**Submission March 24, 2021**

**UN Committee on the Rights of Persons with Disabilities**

**Susan Scott-Parker OBE, business disability international**

It is a privilege to contribute a keynote in the General Discussion on the right to work and employment, of the UN Committee on the Rights of Persons with Disabilities, March 24,2021. In my allotted 10 minutes I highlight 7 key systemic reforms that would actively enable the employer best practice that aligns with the principals and values that shape and underpin the CRPD/ Article 27. Please see my formal submission for more detailed analysis and clarification.

While obviously the CRPD does not apply directly to the private sector as such–our definition of a ‘disability confident’ employer, a term and construct I introduced in 2003, encourages and enables employers in the public and private sector, to behave as though robust, enforced disability discrimination legislation as per Article 27 applied in every jurisdiction in which they operate.

**Executive Summary**

**1 We need to do a much better job explaining the CRPD/Article 27-** **what it signifies**, **why it matters, what to do.** Key stakeholders, including many Equality and Human Rights bodies, employers (and their friends and families) governments (as employers, service providers and as public policy makers), do not yet understand disability discrimination - nor how and why disability is to be ‘positioned’- ‘managed’- ‘conceptualised’ as an employment equity and human rights imperative.

**We need a fresh approach which explains to carefully targeted audiences, in straightforward, practical language, ‘who needs to do what differently’ if we are to eliminate disability related discrimination.** We need to explain how and why failure to make reasonable accommodations is wrong, unfair and discriminatory – while challenging the assumption that ‘accommodations equal special treatment and are optional’. We must put ‘rights first’ and treat the abstract language of ‘inclusion’ with caution as it is all too often is heard to imply that equal treatment, equal rights, equal opportunities is old hat, no longer relevant, passe, because we have all moved on to promoting ‘inclusion & belonging’. Noting that persons with disabilities do not in any jurisdiction enjoy the right ‘to feel included’. Nor does quota legislation protect them from unfair treatment.

**2 Employment Quotas, invented in 1919, should be replaced with modern, robust, enforced, disability discrimination legislation** **that is credible to both persons with disabilities and to private and public sector employers** – while encouraging governments to back these legal reforms with investments which a) enable job seekers to acquire the skills that employers/local labour markets require and b) ensure that employers as valued service users, have ready access to business relevant services, support, resources, guidance.

**Employers as well as Organisations of Persons with Disabilities must be actively involved in designing these 21st Century regulations** and in the requisite labour market reforms, given that *both business and OPDs* are crucially important stakeholders.

**3 We see few Equality & Human Rights institutions launching creative, engaging, compelling, educational campaigns** which explain disability discrimination to employers and society more widely; nor are they seen to challenge regulations which permit disabled people to be paid below minimum wages and relegated to segregated sheltered workshops.

**We need Equality & Human Rights institutions to serve as informed, passionate and effective advocates** who understand disability equality in the real world– and can translate Article 27 (and the CRPD more widely) into the language business and public sector employers, government ministers and allies and advocates can understand, relate to and then use to ‘persuade disbelievers.’

**We need a Performance Standard and Audit Tool which enables Equality & Human Rights bodies to measure and improve their disability equality performance.** Who measures the CRPD related impact of these organisations now? Against what metrics?

**4 We need a formal, high profile, in depth inquiry into the training and accreditation of HR professionals worldwide**. Human Resources professionals graduate not understanding disability discrimination and unable to implement those HR related policies which enable disability equality. Nor have they been taught how to avoid counterproductive negative compliance cultures while influencing those other functions, all outside HR control, (e.g. Technology, Property, Facilities Management, Procurement etc) which must also become disability competent if the employer is to get this right.

We need to determine the core disability & equality competencies that any accredited HR professional must be able to demonstrate. And challenge HR accreditation bodies to prove that their graduates meet this basic performance standard or be held to account for failing to adequately equip the profession. There is a particular opportunity to partner with HR accreditation programmes in low income countries as they build their offering to the profession and their local economies.

**5 We need to inspire/challenge/partner with Business Schools**: **why are MBA graduates not equipped to address disability equality** **as it relates to their workforce, their customers and the markets and societies in which their companies operate**? How can we help influential business schools to integrate disability equality into the core MBA curriculum?

**6 Our task is to re-engineer labour markets,** **not launch more projects**.

We need to move away from traditional low impact, short-term, small scale, often overlapping even competitive employment projects, towards systematic investment in shaping more equitable, therefore more efficient, labour markets. To illustrate: this strategy would enable mainstream talent pipelines (i.e., digital training courses for youth) to also serve young people with disabilities. We must move from tacit acceptance of their failure to make accommodations (because they are ‘mainstream’) to requiring these same mainstream talent pipelines to at the very least make the level of accommodations for disabled trainees that we would expect an employer to make, were these same individuals to present as applicants.

