Disability Employment Policies within the Civil Service

Elza Maharramova
Associate Public Administration Officer
United Nations Department of Economic and Social Affairs
I. General remarks

The paper is focused on the disability employment policies within the civil service. Specific case studies from Canada, Germany, Norway and United Kingdom have been reviewed alongside with strategies to incorporate disabled persons into the mainstream workforce and costs associated with this.

The underlying principle of policies currently promoted by the United Nations towards persons’ disabilities is based on human rights, fundamental freedoms and equality of all human beings including persons with disabilities. These rights and freedoms are enshrined in the United Nations Charter, the Universal Declaration of Human Rights, International Covenants on Human Rights and related human rights instruments.

The Declaration on the Rights of Disabled Persons, adopted by the General Assembly on 9 December 1975, encouraged national and international protection of the rights of the disabled. It reaffirmed the principle that disabled persons were entitled to the same political and civil rights as others, including measures necessary to enable them to become fully self-sufficient. The World Conference on Human Rights, held in Vienna in 1993, reconsidered universally recognized human rights instruments in the light of contemporary issues and produced a Programme of Action to guide human rights efforts forward in light of today’s realities. The Conference recognized that “all human rights and fundamental freedoms are universal and thus unreservedly include persons with disabilities.” The Vienna Conference affirmed that any discrimination, intentional or unintentional, against persons with disabilities is per se a violation of human rights.1

The World Health Organization distinguishes between impairment, disability and handicap:

- **Impairment** is any loss or abnormality of psychological, physiological, or anatomical structure or function.

- **Disability** is any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner, or within the range considered normal for a human being.

- **Handicap** is a disadvantage for a given individual, resulting from an impairment or disability, that limits or prevents the fulfillment of a role that is normal, depending on age, sex, social and cultural factors for that individual.2 Thus, handicap is the result of physical, institutional, social and cultural barriers that disabled persons face in their lives. Therefore, policies with regard to disabled persons should target the removal or at least reduction of those barriers, so that disabled persons can enjoy the same opportunities as their non-disabled counterparts.

Global estimates in 1996 indicate that between 250 and 300 million people are disabled. This is close to 5% of the total world population. The United Nations has been extensively addressing

---

the problem of disabled persons. In 1975, the UN General Assembly adopted the “Declaration of
the Rights of Disabled Persons” emphasizing civil and political rights of disabled persons. 1981
was proclaimed as the “International Year of Disabled Persons to Promote Full Participation and
Equality”. As a result, the “World Programme of Action Concerning Disabled Persons” was
adopted by the UN General Assembly (resolution 37/52 of 1982) and the UN Decade of
Disabled Persons (1982-1992) was proclaimed. The World Programme of Action is a global
strategy to enhance disability prevention, rehabilitation and equalization of opportunities, which
pertains to full participation of persons with disabilities in social life and national development.
At the conclusion of the Decade of Disabled Persons, a set of twenty-two “Standard Rules on the
Equalization of Opportunities for Persons with Disabilities” was developed by a working group
of government experts.

At the 1995 World Social Summit in Copenhagen, the heads of State and government from 117
countries affirmed their commitment to promote the Standard Rules by developing
implementation strategies. The Programme of Action which was adopted by the 1995 World
Social Summit stated that “Governments, in collaboration with organizations of people with
disabilities and the private sector, should work towards the equalization of opportunities so that
people with disabilities can contribute to and benefit from full participation in society. Policies
concerning people with disabilities should focus on their abilities rather than their disabilities and
should ensure their dignity as citizens.”

Employment is one of the facets of full participation in society. Therefore, full participation
of disabled persons in society cannot be achieved without providing them with equal employment
opportunities. Unfortunately throughout the world, “many persons with disabilities are denied
employment or given only menial and poorly remunerated jobs. This is true even though it can
be demonstrated that with proper assessment, training and placement, the great majority of
disabled persons can perform a large range of tasks in accordance with prevailing work norms.”
It cannot be denied, accordingly, that persons with disabilities are subject to widespread
discrimination, which has no other basis than stereotypes and prejudice.

