

**Trade union action:  
Integrating disabled persons  
into working life**

**Labour Education 1998/4  
No. 113**

# Contents

<b>Editorial</b>	V
<b>The role of trade unions in promoting the vocational integration of persons with disabilities: ILO policy appraisal and outlook, by Marc Dupont</b>	1
<b>Africa: A buzz of experimentation and initiatives to build greater awareness on the part of African trade union organizations, by Bamba Ndiaye</b>	18
<b>Trade unions and workers with disabilities in Latin America: Signs of promise? by Luis Reguera</b>	22
<b>Central and Eastern Europe: Most countries have set up sheltered workplaces and employment for the benefit of severely disabled workers</b>	35
<b>European Trade Union Confederation (ETUC): Policy and action in favour of disabled persons, by Anna Ricciardi</b>	39
<b>Public Services International inspired by the need to nurture diversity in society and to oppose any form of discrimination, by Ros Harvey</b>	45
<b>Increased competition: A pretext to exclude disabled persons and encourage practices of exclusion, isolation and segregation, by Silvana Cappuccio</b>	53
<b>Integrating persons with disabilities into the teaching profession: A matter of concern to trade unions, by Fred van Leeuwen</b>	57
<b>Vocational rehabilitation and employment of persons with disabilities in Germany: The IG Metall approach</b>	61
<b>The CFDT's viewpoint on the management of the vocational integration of workers with disabilities in France, by Huguette Puel and Gaby Thollet</b>	67
<b>United Kingdom: Manufacturing, Science and Finance (MSF) first in line to address matters related to disability, by Kenneth Orme</b>	71
<b>Appendices</b>	
Appendix I <b>Recommendation concerning Vocational Rehabilitation of the Disabled, 1955 (No. 99)</b>	75
Appendix II <b>Convention concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No. 159)</b>	81
Appendix III <b>Recommendation concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No. 168)</b>	84
	III

Appendix IV	
<b>Resolution (36/1) of the United Nations Commission for Social Development: Promoting social integration and participation of all people, including disadvantaged and vulnerable groups and persons</b>	89
Appendix V	
<b>United Nations: Standard Rules on the Equalization of Opportunities for Persons with Disabilities</b>	92
Appendix VI	
<b>Ratifications of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)</b>	93

# Editorial

In November 1993, the Governing Body of the ILO decided to invite governments to submit reports on the position of their law and practice regarding the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), and Recommendation, 1983 (No. 168). The reports supplied in pursuance of that decision, together with those submitted in accordance with articles 22 and 35 of the ILO Constitution by the States which have ratified the Convention, have enabled the Committee of Experts on the Application of Conventions and Recommendations, in accordance with its usual practice, to carry out the first General Survey on the effect given to these instruments both in States which have ratified the Convention and in those which have not. The Survey was among the items for discussion at the 86th Session of the International Labour Conference in June 1998.

Naturally, the purpose of such surveys is to examine the progress made in applying the substance of the instruments in question and obstacles to their ratification. The Conference proceedings on the item reflected a general willingness to ratify the instruments (see para. 143, *Provisional Record No. 18*, International Labour Conference, 86th Session, Geneva, 1998). In terms of determining social policy, however, the Committee of Experts recalled that the ILO had lost no time in assigning a high priority to the question of disabled persons in terms of their relation to the world of work: as early as 1925 the ILO had adopted the Workers' Compensation (Minimum Scale) Recommendation (No. 22). Since then three other key instruments have been adopted guaranteeing the right of disabled persons to benefit from appropriate medical and occupational adaptation and rehabilitation with a view to enjoying social and occupational integration on an equal footing with other members of the community, namely the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), and its accompanying Recommendation (No. 168).

In the course of discussion of the item referred to, the Workers' group of the June 1998 International Labour Conference recalled that much could be achieved by way of preventing and reducing the risk of disability if effective policies of health care for all were applied. They stressed the need, particularly in the light of the speed at which technological developments were occurring and of increased international competition, for an integrated approach to vocational rehabilitation and employment of persons with disabilities, subject to continual reassessment through dialogue with employers and workers' organizations, as well as those organizations concerned with disabilities. Of particular interest was that the Workers' members perceived the readiness expressed on the part of several countries to ratify Convention No. 159 in the near future as a cost-effective means of pursuing an active policy of equal opportunity within the framework of the general obligation to com-

bat discrimination which derived from the Declaration of Philadelphia, the declaration adopted at the 1995 World Summit for Social Development in Copenhagen, and ILO Convention No. 111 on Discrimination (Employment and Occupation).

The Committee of Experts reported that some 500 million persons throughout the world were affected by disability, of which 350 lived in regions where there was a total lack of any form of support service for this vulnerable social group. Furthermore, since these persons were often among the poorest social groups, even in industrialized countries, the Workers' members subscribed to the view that employment was the principal means of promoting the social integration of persons with disabilities and helping to combat social exclusion and poverty.

In focusing on the question of the occupational integration of disabled persons and economic imperatives, the Workers' members drew attention to the somewhat contradictory trends which characterized the developments and prospects relating to the vocational rehabilitation of persons with disabilities: while some technological developments could, for example, facilitate the integration of many persons with disabilities, they also constituted a threat to the employment of others due to a lack of sufficient qualifications or a shortage of adapted jobs. The Workers' members had called attention to the need for the question under review to be examined in all its different facets: globalization, for example, can provide opportunities for those with very specialized skills, but can also constitute an inherent threat within the context of increased competition in a labour market which is not adapted to the integration of persons with disabilities.

The ILO Bureau for Workers' Activities and the ILO Vocational Rehabilitation Branch are pleased to present this edition of *Labour Education*. In jointly producing this edition, both units not only express their commitment to harness their resources in order to give visibility to a category of working people who have not yet received due attention, but also to contribute to the Office's efforts to address the question of integrating disabled persons into working life through a more cohesive strategy.

Many a trade union official might well find it difficult to accommodate within an already crowded agenda an issue such as the rights of disabled persons and measures for their integration and reintegration into the world of work. However, it is in their very sensitivity to the issue, in their own consciousness of all that is at stake if such groups are marginalized, in their very willingness to perceive their own advocacy as central to their role as a key social partner, that their own credibility will be measured. Trade unions remain unique in their acknowledged role as a social force operating to defend workers' rights and promote the cause of social justice. Much store is set by their readiness to be active partners in the fore of the movement to bring disabled persons into the mainstream of society by integrating them into working life. It is our hope that this edition will encourage their efforts in this direction as well as reflection on how this challenge may most effectively be addressed.

Although support groups, both secular and denominational, have emerged in large numbers and have been addressing questions related to disabled persons, trade unions are particularly well placed to provide a forum for discussion of issues concerning disabled persons and their integration into the world of work. What mechanisms or institutions can be set in place to respond to the needs of this group in a permanent way, and how can workers' education play a role? How much can be achieved with

limited resources? What steps can be taken to find more resources? Do workers' organizations have sufficient expertise to take the necessary action required in running a campaign to sensitize the public? How much information is available on this question and where can it be found? This issue attempts to provide some answers to such questions.

We extend our warm appreciation to all those who have contributed articles to this edition. We are indebted to our colleague Marc Dupont of the ILO's Vocational Rehabilitation Branch whose in-depth review of the topic reflects the concerted international effort which is picking up momentum. Regionally, the European Trade Union Confederation gives coverage to the policies and activities of its affiliates, and our thanks are due to our colleagues in the technical area who have contributed articles on Africa and Latin America respectively. Excerpts from a key research study reflect the orientation given to policies concerning disabled persons and their integration into the world of work in countries of Eastern and Central Europe. Similarly, a number of International Trade Secretariats have demonstrated a willingness to share their wealth of experience: Education International (EI), Public Services International (PSI), and the International Textile, Garment and Leather Workers' Federation (ITGLWF). National experiences are also featured: France, Germany and the United Kingdom.

It has been gratifying not only to review and disseminate the information in the columns which follow, but also to evaluate the considerable progress which has already been achieved by a significant number of major workers' organizations. Our thanks are also due to all the workers' organizations who have assisted us in one way or another in providing information on their activities. The response has been very encouraging and these positive beginnings augur well for the future.

Guy Ryder  
*Director*  
*ILO Bureau for Workers' Activities*

Gabriele Stoikov  
*Director*  
*ILO Vocational Rehabilitation Branch*

# The role of trade unions in promoting the vocational integration of persons with disabilities: ILO policy appraisal and outlook

---

Marc Dupont

Vocational Rehabilitation Branch  
ILO

---

The subject of the employment of disabled persons is a multifaceted one, with a broad definition that simultaneously encompasses aspects of employment policy and, of course, basic and vocational training, but which varies depending on whether the focus is on persons with a congenital disability or victims of an occupational or other type of accident. Medical problems, possible indemnity, coverage by the different social security systems are all interrelated supplementary aspects. To this already long list we could add the range of politico-philosophical sensibilities regarding disabilities. Tackling the full range of above-mentioned issues is beyond the scope of this article, as that would be too protracted an exercise. Instead it attempts to focus on aspects directly related to employment and training policies and on elements which yield an understanding of the different approaches identified across the international spectrum.

Accordingly, the first part attempts to paint a global picture of the situation of disabled persons in regard to employment and training issues. The second sums up the different types of policies encountered around the world on these matters, underscoring recent trends in guidance and the changes observed on the job market. The third section looks at the instruments and activities developed by the ILO. A brief historical review will afford the reader a better grasp of the internal process of successive refinements by which ILO policy gradually came to be what it is today.

Beyond the ILO, we also look at the United Nations and its activities in this field, *inter alia*, in connection with the *UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities*. The article concludes with a specific analysis of the role of trade unions in this regard. How do they carry out their activities and what are their potential goals? These are

all subjects that should help furnish tools for reflection and, above all, action for those within trade union ranks alive to these issues.

## The situation of disabled workers

### Employment as the driver of social integration

Regardless of the country we may select or its level of economic and social development, employment is at the core of social cohesion. Because it is the means of generating income, because it gives the jobholder a social purpose and role (however minimal), employment is central to considerations of personal independence, self-edification and self-esteem. To all non-disabled persons of working age, joblessness or fear that it could result from industrial restructuring, financial crises, economic turmoil or political change is a major source of both present and future disquiet. Such disquiet is even more magnified for disabled persons considering the additional problems they must face in this difficult struggle. Indeed, even though joblessness takes its toll well beyond the ranks of disabled persons and there are numerically far less unemployed disabled people than others (in contrast, as we shall see later, the jobless rate among people with disabilities is far higher than among other people), the fact is that in seeking work, disabled persons must contend with specific prejudices that further compound difficulties of finding, keeping or returning to a job.

### Exaggerating the problems

How can we account for this situation? First and foremost, there is a persistence of extremely negative stereotypes about the capabilities of persons with disabilities: their skills

are supposedly insufficient; their capacity to adapt to technological changes too limited; an exaggerated picture is painted of the behavioural problems to be expected in dealing with people with disabilities; they are difficult to integrate into staff teams; in a word, the list of false good reasons for avoiding the employment of persons with disabilities could continue *ad infinitum*. If we add the problems stemming from obstacles to the use of transportation facilities, access to work premises, reluctance to adapt workplaces, it is clear that persons with disabilities must contend with a host of problems.

### *No longer a matter of alms*

Against this backdrop, some people advocate the maintenance or a return to aid policies, arguing that it is already a very tall order to manage the millions of jobless of all origins, the civil service drop-outs and other workers rejected by the system. Beyond the financial challenge such a policy would pose (and which would be beyond the means of most countries), it should be generally known that what persons with disabilities are seeking is not public charity or alms from any group whatsoever. Their demand is that society should recognize their right to work on an equal footing with anyone else and value and acknowledge their capacity to make a positive contribution to the common good. The history of the world of work is fraught with examples of minority or other groups that have struggled and ultimately gained recognition of their right to freely chosen work. Beyond all doubt, persons with disabilities (who, according to the World Health Organization make up some 10 per cent of the world's population) decided to take up this struggle years ago, and are of course counting on the assistance of the trade union movement.

### **Persons with disabilities and access to work**

It is no simple matter to make anything like a very precise appraisal of the situation regarding access to work for persons with disabilities. For one thing, that would presuppose the existence of a system of jobless data collection and analysis that was reliable, consistent and could be used for long-term studies, and for another, the availability of a scientific evaluation of the number of disabled persons wishing and able to work.

### *Data collection*

It would also be necessary to assemble data on the different types of vocational integration of disabled persons so that the analysis could encompass both enterprises on the open labour market and the so-called sheltered environment, or even homework. This means that the final outcome would be largely dependent on the quality of each country's system of social and labour statistics. It should also be stated straightaway that in a good number of countries, monitoring this issue by means of national statistics is out of the question for a variety of reasons ranging, for example, from deficient labour administrations, the scale of the non-structured sector – which by definition defies global analysis – to lacunae in social laws, which often fail to recognize the existence of a sheltered work environment, among other things.

### *Groping in the dark*

Some scepticism is therefore appropriate concerning any collected data, from two viewpoints: first that of the methods and means of tracking the issue, and second, the difficulty of precisely circumscribing and defining the subject of the research proper. This also explains why most of the available figures come mainly from industrialized countries and yet cannot be analysed identically, given the differing approaches to or definitions of disability in current use.

### *Gross disparities*

Rather than striving for mathematical precision in analysing these figures, we should instead focus on trends. At all events, whichever the country we may choose, the record will not be a brilliant one. The level of economic activity is lower among disabled persons than among others. The result is that the jobless rate is appreciably higher (generally put at twice that of people without disabilities). The duration of joblessness is also around three times that of people without disabilities. Australia's 1990 figures show an employment level of 46 per cent among people with disabilities and 72 per cent among those without (Thornton and Lunt, 1997). According to the same researchers, 1991 US figures show a jobless rate of 67 per cent among disabled people of working age and able to work. Spain's 1986 data show a similar level of unemployment among disabled persons. While in Great Britain,

depending on source and method, the proportion of the jobless or job-seeking among people without disabilities ranges from 5 to 15 per cent, the figure is over 20 per cent among disabled people (Brian Doyle, 1996).

### *Another type of discrimination: inadequate training*

Over and above the problems of access to work, people with disabilities must also face another kind of discrimination, that is, the lower level of quality and qualification specifications for the jobs they occupy. Naturally, this has negative implications for career prospects, remuneration, and access to vocational upgrading and also affects the interest and fulfilment that a job might be expected to generate. Despite the paucity of relevant data, a French Ministry of Labour study covering 1995 and 1996 found that there were twice as many labourers among disabled wage-earners than among people without disabilities and that, contrarily, there were twenty times fewer heads of enterprises with disabilities and half as many disabled managerial staff as persons without disabilities. Here again, rather than exact figures, these are trends worth noting.

## **Training**

Nowadays it is a commonplace to underscore the link between employment and training and the need to open training facilities to enterprises while developing employees' ability to adapt to social and technological developments. This holds even truer for disabled persons, who are woefully underqualified in all countries. Hence, in some countries, there are reports of almost 40 per cent of disabled people having no basic or vocational training whatsoever. For a country such as France, the figures, albeit somewhat dated, suggest that 60 per cent of disabled job-seekers have a very low level of basic education, 20 per cent of them neither able to read nor write.

### *Meeting labour requirements*

This training shortfall, whether at basic or vocational level, is even more crucial today, when employment opportunities are closely linked to the "employability" of disabled persons, that is, the capacity of disabled job-seekers to meet the labour needs of enterprises. This is borne out by the high placement rates following graduation from vocational rehabili-

tation centres observed in some countries. It is therefore a matter of the greatest urgency if we are to create opportunities for those who currently wish to enter the job market and for those who may aspire to do so in the future. It must be recognized here that much remains to be done. The great adventure of integration is proving slow to yield substantial results. The end effect of the fragmentation of training systems, competition among courses, financial backers and operators is to prolong the plight of underqualification and underemployment in which disabled persons find themselves.

## **Current trends and issues**

### **The different types of laws**

Based on a review of the different types of national laws, four categories of laws have been identified. Before describing them individually, it should be made clear that this categorization does not purport to establish self-

labour laws. In it, the priority is placed on internal endeavours at readaptation as well as on preventive policies (with particular regard to occupational accidents). Systems have been put in place to enable rapid intervention, which, as is well known, is a precondition for successful occupational rehabilitation. The provision of funds to defray the cost of adapting workplaces is among the measures taken. Tripartite committees often manage these arrangements in a decentralized manner.

### *Specific employment and training measures*

The second model includes specific measures under laws dedicated to the employment and training of disabled persons, while other aspects of disability management are covered under other laws. For example, in the countries concerned there are instances of in-house vocational training, training in “ordinary” centres or even in specialized centres. Compensation systems have been put in place for cases of return to work and for job adaptation. There are frequent cases of provisions regarding job quotas reserved for disabled workers, at times in combination with special protection against dismissal. Some conscious falling within this model have adapted worker representation systems and created special representation for persons with disabilities. There are also instances of assistance in creating sheltered workshops as well as subsidies for employers to help cover the wages of disabled persons they recruit.

### *Special chapters in general laws*

The third model covers specific measures concerning employment and training under general laws designed to promote the welfare of people with disabilities. Hence, there may be a specific chapter in a general text containing provisions on health, education, accessibility, transportation, access to public services, and so on. This category also covers a range of fiscal incentives accorded to employers, job quotas reserved in the civil service and different vocational training subjects.

### *Positive discrimination but also equal treatment*

Finally, the last model addresses laws designed to confront discrimination, of which access to employment and training is but one facet. These laws introduce into many coun-

tries the notion of reasonable adaptation of the workplace to allow for the recruitment of a disabled person as a binding obligation on employers, who would be liable to prosecution under the anti-discrimination law for refusal to comply. At the practical level there are two mutually supportive approaches. The first promotes equality of opportunity by restoring opportunities or creating the capacity to make use of them. It has led to the creation of a range of positive discrimination mechanisms. The second approach is aimed at equal treatment, that is, the rejection of all discrimination, including positive discrimination. These specifically labour-related provisions generally supplement measures to combat discrimination based on race or gender.

### *Quota or levy system*

This brief introduction should include mention of ongoing discussions concerning the quota system. The countries that have implemented provisions of this type have reported mixed results. The measures are considered to be of proven albeit limited effectiveness in vocational integration policies. Some countries have supplemented the quota system with a levy payable by companies that do not fulfil the recruitment obligation, with a view to restoring a degree of equity between enterprises that make the effort, and the others. But the perverse effects surfaced immediately: some employers chose to pay a levy rather than recruit people with disabilities. Besides, such systems call for efficient (and hence unwieldy) administrative mechanisms for determining disability status, as well as handling declarations and invitations to pay levies. On the one hand, some speak of the risk of stigmatization inherent in the declaration of disability status and the possible rejection of persons hired on a quota basis. But it is apparently proving difficult to set in motion the legal machinery for determining instances of discrimination. Procedures are protracted and costly and require an intimate understanding of the workings of the justice system. It is at times also difficult to prove the existence of discrimination in connection with hiring or firing. The result is that lawsuits are frequently dropped before running their course.

### *A backdrop*

It is therefore difficult if not impossible to affirm the total efficacy of one or another policy and its expected positive effects. The signif-

icance of the national context is so crucial that it hinders any global analysis. The prevailing level of social and economic development may facilitate or hamper the implementation of a voluntarist policy. Naturally, these policies are rooted in national or regional policies or in cultures with differing perceptions of disability. In addition, it is the judicial and legislative traditions that form the backdrop to contemporary trends in policies in favour of disabled people. Lastly, the degree of collective organization of disabled persons and their capacity to garner public support for their cause will influence the quality and scope of any progress by national authorities at the legislative, regulatory and practical levels.

### **Labour market changes**

Much has already been said concerning job market trends and this paper does not purport to outline a new economic theory on the subject. More modestly, it aims to shed some light on those trends that are of relevance to the employment of persons with disabilities. We should start by noting a marked trend towards tertiarization in job creation, which means that the services sector (at both enterprise and individual levels) is the one – perhaps the only one – in which the workforce is on the rise. This trend has been under way for several years now and follows on the first major shift of the employment focus from agriculture to industry.

### *New need for more intellectual skills*

Clearly, this requires employees to upgrade their skills. Service sector employees do not have the same professional profile as workers in the iron and steel industry or in the metal-working industry, in spite of the fact that these traditional sectors have already undergone numerous changes in work organization, such as the introduction of digitally controlled machinery. The growing need for skills of a more intellectual and less physical nature could offer interesting job opportunities for persons with disabilities. Today, a good many industrial processes are piloted and controlled by computers and it is conceivable that workers with disabilities could find jobs in this area. What is more, many of today's new jobs (especially in office automation and related services) can easily become accessible to disabled persons, once the different potential barriers to recruitment have been addressed.

### *Certain forms of work organization*

Enterprises often adopt another approach to work organization. Choices are frequently made to outsource one or another of the enterprise's activities to subcontractors or to former employees who have become independent. The conclusion will again look at the potential problems of such approaches to work organization for disabled workers, though at this point it should be established that the flexibility resulting from this type of organization could make for the recruitment of persons with disabilities.

### *More flexible employment contracts*

With proper supervision, new developments in social standards for employment contracts and working hours can provide opportunities. The fact is that many people with disabilities have and continue to find it difficult to fit into the uniform, full-time work mould, while for reasons of medical treatment or fatigue connected with their disability, among others, they would be perfectly able to adapt to half-time work without problems.

### *Teleworking: the only option for some*

The development of new information and communication technologies is undoubtedly one of the most promising of growth poles for the employment of disabled persons. As they make it possible to separate work and enterprise, they enable people with mobility problems to practice their profession from home. The ILO is already on record concerning the problems of homework, and the criticisms made are relevant to disabled persons if we consider that, for some of the latter, teleworking is the only access to the world of work.

### *The lesser evil?*

In sum, it may be said that the opportunities created by these developments in work organization carry the same risks for persons with and without disabilities: disintegration of workers' associations, lack of clear limits between the private and the professional, the increasing insecurity of job relationships, and so on. It should nevertheless be borne in mind that while disabled workers are obviously not seeking insecurity, in the face of reluctance to undertake reasonable job adaptations they are compelled to accept it or risk exclusion from the job market.

## A change of approach

It is worth recalling here that the 1980s witnessed the development of two approaches to assisting people with disabilities. The first, in chronological terms, was based on the traditional concept of protection and assistance and entailed the implementation of self-contained policies, with each ministerial department responsible for disability-related matters managing a specific aspect of the problem (health, work, education and training, social welfare, for example). The more recent approach emphasizes the recognition of the rights of people with disabilities and the fight against all forms of discrimination. The main instrument for attaining this goal was the enactment of general anti-discrimination laws in some countries, it being up to persons who felt they were victims of discrimination to enforce their rights through legal action. Today

fore during the Second World War with the resurgence of interest in people with disabilities, partly because their numbers had grown as a result of the war and partly because disabled civilians had demonstrated their ability to fill the posts left vacant by mobilized workers, particularly in commerce and industry, to good effect.

### *Concerted action at various levels*

Thus, the international community deemed it necessary to enshrine in standards to be applied universally, and to implement by concerted action at various levels, the right of disabled persons to benefit from appropriate medical and occupational adaptation and rehabilitation with a view to enjoying social and occupational integration on an equal footing with other members of the community.

### *Laying the cornerstones*

In 1944 the International Labour Conference adopted a Recommendation concerning workers with diminished capacity, which affirmed that disabled persons, whatever the origin of their disability, should be provided with full opportunities for specialized vocational guidance, vocational training, functional and occupational rehabilitation and employment on useful work. However, it was in 1955 that the Conference first discussed the important question of the services to be made available to disabled persons and unanimously adopted the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), and, until the adoption of Convention No. 159 and Recommendation No. 168, it was this international instrument which served as the basis for all national legislation and practice concerning vocational guidance, vocational training and placement of disabled persons. Furthermore, Recommendation No. 99 contains basic standards to which non-governmental organizations can refer in order to ascertain the internationally accepted components of vocational rehabilitation and the means of applying them.

### *An international covenant*

The resolution concerning vocational rehabilitation of disabled persons and the resolution concerning disabled workers, adopted by the International Labour Conference, in 1965 and 1968 respectively, focus on the efforts required to widen vocational rehabilitation

opportunities for disabled persons. *The International Covenant on Economic, Social and Cultural Rights*, drafted in close collaboration with the ILO and adopted by the United Nations General Assembly on 16 December 1966, lays down the obligation for States parties to recognize, among others, the right of individuals to earn their living by freely chosen or accepted work, and to take appropriate measures to safeguard this right. Such measures include the creation of programmes, the formulation of vocational guidance and training policies and the selection of appropriate techniques with a view to achieving constant economic, social and cultural development and full and productive employment while safeguarding the political and economic freedoms of the individual. The Covenant recalls or affirms a number of principles, including that of equality of treatment among workers in general and between men and women, including equal remuneration for work of equal value; the right to a decent living and healthy and safe working conditions; equality of opportunity for all with regard to promotion in employment, subject only to seniority and competence; and the right to education, with its corollary, the principle of compulsory education, for the full development of the individual.

### *Two declarations*

The United Nations General Assembly also adopted a *Declaration on the Rights of Mentally Retarded Persons* in 1971 and a *Declaration on the Rights of Disabled Persons* in 1975, both of which establish the same civil and political rights for mentally retarded or disabled persons as for other people. They also have the right to medical, psychological and functional care, social and medical rehabilitation, education, vocational training and rehabilitation, counselling and assistance and to placement and other services which will enable them to develop their abilities and skills to the full and hasten their integration or reintegration into society; the right to secure and retain suitable employment or to engage in a useful, productive and income-generating activity. These instruments also provide for their special needs to be taken into consideration.

### *Human resource instruments*

In 1975, at one and the same session, the International Labour Conference adopted the Human Resources Development Convention

(No. 142) and Recommendation (No. 150) as well as a resolution concerning the vocational rehabilitation and social integration of disabled or handicapped persons. Convention No.142 lays down, in Article 3(1), the obligation for ratifying States gradually to extend their systems of vocational guidance and employment information to disabled persons through appropriate programmes among other means, while Recommendation No. 150 provides, in Paragraph 53, that disabled persons should have access to vocational guidance and vocational training programmes provided for the general population or, where this is not desirable, to specially adjusted programmes; and that every effort should be made to educate the general public, the social partners and the personnel involved on the need to provide disabled persons with vocational guidance and vocational training enabling them to find suitable employment; that measures should be taken to ensure, as far as possible, their integration or reintegration into productive life in a normal working environment; and that account should be taken of the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99).

#### *Reintegration into society: A new concept*

The resolution concerning the vocational rehabilitation and social reintegration of disabled or handicapped persons was especially significant since it introduced a new concept, that of reintegrating people with disabilities into the society.

It recalled the relevant resolutions of 1965 concerning the vocational rehabilitation of disabled persons and of 1968 concerning disabled workers and noted that it was desirable to rehabilitate for work and reintegrate into the community an ever-greater number of physically or mentally disabled or handicapped persons, and that the need for special measures to this effect was clearly gaining recognition by public opinion. It referred to the fact that the non-governmental organization Rehabilitation International had declared the 1970s the Rehabilitation Decade. Pointing out that a high proportion of disabled or handicapped persons in society was a serious drain on the national economy and could undermine the development of the country's prosperity unless effective measures were taken, the resolution called on all public authorities and employers' and workers' organizations to promote maximum

opportunities for disabled or handicapped persons to secure, perform and retain suitable employment.

#### *Measures for the full participation of people with disabilities*

From then on the United Nations and the ILO jointly pursued the goal of "full participation and equality". In a resolution adopted on 16 December 1976, the United Nations General Assembly proclaimed 1981 the International Year of Disabled Persons with the theme "full participation and equality". A World Programme of Action concerning Disabled Persons was adopted for its implementation. It provided for effective international and national measures to ensure the full participation of disabled persons, on an equal footing with other citizens, in the social life and economic development of their societies.

#### *Taking account of equality of opportunity and treatment*

It was in this context of a new vision of the place and role of disabled persons in society that the International Labour Conference adopted a resolution in 1979 calling for consideration of the possibility of placing the question of a revision of Recommendation No. 99 on the agenda of a forthcoming session, and that the United Nations General Assembly proclaimed 1983-92 the United Nations Decade of Disabled Persons. The idea of revising the Recommendation very soon gave way to that of drafting new international labour standards which would take account, inter alia, of the need to ensure equality of opportunity and treatment for all categories of disabled persons, in both rural and urban areas, to enable them not only to secure and retain employment, but also to become integrated in the community.

#### *The impact of the Recommendation*

Recommendation No. 99, which is not

than obligations which are unlikely to be equally widely assumed” and that Recommendations should no longer be considered as the “poor relation” of Conventions.

### *Building a discrimination-free society*

Hence, it was not a matter of replacing the Recommendation, but of supplementing it with a new one which would reflect the recognition by the community at large of the right of disabled persons to equality of opportunity and treatment with a view to their integration or reintegration in society. It was nonetheless felt necessary to provide, by means of a Convention, for a greater commitment on the part of States to building a society free of discrimination against people with disabilities. This was the general thrust of the discussions held at the International Labour Conference which led to the adoption at its 69th Session in 1983 of the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168).

### *Principles of a national policy*

In ratifying Convention No. 159 States Parties undertake, 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. This instrument lays down the principles for such a policy and prescribes the action to be taken at the national level to implement it. Like all the promotional Conventions, Convention No. 159 invites governments to consult the representative organizations of employers and workers on the action to be taken to give effect to the national policy. It also provides for consultation of representative organizations of and for disabled persons.

### *Developing appropriate strategies*

The new instruments are based on the view that vocational rehabilitation, freely chosen work and the opportunity to advance in employment are the essential prerequisites for the social integration of disabled persons. In pursuit of this objective, appropriate strategies and special programmes to enable disabled persons to find their place in society have to be developed. These strategies are part of an endeavour by the international community to secure the full participation of people with dis-

abilities in society, through a world programme to be implemented by States.

