placement possibilities and may well contribute to negative perceptions by employers of the ability potential of many disabled persons.

Even where persons with disabilities are being encouraged to enter mainstream training, some countries report that relatively few are doing so (MSD, 2013; Murray, 2007; Murray, 1998; Chao, 2007). Reasons given include physical inaccessibility of training centres, distant or inconvenient location of training, courses which are not relevant, inadequate transportation, unavailability and/or cost of child care, and little flexibility in course design or delivery. Ali and colleagues (2011) also found that the lower employment rate of individuals with disabilities arises in part because they are less likely to be actively seeking employment due to pessimism about finding a suitable job.

Countries which are further along the mainstreaming path have recognized and are taking or plan to take steps to deal with such issues. In the **Netherlands**, physical access is being improved in vocational and adult education to improve opportunities for disabled persons to get a basic qualification, and more flexible, module-based apprentice training courses are planned (Employment-Horizon, 2007; EC, 2002; OECD, 2007). Individualized support for persons with disabilities is available in **France** through “fresh-start” initiatives, further development of apprenticeship training, “sandwich courses” alternating training and work in enterprises, and preparation for working life in a mainstream environment (ILO, 2003; OECD, 2007; EC, 2002; EBU, 2008; ILO, 2007c).

Courses in vocational training centres have been adapted in order to meet labour market requirements more effectively (EC, 2002; YEI, 2007; EC, 2000; Russell, 1998b). In **Australia**, short-term courses have been developed at the local level to meet individual needs: normally up to 12 months in duration, the courses may be extended, if necessary, for

persons with disabilities (NDA, 2007; McElwaine & Ford, 1994; AAA, 2005; ILO, 2003; Powers, 2008). In **Sweden**, there has been increasing cooperation between schools and placement services (EC, 2002; Employment-Horizon, 2007; ILO, 2008; Thornton & Lunt, 1997).

In the **United Kingdom**, disabled people have priority access to mainstream programmes, and specialist teams operate in job centres to assist persons with disabilities to gain and retain employment (OECD, 2007; EC, 2002; Russell, 1998a; Perry, 2003). Special pre-training programmes have been introduced in **Germany** which include advice and assistance in the transition from school to working life: courses in vocational training centres have also been adapted in order to meet labour market requirements more effectively (EC, 2002; YEI, 2007; EC, 2000; Russell, 1998b).

For persons with a high level of disability, training for work continues to be provided mainly in special institutions or in sheltered or supported employment programmes, although **Australia** operates a programme which provides fully subsidized work experience, mainly in the private sector, for those who cannot get a place in a mainstream wage-subsidy programme (EC, 2002; Employment-Horizon, 2007; ILO, 2008).

Greater efforts are being made to get employers more directly involved in developing and providing training and employment opportunities, through financial and other incentives. **Belgium** has a system of employer-based on-the-job training contracts for disabled persons: the employer is not committed to hiring the trainee after the training contract, but often does (Employment for All, 2009; WHO, 2011; NC Buy, 2004; Devlieger, 2007). Advisory committees on the training and employment of disabled workers, which include representatives of employers' and workers' organizations as well as representatives of government and disability NGOs, play a useful role in helping to develop policy and codes of good practice, and in improving cooperation and coordination among the sectoral interests involved.

In some countries, a focus is placed on promoting labour force inclusion through self-employment (or entrepreneurship) of people with disabilities. In the **United States**, for instance, pilot and model self-employment

and entrepreneurship programs have begun to see success;¹⁶ and in **Vietnam**, there is legal provision that people with disabilities who start a business have access to loans on preferable terms and to training in business management.

3.3.1 Key issues

Workers with disabilities tend to fall behind other jobseekers, particularly when overall numbers of unemployed workers rise. While ignorance and prejudice may play a part in such situations, a key factor is often their inability to compete on the basis of relevant skills and qualifications. What an employer will look for in recruiting a new employee is, first and foremost, the capacity to do the job (given reasonable accommodation, where necessary). Applicants who can demonstrate that they have the necessary competence, or have the capacity to acquire it after suitable training, have an advantage over applicants who cannot. Training, which should encompass skills, knowledge and attitudes, is very often the key to success in finding a job.

For persons with disabilities, professional training – under qualified instructors, and leading if possible to some form of recognized certification – is an essential passport to gaining employment (Work4Illinois, 2009; APSE, 2013; Economic Systems, Inc. & ICF International, 2011). This is why a national policy on vocational rehabilitation and employment of disabled persons, as called for in ILO Convention No. 159, is so essential. People with disabilities have the right to work, but they must be given the means to enable them to exercise that right. Priority in vocational training policy and provision, particularly in times of high unemployment, needs to be given to the most vulnerable if they are not to become further disadvantaged in the labour market. This has been emphasised by the Committee on the Rights of Persons with Disabilities in its concluding observations on the reports of States Parties reviewed to date (Section 1.35 above) .

¹⁶ For a review of such programs, see the Burton Blatt Institute (BBI) programs and research, available at: <http://bbi.syr.edu>.

Many of the jobs for which disabled persons were traditionally trained do not exist any more, especially in industrialized and technology-focused countries (Blanck, 2014). The relevance of training programmes to current and likely future labour market requirements needs to be critically reviewed to ensure that all programmes are responding to such needs at all times.

Physical accessibility remains a major barrier to many disabled persons seeking work or training. This applies not just to the training or work place, but to the local built environment – including public transport, housing, shops, restaurants, places of recreation – used to a greater or lesser degree by other employees. Considerable improvement has been made in many places, but in general progress is slow, and many disabled persons remain excluded as a result. Accessibility of information is also an issue that has started to be tackled. The importance of accessibility is highlighted in the UN Convention on the Rights of Persons with Disabilities as a general principle and through a specific (Art. 9).

Lack of coordination between government ministries and departments continues to be an issue inhibiting the right to work of many disabled people. There are many good examples of how this has been effectively resolved where the political will existed.

Many countries have accepted the principle of “mainstreaming” in training and employment services for persons with disabilities. In some cases, however, it has not progressed much beyond the acceptance of the principle or the transfer of responsibility from one ministry to another. If disabled persons are to participate on an equitable basis with others, whatever reasonable accommodation is necessary, in terms of physical accessibility, accessibility of information, job/training design, training technology, equipment and materials, modes of instruction, and so forth, must be carried out. In addition, the staff members responsible for managing and operating the systems involved must be sufficiently trained and equipped, not only in the requisite knowledge and skills, but also in attitudes.

Mainstreaming in training programmes may have many implications, in addition to those mentioned. An important consideration, for example,

will be the basis on which training outcomes are assessed. Indicators, such as placement rates, which may be used to measure the performance of training programmes for some unemployed groups of workers may not be the most appropriate for others (Chataika, 2013; Wynne et al., 2012). “Creaming” or selecting those most likely to succeed, in order to enhance placement prospects of occupational training programmes is a recognized (if not always admitted) phenomenon (see also Section 2.3.1 above and OECD, 1986).

To provide guidance on the development of disability-inclusive vocational training centres, the ILO has prepared a practical guide to planning and implementing a strategy to ensure that skills development programmes are open to trainees with disabilities. Geared primarily to administrators and instructors, the guide is also relevant to policy- and decision-makers in developing effective mandates relating to inclusion and allocating realistic budgets to make it a reality in practice (ILO, 2013).

3.4 Financial support

Financial support to employers to encourage the recruitment and retention of persons with disabilities include:

- wage subsidies;
- grants towards training costs;
- training completion bonus grants for workplace modifications/special equipment;
- grants for tutorial assistance;
- retention bonus grants to hire personal assistants for disabled workers who need them;
- grants to encourage retention of workers who acquire a disability at work;
- tax credits in respect of each new disabled worker (may be time-restricted);
- grants towards workplace adjustment costs; and
- reductions in social security charges in respect of disabled workers.

The EC Regulation on State Aid Employment (No. 2204/2002) enables Member States to create incentives for employers and sheltered workshops to recruit and retain disabled workers.

Wage subsidies to cover a shortfall in productivity are one of the most commonly-provided financial supports to employers in encouraging the employment of workers with disabilities. In some countries, such supports are time-restricted: in **Sweden**, four years (may be extended), but up to eight years in **Germany**, for example (Common Grounds, 2010; Gustafsson, Peralta & Danermark 2013; EBU, 2009). The amount of subsidy varies: in **Austria** it can be up to 80 per cent of the full wage in the first year of employment (Orr & Almeida, 2012; Deuchert & Kauer, 2013; Steiner & Wakolbinger, 2010), while in **Germany**, it can be up to 70 per cent of the wage paid to the severely disabled person for up to three years and up to eight years in the case of severely disabled persons aged 50 years and over (Bundesministerium, 2010). The wage subsidy may be combined with a grant during the initial period of adjustment.

In the **Netherlands**, subsidies are available to employers to encourage the recruitment of job-seekers with disabilities. These cover the cost of supports to the inclusion of workers with disabilities, including workplace adjustments or accommodations, additional vocational or professional training, and job coaching for employees with intellectual disabilities. Employers may offer 'trial appointments' for up to three months, during which the person with a disability continues to receive unemployment benefit and no wages are paid. Wage dispensation may also be granted for between 6 months and five years, for an employee whose performance is lower due to his or her disability (Schoonheim & Smits, 2007).

In **Sweden**, employers are protected by law against excessive sick leave costs of an employee with an illness which is likely to lead to a large amount of sick leave (Scheil-Adlung & Sandner, 2010; Whitehead, 2010).

Financial supports of various kinds may also be available to persons with disabilities. Grants are offered to disabled persons who wish to set up their own business or to establish a cooperative. Such measures are par-

ticularly important in countries, such as **Greece**, where self-employment is high and a high proportion of all enterprises are small (SSA, 2008; EBU, 2010). In the **United States**, tax credits and deductions are available to many workers with disabilities, and families including an individual with a disability, who require use of personal assistance services to perform the daily needs necessary for the individual or family member to go to work (Mendelsohn, Myhill & Morris, 2012). In **France**, an employment bonus may be paid to an unemployed disabled person who gets a job (Bargain et al., 2006; OECD, 2003).

Many countries focus on promoting the access of persons with disabilities to credit to enable them to set up small enterprises. In **Vietnam**, for example, the Law on People with Disabilities of 2010 provides an entitlement to business development loans at preferential rates, along with relevant training. In **India**, a government anti-poverty programme that aims to enhance the economic livelihood of the poorest women in rural areas, targets persons with disabilities. The approach taken is to mobilize disabled people into self-help groups, provide training on business development and saving, followed by access to micro-credit. A similar programme targeting women in **Nicaragua**, also includes disabled people (Mont, 2014).

Financial assistance may also be provided towards public transport costs if participating in training programmes. Under a pilot scheme in the **Netherlands**, persons with a disability may receive a personal budget in the form of vouchers or tickets to enable them to purchase placement or other job integration services of their choice (Decruynaere, 2010; Bosselaar & Prins, 2007; NDA, 2011). A similar “Ticket to Work” programme operates in the **United States** (SSA, 2013). Furthermore in **Italy**, social cooperatives with a workforce in which persons with disabilities make up at least 30 per cent may be exempted from social insurance contributions (EBU, 2007; Desfetanis, 2012). Financial assistance may also be available to third-party agencies to assist disabled persons in preparing and training for employment. In the **United States**, for example, grants may be available to States to establish programmes of technology-related training, access and assistance, and awards can be made to private agencies which deliver assistive technology training and services at the local level (Blanck, 2014; US DOL, 2001a; 2001b).

A key concern of many disabled persons is that their eligibility for disability benefits or pensions may be adversely affected if they find a job and that they may lose these allowances. A number of countries have taken steps to ensure that such concerns do not act as a disincentive to persons with disabilities in seeking employment. In **Spain**, for example, eligibility to access former disability benefits if laid off is assured by regulation (OECD, 2005; Marie & Castello, 2012; Silva & Castello, 2013). To encourage those on long-term disability benefit in **Finland** to return to work, individuals may suspend their benefit for up to two years during which they may enter training or employment without losing their entitlement (Kivistö et al., 2007; Wynne et al., 2006). In many countries, such as the **United States**, persons with disabilities are allowed to earn up to a certain level in pay without affecting their disability insurance or social security benefits (Blanck et al., 2014).

According to the OECD (2006), “too many workers leave the labour market permanently due to health problems and too few people with a disabling condition are working. This is a social as well as economic tragedy that is common to virtually all OECD countries.” The OECD report suggests that *work* needs to be put at the heart of sickness and disability benefit policy. The objective of policy should be to ensure that persons with disabilities have the opportunity to play as full a role in society, and particularly in the labour market, as they are able to. The report notes:

Policy discussions frequently focus on how to reduce the number of people on benefit. But the trouble with approaching . . . policy from this angle alone is that it misses the point of view of people with disabilities themselves. Current policies often serve such people badly: they are trapped at the margins of society, excluded from work or marginalized into special employment categories (op.cit, p. 13).

