Executive Summary

Equalizing access to the labor market for persons with disabilities

A technical paper on implementing Article 27 of the UN Convention on the Rights of Persons with Disabilities

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This paper was developed by the International Disability Alliance (IDA) over the period December 2021 – May 2022 as part of the Inclusion Works program under the Inclusive Futures consortium umbrella.

Despite significant focus and attention to inclusive employment, persons with disabilities continue to be disproportionately excluded from the labor market. The UN Disability and Development Report states that across the world the employment to population rate for persons with disabilities aged 15 years and older is 36% on average, compared to 60% for persons without disabilities. In addition, some groups of persons with disabilities face greater barriers in exercising their right to work. For example, women with disabilities present even lower employment rates compared to men with disabilities, and women and men without disabilities. Further, current estimates show that the number of people with intellectual disabilities who have some form of paid employment is very low, ranging from 9% to 40% across different countries.

Over the past few decades, several approaches and efforts have been adopted to support persons with disabilities in accessing the formal labor market and waged employment. These approaches are underpinned by the assumption that there is a gap between the supply side (jobseekers with disabilities) and the demand side (employers). However, as the evidence suggests, despite efforts, persons with disabilities continue to face barriers accessing waged employment of any nature. It is therefore important to reflect on what more needs to be done to equalize opportunities for jobseekers with disabilities and ensure that they retain those jobs.

Too often, employment of persons with disabilities has been approached through a narrow lens of placing people into jobs, without securing preconditions for inclusive employment. Persons with disabilities have often been supported to access only a limited range of jobs based on prevailing stereotypes, usually low-wage and perceived low-skill roles, thereby perpetuating stigma and prejudice about what persons with disabilities can or cannot do. This is particularly the case for most underrepresented groups, such as persons with intellectual disabilities.

Against this background, there is an urgent need to move the needle on inclusive employment from merely placing people into jobs to true inclusion. This will require system-level changes across all aspects of the labor market: laws and policies, skill building, recruitments, investing in an accessible workplace, creating support services that are critical for persons with disabilities to access the labor market, and more.

This paper therefore emerged from this need to formulate an understanding of inclusive employment aligned with the UN Convention on the Rights of Persons with Disabilities (CRPD), driven by IDA's role in the Inclusion Works (IW) program in Bangladesh, Kenya, Nigeria and Uganda.

1.   Disability & Employment

This chapter outlines the jurisprudence around the right to work and the significance of decent work for persons with disabilities. It looks at the CRPD and its mandate on the right to work, particularly under Article 27. This includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities.

It further reiterates the prohibition of discrimination, the right to reasonable accommodation, and equal pay, among others. The Convention also lays down the obligations of the States parties to ensure the progressive realization of the right to work and to take deliberate, concrete and targeted measures towards the full realization of the right to work and employment. This section also lays out the jurisprudence of the CRPD Committee that speaks to the interrelatedness of Article 27 with other provisions of the CRPD; as well the shift to look at disability inclusive development programming, including those focused on employment, from a human rights lens rather than charity.

The chapter further highlights various international mechanisms that mandate the right to work for persons with disabilities including the 2030 Agenda for Sustainable Development which under Goal 8 calls for "full and productive employment and decent work for all". Target 8.5 of the Sustainable Development Goals (SDGs) explicitly mentions disability. Both the CRPD and the SDGs are aligned as the Convention sets out the principles and standards of the right to work and employment for persons with disabilities and provides the basis for States parties to meet their obligations under the SDGs.

The Global Disability Summit (GDS) provides another international mechanism to drive the agenda of inclusive employment and to hold governments and other stakeholders to account. It brings together governments, donors, multilateral and bilateral bodies, International NGOs (INGOs) and organizations of persons with disabilities (OPDs) to collect ambitious commitments critical to achieving real change for persons with disabilities.

2.   Inclusion Works Countries Context

This section takes a look at the IW countries context (Bangladesh, Kenya, Nigeria and Uganda). It provides an insight into the existing situation for persons with disabilities from the availability of data to the existence of enabling laws and policies. The legislative and policy frameworks; employment readiness of jobseekers; disability inclusion among employers, as well as partnerships with OPDs are given focus.