### *The year 2010: A society for all*

The World Programme of Action concerning Disabled Persons is aimed at educating the public on matters related to the concept of disability and encouraging disabled persons to organize in order to make themselves heard. Emphasizing prevention, rehabilitation and equalization of opportunities for disabled persons with a view to achieving the goal of full participation in community life and equality of opportunities, the programme assigns governments the responsibility for taking preventive measures to gradually eliminate the conditions that lead to impairment and for dealing with the consequences of disability on individuals. It is coordinated, implemented and evaluated by the United Nations Centre for Social Development and Humanitarian Affairs in Vienna. It has been prolonged for another decade (1993-2002), with the objective of achieving a society for all by the year 2010.

### *Multisectoral collaboration and moral and political commitment*

The three specialized agencies of the United Nations with a mandate to promote the goals of rehabilitation and equalization of opportunities of people with disabilities are the World Health Organization (WHO), the ILO and the United Nations Educational, Scientific and Cultural Organization (UNESCO). These agencies are endeavouring to step up their cooperation in order to promote multisectoral collaboration at the national level for people with disabilities. Numerous activities have been carried out under the aegis of the United Nations as part of the World Programme of Action. Of particular importance was the adoption by a resolution of the United Nations General Assembly of a set of rules to be observed by governments in order to create the necessary conditions for achieving the objectives laid down in the World Programme of Action. These rules require moral and political commitment on the part of governments, as well as the resolve to undertake the necessary measures. (See Appendix V.)

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

The Standard Rules, based on the philosophy of the World Programme of Action, focus on the responsibility of governments for identifying and gradually eliminating barriers to the application of the universal principle of equality to people with disabilities. The Rules lay down standards concerning equality of opportunity and identify target areas for action (accessibility of the physical environment and the activities and services generally provided to all citizens: education, employment, income maintenance and social security). States undertake to create the legal bases for equalization measures and for removing conditions that may adversely affect the lives of persons with disabilities; to recognize and encourage organizations of disabled persons and guarantee their rights; and to establish coordination between different social groups (creation of multidisciplinary committees) in order to ensure a comprehensive approach to the problem of disability and ways of overcoming it. The Rules lay down guidelines for action to be taken by governments. They also provide guidance to all those involved in disability issues, and view family members as active partners in a concerted effort to improve the quality of life of people with disabilities. The need to include a rule on family life and personal integrity arose from the implementation of the World Programme of Action. Provision is also made for a monitoring mechanism, which includes assisting States on request to evaluate their progress, taking account of each country's economic, social and cultural situation. States are provided with advisory services and encouraged to exchange information on their experience in the areas covered by the Rules.

### Other relevant international labour standards

A look at the context in which the instruments under consideration were adopted shows the extent to which the concerns of political decision-makers with respect to people with disabilities have evolved, as have the measures taken at the international level to provide them with assistance, promote their integration in working life and enable them to participate on equal terms in community life in each country. Convention No. 159 and Recommendation No. 168 should also be placed in

context vis-à-vis the cohesive and constantly evolving body of standards constituted by the relevant ILO instruments.

- *The Vocational Rehabilitation (Disabled) Recommendation, 1955 (No.99)*, which is the reference text in this field, has served as a basis for the national legislation of many countries, prompting them to consider the ways in which people with disabilities could be helped to adapt to the requirements of the labour market. It has also made governments aware of the human resource potential of this category of the population.
- *The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*, under which ratifying States undertake to declare and pursue a policy aimed at eliminating discrimination, which is defined as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin or such other distinction as may be determined by the Member concerned, which has the effect of nullifying or impairing equality of opportunity or treatment. Recommendation No. 111, 1958, which supplements the Convention, provides that the application of the policy of non-discrimination "should not adversely affect special measures designed to meet the particular requirements of persons who, for reasons such as ... disablement ... are generally recognized to require special protection or assistance" (Paragraph 6).
- Convention No. 159 on the application of the principle of equality of opportunity and treatment between disabled men and women workers was largely based on the *Equal Remuneration Convention (No.100) and Recommendation (No.90), 1951*.
- *The Employment Policy Convention, 1964 (No. 122)*, requires, as a major goal, a policy designed to promote full, productive and freely chosen employment. Its accompanying Recommendation (No.122) provides in this context that efforts should be made to meet the needs of disabled persons. Under the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), in the context of an overall employment policy, measures should be adopted to respond to the needs of disabled persons, including measures of vocational rehabilitation. Furthermore, the Recommendation stresses that incentives appropriate to national conditions and practice

might be provided in order to facilitate the implementation of the measures referred to above.

- The *Human Resources Development Convention, 1975 (No. 142)*, lays down the obligation to extend gradually systems of vocational guidance and information to disabled persons (Article 3, paragraph 1).
- The *Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)*, provides for equality of treatment for all persons protected, without discrimination on the basis of a number of grounds, including disability (Article 6(1)).

A number of other instruments have a more practical, albeit incidental, bearing on these matters. In chronological order of adoption, they are as follows:

- The *Income Security Recommendation, 1944 (No. 67)*, mentions invalidity and employment injury as contingencies to be covered by compulsory social insurance. It provides that arrangements should be made to take account of loss of earnings due to disability as a condition for entitlement to benefit (Paragraph 11).
- Article 6 of the *Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)*, Article 6 of the *Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)* and Paragraph 9 of the *Medical Examination of Young Persons Recommendation, 1946 (No. 79)*, provide for measures for the vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unfit or only partially fit for employment.
- The *Employment Service Convention (No. 88)* (Article 7(b)) and *Recommendation (No. 83)* (Paragraph 4(b)), 1948, refer to measures to be taken to develop special arrangements for the placement of disabled persons.
- The *Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)*, provides for the possibility of making exceptions in individual cases to prevent curtailment of the opportunities of employment of physically or mentally disabled workers (Article 3, paragraph 5).
- The *Social Security (Minimum Standards) Convention, 1952 (No. 102)*, provides that the institutions administering medical care shall cooperate with the vocational rehabilitation services with a view to the re-estab-

lishment of disabled persons in suitable work (Article 35).

- The *Employment Injury Benefits Convention, 1964 (No. 121)* (Article 26), and the *Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)* (Article 13), lay down the obligation for Members to provide rehabilitation services designed to prepare disabled persons wherever possible for the resumption of their previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to their aptitudes and capacity, and to take measures to further the placement of disabled persons in suitable employment.
- The *Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131)*, refers, in particular, to children of an insured person who have a chronic illness or infirmity disabling them for any gainful activity (Paragraph 1(f)(ii)).

## Contents of the chief ILO instruments

### Convention No. 159

The Convention consists of three Parts, containing nine Articles, followed by the usual final provisions.

- Part I (Article 1) defines the term “disabled person” and the concept of vocational rehabilitation. It specifies that the latter shall be made available to all categories of disabled persons. Part II (Articles 2 to 5) lays down the principles of a national policy on vocational rehabilitation and employment of disabled persons (Article 2). The policy must ensure that appropriate measures are made available to all categories of disabled persons (Article 3) and must be based on the principle of equality of opportunity between workers with disabilities and other workers, and equality of opportunity and treatment between disabled men and women workers (Article 4). Article 5 provides for consultation on the implementation of the policy of the representative organizations of employers and workers, as well as representative organizations of and for disabled persons.
- Part III (Articles 6 to 9) deals with the action to be taken to develop vocational rehabilitation and employment services for disabled persons: Article 6 provides that members shall take the necessary steps to give effect to Articles 2 to 5; Article 7 provides for the setting up and evaluation of vocational

guidance, vocational training, placement and employment services for disabled persons and recommends the use of services existing for workers generally; under Article 8, vocational rehabilitation and employment services for disabled persons should be established in rural areas and remote communities; Article 9 requires Members to ensure the training and availability of rehabilitation counsellors and qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons.

## Recommendation No. 168

Recommendation No. 168 is divided into nine parts.

- Part I deals with definitions and scope, along the same lines as the Convention.
- Part II lists specific measures, both direct and indirect, that should be taken to promote the rehabilitation and employment of disabled persons. Emphasis is placed on the purpose of such measures, which is to enable these persons to become integrated or reintegrated in ordinary working life.
- Part III recommends community participation (employers, workers and disabled persons' organizations) in organizing and operating vocational rehabilitation services.
- Part IV suggests specific measures to establish vocational rehabilitation services in rural areas and remote communities.
- Part V covers the training and further training of vocational rehabilitation staff and suggests that persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate knowledge of disabilities and their limiting effects.
- Parts VI and VII provide guidelines on the contribution that can be made by employers' and workers' organizations, as well as disabled persons and their organizations, to the development of vocational rehabilitation services. In particular, it is recommended that employers' and workers' organizations promote the integration or reintegration of disabled persons in enterprises, on the one hand, and on the other, raise the problem of their rehabilitation at trade union meetings.
- Part VIII refers to social security schemes and the ILO instruments on social security

and invites Members to bring national social security provisions into line with standards providing for the vocational rehabilitation and employment of disabled persons.

- Part IX calls for coordination between vocational rehabilitation policies and programmes and programmes of social and economic development.

## Status of ratifications

As at 30 August 1998, Convention No. 159, which entered into force on 20 June 1985, had been ratified by 63 countries, which are listed in Appendix VI. The three most recent ratifications were the outcome of discussions during the recent International Labour Conference in 1998 concerning the Survey on the implementation of these two instruments: many governments expressed their intention to ratify Convention No. 159 as a means of signalling their commitment to the cause of people with disabilities.

## Practical ILO activities

ILO action to assist member States to formulate national policy and to design, implement and evaluate programmes in the field of vocational rehabilitation and the employment of disabled persons has made some headway over the years.

### *Vocational rehabilitation centres and sheltered workshops*

Early technical cooperation projects helped governments, usually ministries responsible for social and labour affairs, to establish vocational rehabilitation centres and sheltered workshops. Assistance was provided on facility design, the identification of appropriate vocational skills training courses, the purchase of tools and equipment, the establishment of vocational assessment and counselling services, and the training of centre personnel.

### *Community programmes in rural areas*

Later technical cooperation projects addressed the needs of disabled persons living in rural areas without access to vocational rehabilitation centres, usually located in cities and towns. These projects helped national authorities to establish community-based rehabilitation (CBR) programmes, with particular emphasis on the development of curricula and the training of CBR extension workers.

## *The non-structured or informal sector*

In many developing countries, despite the provision of vocational rehabilitation services and skills training through centres and CBR programmes, many disabled individuals have failed to obtain work. As a result, ILO technical support was sought to establish programmes to assist disabled individuals to start informal sector income-generating activities. These employment creation programmes aim at the following goals: management skills training, guidance in the identification of viable local business opportunities, assistance in the preparation of business plans, and access to credit. Such activities have often been undertaken in collaboration with UNESCO and WHO.

## *Increased demand for ILO projects*

With the growing emphasis in many countries on equality of opportunity for persons with disabilities, a demand for “mainstream” or integrated vocational skills training opportunities has led to additional requests for ILO technical cooperation projects. These projects have assisted ministries and institutions responsible for technical and vocational education and training in adopting policies and practices, and adapting training facilities, curricula and equipment for the inclusion of trainees with disabilities. They have also provided guidance for vocational instructors and other personnel in training individuals with different types of impairments (visual, hearing, mobility, etc.).

Additional technical cooperation projects have been implemented in countries emerging from armed conflict, and addressed the rehabilitation and training needs of both disabled ex-combatants and disabled civilians.

## *Meetings of all partners*

Lastly, technical cooperation activities in the form of regional technical tripartite or quadripartite meetings, bringing together representatives of governments, employers, workers and disabled persons’ organizations, have been organized to provide policy advice in the field of disability, particularly on how to implement the provisions of Convention No. 159 in national law and practice. Between May 1990 and April 1995, four such seminars were therefore held in Côte d’Ivoire, Egypt, Malawi and Zimbabwe.

## *Disseminating information*

At the time, the reports of these seminars were published in “Inside Rehab”, the newsletter of the Vocational Rehabilitation Branch of the ILO. In addition, between 1992 and 1994, this same service published (in English, Spanish, French and Portuguese) a guide<sup>1</sup> for the use of trade union organizations in creating employment for disabled persons. In August of the same year, it also published a handbook intended for multidisciplinary teams and regional or local ILO structures, containing a specific chapter on activities to be carried out to assist workers and their organizations.<sup>2</sup>

## **Trade unions as actors in integration**

### **A lacklustre achievement**

The importance ascribed to the role of trade unions in strategies for integrating disabled persons into the ordinary work environment should have generated a correspondingly high level of activity on their part. Indeed, it is universally agreed that on account of their knowledge of the field, networking capacity, weight in labour circles and their legitimacy, trade unions are a key factor in the successful implementation of these policies. One would therefore think that trade unions, being as alive as they are to the problems of discrimination against disabled workers, have incorporated these issues into their strategies and action programmes. Yet the information available to the ILO is too fragmented and dated to serve as a basis for a targeted, up-to-date evaluation of trade union involvement in this regard, even if it does point to concrete and wide-ranging actions. It would surely be appropriate to turn to the unions themselves for more recent information to supplement the presentation that follows.

### *The United States and Canada*

Despite the foregoing qualification as to method, it is possible to describe a “sampling” of trade union activities. For example, in the 1980s, and working through the Human Resources Development Institute, the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) designated specialists for the placement of disabled workers, initially in nine, then 59 major American cities. Around the same time and as part of a three-year programme, the Clothing and Textile

Workers Union (ACTWU) drew up a positive discrimination guide for the use of its various branches. The International Association of Machinists (IAM), a union covering both the USA and Canada, launched programmes initially entitled "IAM Cares", later renamed "IAM Job" once the programme had developed a degree of autonomy. The Canadian Association of Industrial Mechanical and Allied Workers (CAIMAW), for its part, focused attention on strategies for job retention by workers suffering occupational accidents by offering to assist the unions in negotiating with employers.

### *The ETUC: A code of good practices*

More recently in Europe, the ETUC organized two seminars to examine the subject of trade unions and the rights of people with disabilities. During the second seminar, it was proposed to draw up a code of good practices concerning the employment of persons with disabilities and to submit it for discussion in the framework of the Social Dialogue. It was also proposed that consideration should be given to elaborating a model agreement that could be negotiated with the Union of Industrial and Employers' Confederations of Europe (UNICE), and with the European Centre of Enterprises with Public Participation (CEEP).

### *A weekly letter, a number of brochures*

In the United Kingdom, the Trades Union Congress (TUC) has set up a specialized office for dealing with disability-related issues and launched an intense campaign to publish a series of brochures containing explanations and assistance intended for disabled persons (including a weekly letter distributed by electronic mail and other means), to help them enforce their rights. We may also mention the TUC's commitment to a campaign to defend and improve the mechanism called "Access to Work" and its role with respect to the discussion of the theme "Civil rights or discriminating law?"

### *Levies and improved disability management*

In France, trade unions have been associated with the management of the Fund for the Occupational Reintegration of People with Disabilities since the enactment of the 1987 law. This Fund is responsible for collecting levies due from employers who fail to respect the

recruitment quota for disabled persons and has helped to enhance the management of the problems through a training programme for trade union officers, financed by the Fund itself. It should also be mentioned in connection with France that the possibilities for enterprise negotiations on a voluntary integration policy has failed to arouse much interest as a mere 80 companies and two industries have made use of it.

Nevertheless, this brief outline would still need to be supplemented with an update, though the examples submitted by the unions themselves for the purposes of this publication are the best illustration of their activities in this regard at the present time.

### **Means of action that can be better used**

At this stage we should underline the three levels of trade union action as set out by Convention No. 159 and Recommendation No. 168. No hierarchical order is being suggested among these different levels, as this is merely an attempt to clarify our intention.

#### *National level*

First, the national level. What is at stake is participating in the elaboration of comprehensive policies, defining and adapting laws and regulations concerning people with disabilities. It is a global policy level for which national confederations are generally responsible.

#### *Professional sectors*

The next level is that of professional branches. The negotiation of collective agreements, investing in labour-management instruments for managing the branch – additional social security protection, vocational upgrading, occupational health and safety – these are all areas in which proposals can be made for the improved management of the problems of disabled workers.

#### *The enterprise*

Next comes the enterprise level. This is a key level as it is where real and not just formal integration takes place, to echo an observation frequently made by the associations of people with disabilities. The specific problems arise at this level, as it brings us face to face with the real situation in the enterprise. But it is also a

level that presents trade unions with a major opportunity. Because of their intimate knowledge of the enterprise milieu, because they develop information-sharing networks within it, and being abreast of the problems of work organization, trade unions can assist in the process of identifying employment opportunities and the workplace adaptations that would be needed to facilitate the recruitment of people with disabilities.

### *Labour-management oversight role for trade unions*

To all intents and purposes, however, it will only be by good coordination of the different levels that trade union action will be most effective, and this in several directions:

- awareness-creation within intermediary, grass-roots and employee-level trade union structures;
- overseeing and constantly monitoring developments on the vocational integration “front”. We believe that only the trade unions are able to fulfil a kind of labour-management oversight function and furnish invaluable information, such as “longitudinal” studies on the professional careers of disabled workers or even educational profiles; and
- intervening and negotiating within the framework of the foregoing.

### *Within trade unions themselves: Questions that may be raised*

Trade union bodies could examine two additional topics. The first is the place and role of disabled persons within the unions themselves. What are unions doing to enable persons with disabilities to participate in trade union activities within and outside the enterprise? What is being done regarding accessibility of meeting rooms, means of communication allowing persons with sensory impairments to receive information and express their opinions on the action programmes and directions being taken by their union, how their specific needs are being analysed and taken into account within trade union claims, at all levels of the organization. In other words, the issue before trade unions is that of full participation by people with disabilities in the democratic life of the enterprise on a basis of equality with all other employees and the ways and means deployed by the unions to make this full participation

possible. This edition will carry illustrations of what is currently being done in several national contexts in that regard, though they are not being put forward as models.

### *Concrete assistance*

This section will conclude by addressing the second topic, which is an outgrowth of the first. Indeed, in their struggle for recognition and full participation, persons with disabilities must be able to count on the trade unions not only for political statements but also for concrete assistance through union-sponsored services for vocational training, recruitment and hiring assistance and help with the countless and difficult procedures that must be completed by disabled persons. Examples are given in the articles in this issue and only the trade unions that can carry out this type of activity.

### *Lines of action to be pursued*

Having reviewed the different means of action available to trade unions, it is certainly useful to look again at the lines of action open to them. A recent symposium held in Washington at the initiative of the ILO suggested five key action categories with respect to obtaining, keeping and returning to work. Though we cannot discuss each one in detail, it is worth recalling them here.

### *The five key categories with respect to obtaining, keeping and returning to work:*

- The first is that of public policies and initiatives to be taken with a view to positively influencing their orientation. By intervening appropriately on their own behalf or as part of alliances with other players in the civil society, trade unions can oblige lawmakers to take account of the problems facing disabled workers and to amend the laws and regulations hampering their full participation.
- The second concerns programmes of allowances and compensation implemented by countries. Depending on their level, their scope for combining work with allowance payments and how they are managed, these systems may achieve satisfactory occupational integration, or contrarily, may confine disabled persons to activities that sideline them and which they can leave only at the risk of marginalization.

- The third relates to rehabilitation and job assistance services. Here again, the orientation of these services will be all-important in determining whether they will promote inclusion in mainstream areas of vocational training or continue to restrict people with disabilities to a closed environment. In many countries, trade unions carry significant responsibility in the management of vocational training and it is for them, if they have the political will to do so, to further the cause of openness.
- The fourth category addresses the adaptation of jobs and workplaces. It is inconceivable that trade unions could have nothing to do or say in this connection when, as has been stated before, they are at the very core of the production process. Admittedly, the matter of determining what is reasonable adaptation of workplaces pursuant to anti-discrimination laws is a formidably complex one. But ever more frequent trade union use of ergonomic studies has enabled them to acquire expertise in this field that no one can seriously contest.
- The fifth and last category covers strategies implemented at enterprise level under what is known as “disability management”. Sometimes falling within the framework of codes of good practices jointly worked out by management and labour, these strategies simultaneously aim to meet the needs of enterprises stemming from their statutory obligations with respect to hiring and recruitment, and additionally to promote innovation by combining financial considerations (how the enterprise can minimize the costs entailed) with social goals of improved occupational health and safety and disability prevention. In the same connection, timely intervention in the event of

## A whole arsenal

Numerous initiatives have been taken on many fronts to promote the employment of people with disabilities. These include financial incentives, improved recruitment procedures, assistance in adapting workplaces, incentives for work-related disability prevention, awareness-building campaigns among heads of enterprises and quota systems. In short, a whole arsenal of measures has been developed around two main policy lines. The first was the recognition and acceptance by employers of their role (sometimes under pressure from the unions) often accompanied by the creation of associations and networks active in that sphere.

### *The emphasis on inclusion, integration and non-discrimination*

Second, as with other aspects of employment policies, there is the manifest will to mobilize spending as a means of inclusion or integration rather than of marginalization and exclusion even for commendable reasons. This notwithstanding, we must acknowledge that the accomplishments are still short of the expectations of people with disabilities. People with disabilities everywhere continue to see higher joblessness within their ranks and a duration of unemployment often approaching twice the average. And we have yet to tackle the issues of disabled women, who are subject to additional discrimination, disabled young people, who are doubly penalized in regard to job access, or the plight of persons with the most severe impairments.

### *Difficult problem: Disabled people with no work experience*

No country seems to have come up with a formula for mastering this problem and each is turning to the experiences of others in the hope of learning from them. This is a new enough development to warrant special mention here. We may also add another observation to this review. Across many countries there is an obvious worsening of the lot of disabled persons who have never worked. And although the current ILO survey on the matter would suggest that strategies for preserving and returning to

work are scoring some successes, special priority attention should be given in the coming years to persons who have never had access to work, given the critical nature of this problem. Moreover, there is general agreement that the ideal approach should be something more than a mere imitation of what is being done for disabled persons with work experience.

### *Different means to the same end*

Clearly, the battle for full and complete recognition of the right of people with disabilities to work and vocational training is far from won. Admittedly, some headway has been made, but let us not deceive ourselves, a long way still lies ahead before handicapped persons can benefit from equality of opportunity.

The reader will observe that the approaches followed in different places may sometimes diverge in terms of their orientation, the resources made available or the type of administrative organization adopted; but the objective is always the same: to enable people with disabilities to enjoy full participation. This objective will not be achieved without unwavering determination and strong long-term commitment on the part of both labour and management.

For the sake of human rights and the observation of those rights, to which the trade unions are committed, this struggle can – and must – be that of the trade unions. By assuming the struggle true to their history, they will help to make the society truly a better place for all.

## References

- Thornton, P. and Lunt, N. 1997. *Employment policies for the disabled people in eighteen countries: A review*, York, University of York, Social Policy Research Unit, VI, pp. 313.
- Doyle, B. 1995. *Disability, discrimination and equal opportunities: A comprehensive study of the employment rights of disabled persons*, Studies in Labour and Social Law Series, London, Manswell, XV, pp. 380.

## Notes

<sup>1</sup> ILO: *Job creation for disabled people: A guide for workers' organisations*, Geneva, 1992, 29 pp.

<sup>2</sup> ILO: *Manual for Multidisciplinary Teams and Field Offices: A guide to policies, issues and approaches related to disability*, Vocational Rehabilitation Branch, Geneva, 1994.

The Workers' group had played a major role in the adoption of Convention No. 159 and Recommendation No. 168 at the 1983

## **No access to education or training**

Furthermore, as a result of their disability and the prejudices they face in society, persons with disabilities have very limited access to vocational education and training and hence to employment, especially paid employment in modern industries. In Namibia, for example, according to a 1991 survey, 57 per cent of economically active persons with disabilities were jobless and only 25 persons with disabilities managed to find employment on the open job market each year.

## **On their own: small businesses or handicrafts**

The vast majority of working persons with disabilities generally work on their own, in an independent endeavour. The ILO survey cited above also showed that in Benin and Guinea the great majority of working persons with disabilities are set up on their own account as non-salaried, independent workers (four out of five working persons). In Guinea, half the persons with disabilities are engaged in small-scale retailing, while in Burkina Faso, almost two of five employed persons with disabilities are involved in production, mainly in handicrafts. Some have joined together to form cooperatives or sheltered workshops. It should also be noted that a growing number of young and disabled persons who have been properly educated and trained are joining the mainstream job market.

## **Policies, strategies and their development**

The policies and strategies to help people with disabilities, whether in terms of their integration or reintegration into employment or other spheres (health, education, and training) have undergone remarkable change. Up to the end of the 1970s, the accent had been on the rights and capabilities of persons with disabilities to receive job training. Vocational rehabilitation centres and workshops were set up specifically for disabled workers, in some cases thanks to ILO support under technical cooperation programmes. In that connection, ILO Recommendation No. 99 (1955) contained a broad range of measures concerning vocational guidance, training and placement of persons with disabilities.

## **The changed perception of impairment**

But the limitations of this strategy soon became clear. It focused on the disabled persons while overlooking the society in which they were to be integrated. It tended to confine persons with disabilities to “institutional ghettos” comprised of centres for disabled persons. The International Year of Disabled Persons declared in 1981 with the theme “full participation and equality” was a watershed in the changing perception of disabilities and in strategies for managing the needs of disabled persons. Disability ceased to be treated in isolation, but thenceforth in relation to an environment, or a given situation. Emphasis was to be placed not only on the person, to ensure good education, but also on the environment and the society into which that person was to be integrated. This was what gave rise to new concepts such as equality of opportunity, integration into community life, as well as community-based rehabilitation programmes. ILO Convention No. 159 and Recommendation No. 168 (1983) embody these principles and update Recommendation No. 99 by shifting the emphasis to integration into mainstream training systems and employment.

Integration presupposes removal of the barriers and stumbling blocks in its way. These are not only physical or contextual in nature, but are mostly ingrained ways of thinking (prejudices, misconceptions, paternalism, and so on).

## **Trade union attitudes to disability-related issues**

African trade union awareness of disability issues is extremely low. Most of those in the trade unions hold the same perception as society at large. Unfortunately, that perception is based on clichés, misguided ideas or even prejudices. Most often, disability is simply synonymous with incapacity: the problems of disabled persons belong in the domain of social assistance and not that of entitlement to work, for instance. How often have we not heard African trade unionists say: how do you expect us to see about work for disabled persons when non-disabled people cannot find work?

## **Lack of appropriate responses**

Trade unions in Africa do not always have the appropriate response when it comes to safeguarding the needs and interests, at enterprise level, of those of their rank and file with

disabilities. They are poorly equipped for this task. Not knowing how to approach their responsibilities in this area, African trade unions most often opt for passivity or even indifference.

### Some progress since 1983

Nevertheless, over the past 15 years, in the wake of the 1983 adoption of ILO Convention No. 159 and Recommendation No. 168 on the vocational rehabilitation and employment of persons with disabilities, and their ratification and implementation by several African countries, the position of African trade unions has made some welcome, if as yet halting, progress. The many experiments launched by the ILO, directly or through its support of trade union organizations, governments and organizations of persons with disabilities have largely contributed to this.

### Encounters and sharing of experiences

Thus, the ILO organized a quadripartite seminar in Malawi in 1990 bringing together the government, trade unions, employers and organizations of disabled persons. It produced a guide for the use of workers' organizations in matters of job creation for persons with disabilities.<sup>2</sup> Since then, virtually all regional, sub-regional or national seminars, workshops and forums organized under technical cooperation projects or in support of the elaboration of national policies or laws have provided opportunities for encounter and the sharing of experiences among workers' organizations and disabled persons or their organizations.

### Consensual action plan

The same was true of the technical meeting on the formulation of national policies and laws to assist persons with disabilities in southern Africa held in Harare, Zimbabwe, from 3 to 7 April 1998. At that meeting, each country in the subregion tabled a consensual national action plan. The various representatives of governments, employers, workers and organizations of persons with disabilities committed themselves to implementing them. Furthermore, the Harare Declaration adopted by this meeting reaffirmed the commitment of the participants to ensuring the integration or reintegration of persons with disabilities into the work environment and community life.

The subregional seminar for the promotion of multisectoral cooperation to assist persons

with disabilities, held in Abidjan, Côte d'Ivoire, from 28 August to 1 September 1995 and attended by workers' organizations, was also in keeping with this "quadripartite" partnership approach.

As part of the implementation of the various vocational training and/or social and economic integration projects for persons with disabilities in the African region, such as "Improved livelihood for disabled women: A promotional programme for southern African countries", or the "Programme for socio-economic integration of disabled persons" in West Africa, awareness-creation and training seminars have been organized for trade union organizations in the different countries covered.

### Incorporation of articles into labour codes and sponsorship

In some countries, such as Benin or Togo, trade unions have sometimes used the opportunity offered by reviews of the labour code to launch initiatives for the introduction of provisions on disabled workers.

Some trade union organizations sponsor associations or groups of persons with disabilities. Such was the case of the DIGNITÉ federation in Côte d'Ivoire (see box).

Furthermore, African trade union organizations are very much alive to the problems of occupational accidents that sometimes leave workers disabled and often call for vigorous union action to safeguard the interests of such persons and ensure payment of compensation.