3.5 Technical and personal supports

Reasonable accommodation in the form of technical and personal supports plays a key role in enabling people with disabilities to exercise

the rights to which they are entitled. Other non-financial supports in relation to work and employment include assistance in arranging for a special driving licence or vehicle modifications; job coaches to help facilitate the transition to employment; post-placement support; personal assistants (to assist, if needed, in relation to personal hygiene or transport, for example); provision of readers for workers with a visual impairment, particularly during the initial stage of training and/or employment; provision of signers/sign language interpreters during interviews or in the workplace; advocacy services; grants for or direct provision of personal aids (for example, computer-based aids, clothing, textbooks); technology and technical aids and devices. Many countries provide for such supports as part of their overall employment policy for persons with disabilities.

3.6 Quota systems

By the end of 1923, Austria, France, Germany, Italy and Poland had adopted a quota system under which employers were obliged to employ disabled war veterans. Many other European countries adopted a quota system approach after the Second World War, largely because of high unemployment levels among people with disabilities and the general failure of a voluntary approach (compare Logue & Blanck, 2010). All systems were eventually extended to cover disabled civilians. Quota systems have also been introduced in several countries of Asia and the Pacific (China, India, Japan, Mongolia, the Philippines, Sri Lanka and Thailand); Africa (including Ethiopia, Mauritius and Tanzania); in the Arab States (for example, Kuwait); and in Latin America (for example, Brazil). While all quota systems call for employers to employ a set minimum percentage of disabled workers, there are variations between systems, particularly in relation to the obligatory or non-obligatory requirement, the size and type of enterprise affected and the nature and effectiveness of sanction in cases where an employer fails to meet the requirement.

Waddington (1996) has divided European quota systems into three basic models:

- *Legislative recommendation with no sanction:* Employers are not obliged to employ a set percentage of workers with disabilities, but it is recommended that they do so. Such a system has operated in the **Netherlands** since 1986. Under the 1947 Employment of the Disabled Act, public and private employers with more than 20 employees were expected to employ a set quota of disabled workers. People with disabilities could choose to register. The 1986 Handicapped Workers Employment Act removed the registration requirement, extended coverage to all those receiving disability benefits or an invalidity pension, and introduced a quota target of between 3 and 5 per cent, to be achieved over three years. The quota was voluntary and there were no sanctions for failing to meet it. By 1989, only 2.2 per cent of workers with a contract of more than 15 days were disabled and by 1992 this figure was just 2 per cent. The Government concluded that a compulsory policy across all sectors was not practicable. Employers are, nevertheless, required to continue to keep a record of disabled employees.
- *Legislative obligation without effective sanction:* An example of this quota system was that adopted by the **United Kingdom** after the Second World War. The Disabled Persons (Employment) Act 1944 has been described as “the foundation stone of disabled workers’ rights in the United Kingdom” (Doyle, 1996). These rights to mainstream employment were to be achieved through the Quota Scheme, which required private employers with 20 or more employees to have at least 3 per cent of their workforce made up of registered people with disabilities, and through the Reserved Occupations Scheme, under which two occupations – passenger electric lift attendant and car park attendant – were designated as reserved to persons with disabilities. It was not an offence for an employer to be below the quota, but it was an offence to recruit a non-registered person when below the quota or where doing so would bring the employer below the quota, without an exemption permit. An employer who committed such an offence was subject to a fine or a term of imprisonment of not more than three months. The quota was abolished in 1996, when the Disability Discrimination Act 1995 came into force. There appears to be general agreement that the quota failed to promote the employment of peo-

ple with disabilities, that it was inadequately monitored and enforced (there were only ten prosecutions for failure to comply, even though in 1993, for example, less than 20 per cent of employers met their quota obligation), and that it allowed large numbers of exemptions and exceptions (Doyle, 1996; Waddington, 1996; Hyde, 2000).

- *Legislative obligations with sanction:* According to Waddington, the levy-grant system is “the form of quota which has attracted most interest from those countries which have sought to introduce or modify a quota system in the 1980s and 90s. It involves setting a quota and requiring that all covered employers who do not meet their obligation pay a fine or levy which usually goes into a fund to support the employment of disabled people.” (Waddington, 1996, p.68).

The **German** quota system, established in 1974 by the Severely Handicapped Persons Act, has often served as a model for other countries. In a reform of the legislation in 2001 (*Rehabilitation*, 2001), the quota of 6 per cent for all public and private employers with at least 16 employees was reduced to 5 per cent, applicable to employers of 20 employees or more (EIRO 2001). All public and private employers with at least 20 employees must “ensure that at least five per cent of their workforce is made up of severely disabled people” (Bundesministerium, 2010). Workers with disabilities, whom the Federal Employment Office considers difficult to employ, may be counted as occupying two or three quota places (Waddington, 1996, p. 68). This also may apply to persons with disabilities who are receiving training within the firm.

The Federal Employment Office monitors compliance with the scheme. Compensatory levies are imposed if the quota requirement is not met. In 2007, the employment rate of persons with severe disabilities amounted to 4.2 per cent.

Of the 145,700 employers subject to the employment obligation in 2012, 26 per cent employed no workers with severe disabilities, down from around 44 per cent in 2002. Consequently, the Federal Employment Office collected 500 million Euros that year in levies for non-compliance, reflecting the tendency of employers to prefer to pay the levy rather than

hire, particularly during difficult economic periods. This fund is used exclusively to facilitate the employment of persons with severe disabilities, for example through grants and wage subsidies for employers who fulfill their quota obligation.

A similar quota system operates in **France**. Under 1987 legislation, every public and private employer employing 20 or more persons is required to employ a quota of 6 per cent of persons with disabilities covered by the law (AGIFEC, 2012). The 6 per cent obligation was introduced on a gradual basis, beginning with 3 per cent in 1988, rising to 6 per cent in 1991. Certain categories of disabled workers are counted as one-and-a-half, two, or two-and-a-half individuals. Enterprises may fulfil their employment obligation by:

- employing beneficiaries under the law;
- accepting trainees with disabilities;
- filling up to 50 per cent of the obligation by outsourcing work to sheltered employment sector;
- reaching company- or industry-wide negotiated agreements to promote recruitment, training, integration and retention of disabled persons;
- paying a contribution to the Management Agency of the Disabled Persons' Integration in Employment Fund, (known as "AGEFIPH"), with an additional amount payable by employers who have not taken any positive action in the previous four years.¹⁷

In 2013, AGEFIPH reported that 42 per cent of employers fulfilled or exceeded their quota obligation, 49 per cent partially fulfilled the obligation and 9 per cent of employers opted to engage in an agreement promoting employment of persons with disabilities (AGEFIPH, 2013).

¹⁷ AGEFIPH, the Association de Gestion du Fonds pour l'Insertion des Personnes Handicapées, is a joint organization of trade-union, employer and disabled people organizations "that manages the levy paid by companies of twenty or more employees who fail the legal obligation of employing a quota of disabled persons. They re-allocate these funds to assist the development of employment of persons with disabilities in the private sector." (Academic Network of European Disability Experts, n.d.).

Austria's quota system obliges companies with more than 25 employees to employ one person with a disability for every 25 jobholders. If a company circumvents this rule, it pays a compensation tax to the Federal Office of Social Affairs every month for every job not held by a disabled person. These funds are reserved for services to “supported employees” (persons who have a disability level of at least 50 per cent) or employers who engage supported employees (NDA, 2008; Greve, 2009).

Systematic measures to promote the employment of persons with disabilities in **Japan** were introduced after the Second World War, following the enactment in 1947 of the Employment Security Law (Hasegawa, 2010; Nakagawa & Blanck, 2010; Thornton, 1998). In 1960, a quota system was introduced, but with no obligatory provisions. Lack of compliance, particularly by larger organizations, led to the introduction in 1976 of an obligatory quota system, as well as a levy and grant system, applying to employers with 300 or more employees that fall short of their quota. The law has been amended several times (1998, 2005 & 2008) to be more inclusive of people with severe disabilities, and raising the quota to the present rates of 2.0 per cent for private enterprises and 2.3 per cent for national and local governments. Double counting in respect of workers with severe disabilities is allowed. Amendments have imposed levies on a wider range of employers, including those with 60 or more employees, and since 2008 including part-time workers and part-time workers with disabilities in calculating employment obligations and rates (Nakagawa & Blanck, 2010, p 180). Levies thus collected are paid as grants to enterprises which hire disabled workers in excess of their quota and to subsidize new or modified facilities for workers with disabilities and the appointment of attendants to support their employment (Sakuraba R., 2014). The rate of employment for people with disabilities has steadily increased from 1.09 per cent in 1976 to 1.83 per cent in 2013. The majority of those employed (81 per cent) had physical disabilities (Hasegawa, 2010).

In **Ecuador**, a quota scheme for employment of persons with disabilities covers both public and private employers with at least 25 employees. From 2010 onwards, people with disabilities should make up four per

cent of the total number of employees. The law also includes provisions on a penalty levy for failing to observe the quota (ILO, 2014a).

In **Peru**, a law adopted in 2007 specified that at least 3 per cent of the total workforce of public bodies must comprise workers with disabilities. A levy is imposed where this obligation is not met (UN 2010). In 2013, the employment quota was increased to 5 per cent for the public sector and extended to private companies with more than 50 employees which have to meet a target of 3 per cent.

Romania operates a quota-levy system for organizations with more than 100 employees (Reid & Simkiss, 2009; Onu, 2003). The levy applies where an employer does not employ at least 4 per cent of persons with disabilities.

A quota of 5 per cent applies in **Hungary**, but the majority of employers opt to pay the “rehabilitation contribution” instead (Greve, 2009; Konczei, 2009).

In **Mauritius**, organizations with 35 or more employees are required to set aside at least 3 per cent of positions for persons with disabilities. (UN, 2002; ILO, 2004a). Employers who fail to do so must pay a financial contribution into a designated fund or may be liable to imprisonment.

Other countries with quota systems include the **Czech Republic** (Sinecka, 2007), **Lithuania** (EC, 2011a), **Poland** (EC 2011a; ILO, 2014a), **Slovakia** (IDA, 2010), **Thailand** (Zero Project, 2013; ILO 2014a) and the **Russian Federation** (ILO, 2004b).

3.6.1 Comment

Discussing the assumptions underlying quota systems in Europe, Waddington (1996) says that such systems are based on the belief that, without some form of legislative intervention, people with disabilities would not make up even the specified percentage of the workforce:

Quotas are based on two related assumptions: (i) that employers will not hire large numbers of disabled people unless they are required to do so, and (ii) that most disabled people are unable to compete for jobs with their non-disabled counterparts on an equal basis, and win them on their merits. In short, the assump-

tion that disabled workers are less valuable and less productive, and that, if such workers are to be integrated in the open labour market, employers need to be obliged to hire them, and sometimes even financially compensated for doing so. Numerous employers have taken their cue from the legislation, and accept these assumptions. This is reflected in the fact that many employers resist the idea of, and obligations under, quota systems, and frequently “buy” themselves out of their obligation where this is an option, preferring to employ a largely non-disabled workforce. The history of the European quota systems amply demonstrates that an employment system which is based on the idea that the protected group of workers are inferior cannot achieve permanent and significant success, since employers will attempt to evade their obligations to employ such workers (p. 71).

A study for the European Commission (EC, 2000), which looked at employment policies for disabled persons in eighteen industrialized countries, found no examples where quota systems achieved their targets. Acknowledging the arguments that quota systems produce resources from levies or fines which can be used to support other employment development measures, and that in some cases a sufficient number of disabled people may not be available to enable employers to meet their quotas, the study concluded: “. . . it is clearly the case that in most countries the tide is swinging away from quotas – either for their abandonment altogether (as in the **United Kingdom**), or for other measures (active employment support for individuals and/or stronger anti-discrimination laws) to be given higher profile and greater force” (p. 207).

Some European countries, such as **Denmark** (Bengtsson, 2009), **Finland** (Teittinen, 2009) and **Sweden** (Danermark, 2009), as well as others including **Australia** (ACCI, 2013), **Canada** and **South Africa** have not introduced quota systems into employment schemes designed to facilitate the employment of persons with disabilities and decided instead to strengthen the voluntary approach by employers. While the **United States** generally avoided quotas in the past, the U.S. Department of Labor finalized new regulations in 2013 which recommend that federal contractors attain a 7 per cent hiring quota (Department of Labor, 2013).

3.7 Anti-discrimination legislation

Perhaps the greatest shift in the area of employment for people with disabilities has been this move to anti-discrimination legislation. More and more countries have, with increased lobbying by people with disabilities and their representative organizations and the entry into force of the UN Convention on the Rights of Persons with Disabilities, been taking the route of anti-discrimination legislation, based in many cases on the experience in the **United States** dating from civil rights legislation in the 1960s (Degener and Quinn, 2000; Blanck, 2014). Like quota systems and other government-sponsored schemes, anti-discrimination legislation assumes that specific measures are needed to promote the employment of disabled people. Unlike quotas, however, such legislation says that people with disabilities are able to compete for jobs on their merits, provided the environment in which they do so does not discriminate against them because of their disability and that they are provided reasonable accommodations as needed (ILO, 2014a; Blanck et al., 2014). While this may be the case, some countries, such as **France** and **Germany**, have both types of laws, with beneficiaries under the quota defined as those facing greater difficulties in securing jobs.

