**Study on work and employment of persons with disabilities**

**Human Rights Council in March 2013.**

**ILO contribution**

# 1 Situation of people with disabilities in the field of employment, including relevant data and statistics.

There are between 785 and 975 million persons with disabilities of working aged (15 years or older), according to the World Report on Disability (WHO/World Bank 2011) – an estimate based on 2010 World Population estimates and 2004 disability prevalence estimates. Most live in developing countries where the informal economy is widespread.

Reliable, comparable labour market data on people with disabilities is regularly collected in a few countries, including the United States of America that now tracks their employment rates on an monthly basis. An ILO survey on the availability of statistics on disabled persons, and in particular on their employment situation carried out in 2003, found that countries mainly rely on population censuses and household surveys to compile these statistics, which means that information is generally collected at 5- or 10-yearly intervals, or for one point in time only, rather than as part of the regular labour force surveys. 24 countries mentioned 2-3 sources of information, while most mentioned only one source. According to the country replies, these sources provide detailed data on employment status, and generally take into account the relevant international standards dealing with employment and unemployment statistics. It has been found that the sources usually use definitions of disability that come from national legislation or that have been developed by national statistical offices, ministries and/or non-governmental organizations (NGOs) concerned with disability; less than 50 per cent of the countries are using the relevant international standards dealing with statistics on disability.’ 16 of the 111 countries that replied to the survey (of a total of 217 contacted), indicated that they did not have statistics on the employment situation of persons with disabilities. 12 countries indicated that they planned to start collecting these data.

Available statistics on the labour market situation of people with disabilities indicate the follow patterns.[[1]](#footnote-1)

* People with disabilities are less likely to be in full time employment than non-disabled persons;
* The unemployment rates of persons with disabilities are up to twice as high as for non-disabled people, in countries for which data is available
* The labour force participation rate of people with disabilities is significantly lower than among the population as a whole, with almost half of working age people with disabilities neither in employment nor actively looking for work in countries in Europe – and also in OECD countries. Many people with disabilities are not registered either as employed or as unemployed, and are thus invisible in the labour market, surviving either through the support of their families or through social security payments; this represents a serious bank of untapped potential in these countries.
* Where they are employed, workers with disabilities are more likely to be in low-paid jobs with poor promotional prospects and working conditions; ref report cited in World Report – no 48 – on p. 239
* disabled women are less likely to have a decent job than either non-disabled women or men with disabilities
* People with certain types of disability – such as intellectual disability and mental health disabilities are reported to face greater difficulties in finding decent work ;
* Linked to their low labour force participation in higher income countries and their concentration in low paid work with poor prospects, often in the informal economy - people with disabilities and their families are more likely to be among the poor in society, due to a bi-directional link between disability and poverty.

### *Do you have information on persons with disabilities working in the informal sector?*

There is almost no readily available information on the situation of persons with disabilities working in the informal sector. The World Report cites a publication dating from 2006 dealing with the rural labour market in India which states that 87% of people with disabilities who work are in the informal sector[[2]](#footnote-2), but this appears to be an exception in terms of published research.While ILO does not have information about people with disabilities working in the informal economy, ILO Statistics Department now has a database of statistics about people working in non-agricultural informal employment in 47 medium and low income countries, which can provide a basis for estimations of the number of people with disabilities in these countries[[3]](#footnote-3). Cross country data suggest that informal employment is paired with low income per capita and high poverty rates. Aside from China, for which data are limited to six main cities, six countries (India, Brazil, Mexico, Vietnam, Pakistan and the Philippines) make up three-fourths of the total informal employment estimated for the group of countries. In fifteen countries, informal employment represents at least two-thirds of non-agricultural employment. The lowest percentages of informal employment are observed in central and eastern European countries. This has implications for the implementation of the provisions of CRPD Article 27 on the Right to Work and Employment, and highlights the significance of Article 27 (f) regarding the promotion of opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one’s own business .

# 2. Legislative and policy frameworks developed at the national level in conformity with article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) on work and employment. Can any gaps be identified in legislation and policies related to work and employment of persons with disabilities?

There is evidence that many countries started the process of assessing their laws concerning persons with disabilities even before the CRPD was adopted, and that this process has led in some cases to the passing of new laws. In addition to support provided to countries in the development of labour legislation, the ILO has been involved in technical cooperation projects to support the review and implementation of legislation concerning the training and employment of persons with disabilities for the past decade and in that context, has supported the development of new disability-related laws in several countries in Africa and Asia. In addition, a curriculum on disability-related legislation was developed and pilot tested in collaboration with universities in several countries of Asia and Africa[[4]](#footnote-4), and support provided in introducing disability legislation as a topic in the curricula of law faculties of selected universities, so that future generations of lawyers and judges will be familiarized with disability issues in law. The ILO’s NORMLEX includes legislation concerning the employment of persons with disabilities[[5]](#footnote-5).