The four IW program countries' governments all signed and ratified the Convention in the early years after its adoption, and developed or updated national policies on disability within eight years after ratifying the CRPD. OPDs in the four IW countries found that progress had been made in the respective national legislation to align it with the principles of the CRPD. However, the national OPDs and IDA members are still raising concerns on significant gaps that exist, such as discrimination on the grounds of disability not being sufficiently addressed

in the legislations, in particular for persons with intellectual and persons with psychosocial disabilities.

In addition, all four countries report as a challenge, the structure and implementation of quotas, targets, and incentives related to the employment of persons with disabilities as well as limited availability of comprehensive and quality data disaggregated on disability.

The lack of equal access to quality education and vocational training in mainstream training institutions in the four countries is highlighted, which perpetuates persons with disabilities' low level of market-related qualifications. Reported also, are the misconceptions on disability and a lack of understanding among employers on barriers to inclusive employment. Consequently, employment interventions often focus on supply-side solutions such as vocational training, and are less likely to focus on equipping employers with the knowledge and skills to deliver meaningful inclusion in the workplace.

Discrimination and stigmatization in the workplace is highlighted as well, with a focus on hiring practices, harassment and bullying at the workplace and lack of redressal mechanisms as well as low or unequal pay, lack of accessibility and reasonable accommodation, and gendered unequal treatment that highlights disadvantages faced by women with disabilities.

3. Key Lessons on Access to the Labor Market for Persons with Disabilities

This chapter outlines learning from the project as it seeks to advance the implementation of Article 27 in Bangladesh, Kenya, Nigeria and Uganda. The Inclusion Works program was built on the understanding that interventions to advance the right of persons with disabilities to employment must be framed in keeping with the need for broader system-level transformation. The labor market system requires the removal of barriers to employment and a fundamental shift in the way that businesses conduct recruitment, support their employees, and create inclusive environments for all persons with disabilities.

The various lessons presented are therefore based on the interventions that happened within the program.

On legal harmonization, it is critical that both jobseekers with disabilities and employers build their capacity to understand national laws and international obligations. In addition, it is essential to review gaps between the domestic legislation and what is needed to ensure consistency with the CRPD.

When it comes to the enforcement and monitoring of the legislative framework, the IW experience showed that monitoring, reporting and evaluation structures, including clear roles for OPDs, are essential to support the effective implementation of policies and optimize their impact, and the need for these to be supported with clear budget allocation.

On data, comparable and reliable data are intrinsically linked to the implementation and monitoring of laws and policies. Through IW, it is noted that addressing gaps in employment

data disaggregated by disability is critical to gather evidence on discrimination faced by persons with disabilities and inform policy making. Project monitoring can be a platform for INGOs and OPDs to learn and develop methods for collecting data disaggregated by disability and monitor the project's impact on all groups of persons with disabilities.

In addressing access to skills training, reports from the IW program countries and from OPDs and employers showed that the level, quality and relevance of technical skills amongst persons with disabilities significantly determine their access to inclusive employment. It is crucial therefore that measurable and feasible objectives, clear timeframes, human and financial resources and transparent monitoring and evaluation mechanisms are included as key elements of policies or strategies for inclusive trainings, including through TVETs. Interaction with IW OPDs showed that many considered skill building opportunities provided by the IW program as a step in the right direction, with a range of online short courses on employability skills. This chapter provides an example of designing a jobseeker soft skills training to show how inclusive trainings can be designed.

Other lessons covered in the chapter include the need to support persons with disabilities in countering real and internalized marginalization to develop personal and professional confidence as jobseekers and employees; as well as the need to put a strong focus on relationship building with employers and employers' organizations which is essential in moving the agenda on inclusive employment forward to ensure an open, accessible and inclusive labor market through systemic transformation.

A case study of Safaricom, a company that has taken a lead in inclusive employment through working with OPDs among others is highlighted, as well as an extract on designing disability sensitization trainings to employers to show how trainings for employers can be designed.

In addition, National Business and Disability Networks (NBDNs), forums where companies and employers come together to work towards further employment and social inclusion of persons with disabilities are highlighted. The Business Disability Networks can be a powerful strategy for change as they create space for employers, OPDs and technical partners to jointly reflect on challenges and good practices to advance employment of persons with disabilities.