Anti-discrimination legislation is not new. Laws to promote equal employment opportunities and equal pay for women have been around in Europe for decades, with similar legislation to protect the rights of people on racial, ethnic and religious grounds in many countries (EC, 2010b). One of the reasons why it took so long to extend anti-discrimination legislation to disabled people may have been the lack of effective collective advocacy to promote that cause.

It was reported in 2000 that more than 40 out of 189 UN Member States had adopted some kind of anti-discrimination legislation in respect of persons with disabilities (Degener and Quinn, 2000). It would be difficult to compare those domestic laws given the different legal systems and the different historical, social, economic and political backgrounds of the countries concerned; however, it can be noted that an increasing number of countries enacted such legislation during the 1990s, and that this trend has accelerated in recent years. Much of the impetus for developments

within Europe are the result of the adoption in 2000 of the Employment Equality Directive 2000/78 (see 1.29), which establishes a general framework for the application of the principle of equal treatment in the context of employment (European Union, 2000) and prohibits discrimination on the grounds of disability in the context of employment, occupation and vocational training. The provision of reasonable accommodation under the Directive requires an individual analysis that takes account of the situation of the individual and the employment or training at issue (Waddington, 2008). With the entry into force and widespread ratification of the CRPD, many more countries around the world are introducing similar laws.

The following country examples, which are by no means exhaustive, are presented to illustrate the variety of approaches to this matter (for further discussion, see ILO, 2014a).

3.7.1 Australia

Australia has both national and state legislation to address discrimination against persons with disabilities (Harris, 1919; AHRC, 2007). The Commonwealth Disability Discrimination Act, 1992 overrides state legislation and prohibits discrimination on the ground of disability in work and employment as well as other areas, including education. The Act is administered by a Disability Discrimination Commissioner within the Human Rights and Equal Opportunity Commission, which investigates complaints of discrimination. The 1992 Act allows for the development by organizations of action plans which identify barriers for persons with disabilities within the organization and set out policies and programmes, with time frames, for addressing them. The benefits of developing a Disability Action Plan are threefold: it demonstrates a commitment to anti-discrimination principles, it can be given to the Human Rights and Equal Opportunity Commission to be taken into account if a complaint is made against the organization, and it provides a tool for change.

3.7.2 Austria

The Federal Disability Equality Act, which came into force in January 2006, provides for disability equality and anti-discrimination in all areas of life (KDRD, 2013).

3.7.3 Brazil

The Federal Constitution of Brazil of 1988 explicitly prohibits discrimination of any kind concerning the recruitment of or salaries paid to persons with disabilities (Art. 7). Law No. 7.853/89 concerning the Rights of Persons with Disabilities guarantees to persons with disabilities the full exercise of their basic rights, including the right to work. This law makes it a punishable offence to discriminate against a person on the ground of disability in employment or work (Kirakosyan, 2013).

3.7.4 Canada

Anti-discrimination measures in Canada take different forms. Section 15(1) of the 1982 Canadian Charter of Rights and Freedoms guarantees every individual “the right to equal protection and equal benefit of the law without discrimination” and covers discrimination based on mental or physical disability. The Canadian Human Rights Act, 1985 prohibits certain discriminatory practices, and disability is included among the prohibited grounds (Section 3(1)). Both the Charter (Section 15(2)) and the Act (Section 16(1)) allow for (but do not require) affirmative action to reduce disadvantages. While the Act did not originally require an employer to make “reasonable accommodation” to enable a disabled person to meet job requirements, amendments in 1998 added a duty to accommodate. The Legal and Legislative Affairs Division of Parliament explains: “Accommodation challenges employers, service providers, and other duty holders to go beyond treating all people the same and to recognize that people may in fact need to be treated differently in order to achieve true equality in a meaningful way” (Barnett, Nicol & Walker, 2012, p. 11).

The Employment Equity Act, 1995, Section 10(1), also requires active measures to deal with disadvantage, including making reasonable accommodation. Persons with disabilities are among those covered by the Act.

3.7.5 Costa Rica

In Costa Rica, Law No. 760 concerning Equality of Opportunity for Persons with Disabilities prohibits discrimination on the basis of disability in the following cases relating to employment and work: the use of

recruitment procedures which have not been adapted to reflect the needs of disabled jobseekers; the specification of requirements additional to those generally applied, in relation to the recruitment of persons with disabilities; and the failure to employ a person on the ground of disability (Art. 24; see Rivera, 1996).

3.7.6 Ethiopia

The Right to Employment of Persons with Disability Proclamation (Proclamation No.568/2008) aims to promote equal employment opportunities for persons with disabilities and prohibits discrimination on the ground of disability in recruitment, promotion, placement, transfer or any other employment conditions (Art. 5). Employers are required to provide reasonable accommodation where needed, and the denial of such accommodation is deemed to be discrimination. Specific provisions are made to promote opportunities for women with disabilities (Art. 6(1)(b)). Article 7 provides for grievance procedures to be initiated without a burden of proof for the complainant:

Any person with disability who alleges that discrimination on the ground of his disability existed with respect to recruitment, promotion, placement, transfer or other conditions of employment may institute a suit to the competent court on the issue without the requirement of the burden of proof.

3.7.7 Germany

The Ninth Book of the Social Code, 2001, prohibits discrimination against persons with severe disabilities in employment (Section 81 (2)). The Act on Equal Opportunities for Disabled Persons, 2002, aims at eradicating and preventing discrimination faced by persons with disabilities and grants them equal rights to participate in social and working life. This Act applies to federal agencies and state agencies that implement federal law. Private sector businesses are not directly covered, although they may enter into partnership agreements with disability organizations to promote accessibility and other positive measures (Degener, 2004).

3.7.8 Mauritius

The Training and Employment of Disabled Persons Act, 1996 of Mauritius contains an anti-discrimination provision which makes it an offence for an employer to discriminate against any disabled person in relation to advertisement of and recruitment for employment, and the determination or allocation of wages, salaries, pensions and other matters relating to employment. Any employer who discriminates against a disabled person shall be liable to compensatory payment or to imprisonment. Under this Act, no disabled person shall be employed on work which, with regard to the nature of the disability, is not suitable.

3.7.9 Philippines

The Philippines' Magna Carta – Disabled Persons 1992, section 32, prohibits discrimination against persons with disabilities in employment:

No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

The Magna Carta lists in detail acts of discrimination covered by this prohibition:

- (a) limiting segregating or classifying a disabled job applicant in such a manner that adversely affects his [or her] work opportunities;
- (b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out a disabled person unless such standards, tests or other selection criteria are shown to be job-related for the position in question and are consistent with business necessity;
- (c) utilizing standards, criteria, or methods of administration that:
 - have the effect of discrimination on the basis of disability; or
 - perpetuate the discrimination of others who are subject to common administrative control;

- (d) providing less compensation, such as salary, wage or other forms of remuneration and fringe benefits, to a qualified disabled employee, by reason of his [or her] disability, than the amount to which a non-disabled person performing the same work is entitled;
- (e) favouring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- (f) reassigning or transferring a disabled employee to a job or position he [or she] cannot perform by reason of his [or her] disability;
- (g) dismissing or terminating the services of a disabled employee by reason of his [or her] disability unless the employer can prove that he [or she] impairs the satisfactory performance of the work involved to the prejudice of the business entity: provided, however, that the employer first sought to provide reasonable accommodation for disabled persons;
- (h) failing to select or administer in the most effective manner employment tests which accurately reflect the skills, aptitude or other factor of the disabled applicant or employee that such test purports to measure, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and
- (i) excluding disabled persons from membership in labour unions or similar organizations.

3.7.10 South Africa

The South African Constitution contains a Bill of Rights, which “enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom” (Act No. 108 of 1996, Ch. 2, clause 7). Clause 9 – Equality, which forms part of the chapter on the Bill of Rights, states that equality includes the full and equal enjoyment of all rights and freedoms, and that no person may be discriminated against directly or indirectly on the ground of disability or on any of the other grounds specified. Clause 9 also states that national legislation must be enacted to prevent or prohibit unfair discrimination.

The Employment Equity Act (No. 55) was passed in 1998 to promote the constitutional right of equality, eliminate unfair discrimination in employment, ensure the implementation of employment equity to redress the effects of discrimination and to give effect to South Africa's obligations as a member of the ILO (Preamble). The Act requires all employers to eliminate unfair discrimination, direct or indirect, in any employment policy or practice, on the basis of disability or other specified grounds (Ch. 2, section 6). It is not unfair discrimination if an employer takes affirmative action measures consistent with the purpose of the Act, or distinguishes, excludes or prefers any person on the basis of an inherent requirement of the job (Ch. 2, section 6(2)). The Employment Equity Act defines affirmative action measures as "measures designed to ensure that suitably qualified people from designated groups¹⁸ have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer" (Ch. 3, section 15). Affirmative action measures must include:

- measures to identify and eliminate employment barriers which adversely affect people from designated groups;
- measures to enhance diversity in the workplace based on equal dignity and respect; and
- making reasonable accommodation for people from designated groups to ensure that they enjoy equal opportunities and are equitably represented in an employer's workforce in all occupational categories and levels. This may include preferential treatment and numerical goals, but excludes quotas.

The Act defines "reasonable accommodation" as "any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment" (Ch. 1, section 1).

Employers are required to prepare and implement an "employment equity plan" setting out objectives, specific numerical goals to achieve equitable representation of suitably qualified people from designated

¹⁸ Including persons with disabilities.

groups within each occupational category and level, timetables, strategies to achieve their goals, and procedures for monitoring and evaluating the implementation of the plan (Ch. 3, section 20).

Unfair discrimination in employment on disability grounds is further prohibited under the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (No. 4). The Act makes it clear that disability discrimination includes failing to take reasonable steps to accommodate the needs of a person with disabilities, and failing to identify or eliminate obstacles that unjustly limit or restrict persons with disabilities from enjoying equal opportunities (Ch. 2, section 9).

3.7.11 United Kingdom

Under the Disabled Persons (Employment) Act, 1944, the rights of disabled people to mainstream employment were to be achieved through a quota system, which required private employers with 20 or more employees to have at least 3 per cent of their workforce made up of registered persons with disabilities, and through the Reserved Occupations Scheme, under which the two occupations of electric lift attendant and car park attendant were reserved for disabled people. The quota system was abolished in 1996 (for further details see 3.6) when the Disability Discrimination Act, 1995 came into force.

The 1995 Act contained provisions making it unlawful to discriminate against a disabled person in relation to employment, the provision of goods, facilities and services and other issues. It also contained provisions relating to education and accessibility of transport. The Special Educational Needs and Disability Act, 2001 extended the 1995 Act so as to make it unlawful to discriminate against disabled pupils and students seeking access to education in schools and colleges.

The Disability Discrimination Act, 1995 (Amendment) Regulations, 2003 which came into force on 1 October 2004 served to implement the disability aspects of the European Community Employment Directive 2000/78/EC (see 1.29). The Regulations also made significant changes to the 1995 Act, including ending the exemption of small

employers from the scope of the Act and bringing within its ambit a number of excluded occupations such as police, firefighters and prison officers.

The Disability Discrimination Act, 2005 extended and amended the 1995 Act, reinforcing and refining the anti-discrimination law, including in relation to public authorities, transport and general qualifications bodies. The Equality Act, 2010 has repealed and replaced the Disability Discrimination Act, 1995 but the same provisions have been retained.

3.7.12 United States

In the United States, the system of rehabilitation in the 1950s and 1960s still had a strong medical component. A medical diagnosis underlay eligibility for the programme and effectively determined the course of rehabilitation for the programme's target populations (Menz, 1997). However, the cause or origin of disability (for example, war injuries) became less of concern under the evolving programme and the range of eligible "groups" expanded during the 1960s and 1970s (Logue & Blanck, 2010; Myhill & Blanck, 2009).

The passage of the Rehabilitation Act of 1973 brought the first sweeping federal anti-discrimination legislation in the United States. Sections 503 and 504 of the 1973 Act prohibited employment discrimination by public employers and firms contracting with the federal government (Blanck et al., 2014). The 1986 amendments to the Rehabilitation Act identified independent living as a distinct service option for people without immediate vocational goals, and supported employment as a distinct programme and outcome for the most severely disabled individuals, in part, requiring a formal individualized plan based on assessed needs and individual preferences (Cornell ILR School, 1986).

Public activism and organized advocacy continued, culminating in the adoption of the Americans with Disabilities Act (ADA) in 1990. This extended the anti-discrimination principle to all private employers with fifteen or more workers. It also prohibited discrimination on the ground of disability in housing, public accommodation, education, transport, com-

munication, recreation, institutionalization, health services, voting and access to public services (Blanck, Goldstein & Myhill, 2013).