It seems that more work is required to ensure that the concept of reasonable accommodation is fully understood and accurately presented as a legal requirement to facilitate the full participation of persons with disabilities in training and employment. Frequently the concept of reasonable accommodation is missing or misrepresented, in countries which are starting the process of law reform required by the CRPD.

Another issue that seems to occur frequently is that laws based on equality of opportunity and non-discrimination exist alongside general and disability-specific legislation or regulations that incorporate concepts of disability based on medical definitions. Examples of such laws and regulations include those making welfare and social protection provisions or setting conditions for entry to public sector. These may specify eligibility criteria for disability-related benefits that act as a deterrent to seeking employment, or lay down conditions for applying for public sector jobs that effectively disqualify applicants with disabilities. Thus, it seems that a broad review of laws across the board is needed, to ensure that the rights-based approach to work and employment required by the CRPD is not hindered by other legal instruments.

Disability classification systems in place in many countries continue to categorize people in terms of impairment levels rather than ability to work, and lay down conditions of eligibility that in many countries to a require persons with disabilities to choose between receiving a disability-related allowance and taking a job. Measures to facilitate the transition from benefits to work have been introduced in some countries.

Provisions for enforcement of the laws are present in some countries, but there are indications that effective enforcement is hindered by in sufficient allocation of resources to the enforcement or monitoring bodies in many cases. Frequently, though, such laws make weak provisions for enforcements or none whatsoever.

The involvement of social partners or of disabled persons representatives is frequently not provided for by law in many countries. In practice, consultations may take place on an ad-hoc basis in relation to the development of new laws and policies; through existing consultative bodies; though task forces concerned for the purpose or through a consultative process organized throughout the country.

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| **Box 1: Supporting the development of national legislation through Technical Cooperation**In the period from 2002 to 2011, in the framework of a ILO technical cooperation project funded by the Government of Ireland, technical support was provided to several countries in the review of existing disability legislation and in developing new laws, including the review of disability specific and general employment legislation from a disability perspective; support for consultations with key stakeholders about the proposed new laws and policies; technical commentary and support to the dissemination of information about newly adopted laws, where appropriate. Such support was provided China, Ethiopia, Kenya, Mongolia, United Republic of Tanzania, Thailand, Viet Nam, Uganda, and Zambia.  |

# 3. Implementation of national legislation and policies, in particular related to progress made and obstacles preventing persons with disabilities, or specific groups of persons with disabilities (for example young persons with disabilities, women with disabilities or persons with intellectual/psycho-social disabilities), from enjoying the right to work on an equal basis with others.

Countries that have prioritized equal employment opportunities for persons with disabilities for many years have made considerable progress in tackling the barriers preventing people with disabilities from enjoying the right to work on an equal basis with others and in many cases have separate policies targeting specific groups of persons with disabilities. Most developing countries focus on policies and initiatives concerning people with disabilities as a group rather than specifically for specific groups of persons with disabilities.

Three main groups of laws are in operation to promote employment opportunities for persons with disabilities

* Quota obligations, involving an obligation to employ, the payment of a compensatory levy for unfilled positions into a fund established to promote the employment of persons with disabilities
* Employment Equity/Non-Discrimination which make it unlawful to discriminate against persons with disabilities in employment and require employers to make reasonable accommodation as well as to develop affirmative action plans.
* Job retention laws or provisions in employment laws which ensure that workers who acquire a disability have the right to continue in their job with their employer or return to work after a period of absence or be assigned to another job within the company.
* Contract compliance laws are often in place alongside the main laws, requiring companies to demonstrate that they are obeying the provisions of the laws, in order to qualify for public contracts. acting as an incentive to employers to implement the provisions of these laws

The evidence on the effectiveness of different types of laws and related policies in improving the employment rates of persons with disabilities is inconclusive. Recent OECD studies tentatively conclude that there is no systematic link between particular policies to promote the employment of persons with disabilities and that convincing evidence is lacking [[6]](#footnote-6). Research reports focusing on specific initiatives indicate that some approaches lead to more effective employment outcomes than previous approaches[[7]](#footnote-7). Examples are supported employment, wage subsidy schemes, quota schemes, provision of support services to both employers and workers with disabilities. In addition, indications are that initiatives in which employers are actively involved have a greater chance of success. It could be tentatively concluded from these research reports that a package of measures is required to tackle different disadvantages faced by people with disabilities in their search for work or by workers seeking to keep their jobs after acquiring a disability.

