

# Implementing the UN CRPD in countries of Asia and Africa

*B. Murray, International Labour Office, Geneva*

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# UN CRPD

- In force since May 3, 2008 - legally binding on 91 States  
*(21 Sept 2010)*
  - 20 in Africa
  - 9 in Asia
- Women and men with disabilities to benefit from the rights enshrined in existing human rights instruments
- Both a human rights and development convention
- Details on how States can promote this through
  - Preamble
  - 50 Articles
  - Optional Protocol
- ‘No new rights’...  
but several innovations, modifications and additions



# Paradigm shift – Work and Employment

## ● Article 27:

- Based on Universal Declaration of Human Rights Art 23 (Right to Work)
- States Parties recognize the right of persons with disabilities, to work on an equal basis with others
- Includes specific provisions on:
  - promotion of employment in the private sector; through appropriate measures;
  - job-retention and return to work;
  - reasonable accommodation.

# Developing countries in Africa and Asia

- **Legal provisions – training and employment of persons with disabilities**
  - As part of comprehensive disability-related laws
  - As part of laws focusing on discrimination in general
  - As part of general legislation
- **Illustrations**
  - China, Ethiopia, Zambia
- **Laws apply to formal employment, comprising a minority of the labour market in Africa and Asia.**



# China

## ● Elements of rights based approach

- Law of the People's Republic of China on the Protection of Disabled Persons 1990
  - Prohibits discrimination in recruitment, employment, granting of permanent employee status, promotion, determining technical or professional titles, payment, welfare, labour insurance or in other aspects.
- Who benefits?
  - Persons who suffer from abnormalities or loss of a certain organ or function, psychologically or physiologically, or in anatomical structure and have lost wholly or in part the ability to perform an activity in the way considered normal.
- What obligations on employers?
  - Obligation to employ specified quota of persons with disabilities in appropriate types of jobs and posts.



# China

- **Rights based approach**

- **Law of the People’s Republic of China on Promotion of Employment 2007**
  - **Prohibits discrimination on the basis of ethnicity, race, gender, religious belief etc in seeking employment – could be interpreted to include disability**
  - **Guarantees the labour rights of disabled persons, by requiring all levels of government to make an overall plan of the employment of disabled persons to create favourable conditions of employment (Art 29)**
  - **When an employing unit recruits labourers, it shall not discriminate against disabled persons...”**



# Ethiopia

## ● Rights based approach:

- Right to Employment of Persons with Disability Proclamation No 568/2008
  - Prohibits discrimination on ground of disability
  - Who benefits?
    - *“Person with disability means an individual whose equal employment opportunity is reduced as a result of his physical, mental, or sensory impairments in relation with social, economic and cultural discrimination.”*
  - What obligation on employers?
    - Employers covered: Federal or Regional government offices or undertaking governed by the Labour Procl.
    - Affirmative action, reasonable accommodation
- Federal Civil Servants Proclamation No. 515/2007
  - Provides for affirmative action in the recruitment of persons with disabilities (*priorities of appointment shall be given to candidates with disabilities who meet the minimum passing score’*)



# Ethiopia

- **Medical Model of Disability**

- **Labour Proclamation No. 377/2003**
  - defines the concept and degrees of disablement
  - provides that the degree of disability shall be fixed by a competent medical board in accordance with the assessment table of disability prescribed by directives issued by the Minister.

- **Charity, welfare, caring approach:**

- **Constitution 1994 Art 41:**
  - “The State shall, within the limits permitted by the economic capability of the country, care for and rehabilitate the physically and mentally handicapped, ...
- **Order to Provide for the Establishment of a Rehabilitation Agency for the Disabled (No. 70), 1971**
  - provides that a rehabilitation agency shall promote job placement services for disabled persons.



# Zambia

- **Rights based approach:**

- **Persons with Disabilities Act, 1996**

- **Prohibits discrimination on ground of disability – including**

- in the advertising of employment;
      - in the recruitment, training and promotion of staff; and
      - in the terms and conditions of employment, including the provision of benefits

- **Who benefits?**

- Disability is defined as “any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being, and would or would not entail the use of supportive or therapeutic devices and auxiliary aids, interpreters, white cane, reading assistants, hearing aids, guide dogs or any other trained animals trained for that purpose”.

- **What obligation on employers?**

- failure to provide “different services or conditions required for the disability” - considered discrimination



# Zambia

- **Inclusive approach**

- Vocational Training Policy and Disability Policy aim at including persons with disabilities in the mainstream

- **Charity, welfare, caring approach**

- **Constitution**

- the State shall endeavour to provide to persons with disabilities, the aged and other disadvantaged persons such social benefits and amenities as are suitable to their needs and are just and equitable



# Emerging picture?

- Language of rights present in some existing, many new laws
- Earlier concepts of disability still present in some recent laws, alongside rights-based approach.
- Older laws - reflect earlier concepts of disability
- Few excellent examples

# What challenges for the future?

- **Amongst others:**
  - **Revision of disability assessment procedures**
  - **Consultation in law development/reform process**
  - **Review of disability provisions in other current laws**
  - **Involvement of employers, trade unions, civil society in planning implementation**
  - **Systematic monitoring of impact**