In order to benefit from the employment protection provided by the ADA, the individual must be qualified for the job in question. This means they must be able to perform the “essential functions of the job”, following the making of “reasonable accommodation”, if necessary (42 U.S.C. section 12111(8)). A “reasonable accommodation” being any modification or adjustment that is effective in allowing an individual with a disability to perform the “essential functions” of the job or to have equal access to the facilities, information and programmes of the employer/employment environment (section 12111(9)). Employers are obliged to make such accommodations unless it would cause them “undue hardship” (section 12111(10)).

3.7.13 Viet Nam

The Law on Persons with Disabilities of 2010 (Nr. 51/2010/QH12) forbids stigmatization of persons with disabilities and discrimination against them (Art 14). It requires that reasonable accommodation be ensured in education, vocational training and places of employment (Arts 30(1), 32(3) and 33(3)), and that vocational orientation and counselling be provided by employment services (Art. 33(5)). The State undertakes to ensure that rights of persons with disabilities in relation to job placement and job retention are respected (Art. 33(1). Provision is made for preferential policies in the case of enterprises in which over 30 per cent of the workforce are persons with disabilities, including financial support in providing reasonable accommodation, tax exemptions, access to loans at preferential rates, and rental of land under preferential conditions (Art 34). People with disabilities who are self-employed are entitled to loans at preferential rates for business development and to training in business management, technology transfer and marketing (Art. 33(6)).

3.7.14 Zambia

The People with Disabilities Act No. 6 of 2012 in Zambia provides for the continuation of the Zambia Agency for Persons with Disabilities

(ZAPD) and the National Trust Fund for Persons with Disabilities, and the domestication of the UN Convention on the Rights of Persons with Disabilities. It lays out the functions of the Minister responsible for formulating disability – currently the Minister of Community Development, Mother and Child Health.

The law contains a general prohibition of discrimination on the ground of disability, and defines denial of reasonable accommodation as a form of discrimination. In relation to employment, the law provides that, in consultation with the Minister for Labour, safeguards will be prescribed to promote the right to employment of persons with disabilities, without discrimination, in all forms of employment, and that regulations be issued and measures taken to ensure the implementation of the requirements of Article 27 of the CRPD on Work and Employment (Art. 35). Enterprises employing persons with disabilities are entitled to tax rebates (Art. 37(1)), and provision is made for special incentives for persons with disabilities engaged in business (Art. 37(2)). Where discrimination is alleged, ZAPD may request the Attorney General to take appropriate legal action (Art. 64(1)).

3.7.15 Key issues

There are reports that anti-discrimination legislation which became effective in certain industrialized countries some years ago has not been particularly effective in improving the employment situation of persons with disabilities (see for example, OECD, 2010). A comprehensive study to examine the implementation, enforcement and effectiveness of anti-discrimination legislation in relation to employment in different countries would be useful.

3.8 Persuasion measures

As an addition or alternative to obligatory measures based on legislation or quota systems, non-obligatory measures based on persuasion and self-regulation are found in many countries, with the express purpose of promoting employment for persons with disabilities.

3.8.1 Information and awareness-raising campaigns

Information and awareness-raising campaigns, often organized by government agencies and sometimes by employer groups, may involve public seminars, publications, features in newspapers, local and national radio and television, websites, and so forth (for example, raising awareness of anti-discrimination laws and employment practices EC, 2010a; EU, 2010).

Employer-led initiatives, such as the U.S. Business Leadership Network, “a national non-profit that helps business drive performance by leveraging disability inclusion in the workplace, supply chain, and marketplace” aim to increase interest in creating job opportunities for people with disabilities, and emphasize that profitability and social responsibility are compatible (USBLN, n.d.1). The ILO Global Business and Disability Network (GBDN) is an employer-led initiative that aims to promote the awareness of business about the positive relationship between the inclusion of people with disabilities and business success (see <http://www.businessanddisability.org/>). The GBDN is a network of multinational companies, national employers’ organizations, business networks and disabled people’s organizations working in collaboration to promote disability inclusion in the workplace. Through events organized in different parts of the world and through publications, the GBDN actively promotes the business case for employing persons with disabilities.

3.8.2 Awards

Awards to employers for efforts to improve employment opportunities are intended to recognize good employment policy and practice and to encourage other employers to do likewise. For example, in **Australia** the Disability Enterprises Excellence Awards 2013 acknowledged “organisations that provide best practice and innovative training opportunities, achieve strong wage outcomes, provide safe working conditions, social inclusion and participation for the employees and quality of service to people with disability” (Australian Department of Social Services, 2013). Awards may be made by a government agency or by employer networks/associations.

3.8.3 Other measures

Corporate membership in business networks provide businesses with branding and national recognition of their commitment to equal opportunity and treatment for workers with disabilities and disability-owned businesses, as well as good practice resources and preferred access to contractors and employment talent (see, e.g., USBLN, n.d.2). *Codes of good practice* for employers have been developed in **Belgium** and the **United Kingdom** (EC, 2011b). *Disability equality awareness* training for employers and their employees is used in some countries, usually provided by non-governmental disability organizations (see, for example, Disability Wales, <http://www.disabilitywales.org/training-consultancy/disability-equality-training>.)

It is difficult to assess the usefulness of persuasion measures in influencing attitudes or behaviour. The EU survey of employment policies for people with disabilities concluded that disability organizations tend to believe that competing interests will almost always undermine their effectiveness (EC, 2011b).

3.8.4 Key issues

While attitudes expressed in employer surveys may not always be reflected in employer behaviour, persuasion measures should at least help to heighten awareness. Like voluntary quota schemes, however, persuasion measures are no substitute for legislation and other obligatory measures in promoting equality of opportunity and treatment for workers with disabilities.

3.9 Disability management

The practice of disability management has developed since the 1990s as a means of supporting those who acquire a disability during their working lives to get back to gainful employment and to facilitate job seekers with disabilities in accessing and maintaining decent jobs (Harder and Geisen, 2012). Understood differently in different countries, a coherent approach has not yet emerged, with some jurisdictions focusing on job retention and return to work, others using different term such as ‘absence manage-

ment' and 'injury management', and others also including recruitment in the approach taken (McAnaney, 2012). It has become widespread in different forms, in areas such as workers' compensation in North America and Northern Europe, though other regions of the world have been slower to adopt it.

However it is understood, in the workplace, disability management is a proactive process, often integrated into human resource development practices, that promotes strategies that include a range of prevention, rehabilitation and safe return-to-work interventions to address workplace injury and disability, as well as the recruitment and promotion of persons with disabilities. These strategies are undertaken in a coordinated effort by workers' representatives and management, who assume joint responsibility for addressing disability-related issues in the workplace.

The ILO Code of Practice on Managing Disability in the Workplace adopted in November 2001 defines disability management as a means of facilitating the recruitment, advancement, job retention and return to work of persons with disabilities. The Code was drawn up to guide employers, in all sectors and sizes of enterprise, to adopt a positive strategy in managing disability-related issues in the workplace. While primarily addressed to employers, the Code notes that "governments play an essential role in creating a supportive legislative and social policy framework and providing incentives to promote employment opportunities for people with disabilities. Moreover, the participation and initiative of people with disabilities is important for the Code to be achievable." (ILO, 2002,vi). The role of workers' organizations is also emphasized. The contents of the Code of Practice are based on the principles underpinning international instruments and initiatives designed to promote the safe and healthy employment of all workers. The Code is not a legally binding document and is not intended to supersede or replace national legislation. It is intended to be read in the context of national conditions and to be applied in accordance with national law and practice (ILO, 2002).

Senior representatives of business, government, and other groups formed the International Disability Management Standards Council (IDMSC) in 2003. These representatives are from Australia, Austria, Belgium, Brazil,

Canada, China, Germany, Hong Kong, China, Iceland, Ireland, Malaysia, New Zealand, Switzerland, and the United Kingdom. The goals of the IDMSC are to foster global research, education, and awareness in disability management. Additionally the Council is working to build consensus on best practices and prevention initiatives in disability management to improve reintegration for workers and reduce socio-economic costs of disability (IDMSC, 2014).

3.9.1 Job retention

The ILO Code of Practice includes recommended practice in relation to workers who acquire a disability while in employment, covering aspects such as policy, early intervention, assessment and rehabilitation. Prevention, early intervention and retention are issues receiving increasing attention in many countries (Thornton, 1998; OECD, 2010; Geisen and Harder, 2012). Such measures are supported in many cases by the insurance industry on the basis that job retention is generally likely to be a less costly outcome than if the employee leaves work. Corporate culture and job accommodation studies have found cost savings and increased loyalty among employees with and without disabilities where inclusive workforce practices are implemented (Schur et al., 2013; Samant et al., 2009).

To date, a limited number of countries have actively promoted disability management as a strategy in national policies concerning vocational rehabilitation and employment of disabled persons, to promote job retention along with recruitment. Examples cited below from Australia, Canada and the United States illustrate the diversity in approaches adopted.

3.9.2 Disability management in Australia

In Australia, disability management concepts and principles are embedded in government policies. The Commonwealth Government funds a Disability Employment Service (DES) that includes an employee assistance fund to support employers to access workplace modifications and intermittent post-placement support, and recognizes the importance of early intervention by increasing opportunities for services to work directly with schools, hospitals and community organizations. Implemented in

2010 in place of the previous approach, greater emphasis is now placed in employer and workplace engagement, reflecting the principles of disability management. The Commonwealth Rehabilitation Services (CRS) Australia provides services in the framework of insurer-funded workers' compensation, employer-funded injury prevention and the government funded DES.

The DES has two streams - a Disability Management Service and an Employment Support Service - both of which support persons with disabilities to find and maintain sustainable employment. The focus of the Disability Management Service is on workers with disabilities who are not expected to need long-term or regular support in the workplace while the Employment Support Service provides assistance to those with a permanent disability who need regular, long-term on-going support to gain and keep their jobs (Angleton, 2012).

The approach to disability management taken by CRS Australia involves engaging employers in return to work practices and a range of employer-focused and workplace-based activities aimed at securing employment, in line with the principles of the ILO Code of Practice on Managing Disability in the Workplace (Angleton, op cit).

3.9.3 Disability management in Canada

A Code of Practice for Disability Management was launched in Canada in 2000. Endorsed and funded in part by the Federal Government's Labour-Management Partnership Programme, and produced by the National Institute of Disability Management and Research (NIDMAR, 2000), the Code provides practical guidelines, key criteria and outcome measures for implementing disability management practices (Williams et al, 2005). Many organizations and their networks, including employers' and workers' organizations and organizations of persons with disabilities, are helping to facilitate the employment, retention and return-to-work opportunities for disabled persons. Measures include policy statements and provision of advisory and supportive services.

As an education, training and research organization, NIDMAR facilitated the development of Occupational Standards in Disability Management

(NIDMAR, 1999) which have been endorsed for adoption by a cross section of Canada's largest employers, unions and workers' compensation boards. It has contributed to the development of professional disability management expertise through the development and delivery of certified on-line training courses on relevant topics. Most recently, it was central in achieving the support of several levels of government for the adoption of legislation establishing the Pacific Coast University for Workplace Health Sciences which opened in 2014. This university aims to be a leading global educational and research centre, using an interdisciplinary approach to issues associated with the lifelong workplace health cycle – health and safety, return to work and disability management and rehabilitation, linked to the ILO Occupational Safety and Health Convention, 1981 (No. 155); the ILO Code of Practice on Managing Disability in the Workplace and the UN Convention on the Rights of Persons with Disabilities (NIDMAR, 2009).

3.9.4 Disability management in Germany

Germany adopted the programme produced by Canada's NIDMAR in 2002 and has been assertive in the implementation of disability management policies. In three years, 350 individuals became Certified Disability Management Professionals and Ford of Germany received the International Disability Management Standards Council's Certified Award, which means that it passed its Consensus Based Disability Management Audit with a score above 80 per cent (Hunt, 2009, p. 14).

3.9.5 Disability management in the United States

With few exceptions, there are generally no federal or state programmes for short-term or long-term disability measures for non-occupational illness or injuries in the United States. This role is usually filled by employer, union and/or employee funded programmes. The costs of short-term and long-term payments, as well as workers' compensation payment for work injuries, are ultimately borne by employers through increased insurance premiums. Employers thus have an incentive to reduce these costs (Holland, 2011). This has led to the introduction of what is termed disability management, encompassing a variety of activities designed to

prevent disabilities from occurring and/or to minimize their impact on workers and employers. The activities include:

- safety programmes;
- employee health and assistance programmes; and
- return-to-work programmes.

3.9.6 Key issues

With the more widespread adoption of disability management as an approach to promoting recruitment, job retention and return to work of persons with disabilities, there has been a spread of research on the effectiveness of different approaches and the identification of issues that need to be addressed. While these issues vary according to the context, the main issues to be dealt with in general are the need to enhance the quality of disability management services through education and training; the need for greater linkages between government services, in particular occupational safety and health and rehabilitation services; building the awareness of employers about good practice in disability management; and changing expectations of government and the wider community about the role of employers in promoting workplace health and well-being (McAnaney, 2012; Angleton, 2012).