### Appraisal of experiences

There is evidently a multitude of experiences and initiatives designed to sensitize and promote greater involvement of African trade unions in the process of social and vocational integration and reintegration of persons with disabilities. Even though encouraging, the accomplishments – a noticeable change of language, attitudes and ways of thinking – are still paltry. Several explanations may be advanced for this:

- Changing a way of thinking is a long-term process. Prejudices towards disabilities and disabled persons are proving tenacious.
- In a situation of economic depression, political instability and sometimes war, as well as high levels of joblessness, the often underfunded and poorly organized trade

### **Example of partnership between a trade union organization and an organization of persons with disabilities**

Since its inception in 1994, the DIGNITÉ trade union federation in Côte d'Ivoire has taken up the defence of disabled workers' interests in the following ways:

1. creating an internal unit for persons with disabilities;
2. since 1995, regular inclusion of the following items in its annual Labour Day claims:
  - establishment of a recruitment quota reserved for persons with disabilities by all enterprises with a workforce exceeding 50 persons;
  - adoption of a national law favouring the vocational integration of people with disabilities;
  - fellowships for disabled students;
  - creating a national solidarity fund to assist persons with disabilities;
  - organizing vocational training and apprenticeship for disabled young people;
  - support for the establishment of micro-enterprises or co-operatives of persons already trained.

DIGNITÉ also sponsors a group of some 30 disabled young people who have set up an association called "Association Solidarité pour la réhabilitation des personnes handicapées en Côte d'Ivoire". This association is an affiliate of DIGNITÉ and receives its support in various ways, especially for training its members in formulating income-generating projects.

unions tend to concentrate their energies on maintaining their acquired rights.

- The vast majority of disabled workers in Africa are active in the non-organized or informal sector where trade unions are virtually absent.
- Within the ILO, the creation of multidisciplinary teams had raised high hopes of a concerted and multidisciplinary approach to the problems of disabled workers under the organization's mandate and the international instruments adopted by it. The Vocational Rehabilitation Branch had drawn up a handbook for the use of specialists from other disciplines to enable them to bring the needs of disabled workers within the scope of their activities. Regrettably, this area of concern is for the time being still absent from

worker's education programmes and from technical support and advice provided by labour specialists to trade union bodies.

### **Future action proposals**

Article 2 of ILO Convention No. 159 concerning the vocational rehabilitation of persons with disabilities states that "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." Article 4 reads: "The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally." Lastly, Article 5 prescribes as follows: "The representative organizations of employers and workers shall be consulted on the implementation of the said policy (...)". The action framework and roles assigned to workers' organizations are thus clearly circumscribed.

Furthermore, Part VI of Recommendation No. 168 sets out the contribution expected from workers' organizations and the corresponding steps to be taken. It places priority on the adoption by workers' organizations of a policy favouring the training and placement of disabled persons in suitable work, on an equal footing with other workers. In pursuit of these objectives, the following steps would need to be taken:

- bolstering, through workers' education programmes and technical cooperation projects, the capacity of African trade union organizations, inter alia, to assume their role and responsibilities with regard to the integration and reintegration of people with disabilities into employment;
- encouraging and helping to strengthen alliances forged among organizations of persons with disabilities and workers' organizations; and
- strengthening the multidisciplinary approach within the teams for the sake of improved management of the problems and needs of persons with disabilities in all the sectoral activities launched by the specialists.

### **Notes**

<sup>1</sup> ILO: *Job creation for disabled people: A guide for workers' organisations*, Geneva, 1992.

<sup>2</sup> ILO: *Manual on disability for multidisciplinary teams and field offices*, Geneva, 1994. (Available in English and French.)

# Trade unions and workers with disabilities in Latin America: Signs of promise?

---

Luis Reguera

Senior Specialist  
Vocational Rehabilitation Branch  
ILO

---

A disabled person living in a Latin American country today has a strong chance of finding himself or herself among the 3,000 million people in the world having to subsist on less than two dollars a day. This is the harsh consequence of belonging to one of the largest minorities in the world, whose members are all too frequently condemned to extreme poverty, unemployment and social isolation. A bitter lot shared by over forty million persons – one in every ten persons – suffering from some form of disability in Latin America.

Work is, without doubt, the most effective – if not the only – remedy to escape from such a desperate situation, and particularly so at a time when social welfare systems are stretched to the limit. What is more, work is fundamental for personal realization, self-esteem and social recognition in today's culture. Not being in work often means being regarded as a second-class citizen. The typical question: "What do you do for a living?" reflects this relationship between work and social position. Moreover, work also offers economic independence and provides a dignified standard of living: "first find a living and then you can find time to think", as the saying goes.

From this point of view, it is extremely important that disabled persons enjoy the same rights and opportunities of inclusion in the labour market as others.

How has workers' solidarity operated in Latin America with regard to disabled workers? What type of relation has been established between their organizations and organizations of disabled persons? What level of dialogue, consultation and participation has been adopted by public authorities and other social players in formulating policies and applying social and employment integration programmes for this group? How have the latter's needs been taken into account when negotiating tripartite agreements on social dialogue,

framework agreements or collective agreements? How has the subject of disability been handled at enterprise level? Are disabled workers present in the structures of trade unions? What, when all is said and done, has the Latin American trade union organization movement done in this area and what are the prospects for the future?

These and other similar questions are the leitmotiv of this document: not so much with a view to provide full answers as engage in an exercise of reflection to facilitate the quest for appropriate solutions on the part of the trade unions themselves. Such is the prime aim of this article.

Bearing this in mind, we shall propose a brief outline of the employment panorama in Latin America in order to have an overview of the situation. We shall then consider some of the most significant features of the situation of disabled workers in this region in order to focus ultimately on how trade unions are tackling issues relating to disability and the labour market. In this context, we shall describe some initiatives which can, in our opinion, throw light on the direction to take in the future.

## Light and shade in the employment panorama

The present scenario in the Latin American region is marked primarily by such processes as globalization, State reform, market deregulation and democratization. The first six years of the 1990s showed an improvement in production indicators, albeit without this being accompanied by any improvement in the employment situation. To the contrary, the ILO's 1998-99 *World Labour Report* highlights the fact that unemployment in the region increased in this period, rising to 8.1 per cent between January and September 1996. In 1997, however, economic growth was translated into

a slight improvement in the employment situation, with unemployment rates decreasing to 7.4 per cent.

The decline in employment in the public and modern sectors to the benefit of the informal sector is a very important aspect to be considered when analysing the quality of employment during the decade. Privatization, a growing tertiary sector and increasing informal labour are three different trends behind this situation. The figures show that for every 100 new jobs generated, about 85 involve activities in the informal sector.<sup>1</sup> The lack of social protection, social security, employment contracts, or of access to institutional machinery such as membership of trade unions and collective bargaining to guarantee the exercise of their fundamental labour rights is much more the norm than the exception in this type of activity. At the same time, unemployment in Latin America is characterized by its uneven effect among different income groups, with the poorest being hardest hit (see table).

Another important factor is the ongoing process of labour reform, leading to deregulation and greater flexibility of the labour market, which means that employment becomes more precarious.

Lastly, the 1998 world financial crisis is already being felt in Latin America and may give rise to serious problems with international investors abandoning emerging markets, a circumstance which might have a strong incidence on unemployment and underemployment figures in the region.

## The disabled and the labour market

### *Invisible citizens*

According to figures put forward by a number of international organizations, of the more than forty million disabled persons in Latin America, over twenty-five million are of working age, although lack of reliable data in this area does not allow us to make firm statements in this respect. While expressions of surprise at these figures are becoming increasingly frequent, this is due perhaps to the fact that low visibility is characteristic of this population. Its members are relegated to special circuits of care and are not usually to be found either in schools or in everyday life or at work. This population is invisible even to the employment statistics of its respective countries, which are in most cases quite unaware of its existence.

As a specially vulnerable group, this population is particularly affected by the above-described employment landscape and has to bear the most negative aspects of the trends described above, falling as a result into a circle of unemployment, poverty and exclusion.<sup>2</sup> A study carried out in Chile shows, for example, that 87 per cent of severely disabled persons of working age are inactive.<sup>3</sup> At the same time, the informal sector is where this population most frequently finds itself relegated.

### *A look at standards*

Despite all this, no more than a quick glance at comparative law in Latin America<sup>4</sup> is needed to realize that there are a considerable number

### Urban unemployment rates by level of income (1994) (percentages)

	Total	Poorest	Next poorest	Most affluent
Argentina	13.0	37.5	18.8	2.4
Bolivia	3.2	8.1	4.0	1.4
Brazil (1993)	7.4	15.5	8.5	2.9
Chile	6.8	17.4	7.9	1.9
Colombia	8.0	16.5	10.6	2.5
Costa Rica	4.2	11.9	4.6	1.0
Honduras	4.1	8.9	4.4	1.2
Mexico	4.5	8.5	4.5	2.4
Panama	15.7	30.6	20.1	4.7
Paraguay	4.4	12.8	4.9	1.2
Uruguay	9.7	19.0	10.8	3.3
Venezuela	8.9	22.4	13.3	2.3

Source: United Nations Economic Commission for Latin America and the Caribbean: *Social Panorama of Latin America* (Santiago de Chile, 1997).

of factors which could advocate a change in this situation. The principle of equality of opportunity and treatment in Latin America figures, to a greater or lesser degree, in most Constitutions and Labour Codes. In most constitutional texts this principle is set out in general form, in the same way as is the prohibition of any form of discrimination.

There also exist explicit though passing references to non-discrimination against disabled persons – in the Constitutions of Brazil (art. 7 XXXI), Colombia (art. 13), and Paraguay (art. 88). Most Latin American constitutional texts make reference, in relation to disability, to the concepts of protection, promotion and integration, establishing positive measures aimed at avoiding discrimination. There is a similar tendency in Labour Codes. The most recent Codes (as in the case of the Labour Code of the Dominican Republic, the Labour Promotion Law of Peru, or the Labour Law of Venezuela) establish more detailed regulation with regard to the employment of disabled persons, or even provide a specific chapter on the regulation of employment for this group. This legislative development is certainly the reflection of greater social concern about the matter.

Furthermore, the countries of Latin America have equipped themselves with specific legislation which on the whole contemplates an overall framework of care for disabled persons, extending from preventive measures to measures of integration. The standards approved in the past two decades reflect increasing emphasis on the principle of greater equality of opportunities and treatment, in contrast to earlier provisions which were designed above all for the protection of this group. The legal texts of Chile, Colombia, Costa Rica and Ecuador are clear examples of this trend.<sup>5</sup>

Moreover, 15 countries in the region have ratified Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Panama, Paraguay, Peru and Uruguay. In virtue of the international instrument, all of them must formulate, apply and periodically review national policy with regard to vocational rehabilitation and the employment of disabled persons. According to the Convention, this concept includes any “individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment” (Art. 1).

There are also other Conventions which deal with questions such as Discrimination (No. 111), Employment Policy (No. 122), Human Resources Development (No. 142), as well as a number of Conventions concerning Social Security, etc., which, while directed at workers in general, are important for disabled workers and have been ratified by a large number of countries in the region.

We may, therefore, conclude that it is hardly the standards in this area which are lacking in Latin American countries, even if there is room for further improvement. Moreover, the region is comparatively well situated internationally as regards standards. The degree of implementation is another matter.

### *Less talk, more action*

As a rough guide to the present situation of disabled persons in Latin America, we could say the following:

- The number of disabled persons is disturbing as a global figure, mainly for those countries having suffered situations of conflict, internal unrest, etc., and where the weight of the disabled is significant in proportion to the employed population. It should be taken into account, for example, that a number of Latin American countries find themselves among the over 60 countries worldwide for which it is estimated that an average of 500 persons die or are mutilated each week as a consequence of the existence of 110 millions of anti-personnel mines, according to data from the International Federation of the Red Cross and Red Crescent Societies.
- In the framework of the specific legislation we referred to above, national bodies for the coordination of policies and programmes which, albeit not all to the same degree, are increasing levels of attention in this sector in accordance with the guidelines of international bodies. Disabled persons' representatives are beginning to participate in these bodies.
- Services cover is clearly inadequate, being concentrated in urban areas, with scant attention being paid to the rural population, and with disabled women being particularly marginalized.
- Pupils with special educational needs have been systematically excluded from ordinary schools and educational institutions. At the same time, special schools and educational

institutions have by no means been able to take care of this population. In Chile, for example, the above-mentioned study<sup>3</sup> shows that 33 per cent of the severely disabled population are illiterate, whereas the illiteracy rate for the country is only 5 per cent. Of disabled persons in Chile, 52 per cent have received basic education, while 15.7 per cent have had access to middle-level education, and only 2.8 per cent to higher education. One positive aspect to be noted is that in several countries a new standard provides for integration in ordinary schools and educational institutions. This is the case, for example, of Brazil, Chile, Colombia and Costa Rica.

- Vocational training has been rare<sup>6</sup> and in most cases provided at rehabilitation centres divorced from real labour markets needs. The ILO is currently conducting a technical cooperation project, under which it is supporting provisions for the integration of disabled persons at ordinary vocational training institutions in Bolivia, Brazil, Colombia, Mexico and Uruguay.<sup>7</sup>
- There has been very little integration in the open labour market, and where it has occurred it has been mainly in the informal sector. In countries where there are provisions requiring workplaces to be reserved, as is the case of El Salvador and Uruguay, they have rarely been implemented. In addition, backing from Ministries of Labour in the form of inspection or from employment and placement services has in general been very slack, although a growing interest in this subject can be seen in some countries. The same can be said with regard to the minimal involvement of employers and trade unions.
- Special workshops and other forms of sheltered employment, in addition to being totally inadequate to meet the potential demand, in many cases offer working conditions which fall far short of those established for workers generally by national and international standards.
- In many cases, this situation is aggravated by a lack of alternative social welfare measures, which particularly increases vulnerability at times when the consequences of structural adjustments are being felt and it is necessary to adapt to global economic change.
- Organizations of disabled persons have considerably increased their level of aware-

ness and influence, although their participation in policies and programmes affecting them is far from satisfactory. The weak point continues to be fragmentation, inadequate preparation and lack of unity, which detracts from their effectiveness when fighting for their rights.

- Disabled persons continue to find themselves in an environment hostile to their social and economic integration, in which they come up against a host of attitudinal, architectural, transport and communications barriers, and a frequent disregard of their rights. In short, they continue to be discriminated against both as citizens and as workers.

### **Participation by trade unions in the social and economic integration of disabled workers: A few examples**

#### *Two worlds apart*

To make sure we can see the forest for the trees, it must be made clear from the outset that, on the whole, disabled workers are not part of the agenda of trade unions in Latin America. This has been the remark most frequently made by both workers' representatives and representatives of disabled persons' organizations in meetings organized by the ILO in recent years. It is significant that there have been no claims on the part of trade unions denouncing the failure to comply with Convention No. 159 (in virtue of art. 24 of the ILO Constitution), despite the discriminatory situation suffered by disabled workers in the region; there has also been an almost total absence of any reference to disabled workers in collective agreements or framework agreements.

The converse is also valid: there has been no policy on the part of disabled persons' organizations to become part of trade unions to influence them from within, nor any systematic approach to collaboration. The two remain worlds apart. For this reason we feel it is opportune to highlight a few initiatives which contradict this overall tendency and which offer different avenues for the future. Most of the experiences reflected here have come from the ILO. No doubt there are others: the following are not intended as an exhaustive list but are rather an attempt to contribute some elements to promote reflection within trade unions and to search for what seems to be the most appropriate solutions in each case.

## Regional examples

A Technical Meeting on the application of ILO Convention No. 159 in Latin America was held in Bogotá from 17 to 20 November 1992. Delegations from Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Paraguay, Peru and Uruguay, which had all by that time ratified the Convention, took part. It was the first time in the history of the ILO that organizations of disabled persons had participated side by side with the ILO's traditional interlocutors: governments, employers and workers, in accordance with the terms of Article 5 of the Convention.

Once the initial reticence of some workers' organization representatives to form joint working groups with disabled representatives had been overcome, participation by workers' representatives was very positive and their contributions extremely valid. The aim of the meeting was to look in detail at Convention No. 159 for the purposes of identifying formula viable for the specific circumstances of Latin America, so as to further implementation of this important international instrument.

A sample of their contributions is contained in the following extract from the recommendations prepared by the workers' group with regard to consultation and participation:

For their part, trade unions want an effective presence in planning and consultative bodies in order to ensure the employment of disabled persons.

Within these bodies they will ensure that the standards in force in each country relating to the employment of such persons are applied and that these persons are treated as individuals with full rights.

Trade unions will also inform and sensitize their members and the community about capacities and needs of and agreements relating to disabled workers.

They will work together with employers and government, in collective bargaining or direct agreements, on effective work for disabled persons and will offer training to personnel who work in human resources selection for the purposes of making them more aware of the situation of disabled persons and thereby avoiding discrimination.<sup>8</sup> [*Editor's note: free translation from Spanish original*]

As can be seen, these recommendations express a determination to act in accordance with specific guidelines in conjunction with government, employers, trade unions themselves, and the community, which when developed could give rise to a complete programme directed towards improving social and eco-

nomical integration of disabled workers. Moreover, initial prejudices did not withstand the test of reality, and the participating groups – headed by trade unions – unanimously recognized in the conclusions the determining contribution made by representatives of disabled persons' organizations in achieving the results of the meeting as well as the enormous usefulness of this shared dialogue.

Equally positive, although less to the forefront, was the participation of workers' representatives in the Technical Meeting on the integration of disabled persons in the vocational training institutes of Latin America, held in Montevideo in November 1991. The support they gave on this occasion for policies to provide for the integration of disabled workers in courses at ordinary vocational training institutes was fundamental and, as a result, the ILO is developing technical cooperation activities and practical instruments to implement these policies. As Héctor Florit, representative of Uruguay's trade union centre PIT/CNT, said at the meeting: "A fusion is taking place now between the historical interests of the workers' movement and the disabled groups' claims for social integration ... The starting point is a commonality of aims and objectives, such as tackling the difficulty of finding the means for action ... These encounters can constitute steps along the way in finding common and shared action".<sup>9</sup>

## Subregional examples

Another example worthy of note is the quadripartite participation of workers' organization representatives at the Subregional Meeting for Central America, Panama and the Dominican Republic, held in Guatemala in March 1997, on the topic "Towards equality of opportunity in the socio-economic integration of disabled persons".

The value of their participation comes from the fact that the meeting was an exercise in consultation in which workers' representatives contributed to identifying lacunae and priorities in the subregion and defining the concept and main lines of activity for a Subregional Programme of Action for the socio-economic integration of disabled persons on which all the delegations reached a consensus. This Programme will take the form of a separate programme of action in each country. To cite the Rapporteur for the workers' group, Ricardo Rafael Ayala Samillón (Confederation of Workers of the Republic of Panama):

The action of the trade union organizations in the subregion has in recent years been focused on the struggle to defend and improve employment and the very existence of trade unions. To achieve this end, it is necessary to strengthen their institutional framework to allow for effective incorporation into the trade union agenda of the concern for disabled persons' access to employment and the defence of disabled workers' rights.

The priorities identified by the workers' group are:

- to improve the levels of information of trade unions and training of their representatives in the integration of disabled persons into employment;
- to include the subject of disability in trade union organizational development plans, and set up within trade unions units for dealing with vocational reintegration and non-discrimination in employment of disabled persons;
- to include in collective agreements clauses referring to disabled persons and, in particular, persons who have become disabled as a result of occupational accidents. [*Editor's note: Free translation from Spanish original*]

These priorities were reflected in the formulation of the Subregional Programme of Action, currently awaiting the funding necessary for its implementation.

Another meeting, this time of the Mercosur countries and Chile, was held with a similar focus in November 1997, under the title "Socio-economic integration of disabled persons: Towards a harmonization of policies and programmes". The following priorities for the sub-regional programme resulted from it:

- to have the subject of disability included in the Mercosur agenda;
- to progress towards a harmonization of policies, programmes and legal standards;
- to develop appropriate machinery for sub-regional coordination.

It is easy to imagine the considerable room for action by trade unions in this context, and their potential for support through Sub-Working Group No. 10 and Mercosur's Economic and Social Consultative Forum.

## National examples

It is not easy to catalogue these initiatives, almost all of them promoted by the ILO in the framework of cooperation projects or technical assistance services. These experiences frequently involve a range of aspects relating to

disabled workers all at the same time. The list we provide below is merely an attempt to offer a few samples of some of the aspects we consider to be most relevant.

## 1. Information, awareness-raising and training activities

Examples of this type of activity are the following:

- The Seminar/Workshop on participation of workers' groups in the inclusion in employment of disabled persons in the public sector, held in San José (Costa Rica) in March 1993, in the framework of an ILO project for Central America and Panama.<sup>10</sup> This seminar was organized by the ILO and the National Council for Rehabilitation and Special Education in collaboration with the Costa Rican National Union of Workers, the Single Confederation of Workers, the Trade Union Central Office of Workers of Costa Rica, and the Rerum Novarum Confederation of Workers.
- The Seminar/Workshop on workers' organization participation in integration into employment of disabled persons, held in San Salvador (El Salvador) in September 1993 and organized by the Inter-Union Education Committee and the ILO project mentioned above.
- Information and Training Days with regard to disabled workers, held in Chile between June 1995 and September 1996 in the regions of Copiapó, Valparaíso, Talca, Puerto Varas and Santiago, organized under another ILO project<sup>11</sup> and the Ministry of Planning and Cooperation, in collaboration with the Single Central Organization of Workers (CUT). A total of 175 persons participated, 90 of them workers' delegates.

All these activities had, as a common denominator, the reply to the question: *What can trade unions do to support the social and labour integration of disabled workers?*

Thus, for the participants at the El Salvador Seminar/Workshop – a country which is emerging from a fratricidal conflict with thousands of disabled victims – "the specific role of the trade unions with regard to and together with this sector will be to create the minimum conditions required to guarantee civil, political, labour and social rights, as established in domestic and international legislation".<sup>12</sup> In conjunction with this role, a detailed analysis is being made of the provisions of Convention No. 159 and national Decree No. 247 (provid-

ing for the obligation to contract one disabled worker for every 50 workers in private or State enterprises), further consideration of the role to be played by trade unions and the measures to be taken to achieve effective implementation of these legislative instruments.

In the case of Costa Rica, where a seminar took place with a similar organizational structure, the broad outline for action was approved, including a proposal to replace the word “inválido”, used in the Spanish version of Convention No. 159, by “persona con discapacidad” (disabled person); a request that workers’ representatives and disabled persons participate in the National Rehabilitation and Special Education Council; the training of workers’ leaders; the elimination of architectural and transport obstacles; the inclusion of clauses referring to disabled workers in collective bargaining, etc.

As emphasized in the final document of the Seminar, it is important to open the way for expectations and represent a first step towards awareness on the part of workers if this effort is to extend to all levels of trade unions in the country.

The originality of the Information and Training Days in Chile lies in their having been held in five different parts of the country and having opened up participation in these regions not only to workers’ leaders but also to representatives of disabled persons’ organizations, public institutions and the Community Councils on Disability.

## 2. Initiatives to strengthen the structures of trade unions

The Chilean Information and Training Days constituted a basis for three initiatives to help strengthen the capacity and institutional commitment of the Single Central Organization of Workers (CUT) in relation to the subject of disabled workers. These were:

- a booklet on trade union action and the disabled;
- approval by CUT’s Programmatic Congress of inclusion of the theme of “the disabled worker” and adoption of the booklet on trade union action and the disabled;
- assignment to the CUT’s Industrial Health and Safety Department of the coordination of the theme of disabled workers.

Because of its special interest, we reproduce below the second part of the booklet in which the results of the Information and Training

Days are summarized and a series of guidelines for the workers’ organization set out. This booklet is intended as a tool to facilitate work being done by the CUT’s grass-roots leaders to improve access by disabled persons to the employment and income-generating opportunities on the labour market.

## 3. Activities in support of provisions for the integration of disabled persons in vocational training institutions

It has been observed earlier that one of the most significant elements in the high levels of unemployment among disabled persons is their lack of preparation for work. It was also maintained that it is not possible to solve this serious problem through the specialized institutions caring for this group. To tackle this situation, the ILO is supporting integration into courses and activities in ordinary institutes for vocational training and preparation for employment in Latin America, through a pilot project in five countries.<sup>8</sup> One of the foundations of the project has been the promotion of the active presence of trade unions in its development. It has been present in different areas:

- *In the participatory project management in the five participating countries:*  
The representatives of workers’ federations were invited to participate in the Coordinating Committees as the bodies participating in project management, coordinating actions, and defining priorities, goals and strategies in each country. These committees have in actual fact provided a meeting place for the different State and public bodies.
- *In project implementation through local operational groups:*  
These groups are carrying out work specific to the project, participating in training events for management and teaching staff at the institutes, and conducting integration activities at centres selected for that purpose. Technical staff from the organizations and institutions represented in the Coordinating Committees are required to participate in these groups.
- *Sensitization and training of those involved in the provision of standards for integration:*  
Trade unions have been considered as one of the main actors involved in the process of developing standards for integration, as catalysts and promoters of the principles and agreements necessary for the progressive integration of disabled persons in train-

ing and work. The material prepared for this purpose in the project includes leaflets and posters to sensitize members of trade unions. At the same time, the latter received material from the series "Standards for integration: A process of social integration" produced by the project to describe training at institutes open to integration.<sup>13</sup>

#### **4. Examples of active association between trade unions and disabled persons' organizations**

Against a background where trade unions and disabled persons' organizations have frequently ignored each other, it is particularly relevant to describe a project implemented in Uruguay which illustrates the actual possibilities available to pursue together the same goals. The experiment began in November 1996 when representatives of workers at the Social Security Bank, the National Employment Board, and the National Health and Employment Committee started to meet with delegates from the most representative organizations of disabled persons in the country. The purpose was to exchange information and work together on subjects related to disability, occupational health, occupational accidents, subsidized activities, disability allowances and pensions. These exchanges led to the formal constitution of the Inter-social Committee on Disability, Employment Integration and Social Security (COMINT) as a formula for coordinating action and joining forces.

Out of these meetings came a seminar on "Disability, Rehabilitation and Employment Reintegration and Subsidized Activities" held in June 1997, which brought together delegations from 73 trade unions, associations and institutions of disabled persons as well as public and international bodies, at which 32 proposals were approved. Taken together, the proposals make up a joint activity programme calling for action in the following areas: annul paragraph 2 of article 37 of the Constitution prohibiting admission of immigrants with physical or mental impairments; review, update, coordinate and standardize existing standards and definitions of disability, employment, occupational health and social security; guarantee the participation of both sides in consultative and decision-making bodies; sensitize and provide training regarding standards, rights and services; provide employment to young people with disabilities through the youth employment project; create a

national rehabilitation system or programme and an incentive scheme for enterprises employing disabled persons, etc.

Of particular note among the COMINT actions to implement proposals is its participation in the "Training and Employment Integration Programme for Disabled Persons", approved by the National Employment Board, a tripartite body with representation of the Executive, Chambers of Employers and the PIT-CNT for the workers.

The ILO project for developing standards for integration, mentioned above, has supported this initial project in Uruguay and developed workshops to disseminate information on it in Mexico, Colombia and Bolivia led by a representative of the COMINT workers' organization.<sup>14</sup>

#### **5. Incorporating the theme of disability in processes of social dialogue**

In a number of Latin American countries, a process of tripartite social dialogue between the Government, and employers' and trade unions is under way to reach agreements on the major questions of employment policy nationwide. This framework of dialogue affords a unique opportunity to bring the subject of disability away from the exclusive auspices of social welfare and place it in the context of economic and social development.

Although no final data is available, internal ILO reports have recorded the readiness demonstrated in October 1997 to officials of the Organization by all parties involved to include the socio-economic integration of disabled workers in the Round Tables on a Social Charter in Ecuador, specifically the Round Tables on: (a) employment policies; (b) vocational training; and (c) social security (with some adaptation of details on the part of the Chamber of Commerce in the last case).

In December 1997, Intersectoral Labour Days were held in Venezuela to analyse the ILO's legal standards concerning vocational training and the integration into employment of young people and adults with special needs, with a view to ratifying ILO Convention No. 159. In the document adopted as the Final Declaration following this event, the Federation of Chambers of Commerce (FEDECAMARAS) and the Confederation of Workers of Venezuela (CTV) expressed their joint position to include the subject in the Technical Sub-Committees appointed by the Tripartite Committee, to discuss the sub-

## Booklet on trade union action and the disabled

### Part Two (Approved by Chilean CUT)

(Editor's note: free translation from Spanish original)

#### 1. General ideas on trade union action concerning workers with disabilities

- In general, participation of disabled persons in trade unions is limited. The reasons given to explain this absence of participation include in particular:
  - (a) insufficient information flow from disabled persons towards trade unions and from trade unions towards disabled workers;
  - (b) absence of a channel of communication between the workers' organization and the disabled persons themselves.
- There is no definition of nor any specific approach to the question of disabled persons in trade unions, i.e. there is no specific department coordinating the work of trade unions with those for the disabled.
- There is little coordination between provincial branches of CUT and the different bodies concerned with disabled persons, especially with the Community Councils on Disability.
- There is considerable interest in looking more closely at the subject and incorporating this group and their demands in action by trade unions.

#### 2. Proposed lines of action to be developed by trade unions to support integration into employment and employment rehabilitation of disabled persons

##### A. In trade union organizations:

Disabled persons are workers like others and for this reason CUT should be interested in supporting this principle by:

- (1) sensitizing grass-roots trade unions to the need to support disabled workers, through seminars, talks, bulletins, meetings, information, etc.;
- (2) facilitating membership of disabled persons in trade unions;
- (3) knowing more about the activities of disabled persons' organizations;
- (4) creating a specific department for employment integration of disabled persons, ensuring especially the fulfilment of certain articles concerning disabled workers as provided for in Law 19.284 on the social integration of disabled persons;

- (5) creating a committee on the subject of disabled workers which would be a catalyst for the different grass-roots trade unions;
- (6) organizing departments of assistance and information with regard to labour legislation for disabled persons in provincial branches of CUT and at CUT headquarters;
- (7) creating a CUT coordinating body for local CUT centres involving existing organizations in the field;
- (8) participating in the Community Councils on Disability – coordination should start between grass-roots trade unions and Community Councils on Disability;
- (9) making a register of existing disabled workers in each workers' organization and of possible posts for them to occupy depending on their degree and type of disability;
- (10) supporting and promoting the organization of associations of disabled persons;
- (11) promoting in the course of collective bargaining improved working conditions for disabled workers, for example by:
  - introducing special clauses on the prevention of disability, support of rehabilitation, and adaptation of the working environment infrastructure;
  - ensuring employment contracts on the same terms as for other workers in the same enterprise; and
  - introducing the payment of a health differential;

...