**Making it easier for employers as valued service users and potential allies makes it easier for disabled people to find jobs and careers.** Yet we still see employersroutinely positioned as ‘The Problem’, as someone who has no place at the table **–** and so we continue to fail persons with disabilities.We urgently need to build the ‘business/employer competence’ of organisations helping individuals to prepare for and find employment.

**We would see dramatically better outcomes were funders to require, as mandatory, that disability employment initiatives always meet the legitimate needs and expectations of both employers and persons with disabilities.**

**7 We must welcome and support the historic partnerships emerging between IDA, the ILO Global Business Disability Network, Valuable 500 and PurpleLightUp- PurpleSpace movement –**collaborations whichhave the potential to transform the working relationships between business leaders and persons with disabilities, all while enabling the joint problem solving, the joint communications, the co-produced innovation, that is so urgently required if we are to mobilise employers behind disability equality, no matter the jurisdiction in which they operate.

**We must welcome these positive developments**

* The partnership between IDA, Valuable 500, the ILO Global Business Disability Network and PurpleSpace/PurpleLightUp has exciting potential to transform the dialogue between business and persons with disabilities and their organisations. Real change only comes when business leaders and leaders with disabilities build relationships, learn directly from each other and move into joint problem solving and innovation.
* PurpleLight Up/PurpleSpace – this fast-growing global movement celebrates the contribution of the hundreds of millions of persons with disabilities in work. Business leaders are encouraged to learn directly from their colleagues with disabilities: the highly visible annual celebration also challenges both the stereotype that individuals with disabilities are *by definition* unemployed and the stereotype that individuals working in the private sector are *by definition* always indifferent, even hostile, to disability rights.
* The growing community of national Business Disability Networks, particularly in developing countries, supported by the ILO Global Business Disability Network. These networks have the potential to greatly enhance the life chances of persons with disabilities by promoting a better balance in their labour markets between interventions that ‘PUSH’ individuals at work in general, and services which help employers ‘PULL’ suitable candidates to particular vacancies.
* And it is encouraging to see the growing focus on re-engineering labour markets, rather than relying on the traditional, ad hoc, isolated ‘projects approach’ to helping individuals find work. Witness GIZ’s investment in bringing disabled people into mainstream as well as targeted digital skills training and Sightsavers’ commitment to making it easier for employers as valued service users to attract suitable pre -screened candidates for particular vacancies, while building the capacity of business to deliver the best practice called ‘disability confidence’.

**Yet, as we are all so well aware, there is still a very long way to go**

**We need to transform how we communicate- teach- explain -persuade**

We have not persuaded key stakeholders that ‘disability’ is now to be regarded, positioned, conceptualised -and managed day to day - as an ethical, equal opportunities, economic and human rights imperative.

We need to communicate not just to public & private sector employers but to equality bodies, business schools, professional training bodies, and society more widely what disability related discrimination ‘looks and feels like’ - how it happens – what does and does not constitute unfair and discriminatory treatment in ‘real life’… …that ‘reasonable means reasonable’…. Why the CRPD was necessary and is making the world a better place …Why turning a candidate down solely on the grounds of disability is fundamentally no different than turning me down because I am Canadian. How employers as allies of persons with disabilities can help public policymakers get it right…. and so much more……

Even equality bodies struggle to explain in plain language how disability discrimination in employment ‘works’ and why and how reasonable accommodations make equal opportunities possible. Many still define equality as treating everyone the same. Many hold outdated assumptions reinforced by their long exposure to Quota related policies.

And in quota countries, the message that you should employ disabled individuals on an equal basis with others, is simply drowned out by the embedded if not articulated powerful quintessential Quota message: “you have to hire disabled people not because they can do the job, but because they have disabilities.’

**Quotas undermine the CRPD**

Employment Quotas originated in 1919 as a public policy construct designed to compensate soldiers disabled in World War 1.

Quotas have survived for more than a century because their existence and more importantly their failure, actively reinforces those same negative assumptions regarding ‘disability’ which caused them to come into being. They are firmly grounded in the medical model and to be clear, were never intended to promote equal rights.

**Taxation vs Equal Opportunities**

If the state believes a sector of its citizenry to be unemployable, it will naturally seek to minimise the financial burden of their long-term dependency. In this instance, policy makers reduce that cost by obliging employers to pay salaries to these unemployable citizens or, where quotas are enforced, to pay fines when employers predictably fail to recruit on the basis of incapacity. Enforced quotas serve as a form of indirect taxation’ as recognised by the many employers who task their tax departments with paying the fines.