3.10 Consultation mechanisms

ILO Convention No. 159 requires that representative organizations of employers and workers, as well as those of and for disabled persons, are to be consulted on the implementation of national policy on vocational rehabilitation and employment. Recommendation No. 168 states that these organizations should also be able to contribute to the formulation of policies on the organization and development of vocational rehabilitation services, and makes a number of recommendations about the form their participation might take.

Based on its survey of national legislation and the information provided by governments, the ILO's Committee of Experts on the Application of

Conventions and Recommendations found that consultations, of different forms, are held in an increasing number of countries (ILO, 1998). In some countries (for example, Austria, Czech Republic, France, Mauritius, Sweden, United Kingdom) permanent councils or committees have been set up involving organizations of persons with disabilities and are consulted on the implementation of national policy. In other countries, all three representative groups are on various bodies responsible for drafting or implementing policies, measures and programmes (for example, Chile, Cyprus, Finland, Germany, the Philippines, Tunisia).

Some governments report that permanent bodies have been established to hold consultations with employers' and workers' representatives (Australia, Burkina Faso, Greece, Lithuania, for example). In the United States, the National Council on Disability (NCD) – an independent federal agency – is empowered to report to and advise Congress and the President on national disability law and policy (NCD, n.d.).

In other countries (for example, Argentina, Costa Rica, Ethiopia, Iceland, Suriname, Thailand, Zambia) only organizations of and for persons with disabilities appear to be consulted. This is in line with the general obligation on States Parties to the CRPD to closely consult with and actively involve persons with disabilities through their representative organizations, in the development and implementation of legislation and policies to implement the CRPD, and in other decision-making processes concerning issues relating to persons with disabilities (Art. 4).

3.10.1 Key issues

Vocational rehabilitation and employment for persons with disabilities form an essential component of national employment policy. Government consultations on this issue would undoubtedly benefit from the participation of employers' and workers' organizations, as well as from the involvement of representatives of and for disabled persons. The CRPD recognizes the importance of consultation between States Parties and representative organizations of and for persons with disabilities on disability-related issues, including work and employment (Art. 4(3)), but makes no direct reference to including employers' or workers' organiza-

tions in such consultations. The ILO has consistently called for all three types of representative bodies to be consulted by governments in relation to the implementation of national policies on vocational rehabilitation and employment for persons with disabilities (ILO Convention No. 159, Art. 5).

3.11 Statistics on the employment of persons with disabilities

3.11.1 Variety of definitions

The ILO Code of Practice on Managing Disability in the Workplace (ILO, 2002) defines a disabled person as “(a)n individual whose prospects of securing, returning to, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical, sensory, intellectual or mental impairment.” This is a slightly amplified version of the definition used in ILO Convention No. 159. The CRPD understands ‘persons with disabilities’ as including ‘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’.

In considering disability legislation and policies at national, regional or international levels, however, one finds no such agreement. There are wide divergences in how disability is defined, not only between countries (see, for example, OECD, 2000, pp. 194-201), but also between ministries and programmes within countries (for example, in Australia and Canada). This has implications for the statistical information gathered.

3.11.2 Lack of comparable data

There is no consistent series of internationally comparable, reliable and valid data on people with disabilities. This is partly because of the plethora of definitions used, but also because of deficiencies in the data collection methods employed. Thus, estimates of the numbers of persons in the working-age population who are or might be classified as having disabili-

ties vary between countries, not only according to differences as to what constitutes a disability, but also because of the variety of approaches used to gather and compile such data. These are not the only reasons why cross-national comparisons are difficult. As the European Commission study of employment policies for people with disabilities points out, no two countries operate substantially similar systems, and there are major differences in almost all the main factors which impact on the structure and delivery of disability and employment policy (EC, 2000).

Comparisons between countries can be informative and useful, provided the bases for comparison are valid. What are more important in the first instance, however, are the relevance, nature, quality, reliability and accuracy of information which informs the development of policy and programmes in each country. Survey findings indicate that, with a few notable exceptions (Australia, Canada, Sweden, United Kingdom, United States, for example), the data required for policy and programme development, planning, monitoring and evaluation are inadequate, and seriously so in some cases (ILO, 2004b).

Most of the countries concerned acknowledge the information gaps, recognizing that inadequacies in data make effective policy formulation and planning difficult, and weaken the case for resource allocation. Many have plans to improve their statistical information on the employment of persons with disabilities. In Malta, for instance, a national census was carried out by the National Statistics Office in 2005 and disclosed that the employment rate of disabled people was considerably lower than that of non-disabled people: 14.6 per cent (3,295) of people with disabilities were employed compared with 48 per cent (150,188) of the non-disabled population (European Foundation Centre, 2009).

In 1999, the UN General Assembly urged Governments to cooperate with the Statistics Division, Department of Economic and Social Affairs of the UN Secretariat in the continued development of global statistics and indicators on disability (UN, 1999). At the UN International Seminar on Measurement of Disability in 2001, it was accepted that statistical and methodological work was required at an international level to facilitate the comparison of data on disability cross-nationally. Consequently,

the UN Statistical Division authorized the formation of the Washington Group to address some of the issues identified and to develop a set of general disability measures suitable for use in censuses, sample-based national surveys or other statistical formats by using the World Health Organization (WHO) International Classification of Functioning, Disability and Health (ICF) (UN Statistics Division, 2013; ILO, 2004a).

In parallel with these activities, the ILO launched a project to analyse the existing national statistics on the employment situation of persons with disabilities.¹⁹ The resulting compendium describes the methodologies in use in 95 countries in 2002 (ILO, 2003). At that time, countries mainly relied on population censuses and household surveys to compile these statistics, which means that information is generally collected at 5- or 10-yearly intervals, or for one point in time only. According to the country replies, these sources provide detailed data on employment status and generally take into account the relevant international standards dealing with employment and unemployment statistics. These censuses and household surveys were reported to usually use definitions of disability that come from national legislation or that have been developed by national statistical offices, ministries and/or non-governmental organizations concerned with disability; less than 50 per cent of the countries were using the relevant international standards dealing with statistics on disability (ILO, 2003, p1). To complement this compendium, the ILO prepared guidelines on improving statistical information on the employment of disabled persons (ILO, 2007). Building on knowledge in the fields of labour and disability statistics, these guidelines are intended to support the development of a comprehensive, internationally comparable description of the employment situation of persons with disabilities in countries around the world. The ILO survey of national methodologies was repeated in 2014-2015 and the information will be made available on-line.

The UN Convention on the Rights of Persons with Disabilities recognizes the importance of such information and its proper management. Article 31 requires States Parties to collect appropriate information,

¹⁹ This project was linked to the ILO programme, “Employment of people with disabilities: The impact of legislation” funded by the Government of Ireland.

including statistical and research data, to enable them to formulate and implement policies to give effect to the Convention. It specifies that “the process of collecting and maintaining this information shall comply with legally established safeguards, including legislation on data collection, to ensure confidentiality and respect for the privacy of persons with disabilities; and comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics” (Art. 31(1)). The information collected shall be used to help assess the implementation of States Parties’ obligations under the Convention on the Rights of Persons with Disabilities and to identify and address the barriers faced by persons with disabilities in exercising their rights. States Parties have responsibility for the dissemination of these statistics and ensuring their accessibility to persons with disabilities (Art. 31(2) and (3)).

3.12 Monitoring

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) is one of two supervisory bodies with responsibility for the regular supervision of the observance by member States of their standards-related obligations.²⁰ Members of the CEACR, appointed by the ILO Governing Body for a renewable period of three years, are appointed in a personal capacity among impartial persons of technical competence and independent standing, drawn from all parts of the world. The CEACR reviews the periodic reports of member States on the measures which they have taken to give effect in law and practice to the provisions of Conventions which they have ratified.

All core UN human rights conventions provide for the establishment of a treaty monitoring body to monitor implementation by States Parties of treaty obligations. There are limitations to the process: while States are required to comply with the conventions they have ratified, monitoring bodies are mandated to make recommendations and may undertake fol-

²⁰ The other regular supervisory body is the Conference Committee on the Application of Standards.

low-up measures to assess compliance, but they have no formal enforcement powers (Stein and Lord, 2008). The Convention on the Rights of Persons with Disabilities (CRPD) provides for implementation and monitoring mechanisms at national and international levels (Arts 34-39). Internationally, the Committee on the Rights of Persons with Disabilities is responsible for regular monitoring, as noted in Section 1.35.3 above. At the national level, States Parties are required to designate one or more focal points within government for matters relating to the implementation of the CRPD, and to give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels. In addition, States Parties must put in place a framework to promote, protect and monitor implementation. Persons with disabilities and their representative organizations should be involved and participate fully in the monitoring process through one or more independent mechanisms whose role is to promote, protect and monitor the CRPD (Art. 33).

3.12.1 Monitoring implementation: Country-level examples

States Parties to the Convention on the Rights of Persons with Disabilities have adopted a range of different approaches to monitoring its implementation, as illustrated by the following examples which are drawn from the reports submitted to the Committee on the Rights of Persons with Disabilities.

In **Austria**, the Independent Monitoring Committee for the Implementation of the Convention on the Rights of Persons with Disabilities (IMC) was established on 8 August, 2008 under Section 13 of the Federal Disability Act. The IMC comprises representatives of organizations of people with disabilities, a human rights non-governmental organization, a developmental cooperation organization, and an academic institution. The IMC handles complaints, has an unlimited right to inspect the files of all State authorities, and has the authority to submit reports on Austrian implementation to the UN Committee of Rights of Persons with Disabilities (OHCHR, n.d.).

In **Denmark**, the Danish Institute for Human Rights (DIHR) was designated to serve as an independent monitor of the implementation of the

CRPD by Parliamentary Decision in December 2010. The DIHR has its own funding fixed in the Danish Finance Act and it raises awareness, provides advice, and handles complaints regarding violations of the CRPD. Exceptionally, two other bodies have also been designated as part of the monitoring framework. The DIHR works in cooperation with the Danish Disability Council and the Danish Parliamentary Ombudsman to protect the rights of persons with disabilities and monitor the implementation of the CRPD. The Danish Disability Council consists of seventeen members from organizations of persons with disabilities, the Danish Building Research Institute, the Danish Housing Association, the Danish Confederation of Trade Unions, the Confederation of Danish Employers, the Confederation of Danish Industry and Trade, academic institutions, and the Ministry of Social Affairs. (OHCHR, n.d.).

In **Germany**, the German Institute for Human Rights (GIHR) was designated in December 2008 as the independent mechanism to monitor the implementation of the CRPD. The GIHR consists of representatives of diverse civil society organizations, academics, and, without voting rights, representatives of ministries. Funded by the Federal Ministry of Justice, the Foreign Ministry and the Federal Ministry of Economic Cooperation and Development, the GIHR reviews legislative and administrative rules and raises awareness of the CRPD, though it does not deal with violations of the rights of persons with disabilities (OHCHR, n.d.).

In **Latvia**, the Ombudsman was designated in 2010 as the independent mechanism to monitor implementation. The Ombudsman's office handles complaints of discrimination against persons with disabilities and may represent complainants before the administrative courts. The Office also raises awareness of the rights of persons with disabilities and may submit reports on certain matters to Government and Parliament (OHCHR, n.d.).

In **Mexico**, the National Human Rights Commission and the 32 Public Bodies for the Defence and Protection of Human Rights of the states form the framework to promote, protect and monitor implementation of the CRPD (Committee on the Rights of Persons with Disabilities – Mexico report, 2013a).

In **New Zealand**, the Human Rights Commission and the Office of the Ombudsman are responsible for providing independent oversight of the ongoing application of the CRPD. The Government also funds the Convention Coalition, a group of disabled people's non-governmental organizations, to monitor its implementation (Committee on the Rights of Persons with Disabilities – New Zealand report, 2013b).

In **Slovenia**, monitoring is carried out by the Council for Persons with Disabilities, established by the Act on Equal Opportunities for Persons with Disabilities, Art. 28 (OHCHR, n.d).

In **Spain**, the Committee of Representatives of People with Disabilities (CERMI), the umbrella organization for organizations of persons with disabilities is the designated monitoring mechanism (OHCHR, n.d).

In **Thailand**, the National Office for Empowerment of Persons with Disabilities (NEP), as the national disability focal point, is responsible for promoting and monitoring implementation of CRPD, along with the Office of the National Human Rights Commission, that serves as an independent monitoring agency.

In the **United Kingdom**, four independent mechanisms have been designated to promote, protect and monitor the implementation of the CRPD: the Equality and Human Rights Commission, the Scottish Human Rights Commission, the Northern Ireland Human Rights Commission, and Equality Commission for Northern Ireland (OHCHR, n.d).