- (15) encouraging and strengthening joint committees to work on the question of disability, promoting educational action to prevent risks and promote reintegration into employment;
- (16) promoting the participation of disabled workers in joint committees;
- (17) counselling colleagues of disabled persons in order to facilitate the latter's adaptation in the posts they occupy.

*B. With the employers' sector:*

- (1) promoting in each enterprise the fulfilment of disabled workers' rights in accordance with existing legislation;
- (2) educating at grass-roots level so that disabled persons working in an enterprise feel part of the group of workers;
- (3) training disabled workers with enterprises in order to have access to better employment;
- (4) making known through the media those enterprises which promote the integration of disabled persons;
- (5) conducting training days together with employers' organizations for the purpose of preventing occupational accidents and illness;
- (6) establishing opportunities for dialogue with employees concern

system of vocational training in relation to framework legislation on full coverage of social security, and the employment and wage plan.

## **6. Participation of trade unions in the design, formulation and implementation of national programmes of action for the social and economic integration of disabled persons**

A participation process similar to the one described at subregional level took place in the national consultative meetings held in Panama and the Dominican Republic in July 1998. Trade unions participated in defining needs and priorities and identifying the direction for action, content and implementation strategy comprising the National Programme of Action for the Socio-economic Integration of Disabled Persons currently in the process of being finally defined. In accordance with the approved guidelines, trade unions are to play an active role both in the coordinating committee and in programme implementation alongside the governmental bodies concerned with this subject, employers' organizations and organizations of disabled persons. A series of activities is planned directed specifically towards strengthening trade unions' capacity to assume the role they are to play in this area.

### **Enterprise and workplace examples**

Earlier we described a series of examples of participation by workers' organizations at regional, subregional and national levels which, albeit infrequent and still in their early stages, have enabled us at least to look at a variety of ways in which these organizations can go further to support the integration of the disabled working population.

However, when we turn to look more closely at what is happening in enterprises, there is an almost total lack of information about efforts by trade unions in relation to the disabled. Why has their work not been made more widely known? Why have inquiries into this matter met with no reply? Is it simply that such efforts have been minimal? In this connection, systematic proposals of workers' representatives at the above-mentioned ILO-organized meetings to include the subject of disabled workers in collective bargaining contrast strongly with the real lack of such provisions in collective agreements when we look at the various studies undertaken in Latin American countries.<sup>16</sup> Protective clauses relating to

occupational health and safety are indeed frequently included. Notwithstanding it should be noted that absence of any mention of the subject of disability is particularly widespread in framework agreements.<sup>17</sup>

This article is not meant to be an inventory of the scope for action available to trade unions in respect of such questions as equality of opportunities and treatment in the access, maintenance or return to employment of disabled persons, the application of existing provisions, how the question of disability is approached within the enterprise, the adaptation of work stations and workplaces, etc. It is sufficient to reread the extract from the book "Trade union action and the disabled" produced by CUT (Chile), in order to perceive the broad scope for action at enterprise level.

### **The informal sector: Difficulties of involvement**

The informal sector is currently where most disabled persons having found a livelihood are to be found in Latin America, unless they work in sheltered employment schemes. This is the evidence which has emerged from countless references to this subject in studies on the sector concerned. It so happens that it is actually in this very sector that the involvement of trade unions proves to be most difficult, not only with regard to disabled workers but even in more general terms.

According to a recent ILO study, in most Andean countries, for example, legislation promotes the formation of trade unions in the framework of enterprises with more than 20 employees, despite the fact that production is essentially structured on the basis of small enterprises with fewer than 20 workers. Thus, the great majority of workers in the Andean countries (Bolivia, Colombia, Ecuador and Peru) cannot exercise the right to organize or, as a consequence, to bargain collectively, despite the fact that such rights are stipulated in domestic legislation and national Constitutions. It may be said in general terms that expansion of the informal sector significantly weakens efforts by trade unions to organize at grass-roots level and thus the opportunity to perform their function in society.<sup>18</sup>

Looking to the future, it is to be hoped that formulas for involvement and active association, such as those mentioned with reference to Chile, the Dominican Republic, Panama and Uruguay, will bring practical solutions for disabled workers in this sector. Until such solu-

tions become reality, however, all should be aware that they are seriously lacking.

## Sheltered employment

The study published by the ILO in 1998 on employment relations in places of sheltered employment in 23 countries<sup>19</sup> shows a picture which leaves much to be desired. The situation of disabled workers in the centres, however, differs considerably according to each case, and range from enjoying the same rights as other workers to the almost complete absence of such rights.

Among these countries two are in Latin America: Argentina and Costa Rica. Both fall into the category referred to in the study as the “therapeutic model”. This model occupies the lowest place on the scale with regard to employment conditions provided. Most of its workers are mentally impaired persons, and an important role is played in the creation and management of these centres by associations belonging to religious orders, as is the case of FENDIM (Federation of Bodies Caring for the Intellectually Impaired) in Argentina. In this model, disabled workers are generally considered as beneficiaries or clients rather than as wage-earners (except for a minority in the case of Argentina). They do not sign employment contracts and are not covered by national Labour Codes in most of their provisions, with the noteworthy exception of questions concerning safety and health which do apply to sheltered environments, except in Costa Rica. Income bears no relationship to the minimum wage in the country and is considered as an allowance or subsidy rather than as a wage.

The study further points out that workers at these centres are not members of any workers’ organization – even though they could be (except again in the case of Costa Rica) – as a result of lack of interest by trade unions in this environment; nor are they covered by collective agreements.

Lastly, it should be emphasized that the lack of workers’ rights in this model of sheltered employment does not necessarily correspond to either a type of disability or a type of activity. In fact, there may be employment centres categorized in the study under the “wage-earning” model (with labour relations equivalent to those of ordinary employment centres) involving the same type of disability and activity as other centres categorized as “therapeutic”.

Although we do not have up-to-date information for other Latin American countries,

information available to the ILO suggests that in many of them the situation is no better in terms of labour relations, and involvement of trade unions. Brazil perhaps should be mentioned as an exception, with organizations such as AVAPE (an association for the disabled) having developed sheltered schemes in association with ordinary enterprises such as Mercedes-Benz, Ford Petrobrás, Telecomunicações de São Paulo, etc., where standard conditions of employment are more closely met, although the role of trade unions in these experiences is not clear.

## Concluding remarks

It seems clear that the weight of the workers’ movement in our times cannot be measured merely in terms of numbers of members or of the programmes it has to offer but, also and above all, by its capacity to adapt to changing ways of thinking and behaving on the part of workers as a result of the economic, political and social changes having taken place in recent years. The problems today affecting many trade unions – a fall-off in membership and representation levels, internal conflicts of ideology, crises in their traditional functions and structures – leading ultimately to a weakening of their real influence, are closely connected with their capacity to evolve from a culture of confrontation to one of dialogue, to redesign their historical vocation and find new channels for workers’ participation, cooperation and solidarity.

It is in such shifting of the centre of the workers’ movement in society that the experiences described in the preceding pages can be a catalyst in forming a new culture of trade unions with respect to disabled workers. Trade unions, having always aspired to workers’ joint representation, cannot just abandon such a large sector to its fate. Equality of opportunity and treatment, as a right which can assist this population to achieve social and labour integration, cannot remain outside the agenda of trade unions. Such integration is also particularly relevant from a strictly economic point of view.

All along, we have referred to reliable examples to show how it is possible to tackle this deadlock in the countries of Latin America. We have also seen how the active association of trade unions with those of disabled persons themselves has the effect of making both sides stronger. It is true that this major effort is still in its early stages but we should not forget the ancient Chinese saying: “a thousand-league journey always begins with a single step.”

## Notes

<sup>1</sup> "Panorama Laboral '97. América Latina y el Caribe", *OIT Informe*, No.4, Lima, 1997.

<sup>2</sup> Reguera, L.: "A change in outlook: From work to school", *Prospects*, UNESCO, Vol. XXV, No. 2, Paris, 1995.

<sup>3</sup> "Antecedentes sobre la inserción laboral de las personas con discapacidad en Chile", *Documentos Sociales*, No.54, MIDEPLAN, Santiago de Chile, 1996.

<sup>4</sup> See Bronstein, A.: "Reforma laboral en América Latina: Entre garantismo y flexibilidad", *Revista Internacional del Trabajo*, Vol. 136, No.1, Geneva, 1997, and Vega, M.L.: "La igualdad de oportunidades y de trato de los trabajadores discapacitados en América Latina", in *Asesoría Laboral*, año IV, No.48, Lima, 1994.

<sup>5</sup> Chile: Ley de Integración Social de las personas con discapacidad, No.19.284, 1994. Colombia: Ley por la cual se establecen mecanismos de integración social de las personas con limitación y se dictan otras disposiciones, 1996. Costa Rica: Ley 7600 de Igualdad de Oportunidades para las Personas con Discapacidad, 1996. Ecuador: Ley de Discapacidades, No. 180, 1992.

<sup>6</sup> Rosal, M.H.: "La Formación Profesional y las Personas con Discapacidad". Paper presented at the National Consultative Meeting for the formulation of an action programme on the socio-economic integration of the disabled in Panama, Panama City, July 1998.

<sup>7</sup> Project on "Apoyo a la Integración normalizada de las personas con discapacidad en las Instituciones de Formación profesional en América Latina" (RLA/94/M05/SPA), implemented in Bolivia, Brazil, Colombia, Mexico and Uruguay and financed by the government of Spain, through the Institute of Migrations and Social Services (IMSERSO). This project is based at Cinterfor (Montevideo).

<sup>8</sup> "Las políticas de integración laboral de las personas con discapacidad a debate. Reunión técnica sobre la aplicación del Convenio núm. 159 de la OIT en América Latina". ILO, Santa Fé de Bogotá, 1993, pp. 203-204.

<sup>9</sup> "Integración de las personas con discapacidad en las instituciones de formación profesional de América Latina", *Informes*, No.148, Cinterfor, 1992, p. 142.

<sup>10</sup> Project on "Apoyo a la inserción laboral y al desarrollo de actividades generadoras de ingreso de las personas con discapacidades" (RLA/89/M06/SPA) for Central America and Panama, implemented by the ILO between 1991 and 1995, and financed by the government of Spain through the Institute of Migrations and Social Services (IMSERSO).

<sup>11</sup> Project on "Apoyo a los programas de inserción laboral de personas con discapacidad" (CHI/92/M03/SPA), implemented by the ILO with the collaboration of the Ministry of Planning and Cooperation between 1995 and 1998, and financed by the government of Spain through the Institute of Migrations and Social Services (IMSERSO).

<sup>12</sup> Seminar-Workshop: *La participación de los sindicatos en la inserción laboral de las personas con discapacidad*. Document final, Proyecto RLA/89/M06/SPA, San Salvador, 1993.

<sup>13</sup> Information provided by Clara Franco de Machado, coordinator, Project RLA/94/M05/SPA.

<sup>14</sup> This part was based on information provided by Ernesto Murro, Director, Workers' Representative Group of the Social Security Bank of Uruguay and member of COMINT, the Secretariat comprising the titular workers' representatives in official bodies, and, to a lesser extent, information from the periodical "Noticias buenas y de las otras", No. 20, Montevideo, July 1997. Ernesto Murro was also responsible for presenting the experiences of the workshops developed in the framework of project RLA/94/M05/SPA in Bolivia, Colombia and Mexico.

<sup>15</sup> *La Acción Sindical y los Trabajadores con Discapacidad*. Published by the project "Apoyo a los Programas de Inserción laboral de las Personas con Discapacidad", under the coordination of Ruth Pinto, Santiago, 1996.

<sup>16</sup> Sepúlveda, J. M. and Vega, M. L.: "Las relaciones laborales: Un desafío para el sindicato", ILO, Lima, 1997.

<sup>17</sup> Morgado, E. "La concertación social en Iberoamérica", *CIVITAS*, Revista española de derecho del trabajo, No. 76, Madrid, March-April, 1996.

<sup>18</sup> Rueda, M., Sepúlveda, J.M. and Vega, M.L.: "Estudio comparado sobre negociación colectiva en los países andinos", *Labour Education*, Nos. 114/115, 1999-1/2, ILO, Geneva (forthcoming).

<sup>19</sup> Visier, L.: "Les relations de travail en milieu protégé", pp. 22-23, ILO, Geneva, 1998.

## Protection against poor working conditions

The promotion of safe working conditions has not commanded high priority in the reform processes of Central and Eastern Europe. There are reports of the abandonment of health and safety procedures, of cuts in investment in safety equipment, anti-pollution devices and other forms of working environment protection.

Health and safety in the workplace is vital to all disability prevention policies. In the drive for short-term productivity and profits, management in their impatience may regard the time of safety committees and the strict adherence to all safety procedures as counter-productive. But in human and financial terms, the cost of lost time and output through sickness and permanent disability will prove even greater in the medium and long term.

## Career prospects

Contrary to widespread belief, workers with disabilities can usually participate in any training programme for non-disabled workers. Minor adjustments to the training curriculum may sometimes be necessary but they can usually be made by the trainer as a matter of common sense.

## Wage and income protection

One of the greatest challenges in modern society is to create sustainable income security for all its members and to do so in an equitable fashion. In that regard, those with disabilities face *common* needs and may face *additional* needs due to extra costs of living and to the need for compensation for added economic risk and uncertainty. Social mechanisms intended to protect the income security of people with disabilities consists of income protection measures as well as social benefits intended to alleviate the disadvantages that disabilities cause in daily life.

There are five sources of income insecurity

- They may face wage discrimination, including access to employment-related fringe benefits.
- They may receive lower earnings.
- They may have lower productivity, leading to lower incomes.

## Unemployment benefits

The basic principle for compensating disabled persons for a period of jobseeking unemployment is that the benefits and conditions for receipt of them should be equivalent to those for other unemployed persons, which may mean additional payments to compensate for the costs of jobseeking.

The most worrying tendency in some Central and Eastern European countries has been that of excluding disabled persons from entitlement to unemployment benefits, presumably on the grounds that they can or do receive disability benefits or pension. This mixes up two functions of compensatory benefit provision. Unemployment benefits should be treated quite separately from any disability-related benefit even though they could be paid at the same time through the same offices.

### Forms of sheltered employment: Last step or first step?

In most countries, provision is made for sheltered workplaces and jobs for severely disabled workers. The issue is whether the principal purpose of sheltered forms of employment should be short-term, as a means of acclimatizing workers to employment, or long-term, as a means of giving activity to those who cannot be placed in mainstream employment. Modern thinking is sceptical about their potential and desirability. ILO Recommendation No. 99 (1955) on the vocational rehabilitation of disabled people covers sheltered employment in paras. 32 to 35. These state that government should develop arrangements for the training and employment of those disabled people who cannot be provided with mainstream employment. The Recommendation states that measures should include establishment of sheltered workshops and other special measures for disabled people who cannot travel to and from work regularly.

...

In Central and Eastern Europe, sheltered employment has been a particularly wide-

spread form of employment for disabled people. Its role was codified in special laws or regulations on employment of disabled persons. They cover sheltered jobs in ordinary enterprises in which most jobs are held by disabled workers. Mostly, such workshops and enterprises have been established and operated by organizations of people with disabilities and partly or fully funded by the government.

...

In countries of Central and Eastern Europe, the term “sheltered” employment is not common. They were state enterprises, cooperatives or factories managed on behalf of the State by disability organizations. In an economic environment where practically all enterprises were “sheltered” from market principles and practices, the distinction, when compared with regular enterprises, was gradual rather than one of principle. The main distinctive feature was that enterprises employing a certain number of disabled workers had the right to tax breaks (the principle for compensating for a disadvantage). With the transition to a market economy, the need for defining certain enterprises as “sheltered” arises for the first time. Progression in unemployment on the open labour market as well as reductions in pension income give enterprises for disabled people a buffer function which is worth preserving during the difficult period of transition.

### Roles of trade union organizations

Trade unions in Central and Eastern Europe before 1989 had been an integral part of the power structure, and were expected to support and complement the political control of production and the workforce. Industrial relations also had a role as a mechanism of justifying the policies established by the Communist party. At plant level, the management, party committee and trade union committee represented three facets of a unified block of power. Each maintained its contact with the national structure – the relevant Ministry, party and branch trade union respectively. In cases of dispute, the party had supreme power. So a policy on employment of disabled persons was adopted at the centre and it was left to regional and local representatives to implement it. The removal of the party’s formal influence at the plant level led to a reduced structure of decision-making: it is much more difficult to use local representatives of national organizations to implement policy – especially in the case of

trade unions. They need to re-establish their credibility as representatives of the interests of workers who pay affiliation fees to them and who elect their local representatives. This shift represents a change in industrial relations and the process will take years to be completed. It should be understood that the role of trade unions in support of persons with disabilities is affected by this change and that unions can no longer be expected to be responsible for the execution of personnel policies.

At national level, unions that are recognized as "inheritors" of the old trade unions have been transformed into bodies representing interests of workers both in the discussion of new economic and social policies and measures and in collective bargaining. The degree and speed of this transformation vary greatly within the region. These organizations have been able to maintain membership levels that are still much higher than the Western European average. Although trade unions still apportion social benefits, such as places in rehabilitation institutions, such practices are less and less common and are likely to disappear altogether.

The reformed or reforming trade unions are organized in national branch federations that form national confederations. As a rule, confederations have no responsibility for employment policies and social measures for disabled persons. However, some trade unions regard care for disabled workers more as social protection than employment promotion. Since 1989, new trade union movements have been created, often as "alternative" bodies to the "reforming" trade unions. With a couple of important exceptions, the new unions have not yet been able to build a substantial membership base in most workplaces in their countries. Their impact and importance are in political and social change, introducing new ideas in the policy debate, and forcing the older organizations to reform.

...

Disability should be treated in the labour market as an equal rights and solidarity issue.

Disabled people the world over are taking more responsibility for the policy agenda. They are becoming more active as producers, taxpayers and customers: wanting and expecting the same quality of goods and services as the rest of society. As the place in society for people with disabilities improves and the perception they have of themselves develops, publicity and information materials must reflect these changes.

## Information

The requirement of image sensitivity carries over into the design and working of information. Employment-related disability issues give rise to a range of information needs, examples of which are given below:

*Disabled people and their families will need information on:*

- vocational training opportunities, both mainstream and segregated;
- vocational rehabilitation and selective placement services;
- job vacancies;
- sheltered training and sheltered employment;
- legislation relating to quota and quota/levy schemes, reserved occupations, anti-discrimination laws, if any;
- benefit entitlement;
- the availability of special aids to employment; and transport concessions.

*Trade unions (and employers) will need information on the following:*

- recruitment sources and the availability of disabled persons seeking work;
- the selective placement service and the advice and assistance it can offer;
- impairments, disabilities and handicaps: how they affect performance and how they may be best accommodated;
- legislation on quota/levy schemes, anti-discrimination laws where in force;
- the availability of tax concessions for training/employing disabled persons, subsidies or grants to assist with workplace modifications;
- positive policies for employing people with disabilities and devising codes of good practice;
- advice on alternative and flexible working patterns to facilitate employing staff with disabilities;
- on-site rehabilitation methods and how best to retain staff who become disabled;
- strategies to eradicate discrimination in the workplace; and
- observation and enforcement of health and safety measures.

*The general public will need information on:*

- the true prevalence of disability in their society;
- the value of vocational training, guidance and rehabilitation in reducing the handicapping effect of disability in employment;
- government policies and services to promote the mainstream integration of people with disabilities into the nation's workforce;
- government policies and services for people with disabilities who are unsuited for full-time open employment.

### **Poznan Declaration**

The participants at the International Conference on Labour Market Policies for Disabled Persons, organized jointly by the ILO and the Polish Government with the support of the German Ministry of Labour and held in Poznan, Poland, from 22-24 February 1994, adopted the Poznan Declaration. It calls on all government and employers' and workers' organizations to increase their efforts to guarantee disabled persons the support they need to exercise their right to equality of opportunity and treatment in employment, and as a result to ensure full respect for their dignity as citizens and workers.

# European Trade Union Confederation (ETUC): Policy and action in favour of disabled persons

---

**Anna Ricciardi**

Expert

European Trade Union Confederation

---

*Convinced that the trade union movement can play a key role in promoting the full integration of disabled persons, the ETUC has elaborated a strategy for action in that sphere over recent years. The policy centres on the fundamental principle that persons with and without disabilities are of equal value. Dignity, training and employment are three core concepts of the ETUC policy for promoting equality among disabled and other workers.*

## **The ETUC: A European single trade union, a European player and social representative**

The ETUC was born of the need for the trade union movement to come together to safeguard the interests of workers across Europe and join in a European project in a zone of peace, economic and social progress and solidarity. In espousing the notion of trade union participation in the construction of Europe, the ETUC has demonstrated to the community's political leaders the determination of trade unions to do their part in the construction of Europe.<sup>1</sup>

Although the initial role of trade unions and social partners was purely consultative, to the Economic and Social Council for instance, the Single European Act of 1986, the Treaty of Maastricht of 1991 and the Treaty of Amsterdam of 1996 brought growing ETUC involvement in the European integration process. Today, the ETUC is developing its role in the process of European enlargement. Its strategy consists of accepting membership of trade union federations before their countries become members of the European Union (EU) and bringing trade union ideas to the fore in relations between the EU and the States of Central and Eastern Europe.

The ETUC is a collective player with the capacity to engage in transnational bargaining with European employers. Its ambition is not to replace national collective bargaining systems, but to complement them with cross-border and Europe-wide bargaining, to better safeguard worker interests.

The ETUC is becoming increasingly involved in the European integration process and is now a key partner of EU institutions. The European Commission consults management and labour in Europe on matters of social policy. These latter partners may themselves launch a negotiation process on the content of the proposal in hand and request that their eventual agreement be recognized under community law.

## **Adopting and developing a trade union policy: Evolution**

The adoption of an ETUC policy in favour of the disabled evolved in three stages. The trade union movement first had to develop an awareness of the importance of its national and European role in promoting the occupational integration of disabled persons. Once clear about its role, the ETUC formulated its claims in a plan of action for disabled persons. To implement this strategy, the ETUC decided to pursue cooperation, on the one hand with employers and on the other, with NGOs representing disabled persons, convinced that partnership between management and labour is the ideal way of attaining the objective of full equality between persons with disabilities and other persons.

## **Three levels of future action**

This process started in 1993 when the findings of a study conducted among all its affiliates regarding actions to assist disabled persons prompted the ETUC, for the first time, to

reflect upon its own role in promoting the vocational integration of the disabled. The study had focused on the need to incorporate and coordinate the role of trade unions in national policy to assist disabled persons. Based on the findings, the ETUC then examined its European policy in favour of disabled persons. The conclusion resulting from this veritable consciousness-building exercise was that work was a factor of economic independence, but also the key to autonomy in life. There should be no separation of problems internal or external to the enterprise. This link between matters internal and external to the enterprise, in other words the workplace-society connection, made the trade union movement the essential link for the integration of disabled persons. This global approach lent a new dimension to the trade union movement.<sup>2</sup>

This affirmation translated into a new awareness of the role of trade unions within both European and national policies to help disabled persons and points to three levels for future action – the institutional, collective bargaining, and cultural levels.

### **Fundamental principles**

Once the ETUC had “affirmed” its role in the political arena, it then set out its claims on behalf of disabled persons. In 1995, it adopted the Declaration of support of European trade unions for disabled persons. This document<sup>3</sup> is important for two reasons. First of all, it outlined the fundamental principles of ETUC policy with respect to the employment of disabled persons, specifically: (1) support for the individual rights of disabled persons; (2) opposition to discrimination against disabled persons; and (3) the demand for equal rights to training, employment and dignity. Second, the ETUC had formulated claims on behalf of disabled persons for the first time.

### **Coordination with employers**

Once its political programme had been drawn up, ETUC proceeded to examine the implementation of its plan for promoting the rights of disabled persons. Convinced that management-labour partnership is an important vehicle for implementing the policy to promote the employment of disabled persons, ETUC repeatedly expressed its wish to coordinate actions with employers in regard to disabled persons. It was only in 1997, in the framework of the European Committee for

Social Dialogue, that a working group was set up to assist disabled persons. Hitherto, the ETUC had had to contend with resistance from European employers, who were firmly convinced that it was at the national level that the most appropriate and effective measures could be taken.<sup>4</sup>

### **Description and evaluation of recent experiences**

The main ETUC activities on behalf of disabled persons in 1997 included organizing a conference in Rome on the theme of achieving equal rights to training, employment and dignity for disabled male and female workers, and the drafting of a compendium of good practices for the occupational integration of disabled persons.

### **The Rome conference: Labour-management partnership as a strategy in favour of disabled persons**

The conference took place in Rome on 16 and 17 April 1998 and was in furtherance of the line of action developed at previous seminars organized by ETUC on the subject. Having defined the role of the European and national trade union movements and their policy regarding disabled persons, the ETUC then turned its attention to the strategy to be adopted to achieve its claims. The Rome conference started discussing the preparation of a trade union platform regarding the employment and vocational training of disabled persons with a view to working together with employers in the framework of the European Social Dialogue.

### *Equal treatment*

Two days of discussions with national federations, European institutions, associations of disabled persons and employers served to underscore the importance of the social partnership to a policy centred around equal treatment in conditions of employment, equal access to training and the provision of adequate conditions at the workplace. If a global approach is to be taken to disability issues and appropriate solutions, we will need to move beyond the concept of the welfare state, which embodies the notion of passiveness, to that of a partner state, in which disabled persons are deemed to be fully-fledged citizens with rights and duties in society. Trade unions must work together in partnership with employers and civil society at

the national and European levels to ensure that disability will cease to be a ground for exclusion from society and the job market.

### **The compendium of good practices : A first example of European labour- management partnership in favour of disabled persons**

Within the framework of the Social Dialogue, labour and management decided to set up a small Working Group (comprising six or seven persons drawn from both sides) in July 1997, with the task of drawing up a compendium of good practices concerning the occupational integration of disabled persons. This compendium signalled the start of the European partnership between labour and management to improve the lot of disabled persons, as the two sides expressed their awareness of the need for a European institutional dialogue on the matter of equality of opportunity for disabled persons. This commitment is fully in line with the employment strategy adopted by the Summit of Heads of State and of Government in November 1997 in Luxembourg.

#### *Publicizing examples*

The purpose of publishing a compendium of good practices is to publicize examples of positive initiatives launched in partnership in the work environment, with a view to providing added impetus at the national and European levels in this regard. Accordingly, the choice went to actions that led to integration or reintegration in the ordinary work environment.

#### *Greater social cohesion*

The assembled cases show that the vocational integration of disabled persons, far from representing additional costs, is a potential asset to the enterprise and society. As enrichment for the enterprise first and foremost, integration or reintegration measures have enabled the workers concerned to be better attuned to their tasks and functions. In terms of social enrichment, the possibility to work has given disabled persons a place in society on a basis of equality with others. This personal enrichment has made for greater social cohesion.

The ETUC and European employer organizations have also learned very important lessons. Partnership between employers and trade unions at the local and enterprise levels is generating dynamic processes that can also

be extended to the European level. The cases described hereunder illustrate the guidelines of a strategy of partnership at the national level that has proved capable of yielding convincing results, the more so if civil society is involved.

### **The compendium of good practices: A study of national cases**

Thanks to joint ETUC-UNICE (Union of Industrial and Employers' Confederations of Europe)-CEEP(European Centre of Enterprises with Public Participation) action it was possible to assemble a great many examples of good practices. We have selected four cases: one each from Ireland and France and two from Italy. The Irish initiative was especially interesting as it involved several activities including the training of trade unionists in matters of equality of opportunity among persons with disabilities and those without. The French case was selected because it involved career advancement for a disabled worker. Finally, the cases from Italy resulting from a labour-management agreement highlight cooperation among trade unions, employers, institutions and local associations.

#### **Ireland: ITUT Horizon project**

The Services, Industrial, Professional and Technical Unions (SIPTU) is an Irish union which, through the Irish Trade Union Trust (ITUT), a foundation established by the union, and with the support of the European Commission, implemented the ITUT Horizon project to provide more job opportunities for disabled persons through the intervention of trade union bodies. Started in 1996, the project entailed a number of initiatives: a cycle of training and awareness-building seminars was organized for trade union leaders and employers designed to "demystify" the problems surrounding disability; a pilot project was then set up to foster partnership between trade unions and enterprises. Accordingly, the project identified different lines of action for common endeavours to promote the vocational integration and rehabilitation of disabled persons. Lastly, a training programme intended for physically disabled persons was put in place to promote independent work as a real job opportunity for disabled persons.

#### *Training and awareness-building*

The project entailed training courses designed to improve the entrepreneurial skills of disabled persons. These courses led to the

creation of five small businesses by disabled persons. A disability awareness guide was also drawn up for the use of trade unionists.

The validity of these achievements lies in the fact that they underscore the central role of trade unions as agents for promoting equal opportunity in the work environment and in society at large. The project uses real-life cases to demonstrate the range of possibilities open to trade unions for planning, organizing and implementing actions to assist disabled persons.

### **France: The Banque Populaire Val de France**

This bank belongs to the Banque Populaire Group which, in 1992, signed an industry-wide, inter-union agreement at the national level, and renewed it in 1995. The agreement envisaged a range of actions that included maintaining a percentage of disabled workers, recruiting disabled persons on an indefinite basis, building staff awareness, providing the appropriate facilities at workplaces, vocational training, receiving disabled persons on short-term assignments, temporary appointments, adaptation to technological changes and retraining.