The IW experience has shown a lack of understanding of reasonable accommodation among employers and the critical role they play to prevent discrimination of persons with disabilities. This chapter further unpacks this to demonstrate what reasonable accommodation means, and how it can be ensured for the diversity of persons with disabilities.

Additionally, the business case approach to promote inclusive employment has been highlighted calling for it to be rooted in human rights and social justice to ensure that a for-profit argument does not lead to further exclusion of those with high risks of marginalization. Employers need to recognize past and present marginalization and discrimination of persons with disabilities and take active responsibility to transform the labor market to become open, accessible and inclusive for persons with disabilities. Creating this kind of critical consciousness on disability amongst employers should be done in close collaboration with OPDs.

4. Recommendations

The recommendations are structured for each stakeholder group i.e. government, employers, INGOs and development agencies and OPDs. An integrated approach where all stakeholders engage and work together in respect of their complementary mandate and expertise is a prerequisite for sustainable transformation of the labor market to be more inclusive of all persons with disabilities. In this multi-stakeholder approach, OPDs should be at the forefront and take the lead in guiding the implementation of Article 27 and the CRPD as a whole, and should be supported to secure the resources and develop the capacity to do so.

Some key recommendations are as follows. For full list of recommendations, please read the report here.

Governments

1. Ensure that national legal frameworks are compliant with the provisions of Article 27 of the CRPD. Strengthen anti-discrimination and affirmative action laws and policies.
2. Strengthen data collection systems for increased and improved disability disaggregated data collection.
3. Ensure adequate budget allocations to support disability inclusion in education, employment, social protection, and other issues that directly impact access to employment.
4. Ensure accessibility of infrastructure, including transportation, services and information, inclusive public procurement following Universal Design standards.
5. Ensure the right to reasonable accommodation for persons with disabilities, and provide a mechanism for redress in case of violation.
6. Ensure availability of and access to quality affordable assistive devices and support services.
7. Provide support to employers through tax breaks and incentives, including to small and medium enterprises, to promote employment of persons with disabilities.

Employers

1. Ensure executives and top leadership visibly commit to disability inclusion.
2. Develop disability-inclusive policies encompassing all areas, including recruitment, procurement, promotion, retention and retirement and employee well-being.
3. Ensure accessibility of infrastructure, services and information, including software and hardware, following Universal Design standards. Establish policies and allocate budget for provision of reasonable accommodation as an immediate obligation.
4. Provide regular training and sensitization programs, ideally designed and delivered by persons with disabilities, to staff, including for top management and leadership.
5. Ensure safe working environment for persons with disabilities and establish redressal mechanism. Organizational safeguarding policies should be disability inclusive.

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6. Work with civil society organizations including OPDs to create company structures for developing a talent pool of persons with disabilities through skills development to meet skills needs of the company.

INGOs and development agencies

1. Undertake, with OPDs or with their active engagement, programs to promote CRPD-based inclusive employment.
2. Meaningfully include a diversity of OPDs, particularly those from underrepresented groups, in inclusive employment programming, across all levels from design to monitoring.
3. Develop, along with OPDs or with their active engagement, technical resources to promote inclusive employment. Acknowledge the expertise OPDs bring to the table beyond their mobilizing capacities.
4. Adopt a twin-track approach to inclusive employment: ensuring that mainstream economic participation programs and funding are disability inclusive, while implementing disability-specific programs and funding on inclusive employment.
5. Increase access to adequate core funding for OPDs, especially those from underrepresented groups, to strengthen their operational and organizational development in order for them to fulfill their role(s) with independence, autonomy and adequate capacity.
6. Support awareness-raising to combat attitudinal barriers, either OPD-led or with the active involvement of OPDs.

OPDs

1. Develop expertise and skills on the CRPD and the rights-based approach to disability within the organizations, including board members, staff and members.
2. Strengthen diversity and representation of all persons with disabilities within the movement, including women with disabilities and other underrepresented groups, and persons with disabilities from rural and remote areas.
3. Support partnerships with other social movements to strengthen an intersectional approach to disability inclusion.
4. Raise awareness on disability issues to remove stigma and promote community inclusion.
5. Support and advise private and public-sector employers on inclusive employment, particularly including underrepresented groups in these engagements.
6. Develop technical resources and highlight good practices on implementing CRPD-based inclusive employment
7. Lobby and work with government on harmonization of national laws and policies with the CRPD and their effective implementation.