In its observations on State Party reports reviewed to date, which represent a small minority of all States that have ratified the CRPD, the Committee has expressed concern that some countries have not yet designated institutions to monitor CRPD compliance which meet the requirement to establish an independent monitoring body in line with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights. Concerns have also been expressed about the lack of systematic participation of persons with disabilities and their representative organizations in the monitoring process in some cases and about the need to allocate adequate resources to the designat-

ed monitoring agency in others. States Parties have been encouraged to address these issues.

3.13 Evaluation

Poor data render effective programme monitoring and evaluation virtually impossible (OECD, 1986). This assumes particular importance when increasing social security costs give rise to concern. This concern goes back several decades. For example, in her 1998 report on job retention and return to work strategies, Thornton states, referring to 'emerging issues' that:

Principles of social solidarity are eroding fast in the Netherlands, with decreasing public and political will to support the massive costs of the disability system . . . A response to the rising costs of sickness and disability benefits in the Netherlands and in Sweden has been to shift responsibilities from the state to the enterprise . . . both for payment of sickness benefit and for early intervention to reduce sickness absence (p. 13).

The General Accounting Office in the United States has criticized the fact that the effectiveness of a large range of employment-related programmes for people with disabilities has been subject to little or no evaluation (Thornton and Lunt, 1997, p. 276). The place of social security benefits in facilitating return to work has also received special attention in the United States:

Social Security Disability Insurance and Supplementary Security Income programs should not be viewed as exclusive and permanent sources of income to the person with disabilities. They should, in every case possible, be used as stepping stones to improving a person's economic condition. (Social Security Administration, 1994, quoted in Thornton and Lunt, 1997, p. 277).

The general need for valid and reliable evaluation data is reinforced by the growing and competing demands on public expenditures (OECD,

2004, 2010). Competition for resources exists not only within the overall context of national economic policies, but also between disability policies (prevention versus rehabilitation versus equal opportunity, for example) and within the disability employment area itself. For instance, should available resources be allocated to train all those who have a disability, be concentrated on skill training for those most likely to get jobs, or be devoted to those most in need? Answers to questions such as these require further analysis.

4.1 Introduction

Despite the array of international, regional and national laws and other instruments, persons with disabilities throughout the world continue to be subjected to discrimination and denial of their rights in the field of employment. Available statistics indicate that the employment rate of persons with disabilities is lower, the unemployment rate higher and the labour force inactivity rate tends to be twice or more that of other workers. This is a great loss to the individuals themselves and their families, and also to the wider society, estimated at between 3 to 7 per cent of Gross Domestic Product (Buckup, 2009). It is of central importance that States should move away from sheltered employment schemes that segregate workers with disabilities from the mainstream of the labour force and focus on promoting access of persons with disabilities to employment in the open labour market (OHCHR, 2012).

The Convention on the Rights of Persons with Disabilities has helped to refocus the core agenda of actions to be taken to combat discrimination and to positively promote the inclusion of persons with disabilities in the world of work. It has added new impetus to ILO's work to promote equal employment opportunities for people with disabilities and equal treatment for disabled women and men in line with Convention No. 159 and the Code of Practice on Managing Disability in the Workplace. The review of policies and measures in place in countries around the world in Chapters 2 and 3 above has identified progress made, and at the same time, highlighted gaps that need to be addressed if the vision of international standards is to be translated into practice and job-seekers and workers with disabilities are to be enabled to avail themselves of their right to work on an equal basis with others. The issues to be tackled as part of an agenda for action, identified here, build on the examples of good practice and lessons learned, and also reflect the concerns expressed by the Committee on the Rights of Persons with Disabilities in their remarks on the reports of States Parties to the CRPD.

A range of different measures are required to tackle the 'supply' and 'demand' factors and these should be set in the framework of enabling legislation and national disability strategies, developed in consultation

with key stakeholders, informed by comprehensive data on the employment situation of persons with disabilities. On the 'supply' side, job-seekers with disabilities and workers who acquire a disability during their working lives need to have access to education, training and life-long learning opportunities, to equip them with the skills required in the labour market. Job-seekers with disabilities need to have access to the support they require to be able to travel to and from work, and perform on the job. On the 'demand' side campaigns to raise awareness of employers of the business benefits of employing persons with disabilities, along with financial incentives and technical advisory services are some of the measures that can make a difference in opening the door to work and employment opportunities in the open labour market. Job placement services should be in place to support job-seekers with disabilities in finding jobs suited to their aptitudes, interests and abilities, and to assist employers in findings suitable candidates with disabilities for their job vacancies. And bearing in mind that in many developing countries, formal employment opportunities are limited and self-employment opportunities predominate, measures are needed to promote entrepreneurship and enterprise development among people with disabilities.

In developing the agenda for action, consultation is central. Representative organizations of persons with disabilities should be involved at every stage of the process of developing, implementing, monitoring and evaluating disability-related laws, policies and national strategies. When it comes to work and employment, it is crucial to consult with employers' and workers' organizations and foster their active involvement.

4.2 Promoting inclusion through laws on equality and non-discrimination

States Parties to the Convention on the Rights of Persons with Disabilities are required to adopt appropriate legislative, administrative and other measures for the implementation of the rights recognized in the CRPD, and to modify or abolish measures that constitute discrimination. Many countries already have anti-discrimination legislation to protect the rights of persons with disabilities in relation to employment. The enforcement of such legislation and its effectiveness in some cases in improving the

employment situation for disabled people has been questioned. In meeting their responsibility in this matter under the CRPD, States Parties may need to critically review and evaluate existing legislation and to modify it as appropriate.

The Committee on the Rights of Persons with Disabilities has noted that some countries do not yet have legal provisions concerning discrimination on the basis of disability, even if anti-discrimination legislation is in place prohibiting discrimination on other grounds. It notes that many countries do not include specific provisions on reasonable accommodation and do not define its denial as a form of discrimination as required by the CRPD. In some countries, the Committee has called for anti-discrimination laws to be strengthened to address multiple or intersectional discrimination on the basis of disability combined with other grounds such as gender, ethnicity or indigenous origin, emphasising in particular the need for measures to promote opportunities for women with disabilities. It has also found that the laws in some countries focus on a social welfare approach to disability issues rather than the human rights model of disability laid out in the CRPD.

Action is therefore needed to address these gaps. Legislation prohibiting discrimination on the ground of disability in training and employment and more broadly, should be introduced where this is not yet in place. Laws should require that reasonable accommodation be provided, to enable persons with disabilities to participate fully in the workplace and society, and its denial be defined as discrimination and thus illegal. Definitions of persons with disabilities in the laws should be based on the human rights approach to disability, rather than a medical approach. Laws should deal with discrimination on multiple grounds and reflect the additional disadvantages faced by persons with certain types of disabilities, by women with disabilities and those from ethnic and indigenous groups. Steps should be taken to enforce existing legislation more effectively.

4.2.1 Information on reasonable accommodation

Reasonable accommodation is a new concept in the laws of many countries and is unfamiliar to many and frequently misinterpreted.

Governments need to disseminate information about the concept and its implications to training providers and employers in the public and private sectors, so that job-seekers and workers with disabilities can benefit.

4.2.2 Affirmative action measures

Laws should provide for affirmative action measures to support persons with disabilities who are particularly disadvantaged. Women with disabilities, people with certain types of disabilities (in particular intellectual disabilities and psycho-social disabilities), disabled people from ethnic minorities and indigenous people with disabilities are among those who require particular support to enable them to enjoy their right to work and employment.

4.3 Development of national disability strategies

If the measures contained in international treaties were appropriately implemented, full equality and participation would be achieved. Without exception, however, all countries still require major policy or programme initiatives to give effect to these measures. Many countries have adopted national disability strategies and action plans to give effect to national laws and policies concerning persons with disabilities, and international commitments linked to ratification of the international standards, most recently the Convention on the Rights of Persons with Disabilities (see Flynn, 2011). Such strategies should be developed in every country to map out the action required to promote full inclusion. Regarding employment and livelihoods, strategies should aim to promote the right to work of women and men with disabilities in the open labour market, through measures to encourage public and private employers to recruit, measures of support to individuals with disabilities and other affirmative action measures; through awareness-raising campaigns targeting employers and the public at large; and by developing greater diversity in education, training and self-employment programmes offered. Strategies should also be established to promote accessibility of workplaces and training institutions, and ensure that reasonable accommodation is provided.

The national disability strategies should take into account the situation of people with disabilities who face discrimination on multiple grounds, including women with disabilities and people of indigenous or ethnic origin, as well as the additional barriers faced by people with certain types of disability, especially those with intellectual and psycho-social disability. The first step in many countries will be to carry out a study of the situation of each of these disadvantaged groups and the barriers they face, particularly in finding employment, as a basis for developing appropriate interventions. Once in-depth information has been gathered and analysed, affirmative action measures can be developed to ensure effective outreach to these disabled persons. Some information is already available on the situation of women with disabilities, as indicated below, which can be of guidance in carrying out such surveys at national level.

4.3.1 Women and girls with disabilities

The CRPD requires States Parties to recognize that women and girls with disabilities are subject to multiple discrimination and to take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms (Art. 6). As noted earlier, the lack of up-to-date information on their situation in many countries and on how they are catered to in policy measures contributes to their invisibility on policy agendas nationally and internationally.

At national level, available evidence, though sketchy, paints a grim picture. Women with disabilities are less likely to be referred to vocational training; have a harder time gaining access to rehabilitation programmes; are less likely to obtain equality in training; and if they are successfully rehabilitated, it is more likely to lead to part-time jobs or worse – unemployment. Among the general public and rehabilitation counsellors, the attitude still persists that women with disabilities are passive, dependent, and not capable of or interested in taking up an occupation leading to employment. Studies have found that, even in economically developed countries, major programmes designed to assist people with disabilities, such as supplemental security income, disability insurance, workers' compensation and vocational rehabilitation, disadvantage women because of their low labour market participation. Not only do women

receive fewer benefits than men, they also draw lower benefits. Despite their greater need, disabled women receive less from public income support programmes (Mudrick, 1988).

Action is needed to tackle the information gap, and to develop appropriate policy measures to ensure that women and girls with disabilities can enjoy their rights.

4.4 Data on the employment of persons with disabilities

At present most countries do not have a reliable up-to-date picture of the labour market situation of persons with disabilities, and where data is available, it is frequently derived from disability-specific surveys, rather than from the regularly implemented labour force or household panel surveys. This is a key issue to be addressed, as comprehensive reliable data is important for the development of policies and their implementation through programmes and services, whether disability-specific or addressing the requirements of persons with disabilities as part of general measures introduced for the population at large.

The Convention on the Rights of Persons with Disabilities acknowledges the importance of gathering appropriate information, including statistical and research data, to enable States Parties to formulate and implement policies to give effect to its provisions (Art. 31), and requires States Parties to collect appropriate information. Labour force surveys and other regularly conducted surveys of the population of any country should include specific questions on person with disabilities, drawing on the internationally recognized Washington Group questions (see section 3.11.2 supra). In its comments on the reports of States Parties to date, the Committee on the Rights of Persons with Disabilities has requested that, when collecting data on employment, indicators on type of disability and type of work be included, so as to allow for well-informed and targeted efforts to be made to improve the employment situation of persons with disabilities. In addition, data should be disaggregated by a range of characteristics, including sex, indigenous and ethnic origin, so as to provide a solid

basis for policy development. Work currently being undertaken by the ILO and other agencies to improve methodologies and quality of relevant information should be supported and strengthened.

4.5 Support to job-seekers and workers with disabilities

4.5.1 Building employability

The principal objective of providing technical and vocational training to persons with disabilities is to enhance their employability with a view to securing decent jobs. At present, people with disabilities from birth or an early age may take a separate path through education and training to their non-disabled peers, attending segregated schools and training centres where the programmes may not be nationally recognized or certified. The skills they acquire may not reflect labour market requirements, and the lack of comparable educational and skills qualifications, or any qualifications at all, puts them at a further disadvantage when it comes to competing for jobs. Many may not receive any formal education and training at all.

The Convention on the Rights of Persons with Disabilities requires that States ensure that persons with disabilities receive the support they require within the general education system, to facilitate their effective education, and that reasonable accommodation of individual requirements is provided. Access to general vocational training, adult education and lifelong learning programmes should be ensured in the same way. The ILO Human Resources Recommendation, 2004 (No. 195) gives guidance on the development of policies to promote equal opportunities in accessing education, training and life-long learning, as well as career guidance and job-placement services including for persons with disabilities, recognizing the important contribution that can be made by social partners, in particular employers, and of community groups.

The right of people with disabilities to access the general technical vocational education and training (TVET) system on an equal basis with others should be reflected in national law, and the enjoyment of this right should be promoted through the national TVET policy as well as through

the national disability strategy. The implications for instructor training, the training curricula, equipment and materials, the accessibility of buildings, information and transport need to be considered and provided for, and adequate resources should be allocated.