#### *An opportunity for promotion*

As a result of this agreement, a worker with impaired vision, already employed by the bank as a receptionist, was put on a career development programme. In fact, it was the disabled worker himself who suggested the promotion as part of a package of adjustment proposals that he had drawn up jointly with a student during a 3-month vocational training programme. The project was submitted to the Employers' Federation in Paris and he was transferred to the distance-banking service. In this "routing unit", the disabled worker is in direct touch with customers, handling their requests and selling bank products.

#### *Validity of the industry-wide agreement*

This is one of the best examples in the collection. First and foremost, we consider it particularly interesting because it is the outcome of synergy between trade unions, the bank's management and the worker himself. Further, it bears out the validity of the industry-wide agreement, which was what triggered the

action. Indeed, over the years the agreement has produced significant results: 17 contracts were signed in 1996, 35 banks in the group have maintained the same percentage of disabled workers as at 31 January 1994 and 136 disabled workers have benefited from upgrading programmes.

### **Italy: Cases of vocational integration in the Consorzio Desio and A.Co.Se.R**

The two cases have similar characteristics. In both instances, it is a medium-sized enterprise, one being a woodworking enterprise (Consorzio Desio) and the other a service company (A.Co.Se.R.). The actions selected are the result of an agreement between both sides of industry designed to further the vocational integration of disabled persons. The two cases involve the same recruitment procedure. Local associations and institutions participated in both instances.

#### *Indefinite job contracts*

An agreement was signed between the trade unions and the enterprise. It provided for the hiring of disabled persons (three in one case, five in the other). Specifically, they were hired with a contract that provided for an in-house training period. At the end of the apprenticeship, a committee positively evaluated the progress made by the disabled persons. On that basis, indefinite job contracts were signed.

#### *All partners mobilized*

The cases are also of special interest owing to the involvement of other partners. Local institutions rallied behind these integration initiatives. More specifically, regional institutions subsidized the projects, the municipal vocational training services lent some assistance and the social services monitored the disabled persons during their apprenticeship by making medical teams available.

These two actions are important because they are the outcome of an initiative taken in partnership: the disabled persons were recruited following an agreement negotiated and signed by trade unions and employers. Besides, they demonstrate the positive potential role of other institutions such as training entities, the social services and local bodies in promoting actions to assist persons with disabilities.

## **The trade union: The crucial link**

The actions that we have presented, a mere four examples from the entire compendium, have two salient features: first and foremost, they illustrate the global approach followed by the European and national trade union movement in tackling the issues related to disabilities and appropriate solutions; second, these initiatives are part of a dynamic process, a work programme, which the ETUC intends to pursue with other institutions.

The underlying premise is the convic-

Quentin, O.: "Bilan et perspectives du dialogue social en Europe", *Les Dossiers de l'Europe*, No. 79, July 1998.

UNICE: Contribution to the hearing organised by the Working Group on employment strategies for disabled persons, (Council of Europe, Strasbourg, 5 Mar. 1998).

## Notes

<sup>1</sup> The ETUC currently comprises 63 national confederations from 28 countries in Western, Central and Eastern Europe, as well as 14 sectoral European trade union organizations known as European trade union federations, as full

members, representing altogether 58 million unionized workers.

<sup>2</sup> J. Lapeyre: Concluding remarks at the conference on the theme of management and labour and the rights of disabled persons, London, 4-5 Nov. 1993.

<sup>3</sup> The Declaration was approved at the seminar on trade unions and the rights of the disabled (Manchester, 10-11 Apr. 1995) and was adopted by the ETUC Executive Committee on the World Day of Disabled Persons, on 2 Dec. 1995.

<sup>4</sup> UNICE contribution at the hearing organized by the Working Group on Employment Strategies for Disabled Persons, Council of Europe, Strasbourg, 5 Mar. 1998

---

# Public Services International inspired by the need to nurture diversity in society and to oppose any form of discrimination

---

Ros Harvey  
Equality Officer  
Public Services International

---

*Public Services International (PSI) is the international trade secretariat which represents public sector trade unions in 137 countries around the world. PSI has 513 affiliated unions which represent 20 million public sector members. It is an autonomous body which works in association with federations covering other sectors of the workforce and with the International Confederation of Free Trade Unions (ICFTU). PSI is recognized by the International Labour Organization, has consultative status with the Economic and Social Advisory Committee of the United Nations (ECOSOC) and observer status with other UN bodies such as UNCTAD and UNESCO.*

PSI is strongly committed to promoting and defending equality of opportunity for all workers as part of its overall commitment to social justice and the acknowledgement of the right of all people to be afforded a chance to attain their full potential. It recognizes that discrimination faced by disabled persons may well be entrenched throughout the world, but that trade union organizations have a clear role and responsibility to represent all workers, and potential workers, including disabled persons.

Over the years PSI has adopted rigorous policies concerning the rights of disabled persons especially in relation to work. The following article will be constructed along the following lines:

- (1) outline the policy position and experience of PSI;
- (2) consider the key issues for PSI affiliates in promoting the employment rights of disabled persons;
- (3) consider some case studies of PSI affiliates who have been actively promoting the rights of disabled persons; and
- (4) make proposals for future action.

## PSI policies concerning workers with disabilities

### Policies

PSI has two main policy documents concerning disabled persons, as follows:

- Resolution No. 28 of the 1993 PSI World Congress on Equal Opportunities; and
- Programme of Action on Equality endorsed at the 1997 PSI World Congress.

Both these policy documents support proactive equal opportunity policies and programmes for workers who are disabled persons. They are inspired by the need to nurture acceptance of diversity within society and opposition to any form of discrimination. These documents recognize that trade unions have an important role in providing a secure and beneficial foundation for economic and social progress.

PSI has also adopted a policy on involvement with non-governmental organizations (NGOs). The current programme of action explicitly commits PSI to “strengthening work in coalitions with NGOs, especially in areas where NGOs are more active than are trade unions”. Affiliates are increasingly involved in joint action with NGOs. A good example of the rationale behind this is the following comment from the national trade union centre in Germany (DGB):

Fortunately a lot of progress has been achieved in the fields of self-organization and self-representation of disabled people. A broad movement of self-assistance of disabled people including their relatives and friends is at work ... there is a rather good understanding between these organizations and the trade unions. The latter remember that they began by fighting for a fair share in rights, participation and

wealth for people to whom equality is denied. Of course they sympathize with the organization of disabled people who began a similar fight some hundred years later. This sympathy expresses itself in common meetings, declarations of protest and demonstrations.

Such an attitude is a common feature in the work of PSI affiliates on the rights of disabled persons and will be discussed in the PSI Survey finding and the country case study material below. The only regional exception is Africa, where the obstacle is by no means a lack of commitment to cooperation with NGOs, but rather a lack of resources.

### **PSI equal opportunity survey of affiliates**

In 1996 PSI published the results of a survey of its affiliate's policies and practices with regard to equality of opportunity. The objective of the survey was to give a general overview of what PSI affiliates are doing to promote equal opportunities. The survey included specific questions about the action of affiliates in support of disabled persons. However, some caution needs to be exercised in interpreting the results as the respondents to the survey are likely to be the very ones active on equal opportunity issues. A summary of the results are set out below:

- 35 per cent of respondents had special committees to deal with the problems faced by disabled persons. The affiliates with special structures were concentrated in developed countries;
- 39 per cent of PSI affiliates reported that they had special structures and/or campaigns for disabled persons;
- 43 per cent of PSI respondents reported that they provided trade union training for disabled persons;
- 46 per cent of respondents reported that the issue of disabled persons was an issue to be addressed within the collective bargaining process or a negotiating strategy.

### **Among top priorities**

The survey also shows that the larger affiliates are more likely to be involved in activities on the rights of disabled persons. Therefore the percentage of PSI members, as opposed to affiliates, covered by unions taking action to promote and defend the rights of disabled persons is considerably greater than the proportions indicated above.

The PSI Survey also asked affiliates to report on coalition activity with NGOs on equal opportunity issues, including the rights of disabled workers. The survey shows that such joint activities are a common feature in the work of affiliates in Western Europe, Eastern Europe, Asia and Pacific, and the Americas. However, the vast majority of trade unions in Africa do not engage in joint projects with other NGOs or in coalitions of any kind. The consensus of the few that have attempted or considered the possibility was that such efforts were "negligible and not effective due to a lack of capacity to even begin to develop alliances."

The amount of work done by affiliates on the issue of integrating disabled persons into the world of work is substantial. Within the equal opportunity target groups, the reported activity in the area concerned is second only to activity on women's issues.

## **Issues**

### **Importance to PSI affiliates**

The rights of workers with disabilities is addressed at two levels of significance to PSI and its affiliates as follows:

Firstly, the rights of disabled persons are a traditional area of concern for trade unions in terms of injuries that occur at work. Many affiliates have developed policies and programmes in support of members who have been victims of workplace accidents. Such policies and programmes are in turn strongly influenced by the legal context in which unions operate. Of particular importance is the nature of workers' compensation law and how it interfaces with rehabilitation policies. If the workers' compensation law restricts access to adequate income support following an injury, the focus shifts to accessing income support. Such a practice can be in direct conflict with the need for rehabilitation. For example, if a worker has to pursue litigation to gain adequate income support or compensation for an injury, the emphasis is on proving the extent of the injury and the negative impact, a procedure which tends to contradict and can directly undermine the rehabilitation process. It also means that there is a demand on limited union resources to provide legal support for individuals. However, if a good rehabilitation infrastructure for injured workers is in place as well as adequate income support, the affiliate is free to devote limited resources to pursue broader policy issues. In countries where only little income support is

available or where virtually no rehabilitation infrastructure is in place, unions are more likely to be involved in providing direct support to injured members: for example, financial grants to union members who have been injured at work.

Secondly, PSI has an interest in the issue of disabled persons from a social justice perspective, i.e. irrespective of the cause and circumstance of the disability or injury. Such an interest is reflected in policy documents which are clearly grounded in a rejection of discrimination on any ground whatsoever and support for all people to enable them to achieve their potential regardless of personal characteristics. PSI's policy finds expression in the fact that affiliates often cover the workers employed in services for persons with disabilities. Such coverage in turn provides added interest as well as expertise in the issues concerned. This type of activity is geared at active support for disabled persons to enter and retain a position in the workforce rather than assist workers who have been injured at work. The case studies below furnish examples of such activity.

### **Impact of economic conditions on persons with disabilities**

It is important to recognize the impact economic conditions exercise on the opportunities available to disabled persons for their reintegration into the workforce. The experience of PSI affiliates has taught that during difficult economic times there is less interest on the part of employers to take the necessary steps to employ disabled persons. The accent shifts accordingly, not only in developing countries but also in the industrialized world as is shown in some of the case studies herewith.

### **Trade unions and NGOs join forces**

The ILO has adopted two major instruments concerning disabled persons: the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and its accompanying Recommendation (No. 168). Both these instruments recognize the role of trade unions in the process of integrating and reintegrating disabled persons into the workforce. However, these instruments are unusual in an ILO context because they both recognize the role of representative organizations of and for disabled persons.

The recent ILO report *Vocational rehabilitation and employment of disabled persons*<sup>1</sup> on the

position of law and practice of these instruments emphasizes the need for effective consultation with organizations representing disabled persons. It encourages member States to promote the foundation of organizations which are truly representative of disabled persons.

A necessary basis for successful coalition work is a clear understanding of the respective roles of, on the one hand, NGOs working to promote the cause of disabled persons and of trade unions on the other. Coalition work is more prevalent in countries with a highly developed trade union structure and role in society. Similarly, the advocacy of NGOs is likely to be more militant and better defined in countries with a commitment to strong organizations of civil society. The reality is that both trade unions and NGOs representing disabled persons assume distinctly different roles: while they both share a common interest in social justice and the rights of disabled persons which makes coalition work possible and desirable, trade unions as such assume a unique role in society in terms of representing organized labour: they are the only organizations in civil society mandated to engage in collective bargaining with employers. Their unique role means that a positive agenda aimed at increasing the employment of disabled persons can be pursued with the support of organized labour. Trade union strength and influence are particularly important where legislation or government programmes are inadequate, or where economic conditions are such that employers are reluctant to employ people they perceive as less productive. A number of examples follow in the case studies below.

### **Representation of disabled persons within trade unions**

Since trade unions represent workers in a wide range of workplace issues, disabled persons should also enjoy the right to participate fully in trade union structure and functions as in any other societal institution. Firstly, trade unions need to ensure that their affirmative action strategies are in place in order to afford disabled persons a chance to participate fully in their structures. Furthermore, many unions have set up special committees within their structures which allow for the direct representation of the views of their members who are disabled persons. While the arrangements for such representation varies both regionally and nationally, such developments are positive and encouraging.

## Case studies

### 1. United States

#### *Action, cooperation and access at all levels*

The American Federation of State, County and Municipal Employees (AFSCME) is the public sector union in the United States which covers employees at state, county and municipal levels. AFSCME's goal is to improve the lives of disabled persons, both in and out of the workplace. In 1982, the AFSCME International Executive Board passed a resolution calling for AFSCME affiliates, staff, representatives and stewards to enforce existing laws and contract provisions that protect the rights of members who are disabled persons. Since then, heeding the guidance of its Advisory Committee for Members with Disabilities, AFSCME's efforts on behalf of people with disabilities have expanded significantly, culminating in the passing of the Americans with Disability Act (ADA) of 1990 and its implementation.

AFSCME lobbied actively for the ADA and was part of a consortium of advocates for disabled persons. The union coordinated a post-card writing campaign among its 1.3 million members intended to reach all the members of Congress, and sent letters supporting the law to all senators and representatives. In recognition of the union's efforts, AFSCME representatives were invited to the signing of the Bill when it became law on 26 July 1990.

AFSCME first published its handbook *Fighting for the rights of employees with disabilities: An AFSCME guide* in 1984. Since then, it has been regularly updated to reflect changes in society and related laws. The purpose of the guide is to promote awareness of the problems confronting its members with disabilities, represent such members better, and provide guidance that will encourage members who are disabled persons to become more active in the union at the local and council levels. The National Organisation on Disability (NOD) hailed this guide as a publication of "special importance to furthering the goal of full participation in all aspects of life for Americans with disabilities". The guide summarizes important disability laws, highlights reasonable accommodation, focuses on AFSCME activities for members with disabilities across the country, and lists names, addresses and telephone numbers of various disability organizations as well

*Firstly*, unemployment is more than twice as high for disabled persons and tends to last for a longer period. These figures hide the real level of unemployment because many disabled persons have simply abandoned the search. The participation rate in the labour force for disabled persons is only 40 per cent compared with 72 per cent in the case of other German workers. The high level of real unemployment of disabled persons in the labour force is a result of: (1) exclusion, because the level of disability makes paid work impossible; and (2) the unwillingness of employers to accommodate the requirements of workers with disabilities – particular during times of high unemployment when labour is freely available.

*Secondly*, high unemployment, the costs of unification with the former German Democratic Republic, and ideological prejudices against social regulation have meant that the federal government has pursued a policy of reducing social rights since 1996. Germany has witnessed a reduction in social security benefits, rent and health payments, cuts in funding for rehabilitation services and poorer protection for older people and disabled persons against dismissals. All these cuts have disproportionately affected disabled persons since they rely on these rights and protection for their welfare more than able workers. The new Schröder government made commitments during its election campaign to reverse some of these trends.

*Thirdly*, widespread social insecurity for all workers and fears about the financing of the social system have fostered increased animosity towards those who depend most on social transfers. The concept of solidarity with disabled persons is therefore under pressure.

Since 1996 the German trade union movement has been fighting to protect social rights in a range of different areas. Many legislative proposals have been considered simultaneously. One of these was the reduction in social entitlements for disabled persons. The proposed measure was opposed by the trade union movement through demonstrations, legal advice on the negative impact of the proposed changes, and finally an attempt at negotiation in the spirit of consensus decision-making. The trade union movement only achieved minor changes in the legislation through its campaign.

In the meantime, the impact of high unemployment and the pressure on economic performance have undermined the employment opportunities for disabled persons. German employers are, as a rule, replacing older and

disabled workers with a younger, trained and unimpaired workforce. Even in companies with good human resources policies, the financial difficulties at all levels of management are inducing them to oppose the employment of any person who does not promise productivity of the highest level. Such an attitude persists despite the government offer of long-term wage subsidies aimed at offsetting losses in productivity.

Some elected representatives of disabled persons in the factories and some workers' councils reacted quickly to the worsening situation. In 20 to 30 plants collective bargaining agreements have been reached which oblige employers to give priority to employing disabled persons, the adaptation of workplaces and protection of employment. In these agreements a new approach has developed which can be characterized as prevention of discrimination: jobs that will be available in the near future are identified and steps taken in plant modification to ensure that a position can be made available to a disabled person. Where such measures have been applied the employment of people with disabilities has remained more stable.

Despite such recent difficulties, the DGB reports that there is a good understanding between organizations representing disabled persons and trade unions.

### 3. United Kingdom

#### *Self-organization and innovative policies*

UNISON is the trade union in the United Kingdom which represents members who work largely in health, public utilities and local authorities. It provides funding and facilities to ensure equal opportunity in the workplace. At the national level it has a National Disabled Members' Committee to promote and monitor equal opportunity in the workplace. The committee works with other national committees and with outside organizations to further the cause of disabled persons.

UNISON provides for a national conference of members who are disabled persons. It proposes policy and identifies campaign priorities. The conference links with the national committee and with the union policy-making forums. The direct involvement of disabled persons through this dedicated structure is known as self-organization. There are three other self-organized sectors – lesbians and gays, women

workers, and black workers. Each of these is encouraged to pay special attention to the needs of disabled persons. For example, the lesbian and gay structure has a caucus for lesbian and gay members who are also disabled persons.

UNISON encourages the use of negotiated agreements aimed at increasing the hiring, retention and promotion of disabled persons.

The union has formulated a clear policy which sets out to achieve the following key aims:

- improve the proportion of disabled persons in the public sector;
- retain staff who become disabled in the course of their work;
- enhance training;
- improve promotion prospects; and
- improve social opportunities in the workplace for people with disabilities.

Some of its more innovative policies call for ensuring that a dedicated personnel officer and union representative are available to support a disabled person returning to work, phased flexible return to work hours, restructuring of jobs to enable a disabled person to continue in it and a joint union-management team to oversee workforce monitoring.

The union also aims to be a model employer itself in the recruitment and retention of staff who are disabled persons.

#### 4. Netherlands

##### *A good, just and affordable legal framework*

The umbrella public sector union in Holland – the ABVAKABO FNV (Union for employees in the public sector and health care affiliated to FNV, Netherlands Trade Union Confederation) – adopts new policy orientations every four years at its Congress of affiliates. The 1998-2002 policy programme states the need for a *good, just and affordable legal framework* in relation to the reintegration of disabled persons into work. While compulsory insurance against occupational disability remains important and should be supplemented, there is a need for increased work in the fields of prevention and reintegration in the future.

Their policy programme also favours affirmative action to ensure that disabled persons be given preference in hiring whenever a company's workforce has disproportionately few people with disabilities.

The ABVAKABO FNV is committed to making arrangements through collective bargaining for employment shares for people with disabilities, based on standards mentioned in the new law known as the *REA* which was passed in July 1998. The FNV intends to enforce these agreements legally if necessary.

The FNV has also recently published a book about successful reintegration of disabled persons. Its 381 pages give detailed examples of 150 cases of successful work integration throughout the country.

#### 5. Canada

##### *Towards a partnership with NGOs*

(a) Comment by the National Union of Public and General Employees which represents non-federal public sector workers in Canada

Ever since the late 1960s, people living with disabilities have organized themselves as consumers and have formed their own movement in order to achieve and maintain full social and economic equality in Canada. The goal of the consumer movement is to enable every individual living with a disability to achieve maximum personal independence and full community integration through the regular political decision-making process and delivery system.

The movement of persons living with disabilities is based on principles shared by the trade union movement. Both movements have a democratic grass-roots basis in which their members are struggling to put an end to discrimination in our society. Both seek adequate input into the decision-making processes of those services and facilities that directly affect their lives.

Shared points of concern between trade unionists and people living with disabilities include:

- an adequate income security system for all Canadians;
- the advancement of human rights for all Canadians; and
- the promotion and protection of workers' rights.

These are issues that both movements spend a great deal of their energies in promoting through different mechanisms including local meetings, conventions and conferences, newsletters and other publications, educational programmes, etc.

Both the trade union movement and the consumer movement of people living with disabilities have unique resources to offer each other. Consumer organizations can inform trade unionists on various types of disabilities, and the functional limitations associated with them. They are also more knowledgeable about the services available to people living with disabilities and, therefore, are able to offer advice to trade unionists who become physically/mentally challenged or who have a family member in this situation. Trade unionists need to learn more about concepts such as integration, full participation, and normalization, and have to be shown how to promote these concepts as a way of ensuring equality of opportunity for people living with disabilities.

(b) PSAC Canada addresses minority issues

The Public Service Alliance of Canada (PSAC) represents mainly federal-level employees via 17 component unions in federal government departments. In 1997 it published a detailed report on its activities concerning disabled persons. The report is entitled *Disability Action in the PSAC*. It focuses on the different forms of action taken within the PSAC from the beginning of the 1990s and emphasizes the importance and the interconnected nature of such actions.

The union began its activity in 1990 when a group of members who were disabled persons met to develop strategies aimed at promoting disability issues within the Alliance. Pre-existing human rights committees within component unions were also useful in channelling the concerns of disabled persons together with other groups representing different minorities – such as the Lesbian and Gay Support Group – who had already done a lot of work in raising equity issues.

A national conference for union members with disabilities was first held in 1993. It adopted several resolutions focusing on providing disabled persons with better access to the Alliance and on finding ways in which they could continue to make their presence known in the union. A large proportion of these resolutions were placed on the agenda of the 1994 PSAC Triennial Convention and all but one were adopted. Their proposals included the following:

- a union policy on alternative media for communicating with disabled persons (e.g. large/bold print, audio tapes, Braille print and computer files);

- a plan of action on employer initiatives including the need to work with NGOs to lobby for strengthened employment equity legislation, representation to employers for more permanent jobs for disabled persons, and the need to work with other organizations on workplace problems;
- improved public data collection and availability with regard to employment equity;
- bilateral negotiations with Treasury specifically on employment equity;
- demands for union-management committees at departmental level to address the question of employment equity;
- a demand to review disability insurance to ensure that employment obligations to newly disabled persons are met through rehabilitation measures rather than retirement;
- the production of an information kit for disabled persons and its incorporation into trade union training programmes.

Coalition work with other organizations dealing with equity interests within the union, within the broader Canadian trade union movement, and with disability organizations outside the labour movement are very important in order to make progress on issues of mutual concern. One such issue under consideration at present is the tendency for downsizing to affect disabled persons more adversely than the able-bodied workforce.

## Proposals for future action

### National unions

Trade unions can play an important role by encouraging their members to become aware of issues involved in securing and maintaining employment for disabled persons. For example, no one knows the workplace better than trade unionists. Such knowledge is invaluable in the process of making the workplace accessible to disabled persons so that they may pursue and gain employment in the same way as other people. Similarly, trade unionists are able to make recommendations on how jobs may be restructured to accommodate the special needs of disabled persons who possess the necessary skills to perform the various jobs in the workplace. Furthermore, trade unionists can also formulate such recommendations into union policy for action.

Trade unions are of course also employers in their own right. It is important not to overlook the role of a trade union as a model employer in respect of the disability issue. However, it is the collective bargaining system that the trade union movement can best use to protect and increase employment rights and opportunities for disabled persons. Historically, trade unions have led a fierce battle to protect their members who were victims of workplace accidents but have played a less active role in advancing the human rights of disabled persons through collective agreements.

Today, trade unions are beginning to realize that they can use the collective bargaining system not only to respond to the needs of their members who are disabled persons, but also to enhance the employment opportunities of disabled persons who are not yet in the workforce. In fact the whole concept of affirmative action programmes still remains a priority for the trade union movement. Such programmes represent for trade unions a means of correcting the historic discrimination suffered by disabled persons in our society. Trade unions also need to continue to fight for contract language in their collective agreements to ensure that the following measures are taken:

- job retention and the right for an adequate vocational rehabilitation programme for disabled persons – whatever the cause of their disability;
- no discriminatory practices are directed against disabled persons;
- a supplement to workers' compensation benefits provided wherever necessary;
- the provision of technical mechanisms or workplace modifications to accommodate disabled persons; and
- a greater variety of entry-level positions made available to displaced persons who are unable to perform "non-essential" duties of entry level positions.

## International level

It is clear from the above examples that much progress has been achieved in coalition work between trade unions and NGOs on disability issues. However, the same is probably

less true of international organizations mandated to address the sector. Partly accounting no doubt for their lesser involvement in such joint efforts may be the disparities in the legal frameworks and resources available in the member countries. There is a need for more work to be done to establish networks between trade union and NGO bodies internationally as is encouraged by ILO standards. The basis of such networking – and more formal activity – should first involve clarifying the roles of the two types of organization with regard to employment-related concerns.

## Consultation and representation

ILO standards make reference to the need for governments to consult the social partners. As is demonstrated by some of the case studies, effective consultation needs to go deeper. Union positions – at whatever level – on disability issues are most effective when they have been developed in consultation with members who are disabled persons themselves.

## Economic questions

The underlying threat that economic pressures weaken commitment to disability issues is prevalent in the foregoing studies and should not be skirted: labour market deregulation and labour market flexibility may conceal increased inequity. As has been mentioned, there is evidence that downsizing affects disabled persons even more adversely, already disadvantaged as they are in the workforce. However, more comparative information would be required to draw up any valid comparative assessment both geographically and over a set period of time. Better ways must be found to blend efficiency with equity.

## Note

<sup>1</sup> ILO: *Vocational rehabilitation and employment of disabled persons*, Report of the Committee of Experts on the Application of Conventions and Recommendations, General Survey on the reports on the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168), 1983, Report III (Part 1B), International Labour Conference, 86th Session, Geneva, 1998.

# Increased competition: A pretext to exclude disabled persons and encourage practices of exclusion, isolation and segregation

---

**Silvana Cappuccio**

Health and Safety Officer  
International Textile, Garment and  
Leather Workers' Federation (ITGLWF)

---

The process of globalization has affected working life in many ways during the past decade. There have often been apparently contradictory signals: on the one hand, there has been more integration of workers of different races and cultures, on the other a threatening sense of individualism and a lack of tolerance seem ever present.

High unemployment, advanced technologies, new vocational specialization have all brought a new vision of the world of work in which former certitudes are no longer valid. Moreover, uncertainty caused by the freer movement of production often creates excessive competitiveness and selfish attitudes towards others. Feelings of uncertainty are even stronger on the part of disadvantaged persons who feel even weaker or "different" for whatever reason. Consequently, the risk of excluding these individuals from the workplace and society as a whole becomes increasingly real. So it might not be excessive to say that a new form of racism is becoming evident today.

The same holds particularly true for disabled people who cannot compete on equal terms with others. In addition, when confronted with this type of difficult situation, they feel obliged to try harder and make a bigger effort in order to succeed in overcoming the difficulties they face. When disabled persons find themselves confronted with extreme situations of employment competitiveness, it often becomes very difficult for them to enter the workplace. Employers are often only interested in their production and profit margins to the exclusion of other considerations. In addition, disadvantaged people can find themselves forced to accept any type of job in order to avoid being totally excluded from the working world. When unemployment rises, fear becomes paramount, as does a lack of tolerance toward those who are "different" in any way.

## Hidden disabilities

Many people have hidden disabilities such as diabetes or chronic heart disease, but for others disability is more obvious as with visual handicap or restriction on mobility. Thus disabled people do not constitute a homogeneous group with a separate identity. A disabled person is only disabled with reference to a given situation, and not to any and all situations. We must, in addition, keep in mind the problems faced by older people who are, technically speaking, not disabled but who often have decreased abilities or less physical strength.

In practice, a partial deficiency of even a single function often suffices to label the entire person as disabled. So the imperative challenge facing the trade union movement is to succeed in dealing with the needs of all persons who comprise the working world by recognizing and guaranteeing equal opportunity and dignity for all of them. In turn, such an aspiration requires a profound knowledge of the diversity of workers' needs. In this way a comprehensive representation policy can be drawn up, not as a separate field but as a form of true integration.

## Scarcity of data

Inasmuch as a general concept of disability does not exist, no reliable statistics can be found in this regard. However, such scarcity of quantified data obviously affects the question of quality as well. Current research in this field often concerns itself mostly with quantitative and only rarely with the qualitative aspects of the problem. It mainly concentrates on the employment of disabled persons, analysing, for example, whether they are based on laws regulating compulsory percentages or on specific programmes and projects. It seldom, however, provides information on what occurs outside offi-

cial programmes, on the duration of disabled persons' employment in a company, or on their professional career or psychological condition.

All employment contracts at all levels must require employers to adopt progressive employment policies and practices. The aforementioned contracts should be based upon the negotiation of equal opportunity agreements covering disability in the following areas: recruitment, retention, career development, access to adequate training and the opportunity to participate in different trade union activities. Unfortunately, disabled persons generally face considerable discrimination when seeking employment, are usually confined to lower-paid jobs, and are passed over for promotions. In general, disabled women face double discrimination: they are given less qualified and lower paid jobs and, in addition, are often confined to a form of "ghetto".