Governments are responsible for promulgating laws and regulations as well as developing
policies to rectify the depressing situation of underemployment of disabled persons.
Additionally, Governments should be “model employers”. They should serve as examples of
good practices to be followed by businesses and other sectors in society. Paragraph 133 of the
United Nations World Programme of Action Concerning Disabled Persons specifically stated
that “when acting as employers, central and local governments should promote employment of
disabled persons in the public sector. Laws and regulations should not raise obstacles to the
employment of disabled persons.” In the same vein, Rule 7 of the Standard Rules on the
Equalization of Opportunities for People with Disabilities required that “in their capacity as
employers, States should create favourable conditions for the employment of persons with
disabilities in the public sector.”

---

3 UN Press Release ENV/DEV/386.
4 United Nations World Programme of Action Concerning Disabled Persons, Para. 69.
II. Case studies

The following case studies focused on disability policies and practices of four developed countries having necessary infrastructure, legislation and policies to cover the employment of disabled people.

Canada

The Canadian legislation covering people with disabilities consists of:

- Employment Equity Act (1995), which covers all federally regulated employers, including the civil service. The purpose of this Act is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfillment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.

- Human Rights Act (1988), which requires to include duty to accommodate the persons with disabilities to the point of undue hardship;

- Charter on Rights and Freedoms, part of the Constitution that covers all the government. The Charter states that you cannot discriminate on the basis of gender, age, or disability.

There is a complaint mechanism to the Canadian Human Rights Commission, the body to which an aggrieved individual with a disability may file a complaint.

All employers, including the civil service, annually report on the composition of their labour force, particularly target groups. Employers must develop action plans to achieve employment equity. The Treasury Board of Canada, which oversees the civil service, develops internal policies towards underrepresented groups, including persons with disabilities. Recently, the number of persons with disabilities in the civil service has decreased due to the downsizing of the government.5

According to the Public Service Commission of Canada, “Structural, environmental, and technological barriers often pose great difficulties for persons with disabilities. These include such things as access to specially adapted seating arrangements, technical, equipment, wheelchair access, special access to washrooms and the need for parking nearby. Although the Federal Public Service usually meets these conditions in the workplace, they are still too often not met when Persons with Disabilities must attend meetings or other events outside the workplace.”

---

5 Telephone interview, Mr. Laurice Beachell, National Coordinator, Council of Canadians with Disabilities.
Individuals may have to cope with physical problems related to their disability. The structure and policies of the Federal Public Service are not structured to accommodate this. For example, if the individual is in pain or suffers from severe or chronic disability, she or he could probably work more effectively at home. Although accommodations are often made, they are more due to the good will of management than the structure and policies of the organization.

**Germany**

The rights of disabled persons in Germany are safeguarded in a non-discrimination and equal opportunity clause of Article 3 of the Constitution. The last sentence of that clause states that “nobody shall be discriminated against on account of their disability.” The last sentence was added by the Bundestag in December 1994, following lobbying by the disabled community, which demanded that the government change its social care policy to one of civil rights which would empower disabled people to lead a self-determined life.

Under the latest version of the German Law on Severely Disabled People, adopted by the Bundestag on 29 September 2000, every employer with at least 20 posts must set aside five percent of their jobs and training places for severely disabled persons as a priority. The term “posts” includes not only workers and salaried employees, but also civil servants, judges and trainees. Any employer who is not able to fulfil this quota has to pay a compensatory levy. It is important to note that public sector employers are also required to pay a levy when they fail to fulfil the quota. A quota scheme applies only to severely disabled people; someone whose degree of disability is over 50% is classed as severely disabled. In Germany incapacity is determined by means of a medical procedure which measures the degree of disability, based upon “loss of capacity in general working life”; thus, incapacity is not based upon the degree of handicap. It should be emphasized that every employer is obliged to equip and maintain work premises, installations, machines and equipment in such a way that at least the prescribed five per cent of severely disabled persons can be employed.

Severely disabled persons in Germany enjoy special protection against dismissal. This applies to the civil service as well. After a period of employment of six months, a severely disabled person may not be given notice without the prior approval of the relevant administrative authority.

In the recruitment of severely disabled people and in safeguarding their jobs, a special role is played by the severely disabled employees’ representative who takes care of the severely disabled person’s interests both in companies and administrations.