4.5.2 Allowances and personal assistance

People with disabilities may incur additional daily living costs while in employment and this may influence their decision whether to seek or stay in employment. Higher everyday living costs may arise from the need to purchase appliances, clothing, footwear and personal assistance services. For example, people using wheelchairs may need to purchase lighter, more expensive wheelchairs than available through public services for greater mobility in getting to and around the workplace; people with limited mobility may have to travel by taxi rather than cheaper public transport, which is frequently inaccessible; and people with visual impairment may require a personal assistant to accompany them to and from their place of work. In countries where disability benefit systems are in place, the higher daily living costs also include the 'opportunity cost' to the individual with a disability in accepting a job, as – in terms of the disability benefits, health benefits and benefits in kind foregone. In such countries, individuals with disabilities would need to earn a higher minimum wage than non-disabled people in order to make it economically worthwhile to enter employment, and to receive an allowance to cover the additional costs associated with travel to and from, and performance of the job. A 'cost of disability' allowance could be introduced to compensate for the additional direct and opportunity costs. Schemes are already in place in some countries to enable individuals with disabilities to employ personal assistants.

4.5.3 Providing support in finding employment – role of employment services

Identifying and providing information on job vacancies, assessing the aptitudes and interests of the job seeker, providing career guidance and referring the job-seeker for further training, if required, matching people to available jobs are important tasks undertaken at times by public or

private employment services, at other times by non-governmental organizations. Job-seekers with disabilities benefit from such employment services which enable them to navigate labour market opportunities independently or with varying levels of support.

The national disability strategy, the policy on employment services and other relevant policies should take into account the key role played by such services in supporting the recruitment of persons with disabilities, the need to strengthen the capacity of such services and to provide adequate resources to enable them to function effectively. If such services are not already in place, a decision needs to be taken as to whether job-seekers with disabilities are to be catered for by the general job placement services, by services that focus specifically on job-seekers facing particular disadvantage in the labour market, including persons with disabilities, or by services specifically designed for people with disabilities. In some countries, a combination of different approaches is found. A range of options should ideally be provided to job-seekers, from the 'one-stop shop' self-service approach taken in some countries, to a direct service approach provided alongside or in place of this in others (Murray and Heron, 2003).

4.6 Encouraging employers to recruit and retain persons with disabilities

4.6.1 Building employer awareness

Mistaken assumptions about the capacity of disabled persons to participate in the labour force and associated prejudices and stereotypes contribute to the difficulties faced by disabled women and men in finding decent and productive jobs. These assumptions, prejudices and stereotypes are widespread, even though workers with disabilities have demonstrated their capacity to work effectively and to perform well on the job, and many employers actively seek to recruit people with disabilities as they recognize the contribution they make.

States that have ratified the Convention on the Rights of Persons with Disabilities are required to adopt immediate, effective and appropriate

measures to raise awareness throughout society (Art. 8). It is important to foster awareness of the business case for employing persons with disabilities which includes the benefits of increased productivity, low staff turnover rates and good team morale. This in turn can encourage more employers to recruit job-seekers with disabilities, retain those who acquire a disability, and provide other opportunities such as work experience, apprenticeships and on-the-job training possibilities. Involving employers' organizations in awareness-raising and advocacy campaigns can add value.

4.6.2 Supports through employment services

Complementing the service provided to job-seekers with disabilities, job placement services also play an important role in supporting employers, providing information and technical advice, matching candidates to available jobs, providing information on reasonable accommodation, and other legal requirements, as well as on financial incentives and other support schemes. This aspect of their role should be strengthened and adequately resourced through national policies and strategies.

4.6.3 Financial incentives and grants

Many countries provide financial incentives to employers in the form of a grant, wage subsidies or tax incentive to cover any extra costs associated with employing a disabled worker, including allowing for reasonable accommodation provisions.

4.7 Promoting entrepreneurship and enterprise development cooperation

Given that a large proportion of new jobs in developing countries are located in self-employment, the promotion of enterprise and entrepreneurship development schemes open to people with disabilities should be prioritized in these countries. National disability strategies should contain measures to strengthen the access of potential entrepreneurs

with disabilities to these programmes, and to business development services in such countries, as well as to financial services including micro-finance schemes, credit schemes and the general banking sector.

4.8 Fostering inclusive labour markets through international development cooperation

An estimated 80 per cent of all disabled people in the world live in developing countries. The majority has either limited or no access to the services they need. In a climate of economic and political uncertainty, the protection of the most marginalized members of society assumes greater importance. A particular responsibility rests on governments to counter or alleviate the outcomes of market and other forces. A concerted effort is needed to increase the range and level of international support and assistance to enable developing countries to improve vocational rehabilitation, work and employment opportunities for women and men with disabilities. Bilateral and multilateral development cooperation programmes should integrate disability measures into their overall approach.

International development efforts are required, in addition to national initiatives, to empower those at the margins of the labour market and of society to reduce their economic insecurity, improve their living standards and by implication, those of their families and communities. This can be done by addressing the physical, social, economic and cultural barriers that prevent people with disabilities from accessing decent work and from contributing to the development of their economies and societies. These include lack of access to education, lack of skills required in the labour market, lack of access to employment and lack of social protection, as well as inaccessible built environments, information and public transport and lack of affirmative action and reasonable accommodation provisions in laws and policies. Many development projects, for example, involve the construction of schools and vocational training centres, the establishment of public transport systems, the setting up of new factories, workshops and offices. If the particular needs of persons with disabilities are not planned for in those developments, the result will reinforce their segregation and exclusion and deny them the opportunities to which they

are entitled. Experience elsewhere shows clearly that attempting to make existing buildings accessible to people with different disabilities is both difficult and costly. Attention should therefore be paid to accessibility requirements from the early planning stage of such construction.

While the Millennium Declaration and the Millennium Development Goals did not explicitly mention persons with disabilities, the 2030 Agenda for Sustainable Development, unanimously adopted by the UN General Assembly in September 2015, does so. People with disabilities were among those consulted in the process of developing the Agenda and their needs are reflected in the Sustainable Development Goals, with particular emphasis on those regarding inclusive and equitable quality education and lifelong learning opportunities (Goal 4); sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (Goal 8); reduction of inequality within and among countries (Goal 10); and Making cities and human settlements inclusive, safe, resilient and sustainable (Goal 11) (UNGA A/RES/70/1, 2015).

4.9 Making more effective use of UN human rights instruments

The report of the study on Human Rights and Disability commissioned by the OHCHR (Quinn and Degener, 2002) contains a wide range of comments and recommendations designed to improve the effectiveness of the UN human rights system in the context of disability, which still apply. These comments and recommendations are addressed to governments, treaty-monitoring bodies, the OHCHR, the UN Commission on Human Rights, national human rights institutions and non-governmental organizations. They undoubtedly have implications for international agencies, not least in relation to multi-sectoral collaboration. This rich outcome of the Human Rights and Disability study should provide an invaluable agenda for the future, aiming to ensure that the vision of the Convention on the Rights of Persons with Disabilities is also promoted through other UN Conventions, including the Convention on the Elimination of All Forms of Discrimination against Women, as well as through the UN Partnership on the Rights of Persons with Disabilities.

Early historical development of work and employment opportunities for persons with disabilities (1900–1930)

A1.1 Overview

Variations in physical, mental and sensory functioning have always existed among human beings. Yet, people with functional limitations, disabilities, have always run the risk of being excluded and marginalized. Throughout the centuries we have designed and constructed our societies as if persons with disabilities did not exist, as if all human beings can see, hear, walk about, understand and react quickly and adequately to signals from the world around them. This illusion, this misconception about human nature, this inability to take the needs of all citizens into account in the development of society is the main reason for the isolation and exclusion of persons with disabilities, which we can observe in different forms and to different degrees all over the world. It will take a long time to change this pattern of behaviour, which is deeply rooted in prejudice, fear, shame and lack of understanding of what it really means to live with a disability. However, international efforts to improve the living conditions for persons with disabilities have begun and progress is being made. A more systematic effort to improving living conditions of persons with disabilities started long ago in the emerging industrialized nations. During the last 50 years the so-called advanced welfare states have developed comprehensive programmes and services in order to meet the needs of persons with disabilities (UN, 2000).

In the context of work and employment opportunities for persons with disabilities, the starting point was probably about 35 years earlier than that, though there has been a significant acceleration in the pace of change during the past two decades or so. Concepts such as equality of opportunity, justice, rights, choice, recognition and acceptance of diversity, and “reasonable accommodation” (though by another name) are not unique to the independent living movement or the transition to the so-called social and rights models. They can be found in descriptions of the development of vocational rehabilitation, leading to the ability to work, in certain countries at the time of the First World War, 1914–1918. The following paragraphs rely heavily on Harris, 1919.

A1.2 From the beginning

The general depiction of people with disabilities as objects of health, welfare and charity programmes, often resulting in their segregation and exclusion from mainstream activities, including employment, began to be seriously questioned in the early part of the twentieth century. A growing realization that persons with

a disability had not only the motivation to work, but the capacity to do so, led to the early development of policies and programmes to enable disabled persons to secure, retain and advance in suitable employment, and to return to work after an absence due to illness or injury. A particular stimulus for the latter, it must be said, was the need for trained workers to replace those called to fight in the First World War.

A1.3 Belgium

In the early days of the First World War, a place of refuge, with medical and surgical treatment for all who needed it, developed near Havre, France, for Belgian soldiers disabled in fighting in their homeland. What soon became known as the “Depot des Invalides” quickly became a centre for medical care and vocational instruction. The curriculum included carpentry, brush making, toy making, plumbing, cooperage, mechanics, wood and metal turning, electrical work, upholstery, shoemaking, tailoring, printing, envelope making and the manufacture of artificial limbs. Wages were paid, some of which was deposited in a savings account to be given to the individual when he left. The advantages of vocationally rehabilitating disabled soldiers to enable them to contribute to the war effort in a supporting role led to the establishment in 1916 of the Ecole Nationale Belge des mutilés de la guerre at Port Villez in France. Training courses included poultry farming, market gardening, office/clerical work, teacher training and over forty technical trades. The school was maintained by the Belgian Government and those attending received the regular rate of army pay plus a portion of the proceeds of the sale of articles produced. For those with the capacity for and interest in studying for a profession such as law, medicine, natural sciences, and so forth, opportunity was provided to study in Paris.

A1.4 France

Vocational rehabilitation and return to work programmes in France had a somewhat similar development to that for Belgian disabled soldiers. The municipality of Lyons opened its first school for this purpose in December 1914, followed by a second six months later. Other municipal authorities, departmental governments, trade unions and private charities followed suit. The Ministry of Commerce adapted vocational schools under its jurisdiction so that soldiers with disabilities could attend. By the end of 1916, over a hundred schools were available for vocational rehabilitation. A National Office was set up the same year to coordinate matters.

“In the larger schools,” according to Harris, “the training offered is divided into instruction in manual trades, office work and general schooling. Figures show that the manual trades most in demand are shoemaking, tailoring, basketry, harness making, saddlery, tinsmithing and carpentry. The reason for the popularity

of these trades is that they will afford a living almost anywhere, in the city or in a tiny village. They do not require expensive equipment, and they are the trades selected by the men themselves. Most of the soldiers are from villages and small towns, and these desire to acquire a trade that, when eked out with their pension, will give a good living and yet not be too exacting. These men will open shops in their homes, and have time also to work in the garden, cultivate their tiny farm patches, and attend their vines” (p. 88). Other trades taught included mechanics, typography, lithography, bookbinding, locksmith, brush making, toy making and box-making, welding, mould making and stucco work, vehicle painting, photography, diamond cutting, sabot and galoche making, stone carving, hairdressing, dental mechanics and wireless telegraphy.

A1.5 Great Britain

The aftercare of disabled soldiers and sailors in Great Britain pre-First World War had been principally a matter of private initiative and financial support (Harris, p. 93). State provision consisted largely of a small pension and, where needed, artificial limbs. This approach was changed utterly when an official report in February 1915 stated that primary responsibility in this regard was with government. The report (quoted *ibid.* p. 95) recommended:

- (1) The care of soldiers and sailors should be assumed by the State.
- (2) This duty should include:
 - a) the restoration of the man’s health where practicable;
 - b) the provision of training facilities if he desires to learn a new trade;
 - c) the finding of employment for him when he stands in need of such assistance.

The principal pre-war agency of after-care work was the Royal Patriotic Fund Corporation, which held in trust the Royal Patriotic Fund, an amalgamation of private charitable funds, dating back in origin to the Crimean War. The Military and Naval War Pensions Act, 1915 created the Statutory Committee for administration of the Fund, and the Committee and its system of local committees were brought under the control of the Ministry of Pensions when it was established in 1916. The Statutory Committee was, in turn, dissolved under further legislation the following year and the Ministry of Pensions, and Local War Pensions Committees, were charged with “the medical treatment or training for industrial life that a discharged soldier may need”.

Training was provided as needed, in technical schools, agricultural colleges or workshops, though in the case of the last named it was expected that the individual would be employed permanently in the shop. For others, placement was organized through the training institution or local labour exchange. Trade advisory committees were set up jointly by the Ministries of Pensions and Labour in

the principal trades for which training was given, to advise “as to conditions under which the training of disabled men in the trade can be best given, the best methods of training, the suitable centres for it, and generally how to secure uniformity in training”. Other local “technical advisory committees” were set up to advise on suitable local schemes for training individuals and the prospects of their employment after training. Both types of committee included equal representation of employers and trade unions. A key characteristic of the British system appears to have been its ability to respond to individual needs and local conditions.