In cases where a disabled person obtains a university degree, he or she must also overcome certain sociocultural obstacles in order to resolve the conflict between the qualifications he or she has achieved, and the social image resulting from his or her handicap. In the United Kingdom, for example, a survey in 1990 found that employers are six times more likely to turn down a disabled person rather than a non-disabled one for an interview even if his or her qualifications and experience are identical to the non-disabled applicant. Another survey based on 449 interviews indicated that 70 per cent of disabled persons were employed in semi-skilled or unskilled manual jobs, while only 7 per cent held managerial or supervisory positions. In addition, only 1 per cent of the latter category actually received the salary compensation due to them as managers. Furthermore, half of the aforementioned replies specified that promotion was a definite area of discrimination.

### **Favour abilities rather than disabilities**

Recruitment should favour abilities rather than disabilities. Consequently, the abilities of disabled persons should be stressed rather than their disabilities or compensating such persons for the very fact of being different. Our goal should therefore be a dual one: to identify suitable job opportunities for disabled persons based upon their professional abilities, and not to allow potential employers to confine such persons to less-qualified jobs as is often the case. It would also be advisable for employers to provide alternative employment in the same factory for their workers who are disabled persons.

### **No "standard" man or woman**

In cases of progressive disability, such as multiple sclerosis, employers should provide alternative work possibilities in their establishments in order to avoid that persons affected by disabilities be ostracized socially as well as physically. Employers must also be provided with more information on the regulatory framework and the manner in which it supports and facilitates the employment of persons with disabilities. A "standard" man or woman does not exist. Workplace design, however, is normally based upon an abstract standard. Such an approach certainly does not aid the integration of disabled persons into the normal workplace. Certain disabled workers are not even in need of special arrangements to do their jobs, while others may find difficulties adapting to the workplace.

It is only by examining an actual working situation that it becomes possible to understand problems and find proper solutions for disabled persons, particularly with regard to carrying out specific tasks. For example, a paraplegic person may not be able to walk but he or she might be able to use a computer. Negative work situations such as inadequate toilet facilities, lunchroom and refreshment services, parking for the disabled, welfare facilities and occupational health and safety conditions are often below standard. In addition, certain specific hazards are particularly dangerous for disabled persons, namely dangerous fluids, wet and slippery floors, difficult access for those using wheelchairs due to incorrectly conceived ramps, lifts and hoists, as well as dust and air pollution. In order to acquire an accurate evaluation of risks at the workplace, the different needs of the workers involved need to be carefully considered. Specific ergonomic solutions should be explored. Consequently, adapting the working environment to such needs would mean the creation of workplaces which are more comfortable and which respond more fully to workers' needs in such a way that they perform their different functions in a serene atmosphere without any sense of limitation. However, failure to adapt the workplace to the workers' needs arouses in the disabled person a greater sense of fragility.

### **Ergonomic solutions**

Some devices which would be useful in this regard would include speaker phones, special computer equipment, sighted readers for

vision-impaired workers, financial assistance for those unable to use public transport, as well as regular consultation facilities. Professional advice and support must also be made available to disabled persons to help them when they are seeking work. The medical advances that have been made in the areas of re-education and rehabilitation are fundamental tools which may prove invaluable in the process of re-integrating disabled persons into working life, regardless of how their disability originated.

### **Lacunae in education**

Furthermore, the manner in which disabled persons succeed in overcoming the psychological and practical barriers they face has a direct and inevitable effect on their entire lives. Often, persons who are disabled either from birth or who become so during their childhood have of necessity received an unbalanced form of education. Consequently, their integration into the working world would require not only high-level assistance but the possibility of compensating for the lacunae in their early education.

### **Workers face increasing risks**

The issue of disabled workers and their integration into working life is not one that will disappear on its own: the profusion of new technologies has resulted in increasing the risks we face in our everyday lives as well as the ease with which accidents can occur. In particular, the continual evolution of production systems, personnel cuts and the demand for higher productivity, thereby placing more pressure on individuals, do not favour the integration of disabled people. Rather than address the issue of the integration of disabled persons into the workplace, the current trends in the labour market are such that they may well add to the already large percentage of disabled persons in society. Trade unions must find ways to put a stop to the widespread practice of excluding the disabled person under the pretext of increased competition which in turn is fertile ground for practices of exclusion, isolation and segregation.

### **Protection or equal opportunity?**

Although specific measures for promoting the vocational rehabilitation of the disabled do exist in most industrialized countries, the manner in which such promotion is carried out

varies in the different countries involved. Protective legislation promoting the employment of people with disabilities in European Union (EU) member States has been characterized by Lunt and Thornton (1993), among others, as tending towards compulsory employment measures, while countries such as Canada, Australia and United States have focused more on anti-discrimination and equal opportunity legislation. Another recent publication (Thornton and Lunt, 1997) suggests that a considerable blurring of these boundaries has occurred. A line can still, however, be drawn to distinguish between countries positioning legislation on disability within the context of a broad anti-discriminatory policy, and those operating compartmentalized measures such as quota legislation. While EU countries still tend to fall within the latter, many of them have now adopted an anti-discrimination policy framework, often (France, Germany, Spain, potentially Ireland) in addition to quota legislation. The focus of this anti-discrimination legislation has tended to be on employment retention and protection rather than promotion. Thornton and Lunt also found a general trend towards "the rhetoric of obligation rather than compulsion", towards the promotion of integration, and the facilitation of the right to work.

### **Mere production objects**

The overall situation with regard to the disabled in high-income countries is quite different from that in low-income countries. The information actually available exclusively concerns the high-income countries, probably because the struggle for survival in low-income countries is so pervasive that the disabled are often immediately excluded. The fact that the latter are not even taken into consideration should give us pause for reflection. The relatively limited information that is available indicates that the road leading to true integration in the latter is still a long one. In some of these countries, for example, women who have either been born with disabilities or acquired them as a result of acts of violence have become socially useless, inasmuch as they are considered to be unable to fulfil their obligations as mothers and wives. They therefore become mere production objects for the marketplace and are generally confined to ghettos where they sew clothing.

New strategies can be developed by trade unions today, thanks to existing and new legislation, the progress made in ergonomics and the

activism of the large associations that represent the disabled. Providing equal opportunity to a disabled person and to an able-bodied one, given the same abilities, can only be possible if we favour the disadvantaged person, i.e. by providing him or her with equal opportunity. The departure point for all trade union policies and action initiatives at the local, national and international levels among officers, shop stewards and works councils, is the creation of equal opportunities for all disabled people. Obviously, all the members of a trade union must be involved in the process. Sad to say, resistance can sometimes be found within the union itself, even among the non-disabled working colleagues, with regard to integrating the workers who might be considered to be "different". Underestimating such attitudes however, could turn out to be short-sighted inasmuch as severe conflicts in the workplace coupled with manifestations of intolerance could easily follow.

In psychological terms, seeing a disabled person often makes a non-disabled one aware of his or her own physical and mental fragility. Such a perception, often prompted the members of a French rehabilitation team to state when interviewed: "We are all potentially disabled", an awkward truth that is better avoided.

In this day and age, however, such attitudes are less and less acceptable, since scientific and medical progress now permit the analysis and comprehension of the effect of physical deficiencies on people's functional abilities. Considerable progress has recently been made in the area of social medicine with regard to workers with disabilities. For example, the increased number of illnesses caused by muscular-skeletal disorders has been found to be linked to the tasks carried out at the workplace. The progress that has been made in our knowledge of disability has brought with it the creation of extremely helpful technical aids that allow the disabled, on the one hand, to compensate for their disabilities, and on the other, to deal with the problems relating to on-the-job performance.

## References

- Lunt, N.; Thornton, P. 1993. *Employment policies for disabled people: A review of legislation and services in fifteen countries*, Sheffield, UK, 208pp. (Research Series, No.18)
- Thornton, P.; Lunt N. 1997. *Employment policies for disabled people in eighteen countries: A review*, York, UK, University of York, Social Policy Research Unit, VI, 313pp.
-

# Integrating persons with disabilities into the teaching profession: A matter of concern to trade unions

---

Fred van Leeuwen  
General Secretary  
Education International

---

*While the integration of children with disabilities into the school system and the rehabilitation of teachers after occupational accidents or disease have long been the subject of trade union claims, the integration of disabled persons into the teaching profession, in contrast, remains an area that has received little attention from them. The following article gives an overview of the development of the situation in this regard.*

Many teachers' unions have drawn up action guidelines and detailed handbooks on the integration of children with specific needs into the school network. Depending on the country, union documents set out precise criteria as to the prerequisites for the successful integration of children, the necessary supervision, staffing requirements and methods for overseeing the observance of these provisions. It entails, for instance, adapting computer terminals to operate with Braille, installing special facilities in auditoriums for persons with hearing impairments or providing interpreters or auxiliary teachers for persons using sign language.

## Integration into the teaching profession

Some trade unions have developed a proactive strategy for integrating teachers with disabilities. Canadian (above all in Quebec) and Japanese teachers' unions are the leaders in this field.

Japan's Nikkyoso teachers' union (280,000 members) set up a Committee for Teachers with Disabilities to look into the conditions of employment, promotion and job security for disabled teachers and to devise policies accordingly. The Japanese law promoting the employment of disabled persons provides for a 2.1 per cent quota of disabled persons in the civil service and a 1.9 per cent quota in the private sector. According to Kyoji Ogawa, Director of the Department for the Employment of Disabled Persons in Japan, the public education system is still short of that figure, the current level being 0.9 per cent. The Japanese Ministry of

Education advises the respective zones to draw up five-year action plans to employ a 2.1 per cent quota of disabled teachers in public schools in their jurisdictions. Nikkyoso regularly call on the Japanese Government and the Ministry of Education to introduce a system to guarantee the rights of disabled teachers with disabilities.

The 51,000-strong Quebec Teachers' Union (CEQ) has also elaborated a fairly detailed policy on the integration of teachers with disabilities. According to a CEQ study published in 1986, an estimated 7.4 per cent of the Quebec

Education International (EI) was created in 1993 by the amalgamation of two international teacher organizations – the World Confederation of Organizations of the Teaching Professions (WCOTP) and the International Federation of Free Teachers' Unions (IFFTU). Today it represents 23 million educators at all levels, from the pre-school to the post-graduate, through its 284 national member organizations spread over 149 countries and territories. EI has a secretariat in Brussels and five regional offices for Africa, North America and the Caribbean, Latin America, Asia and the Pacific, and Europe. Its purpose is to improve the status, rights and conditions of employment of educators and to promote a good standard of public education freely accessible to all.

Information: Tel. (+322) 224.0611  
E-mail: [educint@ei-ie.org](mailto:educint@ei-ie.org)  
Web page: <http://www.ei-ie.org>

population were suffering from “significant or persistent impairments” in 1984. Luc Allaire, the author of the study, says that in addition, 90 per cent of these 500,000 disabled persons are jobless, which means that they comprise the social group with the lowest level of paid employment.

A CEQ resolution on the vocational integration of disabled persons, adopted in March 1986, called on the union, inter alia, to ensure that clauses on access to equal treatment provide for such supervision as will permit members to help create the conditions for promoting the employment of disabled persons and their mobility within the enterprise [and to] oppose any element of exclusion from work based on birth or the recognition of a handicap.

### **Covered by the law on the civil service**

All across the world, the efforts of countless trade unions are directed more simply at ensuring that laws on equality of employment are implemented and respected, independently of any discrimination based on physical and mental impairments. Accordingly, the German law on the civil service, which compels the State as an employer to include a certain number of disabled persons, covers teachers in Germany. While observing the spirit of this law, the various Länder have made their own adaptations to it. The result is that to date, the 230,000 member-strong German Teachers’ Union, GEW (Gewerkschaft Erziehung und Wissenschaft), has never tabled this issue in bargaining for collective labour contracts.

Being mostly civil servants, teachers are indeed covered by legislation governing access to education and employment for the disabled. But although teachers’ unions have not generally considered it necessary to adopt specific action guidelines to protect access for disabled persons to the teaching profession, this attitude may well be changing, along the same lines as in New Zealand.

### **Crucial social policy reverses**

Rosslyn Noonan, former National Secretary of NZEI (New Zealand Educational Institute/Te Riu Roa, 22,600 members) and currently Human and Trade Union Rights Coordinator for Education International (EI), explains that for many years the social laws of New Zealand’s Labour Government were so complete and generous that the union did not consider it necessary to adopt a specific pro-

gramme on the integration or return of teachers with disabilities. The return of the Conservatives to power in the early 1990s dealt a serious blow to social policy. In 1993, the NZEI/Te Riu Roa realized, for instance, that support personnel and part-time employees were not fully covered by the legislation on compensation in the event of occupational accidents, which meant that if an accident occurred during vacation, the educator was not covered. According to NZEI executive Carole A. Hicks, the situation was corrected by negotiations that ended in 1994.

### **Adapting architecture and transportation facilities**

Läraryförbundet, one of Sweden’s teachers’ unions – 175,000 members – also strives to ensure the effective application of the national law governing the equality of opportunity, which contemplates discrimination-free access to education and employment. Agneta Bröden of the Education and Employment Department at the Läraryförbundet Sweden headquarters says that the Government, regions and municipalities are obliged to observe this law, the application of which was redefined on 1 January 1994. It contemplates equipping work posts or effecting the necessary adjustments in work environments to allow for the integration of disabled persons. Conversions are also conceivable to remedy certain problems stemming from the architecture of school buildings or transportation-related difficulties.

### **Vocational training**

Taking into account the nature of impairment, functional limitations and degree of autonomy, resource needs for vocational training or upgrading will necessarily differ from one disabled person to another. Some countries provide special teacher-training facilities for disabled persons. Canada, for instance, sets great store by distance learning for persons unable to travel and adapting the means of dissemination to be able to reach disabled persons, whatever their impairments or functional limitations.

### **Finding the appropriate means of outreach to this population group**

In Sweden, much is also being done to cater to the needs of disabled persons at the level of high school, vocational training and appren-

ticeships. Hence, students undergoing teacher training receive personalized assistance to attend courses and are provided with specially adapted technical equipment where possible. All university budgets contain a specific appropriation for the needs of disabled students.

The CEQ has formulated a number of claims concerning the education of disabled adults, especially those who have already suffered an injustice by being excluded from the school system. The CEQ claims document states that the Ministry must reach out to those who as adults are now excluded from taking part in the life of the community owing to their lack of education. Adequate ways must be found to target this social group which cannot be reached by traditional methods, and programmes and courses devised to minister to their needs. To that end, the Ministry could enlist the collaboration of agencies in the field that are in touch with this group.

### **Rehabilitation of teachers with disabilities**

Most teachers' unions defend the right of educators who have developed functional limitations as a result of an accident or illness to return to their positions at their places of work.

Agneta Bröden of Lärarförbundet Sweden believes that when it comes to reintegrating teachers who have had an accident in the course of their career, society is duty-bound to allow them to continue their professional life for as long as possible. To that end, the reconversion of the work environment and of vocational techniques are high on the list of priorities, as well as the possible redistribution of tasks or retraining.

In Japan too, Nikkyoso is negotiating the implementation of support measures to enable teachers who have become disabled in the course of their career to keep their jobs for as long as possible.

### **Part-time work and disability allowances**

In the Canadian province of Saskatchewan, teachers who have sustained a disability in the course of employment are allowed to resume their teaching post on a part-time basis, with their salary supplemented by disability allowances. In this way, teachers whose disability prevents them from teaching for a whole day are able to remain active. According to Isobel Tamney of the Saskatchewan teachers'

### **Cathy's testimony: deaf teacher in a traditional classroom**

Cathy was not always deaf. As a result of a congenital disease, she started losing her hearing at the age of 13. Having learned to speak, she lost her hearing while training as a teacher at St Mary's University in Halifax. Cathy had learned sign language and lip-reading and obtained her teacher's diploma with flying colours. Wishing to teach "normal" children, she applied for an internship as a science teacher at a junior high school.

Two teachers initially assisted her. It was difficult for Cathy in the beginning as she was unable to communicate with her pupils or keep class discipline. Such difficulties were soon overcome and it became clear to everyone that the behaviour and learning patterns of the pupils with the deaf teacher differed substantially from those of the others.

Cathy's pupils were asked to discuss their experience. At the beginning, the pupils had been uncomfortable with the idea that Cathy could not "hear" them. She taught them the rudiments of sign language and encouraged them to write certain questions or comments on the board. As conversation was more difficult for her, she would rely more on practical science experiments than on explanations of them. She also had to remain focused on her subject and not get carried away in diversions, which meant that the course could progress more rapidly.

It was extremely difficult to maintain class discipline and at first the pupils talked too much, knowing that Cathy could not hear them. But the pupils nevertheless soon came to feel responsible for the proper running of the class. Because Cathy's elocution was poor, the children had to concentrate and exercise self-discipline in order to hear her. Over and above her subject, Cathy also inculcated very important values in her pupils: notably, respect for differences, a taste for performance and for surpassing themselves. The upshot of the experience is that the integration of disabled persons is obviously beneficial to the disabled person, but also has numerous positive spin-offs for the work, or in this case, scholastic environment.

union, a member of the Canadian Teachers' Federation FCE/CTF, the health insurance system also allows for the purchase of ergonomic equipment that will enable teachers to pursue their careers for a longer time.

As is often the case when trade unions act against discrimination, their claims for the equipping or re-adaptation of work environments to allow for the inclusion or return of disabled persons ultimately contribute to improving the long-term conditions of occupational health and safety for everyone.

Anxious to promote equal opportunity and treatment in all spheres, more and more teacher unions are drawing up trade union policies for the integration of teachers with disabilities into the school system, to the general good, as demonstrated by the experience of Cathy, a deaf teacher (see box on p. 59).

---

# Vocational rehabilitation and employment of persons with disabilities in Germany: The IG Metall approach

*The following article draws on a series of papers issued by IG Metall, Germany's largest trade union, concerning its policy on workers with disabilities. It describes the situation of this category of persons in the present economic setting and outlines the history of legislation in this regard and trade union activities in defence of people with disabilities. It then enumerates the reforms that would be needed to improve their chances of rehabilitation and employment and concludes by suggesting certain innovations that could improve the situation of persons with disabilities on the job market.*

## Disabled persons and the problems of the world of work

Non-discrimination is now enshrined in the German Constitution: "No one shall be disadvantaged by reason of a disability" (Art. 3, Basic Law, amended in 1994 to incorporate the provisions of ILO Convention No. 111). The struggle for equal opportunity for disabled persons is gathering pace and is giving fresh impetus to trade union endeavours in this sphere. From the trade union viewpoint, the basic principles underlying work for people with disabilities are solidarity, equal opportunity, integration, participation and freedom of choice in the occupational and personal spheres.

Labour market conditions have deteriorated sharply under the impact of globalization and keen competition. Employers are doing everything in their power to downsize their workforces, and the vulnerable groups – people with disabilities, young people, women, older workers – are the primary victims. Employers are failing to respect their statutory job quotas for disabled persons (6 per cent). They prefer to pay the levy or fine imposed as a penalty in such cases, the proceeds from which are used to assist people with disabilities. The now manifestly rising social injustice is leading to the exclusion of these persons, for whom access to the world of work, education, housing or public places is becoming increasingly difficult. IG Metall can observe this exclusion directly, not only within its own ranks, but also when it comes to elections to bodies representing people with disabilities.

Finally, it is the employers themselves who decide on the number of jobs available for disabled persons. Their statutory obligations exist only on paper, as the government has opted to soft-pedal its policy in this regard in order to

appease enterprises in their ceaseless clamour for greater deregulation. Accordingly, employers have for some years now been "buying" their freedom not to recruit people with disabilities by paying the levy, which generates an annual inflow of one billion German marks into the government's coffers, but this is not leading to the creation of permanent work for people with disabilities. The attitude of the employers is clear: not content with consistently undermining the social security network despite appreciable productivity and profit gains and still very low levels of corporate taxation, they want an economy free of obligations towards people with disabilities.

Between 1991 and 1995, the competent authorities received 243,827 applications for lay-off approvals. Some 192,000 (about 80 per cent) lay-off procedures ended in job losses.

Yet employers can hardly deny that in most cases the impairments of disabled persons are work-related. Towards the end of their professional life, more than one in three workers develop disabilities. Apart from congenital disabilities or those caused by accidents, 80 per cent of all impairments are the result of chronic disease linked to wear and tear on the organism, among which psychological afflictions are showing the sharpest rise. What is more, it is an observed fact that working conditions are one of the chief causes of disablement.

## Disabled persons and their representation in the metalworking industry

In Germany, there are 6.5 million severely disabled persons "duly recognized" by the authorities,<sup>1</sup> 2.25 million of whom are between 15 and 60 years of age. Of this total, only 850,000 are in paid employment, 197,000 are registered as unemployed and 50,000 are in

sheltered workshops. In parallel, the number of jobs for people with disabilities fell by 140,000 between 1991 and 1995. In the private sector, the employment rate for this group fell from 4 per cent to 3.6 per cent over that same period.

The metalworking industry employs 100,000 disabled workers. But a great many other workers are threatened with disability because of chronic health problems. Disabled persons are especially vulnerable when it comes to company staff reduction policies, demands for flexibility, as well as policies for limiting social welfare benefits and for deregulation.

Although employers are increasingly attempting to shirk their obligation to recruit people with disabilities (76 per cent of them do not or only partially respect the law), it must be said that in the metalworking industry, the rate of employment of disabled workers is higher than the national average (4.3 and 3.6 per cent respectively). The number of disabled worker representatives in enterprises is also on the decline. During the 1994 elections, there were 5,900 representatives of disabled workers across 2,261 enterprises, or 25 per cent less than in 1990.

On the whole, the labour market is particularly unfavourable to people with disabilities. The job insecurity of this group explains their high level of unionization (53 per cent) and their strong links with the union.

## The problems of people with disabilities

In the day-to-day experience of many people with disabilities, the main problem is not their physical impairment – with which they have learned to live – but resides in their relations with their immediate supervisors in the enterprises. As a result:

- the affected persons are reluctant to complain to public authorities;
- they do not show their card, and instead forego their rights;
- three times as many disabled as non-disabled persons accept fixed-term contracts;
- they are often employed at a level lower than warranted by their qualifications;
- they accept jobs that are inimical to their impairment and often develop new disabilities;
- they are disproportionately affected by layoffs;
- they are disadvantaged by changes in work organization;

- disabled persons with hearing impairments receive very little attention;
- those with mental impairments are often classified as eligible only for disability allowances or are placed in psychiatric centres.

To remedy this situation, a democratic society must be in a position to:

- guarantee a minimum of solidarity between disabled and non-disabled persons;
- put in place a minimum of binding standards and laws to combat exclusion;
- provide disabled people with assistance and services guaranteeing them a means of existence and the certainty of placement in the light of their needs.

## Trade union policy

The occupational exclusion of people with disabilities cannot be effectively counteracted without some curtailment of the freedom of enterprises or without careful planning of staff allocation. The law on people with disabilities should be more forthright as regards the duties of employers and should be really binding when it comes to the hiring and integration of people with disabilities.

## Job prospects

To be able to organize their lives and that of their family, disabled persons, just like non-disabled persons, need a permanent place in the job market. Atypical forms of work that exclude persons from the mainstream job market for long periods should be rejected. To trade unions, vocational rehabilitation means access to a “normal” job where all persons with and without disabilities can work together. The integration process can be realized only if we work actively within enterprises to eliminate prejudices and obstacles.

## Jobs in line with qualifications

Recent studies have shown that, on the whole, people with disabilities are no less qualified than other people. They should therefore obtain jobs in line with their qualifications.

## Support services

The services available within the enterprise to facilitate the occupational integration of people with disabilities should be provided in

coordination with their representative bodies and with external services specialized in integration. Integration should be responsive to people's real needs.

### **Trade union representation of people with disabilities**

There is no contradiction in terms between the notion of self-determination for people with disabilities and that of trade union representation. On the contrary, the two are mutually supportive. Trade union representation of people with disabilities is a precondition for realizing their right to self-determination and equal opportunity. The involvement of their own representative bodies should be expanded and strengthened.

### **The history of legislation**

#### **From the integration of the war-disabled to the civil right of equality**

As from 1920, which marked the start of disability-related legislation, it was clear that social rehabilitation entailed occupational integration first and foremost. After the two world wars, the occupational integration of disabled persons was intended, above all, to offset the economic and social consequences of war and was possible only by means of government intervention that meant a degree of constraint on the freedom of companies to manage their staff.

The 1974 law on persons with disabilities remained true to the tradition of state intervention. It preserved the notion of reintegration (of war and accident victims), but also took account of contemporary societal trends, specifically with regard to the need for rehabilitation and reintegration of "civilian" persons with disabilities. Inspired by a socio-liberal reform policy, it aimed at instituting equality of opportunity for all citizens.

The mechanism for integration encompasses the following traditional measures of protection and adaptation within the enterprise:

- the employer obligation to ease the process of reintegration;
- the employer obligation to hire a quota of people with disabilities;
- an equalization tax to encourage recruitment;
- representation for people with disabilities;
- special legal provisions against dismissal;
- accompaniment services.

### **Shortcomings of the law**

During the years of virtually full employment, the integration of people with disabilities was not an issue. That was why the lawmaker failed to prescribe meaningful participation of people with disabilities in taking the decisions affecting their integration and their job security in the enterprise. The shortcomings of the law were soon manifest. It was sarcastically dubbed the "Law of good intentions", as employers did not take their responsibility seriously. This attitude really became tragic with the deepening of the job market crisis during the 1980s. Since then, the situation of people with disabilities on the labour market has been worsening steadily. The revised 1986 law, with a neo-liberal orientation, led to a weakening of social and legal protection for people with disabilities. The watchword was "elimination of obstacles to employment". But "obstacles" meant, for example, additional leave for disabled workers or protection against dismissal.

This is why, today more than ever, job security for disabled workers depends on the skill and strength of works councils, staff committees and bodies representing people with disabilities. Enterprise and non-enterprise counselling and rehabilitation services are becoming more important, as is cooperation with the external "social services" (psycho-social centres, and so on).

### **Rehabilitation and reintegration by group work**

Since the early 1990s, group work – a new form of work organization in the production and service industries – has been on the rise. An instrument for downsizing and restructuring for the employer, a means of enhancing qualifications, salary and room for manoeuvre for workers, group work implies cooperation and solidarity. But it also carries serious risks for people with disabilities:

- staff cuts;
- self-exploitation;
- stress caused by group pressure;
- endeavouring to do more, in the hope of reward;
- the danger of exclusion;
- a form of work outside the purview of trade unions;
- replacement of collective agreements with individual contracts.

Yet the advantages are not negligible:

- broadening of the fields of activity;
- increased responsibility;
- greater mastery of work processes;
- closer links with the life of the enterprise;
- the exercise of initiative;
- increased qualification;
- improved worker-management relations;
- greater autonomy;
- career advancement possibilities.

In this connection, five areas should be regulated:

### (1) *Integration*

It should be a matter of permanent integration into a suitable job. For example, working conditions should be such as to make for mutual assistance among all members of the group, whether disabled or not. To achieve equality of opportunity, the performance expected from a disabled worker should be set at an average level and not gauged in terms of maximum performances. General group performance targets should therefore make allowance for medical absences by disabled persons or for longer travelling time.

### (2) *Adapting work to suit disabled persons*

Employment can be stabilized through good work organization. Jobs should be so adapted as to enable people with disabilities to perform optimally.

### (3) *Qualifications*

If they had the benefit of qualification programmes offered within enterprises, a good many disabled workers could obtain jobs of better quality and progress to higher levels. Training is an indispensable element of equality for people with disabilities.

### (4) *Participation*

Such participation should be guided by tolerance. In group work, members act autonomously and share the work. This method of operation requires a good quality of communication, social skills and the capacity for collective problem-solving. These qualities are unevenly distributed among individuals,

but can be induced by training. Group work will inevitably entail conflicts, which can be managed constructively. Everyone must therefore show understanding towards his or her colleagues. If a dispute persists, a disabled worker can request the assistance of his or her representative body or of a member of the works council.

### (5) *Organize work to ensure equality of treatment*

The organization of group work should be so regulated as guarantee participation by all on an equal footing and provide for dispute settlement procedures. For example, work organization can ensure equality of persons at the level of communication: as necessary, provision can be made for a sign language interpreter, an additional acoustic or written presentation, audio cassettes or information and minutes in Braille.

To sum up, the following are the objectives of the incorporation of people with disabilities into group work:

- recognize and act in time to avert the risk of exclusion;
- the bodies representing people with disabilities and the works council should cooperate in implementing an integration and job security policy;
- working and service conditions should be adapted to the needs of disabled persons;
- access to qualification enhances their career advancement prospects;
- groups should display acceptance of differences and tolerance towards their disabled colleagues;
- social behaviour within groups must abide by the rules;
- disabled workers should participate on an equal footing in all decision-making within the group.

## **The requisite reforms**

IG Metall's work organization structures should be better adapted to the problems of representing people with disabilities. Its field of intervention should be broadened and it should endeavour to halt the decline in activities of local and regional groups. For the time being, the working groups on disability-related issues are relatively well attended and meet regularly. The discussions are stimulat-

ing and motivating. Within these groups, solidarity is not an empty word. The policy on people with disabilities is an integral part of the union's social policy and, as such, must remain within its field of action as it cuts across almost all the organization's domains of work and action.

## A climate of mutual trust

The union should actively and systematically forge links and set up a network linking working groups for people with disabilities with the other union committees and also link policies concerning disabled people with general policies. A key element of future development will be cooperation in a climate of mutual trust among volunteer and full-time players and the more visible association of volunteers with the decision-making process. The apportionment of responsibility is a decisive prerequisite for working constructively in the present context of overwork and excessive demands. In short, starting with its Executive Committee, the trade union should develop and strengthen the various levels of its structures for disability-related issues with specific regard to planning, coordination and leadership of the political work, in concert with a central working group representing disabled persons. It should see to the task of "multiplication" through the initial and ongoing training of a nucleus of activists and develop a range of specialized seminars. It should coordinate regional initiatives and projects in conjunction with the central working group and with the Federation of German Trade Unions (DGB) and work in close collaboration with the organizations representing disabled persons and their sectoral associations at all levels.