**Enforced quotas become self-sustaining closed systems that work like this:**

* Employers are taught that the state believes people with disabilities to be unemployable (or why compel employers to hire them?)
* In many jurisdictions, people must be deemed by a medical practitioner to be severely disabled, e.g. sufficiently incapacitated, to qualify for quota protection. Most disabled people will not be ‘disabled enough’ to qualify.
* Employers struggle to attract job qualified candidates who are also Quota Qualified,
* and come to regard disabled people who are ‘not quota qualified’ as not genuinely disabled, as state does not deem them to be disabled enough for Quota protection.
* Employers do not hire people on the basis of incapacity.
* Their failure to do so ‘proves’ disabled people are indeed so unemployable,

that employers cannot even be compelled to hire them and instead, where quotas are enforced, will pay the fines,

* which proves employers are indeed ‘the problem’.
* The fines, where quotas are enforced, often go to government funded employment/sheltered workshops/rehabilitation organisations.
* This ‘disability sector’ becomes financially dependent on the failure of their quota,
* and continues to demand not only that quotas be retained, but that the fines be made more onerous, given current penalties are evidently ‘not working’.
* Where quotas are not enforced, disability organisations, not surprisingly, demand enforcement and that employers be severely penalised,
* in the hope that this will force them to employ disabled people.
* Responsible business leaders, in either scenario, dare not try to encourage more effective legislation- as anything they say suggesting quotas be replaced ‘proves’ that they, and business generally, are hostile to persons with disabilities.
* They are accused of wanting not more credible regulations, but only to avoid their social obligations and the fines.
* Quotas do not protect individuals with disabilities from discrimination

**We need to replace quotas with 21st Century discrimination legislation which:**

* is credible and practicable in the eyes of both people with disabilities and leaders from business,
* communicates positive rights-based messages regarding people with disabilities, including that they must be employed on the basis of individual capability and potential, *not* on the basis of a medical diagnosis,
* is credible to both disabled people and employers because it is seen to have ‘teeth’ -is seen to be policed; is seen to meaningfully compensate individuals who experience discrimination,
* while making demands on employers which most would regard as reasonable, ethical, do-able, mutually beneficial because the law
* is grounded in the lived reality of both business and persons with disabilities,
* triggers the need to learn what employers do and do not do, which constitutes ‘disability discrimination’- and why and how reasonable accommodations enable dignified and equal treatment,

And we need to to learn from the success of the UK Government’s Access to Work funding scheme, which shares with the employer any substantial, potentially unreasonable, accommodation costs for named individuals, because both the state and the employer benefit. And in the knowledge that most adjustments are in fact reasonable and should be resourced by the employer. For example, this government fund empowers sign language users to become taxpayers, by paying what can be the quite substantial costs of sign language interpreter services for Deaf employees.

**Equality & Human Rights institutions’ disability equality challenge**

We rarely see national equality bodies in meaningful dialogue with business as key stakeholders and influencers. Nor do they typically help employers understand:

* what equal opportunities for disabled people requires a business to do differently, in practical terms
* how to deliver the best practice that benefits both business and society
* why and how these changes, such as the efficient provision of reasonable accommodations, work to the mutual benefit of business, persons with disabilities while driving economic growth
* Where to access business relevant advice and support.

We see far too few Equality & Human Rights institutions launching creative, engaging, compelling communication and educational campaigns designed to persuade society, including employers, to shift their world view from: “the problem is *your* disability” to “the problem is *our* failure to recruit on the basis of capability and potential.”

**How can we help Equality Bodies to be much more persuasive and enthusiastic communicators …advocates......educators…change agents?**

**Equality Bodies need to be seen to believe that disability *really is* an equal opportunities and human rights imperative** - and as such should be managed by business (and indeed by the equality body itself) as an ethical, economic, organisational and societal priority. Equality Bodies need to learn, and then to communicate:

* why Article 27 was needed and what it requires from both public and private sector employers, in very practical terms
* that equal opportunities no longer means treating everyone exactly the same- and that adjustments are not special treatment
* how disability discrimination ‘works’ and is experienced in the reality of the workplace
* that they too have an ethical obligation to make” nothing without us” a reality
* the need to facilitate meaningful dialogue with leaders with disabilities and leaders from the business community and with the public sector in their capacity as significant employers.
* the need to challenge outdated public policies, such as those that deny the minimum wage to disabled people and those which support not only existing sheltered workshops, but their continued growth in so many jurisdictions.

**Equality and Human Rights organisations need a ‘Disability Equality Audit’ and/or ‘Maturity Model’ which helps them to assess and systematically improve their disability equality performance. Such an audit would look for evidence- to illustrate:**

* that they give equal weight to the ‘disability equality crisis’ when compared to their investment in agendas with which they are more comfortable, i.e. race and/or gender
* that they remove disability specific obstacles which prevent persons with disabilities from participating in the first instance in debates and initiatives addressing intersectionality
* that they routinely monitor the impact of disability related discrimination legislation in their jurisdictions, to include the impact on women and girls with disabilities.
* that the institution delivers best practice as an employer in its own right.
* that it monitors its performance and impact by tracking the extent to extent to which it is regarded as credible and effective by both persons with disabilities and employers.
* AND? How should the disability rights performance of these bodies be assessed, against what standard, by whom?