# 4. Involvement of persons with disabilities and their representative organizations in the development, implementation and monitoring of legislation and policies to promote and protect the right of persons with disabilities to work.

The ILO Convention concerning the Vocational Rehabilitation and Employment of Disabled Persons (No. 159), 1983 requires States Parties to involve representative organizations of and for persons with disabilities, in addition to employers’ and workers’ organizations on the implementation of national policies in this thematic area (Article 5). Reports to the ILO’s Committee of Experts on the Application of Conventions and Recommendations reflect the extent to which this requirement is observed.

A General Survey was undertaken by the Committee in preparation for the International Labour Conference in 1998, focusing on the effect given to C. No 159 and its accompanying Recommendation No. 168 both in ILO Member States that had ratified the Convention and those which had not. This survey indicated that in the mid-1990s, different forms of consultation of varying scope were taking place, and that an increasing number of countries held consultations with the 3 categories of organizations referred to in Article 5. In other countries, where two or only one of these organizations were consulted, it was frequently the representative organization of or for disabled persons[[8]](#footnote-8). The Committee noted that consultations increasingly involved organizations of or for people with disabilities and that in numerous countries, various permanent councils and committees have been set up and are consulted on the implementation of national policy. In other countries, organizations of and for people with disabilities had been assigned a more active role and are represented on various bodies responsible for drafting or implementing policies, measures and programmes in the field of vocational rehabilitation and employment of people with disabilities. (In some countries, only organizations of and for people with disabilities are consulted in bodies set up

ILO works to foster consultation with organizations of and for people with disabilities through work to promote ILO C. 159, and through technical cooperation support to national level capacity building activities and also through sponsorship of attendance at courses of relevance at the ILO International Training Centre in Turin, Italy.

# 5. International cooperation programmes related to the promotion of work and employment opportunities for persons with disabilities.

In the past, disability-specific projects carried out by the ILO focused on developing skills training and income generation opportunities for disabled persons, sometimes through community-based rehabilitation programmes Current projects focus more on promoting an inclusive approach to disability issues – to creating an enabling legislative and policy environment for opening up of general programmes and services to persons with disabilities (see Box 1 above); and to demonstrating how such a mainstream approach can work in practice, in country-level programmes. (See Box 2 below) Alongside such projects, a number of disability-specific projects are implemented, reflecting the twin-track approach required to tackle the different levels of disadvantage faced by people with different types and levels of disability. (See table 1 below).

**Box 2. Current projects including persons with disabilities among the target beneficiaries.**

Sustainable Enterprise Development projects in Kenya, Tanzania and Uganda, with a particular focus on women, including women with disabilities. (see http://www.ilo.org/wed)

‘Breaking Disability Barriers . Ensuring Decent Work for All’ is a pilot course for ready-made garment sewing machine operators , targeted at underprivileged groups. Launched by the European Union-funded ILO-implemented Technical and Vocational Education and Training (TVET) Reform Project in Bangladesh, the course provides women with disabilities the opportunity to acquire the technical competence required to become multi-skilled ready-made garment workers . The pilot aims to provide a model for industry demonstrating how underprivileged groups can be mainstreamed into TVET programmes and gain formal TVET qualifications.
(See <http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_176774.pdf>)

Local Empowerment through Economic Development (LEED) Project, Sri Lanka - funded by AusAID involves a job placement scheme to provide job placements for people with disabilities PaThe scheme is implemented through a partnership between the Chamber of Commerce, Vavuniya, the Department of Social Services and the National Apprenticeship and Industrial Training Authority. (NAITA) Wage subsidy is paid to the employers to recruit the apprentices. (see http://www.ilo.org/employment/areas/crisis-response/WCMS\_181880/lang--fr/index.htm)

Work4Youth Project : In this five-year project carried out by the ILO in partnership with the MasterCard Foundation, the ILO works with government institutions to implement school-to-work transition surveys in 28 countries across five regions[[9]](#footnote-9), including countries in which labour force surveys are not carried out. These surveys, to be carried out in 2012 and 2014, are intended to increase knowledge on the difficulties on difficulties facing young people, including people with disabilities, during their transition to decent work. The disability-related questions used are drawn from the UN Washington Group short set of questions, based on the WHO International Classification of Functioning, Disability and Health. The data and information generated will be included in a series of analytical national, regional and global reports on youth employment.
 (see <http://www.ilo.org/employment/areas/youth-employment/WCMS_170261/lang--en/index.htm>)