## The outlook

The trade unions are contemplating new departures in the business of vocational integration, through planning, steering and monitoring. For the time being, the success or failure of the vocational reintegration policies of government and enterprises depends largely on the prevailing business cycle, at times on the good will of the management, though more than all else, on the effectiveness of works councils. It would be useful to create a body within enterprises with an explicit brief to organize and follow up rehabilitation and reintegration measures. Its mission would be

to coordinate vocational integration needs in terms of existing legal provisions and available resources.

The new instruments proposed to make for easier integration are:

- planning of integration (stocktaking, setting of objectives, a timetable and priorities) and a description of responsibilities, cooperation with the works council and of the indispensable consultation and evaluation procedures;
- agreement on the objectives being pursued (with the guaranteed participation of the representatives of disabled persons);
- the development of qualifications, which presupposes cooperation among employment offices, offices to assist persons with disabilities, specialized reintegration services, vocational training bodies, and the like);
- creating an integration fund: the resources of the integration fund would come from the value-added created by the enterprise and are paid over as an internal transfer, so that these amounts do not appear on the balance sheet and therefore do not financially undermine the hiring of people with disabilities in any way;
- creating a steering group to oversee, guide and ensure cooperation on vocational reintegration and the employment policy of the enterprise;
- the institution of a compulsory equality audit: this is a second element of planning and also a means of monitoring. The employer is obligated to report regularly on the status of equality in the enterprise (shortcomings, progress and future needs);
- expanded rights of participation: trade unions and associations of people with disabilities must have the right to propose candidates to represent people with disabilities in the Federal Government, the governments of the Länder (States) and in the municipal councils (DGB).

As affirmed by the DGB in its policy statement on people with disabilities, in a democratic society, the occupational reintegration of disabled persons cannot be left entirely to the discretion of government authorities. The exclusion of disabled persons from numerous facets of life in society can only be corrected by strengthening their own capacity to intervene directly, side by side with the trade unions. This

should be the thrust of the endeavours of all the parties concerned, for, as we approach the close of the century, the task still ahead is commensurate with the magnitude of the stakes.

**Note**

<sup>1</sup> The status of a “severely disabled” person is based on a disability rate of 50 per cent or higher, though some laws contemplate the occupational integration of persons with disabilities between 30 and 50 per cent.

---

# The CFDT's viewpoint on the management of the vocational integration of workers with disabilities in France

---

Huguette Puel and Gaby Thollet

Officers  
Disabled workers' questions  
CFDT (France)

---

The possibility for disabled persons to obtain paid employment in France has its basis mainly in the law of 10 July 1987.

For ten years, this law enabled the French Democratic Confederation of Labour (CFDT), despite an economic downturn, to maintain a 4 per cent rate of recruitment of disabled persons in public and private enterprises.

One may be tempted to give in to pessimism. The law actually prescribes a 6 per cent quota. But that is not the attitude we intend to take. Far from engaging in sterile denunciations, we as trade unionists are determined to build on the dynamics set in motion by the 1987 law and which could evolve further with some improvements.

Indeed, the law, which is more of an incentive than a constraint and was adopted unanimously thanks to pressure exerted by associations of disabled persons, is characterized by the principles of realism and solidarity. It rests on an obligation to achieve results and takes due account of the seriousness of the disability. Lastly, it proposes to enterprises and to management and labour new ways of helping to achieve the goals of integration in society.

## The pivotal role of the Fund for the Integration of Disabled Persons (AGEFIPH)

The main innovation was the establishment of a fund managed by employers, trade unions, associations and qualified persons appointed by the Government. The AGEFIPH fund gives financial assistance to those who employ disabled persons from funds raised through levies on enterprises that fall short of the 6 per cent quota. This system of contribution is criticized in some quarters. Our organization views the AGEFIPH as an increasingly complex vehicle for integration that could play

an even more expanded role, as its current regional decentralization enables it to act in the following spheres:

- awareness-creation and information;
- accompaniment of vocational training;
- assistance with integration and overcoming technical obstacles;
- supporting trade union and employer organizations in promoting information and awareness-building.

As of 1999 a special three-year plan of new measures will be implemented to give fresh impetus to the integration of disabled persons.

## A fairly positive assessment after eight years

Some 750,000 persons have benefited from AGEFIPH interventions, 180,000 have obtained jobs, 107,000 have kept their jobs, 143,000 have received training and upgrading, 420,000 applications for assistance have been financed to the tune of 10.6 million francs, 39 per cent going to enterprises, 34 per cent to disabled persons and 27 per cent to integration intermediaries.

It should be underscored that the AGEFIPH is founded on an effective partnership. Since the inception of this fund, the CFDT has played a very active and committed role in discussions that have helped to enhance its effectiveness. It was originally chaired by Force Ouvrière (FO) and has been under the leadership of the National Council of French Employers (CNPF) for three consecutive terms now.

## Enterprise agreements

The law's effectiveness is also partly attributable to the principle of enterprise agreements, almost 100 of which have been concluded. This is a somewhat meagre result, as

they cover only a very small number of companies. For the time being, the possibility of industry-wide agreements is open to a single sector, the FEHAP, with 300,000 employees in the non-profit community health and social services sector.

Despite this paltry performance, the CFDT, being involved in most of these agreements, views it as a success on the part of both sides of industry – employers and workers. It is a complex matter, but the negotiators of these agreements are often highly satisfied at the dynamics generated. They are the more interesting for bringing out the problems of work organization, the work environment, accessibility, mentoring, individualized integration, all of which can be applied to other areas and other target groups (young people in particular). The CFDT would like to see persons appointed to be responsible for follow-up, in conjunction with human resource departments, in order to ensure better monitoring of departmental integration plans and the work of follow-up and reintegration teams. The CFDT has launched many initiatives to bring together the negotiators of these agreements.

### **Subcontracting and sheltered work**

Another expression of French originality is the appreciable number of sheltered workplaces in existence. In 1996, there were 83,956 places in work help centres (CAT) and 14,200 in sheltered workshops. The sector is important, inter alia, because it enables mentally disabled persons to retain some possibility of employability. This notwithstanding, the prospects of individuals gaining access to the ordinary working environment are still rather slim, at less than 1 per cent. The 1987 law proposes that in addition to creating new jobs for disabled persons, enterprises could make use of subcontracting, which represents revenues of 2 billion francs, or a sum greater than the amount collected by the fund. The development of subcontracting can, however, raise problems of restructuring certain direct jobs. This has been observed in the automotive and certain other industries. There are even competition-related conflicts between sheltered work and SMEs on some markets.

### **Training and qualification of disabled workers**

Training is one of the principal paths to employment and, regrettably, disabled persons are sadly lacking in this respect. They are gen-

erally at level 5, where fewer and fewer jobs are available. Vocational Rehabilitation Centres (CRP) provide training opportunities. In addition, the Vocational Training Association for Adults (AFPA) offers 4,000 places for disabled persons and 2,800 are made available by other bodies linked to regional schemes set up by the AGEFIPH and the Regional Councils. Why is it not possible to better integrate persons with disabilities into ordinary training facilities? How can they be better prepared for today's professions?

### **The ordinary employment mechanisms**

Under the stewardship of Martine Aubry, for the Ministry of Labour and the Office dealing with employment for persons with disabilities, today's French Government aims at integrating persons with disabilities into the ordinary mechanisms for dealing with joblessness. Persons with disabilities therefore remain one of the Government's priorities. Some 49,000 persons benefited under European Trade Union Confederation (ETUC) campaigns; and 20,500 Employment Initiative Contracts (*Contrats Initiative Emploi*) – CIE – have been granted to persons with disabilities, though not without posing some problems. Persons with disabilities benefit from positive discrimination that is not universally acceptable across French society. The treatment of disabled persons under the social security system, more specifically the mechanism put in place by the Technical Commission for Occupational Guidance and Reintegration (COTOREP), could create a situation, for instance, in which some mentally ill persons whose condition has been stabilized could be treated as disabled persons, thus qualifying for the full range of assistance and allowances, which could be well in excess of the minimum income for economic and social integration (RMI) or other minimum social welfare entitlements.

### **Europe and persons with disabilities**

Via its Directorate General V, the European

many examples of successful integration. It would seem that the existence of France's 1987 law is an asset, notwithstanding the lack of universal agreement, from country to country, between employee and employer unions on the quotas to be instituted. In any case, there would seem to be the political will to improve the lot of the 30 million people grappling with disabilities and excluded from the world of work.

### **A dynamic process to be developed in which the State must play a full part**

Much remains to be done. While it is not our trade union's top priority, the matter of the employment of disabled persons is among the concerns of our leaders. Activities very often take the form of coordination with associations (UNAPEI, APE, APAJH, FNATH).<sup>1</sup> The Government should continue to give strong impetus to the process so that at least the same opportunities are available to disabled persons nationwide. Industrial accidents and job preservation for those who have suffered illnesses and accidents are still a problem.

Institutions have been mandated to act as forums for discussion and proposal, such as the National Advisory Council on People with Disabilities in the Ministry for Social Affairs, the Employment Affairs' Higher Council for the Social and Occupational Reintegration of Disabled Workers and the Ministry for Labour.

In each department, trade unions can take up their place in the Departmental Programmes for the Integration of People with Disabilities (PDITH), which make it possible to coordinate action by the Government, the National Agency for Placement and Employment (ANPE) and the Teams for the Preparation and Follow-up of the Reintegration of Persons with Disabilities (EPSR) and the Agencies for the Integration and Placement of Disabled Persons (OIPs). This initiative, designed to trigger an active employment process, should serve to coordinate local initiatives around a single project, that of implementing a policy rather than a single programme of action.

The right to work is still one of the fundamental rights, also open to disabled persons who wish to achieve dignity through work.

### **CFDT action**

The CFDT action plan to promote the employment of disabled persons should be a matter of concern to all CFDT members.

The 1987 law set the target of a 6 per cent recruitment quota for disabled workers in public and private enterprises. We are still short of this goal, which is apparently beyond the reach of some employers, who plead the negative business climate and the virtual impossibility of finding employable disabled persons to fill the existing vacancies.

There is still some way to go so that disabled persons can enjoy the same opportunities open to any other employee. The CFDT believes that this calls for unwavering determination and long-term commitment on the part of all elected representatives. Trade unions have been instrumental in getting the EDF, SNCF, Thomson and more than 90 big companies to sign agreements. If effective action is to be taken to promote the employment of disabled persons, some factors must be taken into account in drawing up a genuine employment strategy.

### **An example of sponsorship by a trade union section: Nantes biscuit factory**

*A sheltered workshop in the factory compound*

Within the framework of the regulations on the employment of disabled persons by enterprises, the works committee, CHSCT and the CFDT launched an initiative for the creation of a sheltered workshop on the premises. In agreement with the management and with the support of Pr. Mathé,<sup>2</sup> a sheltered workshop was set up and some 20 disabled persons now work there.

The CHSCT was instrumental in adapting the working environment for the roughly 20 disabled persons employed in the workshop. They have made considerable headway in terms of their autonomy and their vocational rehabilitation, aided by the proximity of the other workers. The canteen is open to them, which helps them to make contact more easily with their fellow employees. Moreover, they may also participate in the activities of the works committee.

This action should be viewed as part of the worldwide endeavour to ensure that disabled persons can take up their places as citizens through access to work, supported by laws such as the one in France, which provides them with an avenue towards integration.

Awareness needs to be created among employees even before launching an initiative in this regard. Elected works' committee members or shop stewards must publish tract or documents informing employees about the employability of disabled persons. We must start by breaking down the walls of indifference or fear separating persons without disabilities from those disadvantaged by such impairments. Many of the former are totally ignorant about disabled persons and hold strong prejudices.

Elected representatives should make use of the social report furnished by the employer to the works' committee, as it is a snapshot of the situation of the enterprise with respect to recruitment.

In any plan for new recruitment in the enterprise, trade union representatives should be careful to ensure that disabled persons are not overlooked. For example, in the event of an agreement for shorter working hours and new recruitment, why not request a quota for disabled persons?

Finally, the Committee on Occupational Health and Safety (CHSCT) has a meaningful role to play in the adaptation of workplaces. It can also discuss preventive measures that

could be financed by the AGEFIPH to guard against occupational illnesses or accidents. In the aftermath of an occupational accident, our role is to do the utmost to safeguard the jobs of the victims. If a plan is adopted for the hiring of disabled persons, worker representatives should be watchful to ensure that the workshop or services receiving these new recruits do not overlook such everyday problems as the accessibility of restaurants, toilets or parking facilities. The new recruits should also be given moral support during the first few months. Naturally, these persons must be able to join the trade union section and be eligible for election to the works' committee, the CHSCT or to the specialized committees (training, recreation, for example).

## Notes

<sup>1</sup> UNAPEI: National Union of associations of parents of disabled children  
APF: Association of paralysed persons in France  
APAJH: Association for disabled adults and young persons  
FNATH: National Federation of accident victims and disabled persons

<sup>2</sup> French expert on hospital staff, specialized in research related to the treatment of cranial traumatism.

Too many people, not the least those with disabilities, are not aware that a number of trade unions are involved in all matters pertaining to disabled persons, and this applies both within the community at large as well as to the unions' own members who are disabled persons. Manufacturing, Science, and Finance (MSF) for instance, which not only represents many workers who are disabled persons but also employees of organizations that support and advise disabled people, chose 1989 as its Equal Opportunities Year during which it established a Working Group on Disability and Employment which eventually became the MSF Disability and Employment Rights National Advisory Committee (DERNAC).

DERNAC, a very influential national committee is comprised of 15 MSF regional representatives (the Republic of Ireland included) and a number of coopted members who have acquired particular expertise in dealing with questions concerning disabled persons. MSF actively promotes this national committee to ensure that it is reflected in the disability advisory committees set up in its 14 regions. Since its inception, a number of the committee's members, with the support of MSF, have been

regard. The National Disability Officer operates a 24-hour and 365-day Members' Disability Helpline from his home base and the MSF head office has on-line facilities. The MSF Disabled Members' Conference takes place each year bringing together key speakers on disability issues. They include government ministers and disability activists in both the United Kingdom and Europe. Workshops on particular issues are also organized during the event.

Disability awareness is one issue constantly being addressed by MSF. Its head office strives to be disability friendly: only recently the loop system was upgraded in the conference rooms. Similarly, other physical barriers are constantly under review at the MSF College. In the summer of 1998 £100,000 was expended on making further improvements.

**Excerpts from Sheet No. 4.  
Disability Discrimination Act 1995**

The Disability Discrimination Act received Royal Assent on 8th November 1995 with its first provisions relating to employment (and service provision) coming into force on 8 December 1996.

**What must MSF reps do?**

**With your employer**

Ensure that your employer includes disability in their equal opportunities policies, and press your employer to audit their employment practices and workplaces in the lead-in period to the Act coming into force. Ask the following questions:

1. What does your employer do to facilitate the employment of disabled people?
2. Are your employer's premises fully accessible?
3. Are disabled people entitled to all employee benefits?
4. Has your employer provided disabled staff with information on their new rights?
5. What training in Disability Awareness and the Disability Discrimination Act is your employer carrying on?
6. Is your employer prepared to monitor employees with disabilities by job and grade?
7. Will an Annual Report be produced by the employer listing positive equal opportunity measures taken in respect of recruitment, training and career development undertaken in the previous year for people with disabilities?
8. Is the employer auditing the service it provides? Do disabled clients receive the same standard of service?

**Excerpts from Sheet No. 6. RIGHTS NOW position statements on future anti-discrimination legislation and the Disability Discrimination Act 1995**

The National Executive Committee has now adopted the following position statement: that a new Disability Rights Commission be appointed within the first year of a new Government;

**Disability Fact Sheets**

---

- No. 1 List of Royal National Institute for the Deaf Communication Support Units – for your contact for sign language interpreters
  - No. 2 List of free booklets about the Disability Discrimination Act
  - No. 3 List of accessible formats and recommended wording to be carried by MSF journals and newsletters
  - No. 4 The main provisions of the Disability Discrimination Act 1995
  - No. 5 Trades Union Congress Equal Opportunities Agreement on Disability
  - No. 6 RIGHTS NOW Position Statement on Future Anti-discrimination Legislation and the Disability Discrimination Act 1995
  - No. 7 Disability Discrimination Checklist – Has a member been discriminated against?
  - No. 8 Constitution of the MSF Disability and Employment Rights National Advisory Committee
  - No. 9 Postage to blind and visually impaired people – advice
  - No. 10 Positive about disabled people (the Two Ticks Symbol – Employment Service)
  - No. 11 The Employers' Forum on Disability (includes lists of affiliated companies – spring 1998)
  - No. 12 Placing, Assessment and Counselling Teams (PACT)
  - No. 13 Access to Work (Support for disabled employees or disabled people seeking employment)
-

that this Commission be composed of 75 per cent representative disabled people selected in consultation with the organizations of and for the disabled people and that the Commission be staffed by a majority of disabled people;

that this Commission be charged with the writing of a new comprehensive and enforceable Civil Rights Bill;

that this Commission must report within twelve months and not be fettered by any preconditions; and

that this Commission be properly resourced for the task.

### Excerpts from sheet No. 7. Disability Discrimination Checklist

The Disability Fact Sheet is to assist representatives as a first “Port of Call” when being approached by a member who believes she/he has been subject to Disability Discrimination.

- Is your employer covered by the Act?
- Is your member disabled for the purpose of the Act?
- Has the member been less favourably treated than someone who is not disabled is treated or would have been treated?
- What is the reason for this treatment?
- Remember it doesn't have to be just “because she /he is disabled”. If the reason is “related to her/his disability” it is illegal. Refusing to hire a worker because customers might be offended by being served by a disabled person is an example of a reason related to the person's disability.
- Can the employer show that the treatment is “justified” for the purposes of the Act? To do this, the employer must show that the reason for the treatment is “material to the circumstances of a particular case”, and substantial.
- Does the reason for less favourable treatment relate directly to the particular circumstances of the case?
- Have non-disabled people to whom similar substantial objections could be raised been discriminated against in similar circumstances?
- Is the reason based on a generalization or stereotype? If so, it is unlawful.
- Is the reason for less favourable treatment substantial? Minor and trivial reasons for less favourable treatment will not be accepted.

- If the reason for less favourable treatment is material and substantial, are there other arguments, outside the scope of the Act, which you can bring into play?
- Have reasonable adjustments been considered? Less favourable treatment is only “justified” if a reasonable adjustment could not remove the reason for it, or make it insubstantial.

### Excerpts from Sheet No. 13. Access to work: Support for disabled employees or disabled people seeking employment

The Access to Work Scheme can help disabled people to tackle some of the practical obstacles that they may meet going to or at the place of work.

It can help the disabled persons if they are unemployed, in a job, or in self-employment, whether the employment be part-time, full-time or temporary.

Access to Work can assist disabled persons in a number of ways such as:

- a communicator if they are deaf or have hearing impairment and needs a communicator with them at an interview;
- a reader at work, if they are blind or have visual impairment;
- special equipment (or alterations to existing equipment) to suit particular work needs, if they need it because of a disability;
- alterations to premises or working environment if they need it because of a disability;
- a support worker, if they need practical help because of a disability either at work or getting to work;
- help towards the cost of getting to work if they are unable to use public transport because of a disability.

*The scheme works like this:*

If the disabled person has already been in a job for 6 weeks or more, Access to Work will meet up to 80 per cent of the approved costs of help after the first £300.

If the person has been self-employed for 6 weeks or more, Access to Work will meet up to 90 per cent of the approved costs of help after the first £100.

If total approved costs are more than £10,000 over 3 years, Access to Work will pay 100 per cent of the approved costs between £10,000 and the actual cost.

If assistance is given by way of travel to work or communicator support at an interview, Access to Work will meet all the approved costs whether the person is unemployed or already in a job.

Approved help is for as long as is needed up to a maximum of three years. After that time, consideration is given to renewing the help under the rules of the programme in operation at that time.

To seek Access to Work help, the first point of contact is the local Jobcentre.

The Jobcentre then puts the disabled person in contact with a Disability Employment Advisor (DEA) who is part of a professional team of disability specialists known as Placing, Assessment and Counselling Team (PACT).

Once Access to Work help is given, the DEA will keep in touch with the disabled person and the employer to make sure that everything is going smoothly.

# Appendices

## Appendix I

### Recommendation concerning Vocational Rehabilitation of the Disabled, 1955 (No. 99)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and Having decided upon the adoption of certain proposals with regard to the vocational rehabilitation of the disabled, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five the following Recommendation, which may be cited as the Vocational Rehabilitation (Disabled) Recommendation, 1955:

Whereas there are many and varied problems concerning those who suffer disability, and

Whereas rehabilitation of such persons is essential in order that they be restored to the fullest possible physical, mental, social, vocational and economic usefulness of which they are capable, and

Whereas to meet the employment needs of the individual disabled person and to use manpower resources to the best advantage it is necessary to develop and restore the working ability of disabled persons by combining into one continuous and co-ordinated process medical, psychological, social, educational, vocational guidance, vocational training and placement services, including follow-up,

The Conference recommends as follows:

#### I. Definitions

1. For the purpose of this Recommendation —

(a) the term “vocational rehabilitation” means that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement, designed to enable a dis-

abled person to secure and retain suitable employment; and

(b) the term “disabled person” means an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment.

#### II. Scope of vocational rehabilitation

2. Vocational rehabilitation services should be made available to all disabled persons, whatever the origin and nature of their disability and whatever their age, provided they can be prepared for, and have reasonable prospects of securing and retaining, suitable employment.

#### III. Principles and methods of vocational guidance, vocational training and placement of disabled persons

3. All necessary and practicable measures should be taken to establish or develop specialised vocational guidance services for disabled persons requiring aid in choosing or changing their occupations.

4. The process of vocational guidance should include, as far as practicable in the national circumstances and as appropriate in individual cases —

(a) interview with a vocational guidance officer;

(b) examination of record of work experience;

(c) examination of scholastic or other records relating to education or training received;

(d) medical examination for vocational guidance purposes;

(e) appropriate tests of capacity and aptitude, and, where desirable, other psychological tests;

(f) ascertainment of personal and family circumstances;

(g) ascertainment of aptitudes and the development of abilities by appropriate work experiences and trial, and by other similar means;

(h) technical trade tests, either verbal or otherwise, in all cases where such seem necessary;

(i) analysis of physical capacity in relation to occupational requirements and the possibility of improving that capacity;

(j) provision of information concerning employment and training opportunities relating to the qualifications, physical capacities, aptitudes, preferences and experience of the person concerned and to the needs of the employment market.

5. The principles, measures and methods of vocational training generally applied in the training of non-disabled persons should apply to disabled persons in so far as medical and educational conditions permit.

6. (1) The training of disabled persons should, wherever possible, enable them to carry on an economic activity in which they can use their vocational qualifications or aptitudes in the light of employment prospects.

(2) For this purpose, such training should be —

(a) co-ordinated with selective placement, after medical advice, in occupations in which the performance of the work involved is affected by, or affects, the disability to the least possible degree;

(b) provided, wherever possible and appropriate, in the occupation in which the disabled person was previously employed or in a related occupation; and

(c) continued until the disabled person has acquired the skill necessary for working normally on an equal basis with non-disabled workers if he is capable of doing so.

7. Wherever possible, disabled persons should receive training with and under the same conditions as non-disabled persons.

8. (1) Special services should be set up or developed for training disabled persons who, particularly by reason of the nature or the severity of their disability, cannot be trained in company with non-disabled persons.

(2) Wherever possible and appropriate, these services should include, inter alia:

(a) schools and training centres, residential or otherwise;

(b) special short-term and long-term training courses for specific occupations;

(c) courses to increase the skills of disabled persons.

9. Measures should be taken to encourage employers to provide training for disabled persons; such measures should include, as appropriate, financial, technical, medical or vocational assistance.

10. (1) Measures should be taken to develop special arrangements for the placement of disabled persons.

(2) These arrangements should ensure effective placement by means of —

(a) registration of applicants for employment;

(b) recording their occupational qualifications, experience and desires;

(c) interviewing them for employment;

(d) evaluating, if necessary, their physical and vocational capacity;

(e) encouraging employers to notify job vacancies to the competent authority;

(f) contacting employers, when necessary, to demonstrate the employment capacities of disabled persons, and to secure employment for them;

(g) assisting them to obtain such vocational guidance, vocational training, medical and social services as may be necessary.

11. Follow-up measures should be taken —

(a) to ascertain whether placement in a job or recourse to vocational training or retraining services has proved to be satisfactory and to evaluate employment counselling policy and methods;

(b) to remove as far as possible obstacles which would prevent a disabled person from being satisfactorily settled in work.

#### **IV. Administrative organisation**

12. Vocational rehabilitation services should be organised and developed as a continuous and co-ordinated programme by the competent authority or authorities and, in so far as practicable, use should be made of existing vocational guidance, vocational training and placement services.

13. The competent authority or authorities should ensure that an adequate and suitably qualified staff is available to deal with the vocational rehabilitation, including follow-up, of disabled persons.

14. The development of vocational rehabilitation services should at least keep pace with the development of the general services for vocational guidance, vocational training and placement.

15. Vocational rehabilitation services should be organised and developed so as to include opportunities for disabled persons to prepare for, secure and retain suitable employment on their own account in all fields of work.

16. Administrative responsibility for the general organisation and development of vocational rehabilitation services should be entrusted —

(a) to one authority, or

(b) jointly to the authorities responsible for the different activities in the programme with one of these authorities entrusted with primary responsibility for co-ordination.

17. (1) The competent authority or authorities should take all necessary and desirable measures to achieve co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities.

(2) Such measures should include as appropriate —

(a) determination of the responsibilities and obligations of public and private bodies;

(b) financial assistance to private bodies effectively participating in vocational rehabilitation activities; and

(c) technical advice to private bodies.

18. (1) Vocational rehabilitation services should be established and developed with the assistance of representative advisory committees, set up at the national level and, where appropriate, at regional and local levels.

(2) These committees should, as appropriate, include members drawn from among —

(a) the authorities and bodies directly concerned with vocational rehabilitation;

(b) employers' and workers' organisations;

(c) persons specially qualified to serve by reason of their knowledge of, and concern with, the vocational rehabilitation of the disabled; and

(d) organisations of disabled persons.

(3) These committees should be responsible for advising —

(a) at the national level, on the development of policy and programmes for vocational rehabilitation;

(b) at regional and local levels, on the application of measures taken nationally, their adaptation to regional and local conditions and the co-ordination of regional and local activities.

19. (1) Research should be fostered and encouraged, particularly by the competent authority, to evaluate and improve vocational rehabilitation services for the disabled.

(2) Such research should include continuous or special studies on the placement of the disabled.

(3) Research should also include scientific work on the different techniques and methods which play a part in vocational rehabilitation.

## **V. Methods of enabling disabled persons to make use of vocational rehabilitation services**

20. Measures should be taken to enable disabled persons to make full use of all available vocational rehabilitation services and to ensure that some authority is made responsible for assisting personally each disabled person to achieve maximum vocational rehabilitation.

21. Such measures should include —

(a) information and publicity on the availability of vocational rehabilitation services and on the prospects which they offer to the disabled;

(b) the provision of appropriate and adequate financial assistance to disabled persons.

22. (1) Such financial assistance should be provided at any stage in the vocational rehabilitation process and should be designed to facilitate the preparation for, and the effective retention of, suitable employment including work on own account.

(2) It should include the provision of free vocational rehabilitation services, maintenance allowances, any necessary transportation expenses incurred during any periods of vocational preparation for employment, and loans or grants of money or the supply of the necessary tools and equipment, and of pr

24. Disabled persons living in areas having limited prospects of future employment or limited facilities for preparation for employment should be provided with opportunities for vocational preparation, including provision of board and lodging, and with opportunities for transfer, should they so desire, to areas with greater employment prospects.

25. Disabled persons (including those in receipt of disability pensions) should not as a result of their disability be discriminated against in respect of wages and other conditions of employment if their work is equal to that of non-disabled persons.

## **VI. Co-operation between the bodies responsible for medical treatment and those responsible for vocational rehabilitation**

26. (1) There should be the closest co-operation between, and the maximum co-ordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons.

(2) This co-operation and co-ordination of activities should exist —

(a) to ensure that medical treatment and, where necessary, the provision of appropriate prosthetic apparatus are directed to facilitating and developing the subsequent employability of the disabled persons concerned;

(b) to promote the identification of disabled persons in need of, and suitable for, vocational rehabilitation;

(c) to enable vocational rehabilitation to be commenced at the earliest and most suitable stage;

(d) to provide medical advice, where necessary, at all stages of vocational rehabilitation;

(e) to provide assessment of working capacity.

27. Wherever possible, and subject to medical advice, vocational rehabilitation should start during medical treatment.

## **VII. Methods of widening employment opportunities for disabled persons**

28. Measures should be taken, in close co-operation with employers' and workers' organisations, to promote maximum opportunities for disabled persons to secure and retain suitable employment.

29. Such measures should be based on the following principles:

(a) disabled persons should be afforded an equal opportunity with the non-disabled to perform work for which they are qualified;

(b) disabled persons should have full opportunity to accept suitable work with employers of their own choice;

(c) emphasis should be placed on the abilities and work capacities of disabled persons and not on their disabilities.

30. Such measures should include —

(a) research designed to analyse and demonstrate the working capacity of disabled persons;

(b) widespread and sustained publicity of a factual kind with special reference to —

(i) the work performance, output, accident rate, absenteeism and stability in employment of disabled persons in comparison with non-disabled persons employed in the same work;

(ii) personnel selection methods based on specific requirements;

(iii) methods of improving work conditions, including adjustment and modification of machinery and equipment, to facilitate the employment of disabled workers;

(c) the means whereby increased liability of individual employers in respect of workmen's compensation premiums may be eliminated;

(d) the encouraging of employers to transfer workers whose working capacity has undergone a change as a result of a physical impairment to suitable jobs within their undertakings.