**Human Resources training & accreditation is not fit for purpose**

**We need a formal, high-profile, in-depth inquiry into the training and accreditation of HR professionals, worldwide.**

HR graduates do not understand disability discrimination and have not been taught how to implement HR best practice. Nor have they been taught even the basics regarding how HR can help organisations drive the necessary culture and behavioural changes across those critically important business functions which are outside HR direct control, such as Technology, Property, Facilities Management, Procurement, Finance, Communications.

We need to identify the core ‘disability & HR best practice’ competencies and challenge HR accreditation bodies to embed this content into their training and accreditation process. We have an exciting opportunity to improve the training of HR professionals in low-income countries in particular, as their relatively young national HR accreditation bodies seek to expand their membership and influence.

We must also influence the Business Schools which award MBAs to the business leaders of tomorrow, and indeed today: MBAs currently graduate with little or no understanding of the impact of disability on their people, their customers or the markets, economies and communities in which their organisations operate.

**Making it easier for employers makes it easier for job seekers**

We fail people with disabilities when we fail to meet the legitimate needs of employers as valued service users, valued stakeholders, potential allies. Constant campaigning ‘at’ employers stereotyped as ‘the problem’, fails not just job seekers, but the millions in work who when they acquire disabilities lose their jobs because neither they nor their managers could find relevant support. (Noting that the disability employment sector is almost always funded to help the unemployed- not those at risk of becoming unemployed.)

Well intentioned employers worldwide report it is too hard to find suitable candidates and the expert support that managers require if they are to improve their overall corporate disability performance.

We see a self-perpetuating cycle of discouragement, in so many countries, as:

* failure to meet the needs of well-intentioned employers
* and failure to build relationships between business leaders and people with disabilities
* discourages the well-intentioned business leader from investing further,
* while making it easier for less motivated employers to not engage (“it’s just too hard!”)
* The disability sector then brands *all private sector* as ‘the problem’,
* and steer job seekers away from the formal economy,
* which makes it even harder for employers to attract suitable candidates….
* While the disability training and employment sector’s lack of business and labour market expertise and their lack of direct contact with the business community, results in people with disabilities not presenting with the skills and qualifications that employers require.

**We need to monitor what’s missing**

It is rare for employment programmes to set objectives related to the quality of service they provide employers. Which means programme evaluators ask only if *stated* objectives have been achieved; and do not address the impact of the *missing* objectives– such as deciding not to support employers. Funding agencies, as they read these programme evaluations therefore remain unaware that an opportunity to substantially improve employment outcomes has been overlooked.

Evaluations of employment related programmes should always address:

* the nature and quality of support provided to employers
* employer as well as job seeker satisfaction and outcomes/impact
* the extent to which they prepare job seekers for jobs that are in demand or soon will be.

**Above all we need to shape equitable labour markets**

It is time to move away from uncoordinated projects, one-off campaigns and initiatives, isolated interventions and the current duplication and competition between disability employment related organisations - to shaping equitable and efficient labour markets for all. We need to monitor the impact of the CRPD/Article 27 by assessing the extent to which labour markets are becoming more effective and equitable for persons with disabilities – noting that we would then also need qualitative data regarding the lived experience of both employers and job seekers.

We need a coordinated approach to helping local labour markets get the balance right between interventions that ‘PUSH’ individuals at the world of work in general and those that enable employers to ‘PULL’ suitable job seekers with disabilities to fill particular vacancies. Funders would drive these systemic labour market reforms were they to require, as mandatory, that the employment services they support must meet the needs and expectations of employers as well as those of job seekers and employees with disabilities.

Post education mainstream learning & skills programmes (digital skills for example) should be required not to discriminate against potential students with disabilities. We must move from tolerance of their failure to accommodate disabled students (because they are ‘mainstream’ provision) to requiring the learning and skills sector to make accommodations, just as we would expect an employer to make accommodations were these same individuals to present as job applicants.

We need a 5- year global multi-stakeholder strategy for nurturing the growth and influence in low-income countries of the ILO affiliated Business Disability Networks in that can play such a crucial role shaping local labour markets- as they build the ‘disability confidence’ of employers while helping to build the ‘business confidence’ of the disability sector. GIZ’s support for start-up business disability networks in India and Kenya, in partnership with the ILO, provides an excellent model, well worth systematic replication.

**For further discussion…feedback….comment… .conversation…clarification…**

**Please contact**

**Susan Scott-Parker**

**ssp@businessdisabilityinternational.org**