**Box 3. Recent and current disability-specific projects relating to the employment of persons with disabilities -**

Promoting the Employability and Employment of People with Disabilities through Effective Legislation” (PEPDEL), 2008 – 2011, carried out in 3 countries in South East Asia (China, Thailand and Vietnam); and 4 countries in East and Southern Africa - Ethiopia, Tanzania, Uganda and Zambia. (See http://www.ilo.org/disability)

Promoting Rights and Opportunities for People with Disabilities through Legislation (PROPEL) 2012 – 2015, carried out in Azerbaijan, Botswana, China, Ethiopia, Indonesia, Zambia. (http://[www.ilo.org/disability](http://www.ilo.org/disability))

Promoting Decent Work for Persons with Disabilities through a Disability Inclusion Support Service’ (INCLUDE), 2008 - 2011 Carried out in Ethiopia. Tanzania, Vietnam and Zambia, with outreach to Cambodia, Lao PDR, Kenya and Uganda. (see http://www.ilo.org/disability)

Social Inclusion of Persons with Disabilities through access to Employment - Ukraine, 2008-2011. (see http://www.ilo.org/budapest/what-we-do/projects/WCMS\_166970/lang--en/index.htm)

ILO/Korea Partnership Programme: Capacity building through Training Fellowships 2006 – 2008, involving countries of Asia and the Pacific (see http://www.ilo.org/public/english/region/asro/bangkok/ability/koreafp.htm)

Promoting Livelihoods for Persons with Disabilities: Enhanced Skills for Employability and Policy Application – Mongolia, 2010 – 2011 (see http://www.ilo.org/beijing/what-we-do/projects/WCMS\_142984/lang--en/index.htm)

# 6. Is there any additional information you wish to provide?

**ILO Global Business and Disability Network**

In collaboration between the ILO Disability Team and the ILO Bureau for Employer Activities, the ILO Global Business and Disability Network £has been established as an official public private partnership programme that brings together multinational companies, employers’ organizations and business networks on disability issues and selected NGOs and DPOs with international outreach The Network is now composed of 43 companies and 17 Networks to promote disability inclusion in the workplace and the marketplace. The Network is involved in knowledge sharing, the development of joint products (such as an enhanced database of disability laws), the strengthening of employers networks, and the linkage of companies and other groups to ILO or other disability activities at country level. A publication, Disability in the Workplace: company Practices, highlights what 25-companies are currently doing with regard to disability and hiring and retention, products and services and corporate social responsibility. A second publication Disability in the Workplace: Employers’ Organizations and Business Networks (ILO, 2011) illustrates the disability work carried out by 12 contemporary employers’ organizations and business networks. The GBDN website can be accessed at <http://www.businessanddisability.org/>. This site has a link to the ILO’s You Tube channel which has a GBDN playlist of company audios illustrating inclusion.

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1. See for example OECD, 2010, Eurostat 2002, WHO/World Bank 2011 [↑](#footnote-ref-1)
2. Mitra and Sambamoorthi, 2006 [↑](#footnote-ref-2)
3. ILO, 2012 [↑](#footnote-ref-3)
4. See online version at [ITCILO Online Education and Training Guide](http://disability-employment-legislation.itcilo.org/index.html) [↑](#footnote-ref-4)
5. http://www.ilo.org/dyn/normlex/en/f?p=1000:1:0::NO::: [↑](#footnote-ref-5)
6. OECD, 2008; 2009; 2010. [↑](#footnote-ref-6)
7. See for example, Powers 2007, Parmenter 2011. [↑](#footnote-ref-7)
8. ILO 1998 [↑](#footnote-ref-8)
9. The countries are in question are in Asia (Bangladesh, Cambodia, Philippines, Samoa,Vietnam); Eastern Europe and Central Asia (Armenia, FYR Macedonia, Moldova, Republic of, Russian Federation, Ukraine); Latin America and the Caribbean (Brazil, Colombia, El Salvador, Jamaica, Peru); Middle East and North Africa (Egypt, Jordan, Lebanon, Qatar, Saudi Arabia); and Sub-Saharan Africa (Benin, Kenya, Liberia, Malawi, Tanzania, Togo, Uganda, Zambia) [↑](#footnote-ref-9)