31. Wherever appropriate in the national circumstances, and consistent with national policy, the employment of disabled persons should be promoted by means such as —

(a) the engagement by employers of a percentage of disabled persons under such arrangements as will avoid the displacement of non-disabled workers;

(b) reserving certain designated occupations for disabled persons;

(c) arranging that seriously disabled persons are given opportunities for employment or preference in certain occupations considered suitable for them;

(d) encouraging the creation and facilitating the operation of co-operatives or other similar enterprises managed by, or on behalf of, disabled persons.

### **VIII. Sheltered employment**

32. (1) Measures should be taken by the competent authority or authorities, in co-operation, as appropriate, with private organisations, to organise and develop arrangements for training and employment under sheltered conditions for those disabled persons who cannot be made fit for ordinary competitive employment.

(2) Such arrangements should include the establishment of sheltered workshops and special measures for those disabled persons who, for physical, psychological or geographical reasons, cannot travel regularly to and from work.

33. Sheltered workshops should provide, under effective medical and vocational supervision, not only useful and remunerative work but opportunities for vocational adjustment and advancement with, whenever possible, transfer to open employment.

34. Special programmes for the home-bound should be so organised and developed as to provide, under effective medical and vocational supervision, useful and remunerative work in their own homes.

35. Where and to the extent to which statutory regulation of wages and conditions of employment applying to workers generally is in operation it should apply to disabled persons employed under sheltered conditions.

### **IX. Special provisions for disabled children and young persons**

36. Vocational rehabilitation services for disabled children and young persons of school age should be organised and developed in close co-operation between the authorities responsible for education and the authority or authorities responsible for vocational rehabilitation.

37. Educational programmes should take into account the special problems of disabled children and young persons and their need of opportunities, equal to those of non-disabled children and young persons, to receive education and vocational preparation best suited to their age, abilities, aptitudes and interests.

38. The fundamental purposes of vocational rehabilitation services for disabled children and young persons should be to reduce as much as possible the occupational and psychological handicaps imposed by their disabilities and to offer them full opportunities of preparing for, and entering, the most suitable occupa-

tions. The utilisation of these opportunities should involve co-operation between medical, social and educational services and the parents or guardians of the disabled children and young persons.

39. (1) The education, vocational guidance, training and placement of disabled children and young persons should be developed within the general framework of such services to non-disabled children and young persons, and should be conducted, wherever possible and desirable, under the same conditions as, and in company with, non-disabled children and young persons.

(2) Special provision should be made for those disabled children and young persons whose disabilities prevent their participation in such services under the same conditions as, and in company with, non-disabled children and young persons.

(3) This provision should include, in particular, specialised training of teachers.

40. Measures should be taken to ensure that children and young persons found by medical examination to have disabilities or limitations or to be generally unfit for employment —

(a) receive, as early as possible, proper medical treatment for removing or alleviating their disabilities or limitations;

(b) are encouraged to attend school or are guided towards suitable occupations likely to be agreeable to them and within their capacity and are provided with opportunities of training for such occupations;

(c) have the advantage of financial aid, if necessary, during the period of medical treatment, education and vocational training.

### **X. Application of the principles of vocational rehabilitation**

41. (1) Vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively in the light of these needs and circumstances and in accordance with the principles laid down in this Recommendation.

(2) The main objectives of this progressive development should be —

(a) to demonstrate and develop the working qualities of disabled persons;

(b) to promote, in the fullest measure possible, suitable employment opportunities for them;

(c) to overcome, in respect of training or employment, discrimination against disabled persons on account of their disability.

42. The progressive development of vocational rehabilitation services should be promoted with the help, where desired, of the International Labour Office —

(a) by the provision, wherever possible, of technical advisory assistance;

(b) by organising a comprehensive international exchange of experience acquired in different countries; and

(c) by other forms of international co-operation directed towards the organisation and development of services adapted to the needs and conditions of individual countries and including the training of the staff required.

---

# Appendix II

## Convention concerning Vocational Rehabilitation and Employment (Disabled Persons),<sup>1</sup> 1983 (No. 159)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and the Human Resources Development Recommendation, 1975, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need 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, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Convention, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983:

### Part I. Definition and scope

#### Article 1

1. For the purposes of this Convention, the term "disabled person" means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. For the purposes of this Convention, each Member shall consider 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.

3. The provisions of this Convention shall be applied by each Member through measures which are appropriate to national conditions and consistent with national practice.

4. The provisions of this Convention shall apply to all categories of disabled persons.

### Part II. Principles of vocational rehabilitation and employment policies for disabled persons

#### Article 2

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.

#### Article 3

The said policy shall aim at ensuring that appropriate vocational rehabilitation measures

<sup>1</sup> Ed.: This Convention came into force on 20 June 1985.

are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market.

#### *Article 4*

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.

#### *Article 5*

The representative organisations of employers and workers shall be consulted on the implementation of the said policy, including the measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities. The representative organisations of and for disabled persons shall also be consulted.

### **Part III. Action at the national level for the development of vocational rehabilitation and employment services for disabled persons**

#### *Article 6*

Each Member shall, by laws or regulations or by any other method consistent with national conditions and practice, take such steps as may be necessary to give effect to Articles 2, 3, 4 and 5 of this Convention.

#### *Article 7*

The competent authorities shall take measures with a view to providing and evaluating vocational guidance, vocational training, placement, employment and other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations.

#### *Article 8*

Measures shall be taken to promote the establishment and development of vocational

rehabilitation and employment services for disabled persons in rural areas and remote communities.

#### *Article 9*

Each Member shall aim at ensuring 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.

### **Part IV. Final provisions**

#### *Article 10*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 11*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

#### *Article 12*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

### Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

### Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General

Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

### Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

### Article 17

The English and French versions of the text of this Convention are equally authoritative.

# Appendix III

## Recommendation concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (No.168)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need 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, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Vocational

Rehabilitation and Employment (Disabled Persons) Convention, 1983, and the Vocational Rehabilitation (Disabled) Recommendation, 1955,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Recommendation, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983:

### I. Definitions and scope

1. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the term "disabled person" as meaning an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the purpose of vocational rehabilitation, as defined in the latter Recommendation, 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.

3. The provisions of this Recommendation should be applied by Members through measures which are appropriate to national conditions and consistent with national practice.

4. Vocational rehabilitation measures should be made available to all categories of disabled persons.

5. In planning and providing services for the vocational rehabilitation and employment of disabled persons, existing vocational guidance, vocational training, placement, employment and related services for workers generally should, wherever possible, be used with any necessary adaptations.

6. Vocational rehabilitation should be started as early as possible. For this purpose,

health-care systems and other bodies responsible for medical and social rehabilitation should co-operate regularly with those responsible for vocational rehabilitation.

## **II. Vocational rehabilitation and employment opportunities**

7. 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.

8. 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.

9. 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.

10. Measures should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally.

11. Such measures, in addition to those enumerated in Part VII of the Vocational Rehabilitation (Disabled) Recommendation, 1955, should include:

(a) appropriate measures to create job opportunities on the open labour market, including financial incentives to employers to encourage them to provide training and subsequent employment for disabled persons, as well as to make reasonable adaptations to workplaces, job design, tools, machinery and work organisation to facilitate such training and employment;

(b) appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable;

(c) encouragement of co-operation between sheltered and production workshops on organisation and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions;

(d) appropriate government support to vocational training, vocational guidance, shel-

tered employment and placement services for disabled persons run by non-governmental organisations;

(e) encouragement of the establishment and development of co-operatives by and for disabled persons and, if appropriate, open to workers generally;

(f) appropriate government support for the establishment and development of small-scale industry, co-operative and other types of production workshops by and for disabled persons (and, if appropriate, open to workers generally), provided such workshops meet defined minimum standards;

(g) elimination, by stages if necessary, of physical, communication and architectural barriers and obstacles affecting transport and access to and free movement in premises for the training and employment of disabled persons; appropriate standards should be taken into account for new public buildings and facilities;

(h) wherever possible and appropriate, facilitation of adequate means of transport to and from the places of rehabilitation and work according to the needs of disabled persons;

(i) encouragement of the dissemination of information on examples of actual and successful instances of the integration of disabled persons in employment;

(j) exemption from the levy of internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently on specified articles, training materials and equipment required for rehabilitation centres, workshops, employers and disabled persons, and on specified aids and devices required to assist disabled persons in securing and retaining employment;

(k) provision of part-time employment and other job arrangements, in accordance with the capabilities of the individual disabled person for whom full-time employment is not immediately, and may not ever be, practicable;

(l) research and the possible application of its results to various types of disability in order to further the participation of disabled persons in ordinary working life;

(m) appropriate government support to eliminate the potential for exploitation within the framework of vocational training and sheltered employment and to facilitate transition to the open labour market.

12. In devising programmes for the integration or reintegration of disabled persons into working life and society, all forms of train-

ing should be taken into consideration; these should include, where necessary and appropriate, vocational preparation and training, modular training, training in activities of daily living, in literacy and in other areas relevant to vocational rehabilitation.

13. To ensure the integration or reintegration of disabled persons into ordinary working life, and thereby into society, the need for special support measures should also be taken into consideration, including the provision of aids, devices and ongoing personal services to enable disabled persons to secure, retain and advance in suitable employment.

14. Vocational rehabilitation measures for disabled persons should be followed up in order to assess the results of these measures.

### III. Community participation

15. Vocational rehabilitation services in both urban and rural areas and in remote communities should be organised and operated with the fullest possible community participation, in particular with that of the representatives of employers', workers' and disabled persons' organisations.

16. Community participation in the organisation of vocational rehabilitation services for disabled persons should be facilitated by carefully planned public information measures with the aims of:

(a) informing disabled persons, and if necessary their families, about their rights and opportunities in the employment field; and

(b) overcoming prejudice, misinformation and attitudes unfavourable to the employment of disabled persons and their integration or reintegration into society.

17. Community leaders and groups, including disabled persons themselves and their organisations, should co-operate with health, social welfare, education, labour and other relevant government authorities in identifying the needs of disabled persons in the community and in ensuring that, wherever possible, disabled persons are included in activities and services available generally.

18. Vocational rehabilitation and employment services for disabled persons should be integrated into the mainstream of community development and where appropriate receive financial, material and technical support.

19. Official recognition should be given to voluntary organisations which have a particu-

larly good record of providing vocational rehabilitation services and enabling disabled persons to be integrated or reintegrated into the worklife of the community.

### IV. Vocational rehabilitation in rural areas

20. Particular efforts should be made to ensure that vocational rehabilitation services are provided for disabled persons in rural areas and in remote communities at the same level and on the same terms as those provided for urban areas. The development of such services should be an integral part of general rural development policies.

21. To this end, measures should be taken, where appropriate, to:

(a) designate existing rural vocational rehabilitation services or, if these do not exist, vocational rehabilitation services in urban areas as focal points to train rehabilitation staff for rural areas;

(b) establish mobile vocational rehabilitation units to serve disabled persons in rural areas and to act as centres for the dissemination of information on rural training and employment opportunities for disabled persons;

(c) train rural development and community development workers in vocational rehabilitation techniques;

(d) provide loans, grants or tools and materials to help disabled persons in rural communities to establish and manage co-operatives or to work on their own account in cottage industry or in agricultural, craft or other activities;

(e) incorporate assistance to disabled persons into existing or planned general rural development activities;

(f) facilitate disabled persons' access to housing within reasonable reach of the workplace.

### V. Training of staff

22. In addition to professionally trained rehabilitation counsellors and specialists, all other persons who are involved in the vocational rehabilitation of disabled persons and the development of employment opportunities should be given training or orientation in rehabilitation issues.

23. Persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate

knowledge of disabilities and their limiting effects, as well as a knowledge of the support services available to facilitate a disabled person's integration into active economic and social life. Opportunities should be provided for such persons to update their knowledge and extend their experience in these fields.

24. The training, qualifications and remuneration of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons engaged in general vocational training who have similar duties and responsibilities; career opportunities should be comparable for both groups of specialists and transfers of staff between vocational rehabilitation and general vocational training should be encouraged.

25. Staff of vocational rehabilitation, sheltered and production workshops should receive, as part of their general training and as appropriate, training in workshop management as well as in production and marketing techniques.

26. Wherever sufficient numbers of fully trained rehabilitation staff are not available, measures should be considered for recruiting and training vocational rehabilitation aides and auxiliaries. The use of such aides and auxiliaries should not be resorted to as a permanent substitute for fully trained staff. Wherever possible, provision should be made for further training of such personnel in order to integrate them fully into the trained staff.

27. Where appropriate, the establishment of regional and subregional vocational rehabilitation staff training centres should be encouraged.

28. Staff engaged in vocational guidance, vocational training, placement and employment support of disabled persons should have appropriate training and experience to recognise the motivational problems and difficulties that disabled persons may experience and, within their competence, deal with the resulting needs.

29. Where appropriate, measures should be taken to encourage disabled persons to undergo training as vocational rehabilitation personnel and to facilitate their entry into employment in the rehabilitation field.

30. Disabled persons and their organisations should be consulted in the development, provision and evaluation of training programmes for vocational rehabilitation staff.

## **VI. The contribution of employers' and workers' organisations to the development of vocational rehabilitation services**

31. Employers' and workers' organisations should adopt a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers.

32. Employers' and workers' organisations, together with disabled persons and their organisations, should be able to contribute to the formulation of policies concerning the organisation and development of vocational rehabilitation services, as well as to carry out research and propose legislation in this field.

33. Wherever possible and appropriate, representatives of employers', workers' and disabled persons' organisations should be included in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors.

34. Wherever possible and appropriate, employers and workers' representatives in the undertaking should co-operate with appropriate specialists in considering the possibilities for vocational rehabilitation and job reallocation of disabled persons employed by that undertaking and for giving employment to other disabled persons.

35. Wherever possible and appropriate, undertakings should be encouraged to establish or maintain their own vocational rehabilitation services, including various types of sheltered employment, in close co-operation with community-based and other rehabilitation services.

36. Wherever possible and appropriate, employers' organisations should take steps to:

(a) advise their members on vocational rehabilitation services which could be made available to disabled workers;

(b) co-operate with bodies and institutions which promote the reintegration of disabled persons into active working life by providing, for instance, information on working conditions and job requirements which disabled persons have to meet;

(c) advise their members on adjustments which could be made for disabled workers to

the essential duties or requirements of suitable jobs;

(d) advise their members to consider the impact that reorganising production methods might have, so that disabled persons are not inadvertently displaced.

37. Wherever possible and appropriate, workers' organisations should take steps to:

(a) promote the participation of disabled workers in discussions at the shop-floor level and in works councils or any other body representing the workers;

(b) propose guidelines for the vocational rehabilitation and protection of workers who become disabled through sickness or accident, whether work-related or not, and have such guidelines included in collective agreements, regulations, arbitration awards or other appropriate instruments;

(c) offer advice on shop-floor arrangements affecting disabled workers, including job adaptation, special work organisation, trial training and employment and the fixing of work norms;

(d) raise the problems of vocational rehabilitation and employment of disabled persons at trade union meetings and inform their members, through publications and seminars, of the problems of and possibilities for the vocational rehabilitation and employment of disabled persons.

### **VII. The contribution of disabled persons and their organisations to the development of vocational rehabilitation services**

38. In addition to the participation of disabled persons, their representatives and organisations in rehabilitation activities referred to in Paragraphs 15, 17, 30, 32 and 33 of this Recommendation, measures to involve disabled persons and their organisations in the development of vocational rehabilitation services should include:

(a) encouragement of disabled persons and their organisations to participate in the development of community activities aimed at vocational rehabilitation of disabled persons so as to further their employment and their integration or reintegration into society;

(b) appropriate government support to promote the development of organisations of and for disabled persons and their involve-

ment in vocational rehabilitation and employment services, including support for the provision of training programmes in self-advocacy for disabled persons;

(c) appropriate government support to these organisations to undertake public education programmes which project a positive image of the abilities of disabled persons.

### **VIII. Vocational rehabilitation under social security schemes**

39. In applying the provisions of this Recommendation, Members should also be guided by the provisions of Article 35 of the Social Security (Minimum Standards) Convention, 1952, of Article 26 of the Employment Injury Benefits Convention, 1964, and of Article 13 of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, in so far as they are not bound by obligations arising out of ratification of these instruments.

40. Wherever possible and appropriate, social security schemes should provide, or contribute to the organisation, development and financing of training, placement and employment (including sheltered employment) programmes and vocational rehabilitation services for disabled persons, including rehabilitation counselling.

41. These schemes should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.

### **IX. Co-ordination**

42. Measures should be taken to ensure, as far as practicable, that policies and programmes concerning vocational rehabilitation are co-ordinated with policies and programmes of social and economic development (including scientific research and advanced technology) affecting labour administration, general employment policy and promotion, vocational training, social integration, social security, cooperatives, rural development, small-scale industry and crafts, safety and health at work, adaptation of methods and organisation of work to the needs of the individual and the improvement of working conditions.

# Appendix IV

## Resolution (36/1) of the United Nations Commission for Social Development: Promoting social integration and participation of all people, including disadvantaged and vulnerable groups and persons

...

### *B. Enhancing social protection, reducing vulnerability and enhanc- ing employment opportunities for groups with specific needs*

38. Policies that address vulnerability must be based on a proper understanding of the risk of poverty and social exclusion. Their aim should not be limited to providing social protection but should enable people to move out of poverty.

39. Social development policies and programmes must create an enabling environment for vulnerable, disadvantaged and marginalized groups, especially the poor, by incorporating their needs and interests, ensuring equal access and opportunities, and enable them to play a useful role in society, thereby contributing to the national development process.

40. The experiences of poor and marginalized people drawn through participatory techniques should serve as an input to improve the effectiveness of policies and programmes addressing the interest of these groups.

41. Enhancing social protection requires food security, adequate primary health care, access to clean water, sanitation and shelter, education, access to resources such as land, credit facilities and opportunities for involvement, particularly for vulnerable, disadvantaged and marginalized groups, in community life.

42. Where formal social protection systems exist or are possible, these should play an important role in countering vulnerability and promoting employability. They should be extended, strengthened and targeted to the extent necessary to meet adequately the needs of vulnerable, disadvantaged and marginalized groups. Where necessary, they should be modernized and reformed to meet changing conditions. All Governments should, within their capacity and capability, establish or

strengthen social safety nets for those in need of support and care.

43. Solidarity-based social protection arrangements play an important role in countering vulnerability and promoting employability. They should be encouraged by Governments. Social safety nets for all people are an essential component of solidarity-based social protection arrangements.

44. It is important to continue to establish and strengthen partnerships to enable civil society and the private sector to cooperate with Governments on policies and programmes to reduce vulnerability.

45. Policies to reduce vulnerability should aim to strengthen networks and organizations in the community, including the family, recognizing the essential support that they can provide.

46. The international community should assist developing countries, upon request, in building their capacity to develop and implement policies and programmes aimed at removing the obstacles confronting all vulnerable and marginalized groups and facilitating their greater access to society in all of its aspects.

47. Strategies and policies to address vulnerability should lead to the implementation of programmes that take into account the particular conditions of vulnerability in rural and urban areas.

48. Efforts at raising public awareness and sensitizing the public towards improved access and participation of vulnerable persons and groups should be initiated or strengthened, with the aim of building more cohesive societies.

49. Expansion of productive employment is an essential means to eradicate poverty which is one of the major causes of social exclusion in all countries. Strategies should be developed, taking into account the special needs and skills of various groups, to expand

opportunities for productive employment and small income-generating schemes.

50. The effectiveness and relevance of microcredit programmes as a viable tool for poverty eradication, generation of productive employment and sustainable livelihoods and empowerment of women and other marginalized groups are well recognized. Microcredit programmes should therefore be promoted actively at the national level for the empowerment of the poor and marginalized groups and for their integration in the mainstream economic and political process of society. In this context, the support of the international community is essential.

51. Governments should take measures, in collaboration, when appropriate, with employers and trade unions, to eliminate discrimination in employment against vulnerable, disadvantaged and marginalized groups and persons. Policies must address the special needs of groups that are the most vulnerable in the labour market, and promote opportunities to develop and gain new skills. Labour policies need to be particularly sensitive to their needs, including provision for equal remuneration, flexible working hours, adequate protection of part-time workers and access to information and training, and involvement in trade unions.

52. In countries where unemployment among young people is high, redoubled efforts are required to expand meaningful employment opportunities for them.

53. Attention should be given to reconciling professional activity and family responsibilities, for both men and women, inter alia, through affordable childcare, family support and appropriate flexible working arrangements.

54. Recognition needs to be formally given to unpaid work that is socially useful and to voluntary activities so as to raise awareness of the importance of these activities, in particular in the context of reducing vulnerability and dealing with its consequences. Work on appropriate methodologies to this end needs to be strengthened.

55. In countries where the informal sector in the economy is important, measures that promote an environment conducive for its appropriate development are critical. The establishment of self-generating employment, self-help schemes and productive and sustainable livelihoods, and the development of cooperatives and small-sized enterprises and

access to microcredit, particularly to improve access of the vulnerable, disadvantaged and marginalized groups in order to make them more self-sufficient, should be encouraged and promoted.

56. The elimination of child labour should be achieved as part of a larger programme in which society provides alternative assistance or economic opportunity; ILO, in close cooperation with the United Nations Children's Fund (UNICEF) and other United Nations organizations, supports national efforts to eliminate child labour. Continued financial support from the donor community for the ILO International Programme on the Elimination of Child Labour (IPEC) is particularly important; ILO should pursue its normative work on child labour by promoting the ratification and implementation of its Convention No. 138 concerning Minimum Age for Admission to Employment (Minimum Age Convention, 1973); Governments should support ILO work on the drafting of a new ILO Convention on the elimination of the most intolerable forms of child labour.

57. Early childhood education, both formal and informal, is a tool for reducing vulnerability and promoting social integration by providing all children with the basic skills that will give them a firm foundation for further learning. Provision of nutritional supplements, immunization and primary health care to all children, at both pre-school and primary school levels, is necessary for giving them a better start in life.

58. Particular attention needs to be given to the acquisition by all of the basic skills of literacy, verbal ability and numeracy and to equipping all people to adapt to technological, economic and social changes. Their access to lifelong learning is important with respect to maintaining and upgrading their employability.

59. General education at all levels, starting from pre-school education, should contribute to mutual understanding, tolerance and skills of intercultural communication.

60. Equal educational opportunities at all levels for persons with disabilities should be ensured.

61. Government at all levels should take appropriate actions to reduce the drop-out rates from school, using a holistic gender-sensitive approach to causes and solutions.

62. Cultural activities, sports and community service are among the activities that integrate all people into society and should therefore be encouraged and promoted.

relating to vulnerability, including its relationship to discrimination against vulnerable, disadvantaged and marginalized groups.

63. The regional commissions are invited, within their mandates, to further study issues

...

# Appendix V

## United Nations: Standard Rules on the Equalization of Opportunities for Persons with Disabilities

### *Rule 7. Employment*

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 sectors.

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.

# Appendix VI

## Ratifications of the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

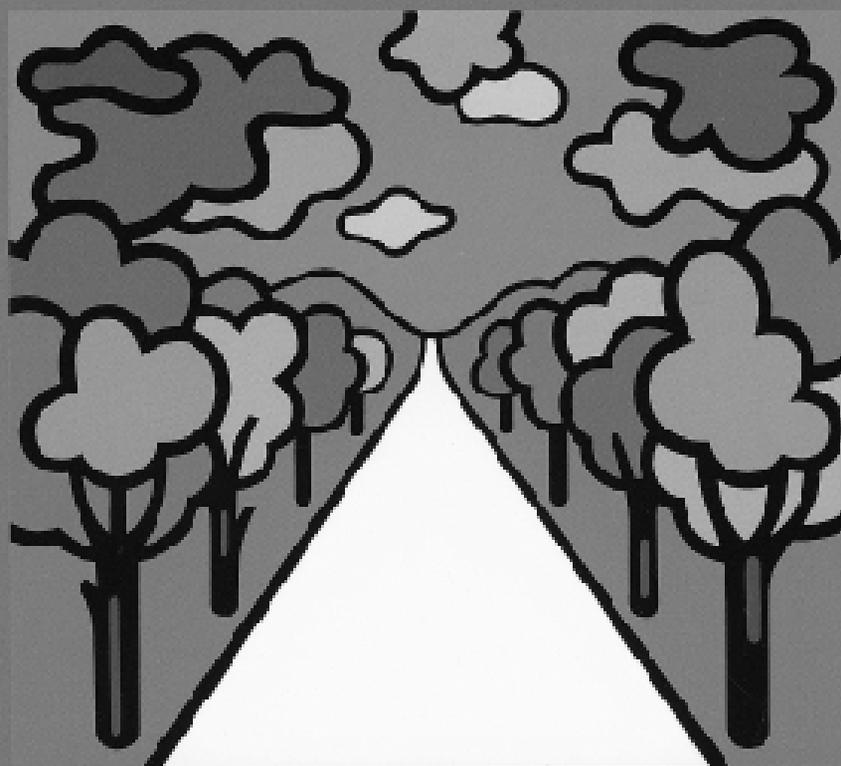
As of August 27, 1998

**Date of entry into force: 20.06.1985**

States	Ratification registered	States	Ratification registered
Argentina	13.04.1987	Lithuania	26.09.1994
Australia	07.08.1990	Madagascar	03.06.1998
Azerbaijan	19.05.1992	Malawi	01.10.1986
Bolivia	19.12.1996	Mali	12.06.1995
Bosnia and Herzegovina	02.06.1993	Malta	09.06.1988
Brazil	18.05.1990	Mongolia	03.02.1998
Burkina Faso	26.05.1989	Netherlands	15.02.1988
Chile	14.10.1994	Norway	13.08.1984
China	02.02.1988	Pakistan	25.10.1994
Colombia	07.12.1989	Panama	28.01.1994
Costa Rica	23.07.1991	Paraguay	02.05.1991
Croatia	08.10.1991	Peru	16.06.1986
Cuba	03.10.1996	Philippines	23.08.1991
Cyprus	13.04.1987	Russian Federation	03.06.1988
Czech Republic	01.01.1993	San Marino	23.05.1985
Denmark	01.04.1985	Sao Tome and Principe	17.06.1992
Dominican Republic	20.06.1994	Slovakia	01.01.1993
Ecuador	20.05.1988	Slovenia	29.05.1992
Egypt	03.08.1988	Spain	02.08.1990
El Salvador	19.12.1986	Sweden	12.06.1984
Ethiopia	28.01.1991	Switzerland	20.06.1985
Finland	24.04.1985	Tajikistan	26.11.1993
France	16.03.1989	The former Yugoslav Republic of Macedonia	17.11.1991
Germany	14.11.1989	Tunisia	05.09.1989
Greece	31.07.1985	Uganda	27.03.1990
Guatemala	05.04.1994	Uruguay	13.01.1988
Guinea	16.10.1995	Yemen	18.11.1991
Hungary	20.06.1984	Yugoslavia	15.12.1987
Iceland	22.06.1990	Zambia	05.01.1989
Ireland	06.06.1986	Zimbabwe	27.08.1998
Japan	12.06.1992		
Kuwait	26.06.1998		
Kyrgyzstan	31.03.1992		
		<i>Total of ratifications: 63</i>	

# ***The ILO in the service of social progress***

*A workers' education manual  
Second (revised) edition*



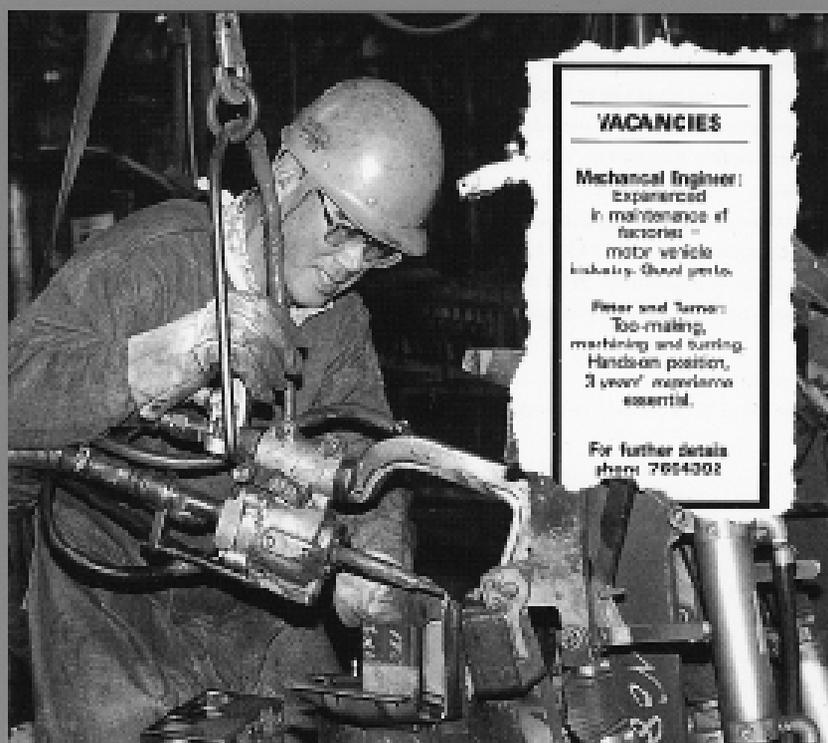
*International Labour Office Geneva*

---

# Introduction to public employment services

Sergio Riiva

*A workers' education manual*



International Labour Office - Geneva

Trade Union Functions and Services

# **Negotiating and writing a collective agreement**



Price: 5 Swiss francs  
ISBN 82-2-10394-8



International Labour Office  
Geneva