A1.6 Germany

In many ways, at the beginning of the war, Germany was in a better position than many other countries to deal with the issue of vocational rehabilitation. A leader in orthopaedic surgery and rehabilitation, Germany also had a well-developed network of disability centres, many of which had workshops teaching a variety of trades. Employers’ insurance associations also had a number of hospitals which provided services.

It appears that the Government accepted responsibility for the medical rehabilitation of disabled soldiers, while vocational rehabilitation and return to working life were the province of private charity or individual states. As an example, the 900-bed hospital in Nuremberg was made available by the city authorities, complete with up-to-date orthopaedic equipment. General and theoretical instruction was provided in the city’s schools, and practical work in the hospital workshops.

Skills taught included: left-hand writing, typewriting, stenography, commercial courses, farm bookkeeping, decoration and design, office management, tailoring, painting, bookbinding, printing, locksmithing, shoemaking, saddlery, weaving, orthopaedic mechanics, carpentry, farming, blacksmithing, brush making. Additional courses provided in Düsseldorf included telegraphy, electrical and metal work, cardboard and leather-work, plastering, upholstery and dental mechanics.

There were a number of agricultural schools for disabled servicemen, some of which provided training as farm teachers. It was considered that the main need was to equip the small peasant farmer to return to his own holding where, with the help of other family members, he might manage truck gardening, poultry-raising, and so forth.

A number of major employers maintained their own hospitals to rehabilitate former employees disabled in the war and to provide suitable work opportunities afterwards.

A1.7 Canada

The issues of vocational rehabilitation and return to working life for disabled servicemen was a new one for Canada when it arose for the first time in 1915. Having learned what they could of the early experiences of some of the European countries, Canada set about developing its own system to meet its own needs. The authorities concluded at an early stage:

- (a) that every case would be an individual one, and should be dealt with accordingly;
- (b) that as a matter of fundamental policy, vocational rehabilitation – which they saw as helping an individual to make the transition to civilian employment – should be strictly a civilian and not a military affair;
- (c) that, as a motivational factor, it should be made clear that no matter how much an individual might manage to earn following rehabilitation, his status as a government pensioner would not be affected.

As soon as possible after the disabled individual got to the hospital, he was seen by a vocational adviser. If at the end of hospital treatment the serviceman was able to return to his former civil occupation, the vocational work with him was ended. If not, the vocational officer would work with him to ascertain his capacities, experience and inclinations and to hopefully agree a suitable choice of occupation in which there would exist a good prospect of future employment. Assistance with placement was also provided.

Farmers were given special inducements – including homesteads and financial loans in cases - to go back to work on the land. They were trained as tractor and farm mechanics, as creamery workers, in poultry raising and horticulture.

By 1918, the Canadian government was providing training in about two hundred occupations.

A1.8 United States

For some years before the war, there had been growing interest in the United States in vocational education. The Federal Vocational Education Act, approved on 23 February 1917, created a substantial fund to be distributed among the States which accepted the terms of the Act, on a dollar for dollar matching basis, for vocational education. The Act established the Federal Board for Vocational Education to administer the fund and oversee the implementation of the legislation. When the United States entered the war on 6 April 1917, one of the first tasks of the Board was to assist in providing personnel trained for technical war occupations.

When the need for vocational rehabilitation of disabled servicemen arose, the lessons from European and Canadian schemes were studied. There was general agreement that the work of training and returning individuals to civil life was a matter for civilians, not the military. The Smith-Sears Vocational Rehabilitation Bill became law on 27 June 1918. It is interesting to note that the original measure included provision for the vocational rehabilitation of persons disabled at work, as well as those disabled in war. The former was dropped, however, as the President and Cabinet had undertaken to bring no legislation before Congress at that time which did not relate to war measures.

Harris (pp. 173-4) claims that the motivation underlying the establishment of vocational rehabilitation was markedly different as between Europe and the United States:

The work of vocationally rehabilitating the disabled in Europe had its origin in compassion and charity. Its rapid development came through the necessity of using all available manpower and the recognition of the possibility of substituting retrained, but physically disabled men for those yet physically able, but detained behind the lines as workers in essential war industries. Its present status is due primarily to the insistent demands of war work, but partly in addition to the realization by European Governments that there will be a great shortage of trained men in all lines of industry after the war. That country possessing the greatest reserve of skilled workmen, even though in some respects physically disabled, will have a distinct advantage in recuperation over those less favourably situated. With the United States none of the foregoing considerations was the moving cause of the resolution to re-educate for civil life its disabled men, prevented by reason of their injuries from returning to their former means of gaining a livelihood. Indeed, these considerations played small part in the decision, and then only as incidentals of benefit and cause associated with a course already shaping itself upon broader and even higher grounds. That the programme had phases that might rebound to the national good was pleasant to contemplate, but the seeking of a direct national benefit, either as a present or as a *post-bellum* excuse or reason was never considered as a governing factor.

In brief, the position of the United States, as evidenced by its legislation on the subject of vocational rehabilitation for disabled soldiers and sailors, is that the Nation owes them neither charity nor alms; that their sacrifice and service deserve more than a gratuity; that the Nation is in fact indebted deeply to them, and under the highest moral obligation to discharge its debt fully and generously; and that complete restoration to pre-war civil status is a matter of simple justice to the men who have been disabled and handicapped by reason of their service in defending the commonwealth against its armed foes.

As further explanation of what he saw as the philosophy underlying the United States approach, Harris was extremely critical of the “obsolete pension system” and its “pernicious effects upon the pensioners and the public, and upon legislation and politics”, arguing that “restoration and restitution, including such compensation as might be necessary to accomplish these objects and the establishment of equality of opportunity was the course to be followed” (op. cit. p. 174).

As in Canada, the United States provided vocational advisers to assist the individuals in career decision-making, “the primary endeavour (being) to fit the individual man for the job for which his inclination and capacity seem to indicate the strongest probability of success, scientifically adjusted to the likelihood of there being a demand for his services in the line of work selected” (op. cit. p. 217).

It was recognized that prejudice against hiring persons with disabilities existed among many employers. Special programmes to help reduce or eliminate it were launched as part of the placement and follow-up effort. Trade unions supported the policy of vocational rehabilitation in the United States, as they did in Europe.

Harris records, in an early example of reasonable accommodation, that “. . . where special appliances, safeguards or equipment are required as means of overcoming special handicaps, these must be provided under fair agreements with employers, and some supervision after placement will be necessary to insure the proper carrying out of such agreements” (op. cit. p. 241).

As the war ended, legislation to extend the provisions of the vocational rehabilitation system to persons acquiring a disability in the workplace was being introduced.

A1.9 Women with disabilities

The legislation and systems described above were designed with disabled servicemen in mind. Little attention, if any, appears to have been given to the vocational rehabilitation needs of women who acquired disabilities during the First World War, presumably because relatively few service-women served in the front line. That work opportunities for women with disabilities was an issue of concern, at least in the United States, might however be gleaned from research reports such as Eaves (1921), which examined vocational guidance and placement approaches for a thousand women in Boston, many of whom had disabilities of varying kinds.

A1.10 Period of stagnation

The issue of vocational rehabilitation and work opportunities for persons with disability largely faded from political agendas during the economic depression of the 1930s, emerging again during the Second World War, with quota systems forming a large part of the response in many cases.



Notes

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Definitions

The following definitions of terms used in this report are based on the ILO Code of Practice on Managing Disability in the Workplace (2002) and on the Convention on the Rights of Persons with Disabilities.

Adjustment or accommodation

Adaptation of the job, including adjustment and modification of machinery and equipment and/or modification of the job content, working time and work organization, and the adaptation of the work environment to provide access to the place of work and to facilitate the employment of individuals with disabilities.

Competent authority

A ministry, government department or other public authority having the power to issue regulations, orders or other instructions having the force of law.

Decent work

Productive work in which rights are protected, which generates an adequate income, with adequate social protection.

Disability management

A process in the workplace designed to facilitate the employment of persons with a disability through a coordinated effort addressing individual needs, work environment, enterprise needs and legal responsibilities.

Disabled person

An individual whose prospects of securing, returning to, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical, sensory, intellectual or mental impairment.

Discrimination

Any distinction, exclusion or preference based on certain grounds which nullifies or impairs equality of opportunity or treatment in employment or occupation. General standards that establish distinctions based on prohibited grounds constitute discrimination in law. The specific attitude of a public authority or a private individual that treats unequally persons or members of a group on a prohibited ground constitutes discrimination in practice. Indirect discrimination refers to apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. Distinction or preferences that may result from application of special measures of protection and assistance taken to meet the particular requirements of disabled persons are not considered discriminatory.

Discrimination on the basis of disability

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. It includes all forms of discrimination, including denial of reasonable accommodation.

Employee

Any person who works for a wage or salary and performs services for an employer. Employment is governed by a written or verbal contract of service.

Employer

A person or organization employing workers under a written or verbal contract of employment which established the rights and duties of both parties, in accordance with national law and practice. Governments, public authorities and private companies as well as individuals may be employers.

Employee assistance programme

A programme – either jointly operated by an employer and a workers' organization, or by an employer alone, or a workers' organization alone – that offers assistance to workers and frequently also to their family members, with problems liable to cause personal distress, which affect or could eventually affect job productivity.

Employers' organization

An organization whose membership consists of individual employers, other associations of employers or both, formed primarily to protect and promote the interests of members and to provide services to its members in employment-related matters.

Equal opportunity

Equal access to and opportunities for all persons in employment, vocational training and particular occupations, without discrimination, consistent with Article 4 of ILO Convention No. 159.

International labour standards

Principles and norms in all labour-related matters which are adopted by the tripartite International Labour Conference (governments, employers' and workers' organizations). These standards take the form of international labour Conventions and Recommendations. Through ratification by member States, Conventions create binding obligations to implement their provisions. Recommendations are non-binding instruments which provide guidance on policy, legislation and practice.

Job adaptation

The adaptation or redesign of tools, machines, workstations and the work environment to an individual's needs. It may also include adjustments in work organization, work schedules, sequences of work and in breaking down work tasks to their basic elements.

Job retention

Remaining with the same employer, with the same or different duties or conditions of employment, including return after a period of paid or unpaid absence.

Mainstreaming

Including people with disabilities in employment, education, training and all sectors of society.

Organizations of and/or for persons with disabilities

Organizations which represent persons with disabilities and advocate for their rights.

Reasonable accommodation

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.

Return to work

The process by which a worker is supported in resuming work after an absence due to injury or illness.

Vocational rehabilitation

A process which enables disabled persons to secure, retain and advance in suitable employment and thereby furthers their integration or reintegration into society.

Work trial

Work activity to provide experience in or test suitability for a particular job.

Worker

This broad term includes employees, own-account workers, members of producers' cooperatives, contributing family members and workers not classifiable by status, including unemployed persons not previously employed.

Workers' representatives

Persons who are recognized as such under national law or practice, in accordance with the Workers' Representatives Convention, 1971 (No. 135), whether

they are: (a) trade union representatives, namely representatives designated or elected by trade unions; or (b) elected representatives, namely representatives who are freely elected by workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include activities which are recognized as the exclusive prerogative of trade unions in the country concerned.

Working conditions

The factors determining the circumstances in which the worker works. These include hours of work, work organization, job content, welfare services and the measures taken to protect the occupational safety and health of the worker.

Working environment

The facilities and circumstances in which work takes place and the environmental factors which may affect workers' health.

Workplace

All the places where people in employment need to be or to go to carry out their work and which are under the direct or indirect control of the employer. Examples include offices, factories, plantations, construction sites, ships and private residences.

Works council/workplace committee

A committee of workers within the enterprise with which the employer cooperates and which is consulted by the employer on matters of mutual concern.

Workstation

The part of the office or factory where an individual works, including desk or work surface used, chair, equipment and other items.

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Decent work for persons with disabilities: promoting rights in the global development agenda

People with disabilities face enormous obstacles to equal opportunities in the world of work. Their right to decent work is frequently denied and they experience higher rates of unemployment and economic inactivity than non-disabled persons.

The UN Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006 and ratified by the vast majority of countries worldwide, marked a major international policy shift to a human rights-based approach to disability, including in the world of work. It follows on from and complements the landmark ILO Convention No. 159 on Vocational Rehabilitation and Employment adopted in 1983.

This publication provides a comprehensive overview of the principal international legal instruments, policies and initiatives that aim to promote the rights of persons with disabilities, particularly in terms of work and employment.

It presents the main approaches which have been taken in countries across the globe to ensure that persons with disabilities can access employment and work and advance professionally on an equal basis with others. These approaches include legislation, vocational training, employment services as well as financial, technical and personal support mechanisms.

The book also proposes an agenda for future action for promoting the rights of persons with disabilities within the 2030 Development Agenda.

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