In the civil service, the aforementioned instruments for the integration of severely disabled persons into gainful employment are supplemented by specific civil service regulations, which safeguard the employment of severely disabled people in the civil service. Public sector
employers have special obligations with regard to persons with disabilities. The employer must check whether a certain post can be filled by a person with a disability. At the Federal level public offices are obliged to report a new vacancy or a newly created post to the Executive Agency, which can suggest applicants with disabilities.  

The examples of good practice in Germany include:

- The establishment of formal consultative groups responsive to the views of members of staff with disabilities;
- Management seminars about disability, which are run by German civil service to promote greater awareness and understanding of career development and retention issues;
- Encouragement of staff to visit rehabilitation centres and to recruit from them.

Germany is committed to the implementation of the World Programme of Action concerning disabled persons. Germany has made a lot of progress in the equalization of opportunities for persons with disabilities, in particular in the area of accessibility, social services and safety nets. The Government of Germany reports that most public buildings are now easily accessible to persons with disabilities and that persons with disabilities are guaranteed to enjoy a “social right”, independent of the cause of their disability, to be secure of their place within the community, particularly in employment.

**Norway**

Norway has been chosen for the purposes of this study, as its provisions may be considered generally representative of those in other Nordic countries.

There are a number of agreements related to working conditions for occupationally handicapped persons in Norway. Some concern the general working life and others only concern disabled people’s rights in the public sector.

*The Act relating to Worker Protection and Working Environment*

The Working Environment Act is a general law that has the whole working life as its area of responsibility. The act thus covers almost any agency employing people.

§ 13 of the Working Environment Act covers occupationally handicapped employees.

---

6 http://www.gladnet.org/infobase/employment/Policies/quota.htm
7 Implementation of the World Programme of Action concerning Disabled Persons: Social Development, Including Questions Relating to the World Social Situation and to Youth, Ageing, Disabled Persons and the Family, A54/388, Fifty-fourth session, note by the Secretary-General
8 This information was kindly provided by the Royal Ministry of Labour and Government Administration of Norway.
1. Passageways, sanitary facilities, technical appliances and equipment, etc. shall, to the extent possible and reasonable be designed and arranged so that the enterprise can employ occupationally handicapped persons.

2. If an employee has become handicapped in his/her occupation as a result of an accident, disease, overstrain or the like, the employer shall, to the extent possible, effect the necessary measures so as to enable the employee to be given or to retain suitable work. Preferably the employee shall be afforded opportunity to continue his/her normal work, possibly after special adaptation of the work, alteration of technical appliances, rehabilitation or the like.

3. In the event that, in accordance with the rules of subsection 2 above, there is a question of transferring an employee to other work, the employee and the elected union representative shall be consulted before any decision is made.

It is first and foremost the employer who shall take the necessary actions and facilitate the recruitment and integration of disabled persons in the ordinary working life. The employer must adjust working tasks according to each employee’s level of dysfunction. Recruitment of and the performance of working tasks for the disabled are dependent on the employers will to take action. The level of adjustment needed for the performance of the working tasks is dependent on the person’s level of dysfunction.

§55A in the Working Environment Act covers recruitment.

The Government in Norway has forwarded a proposition about the extension of paragraph § 55A, regarding recruitment, to the Parliament. One proposal is to include the disabled in the anti-discrimination paragraph that already covers race, skin colour, national or ethnic background, sexual orientation and homosexual co-living arrangements.

In order to make the anti-discrimination paragraph more effective, the Government is proposing sanction regulations. According to this proposal, violations according to the Act’s §55 can lead to demands of economic compensation. The aim of the legal changes is to give the disabled better rights, and is a means to give more people access to work. Violations of today’s § 55 in the Working Environment Act do not entail an economic compensation to the discriminated person. The changes will also involve employers’ duty to disclose information and a reversed burden of proof. The proposed changes to the law are to be treated, and possibly legalised during spring 2001.

Disabled persons in the civil service in Norway
Similar to the private sector, employers in the public sector have expectations of the best performance on the part of their employees. In a recruitment situation, the person that is expected to give the best result is usually chosen. In 1996 the employers in the public sector were given the opportunity to derogate from the non-statutory principle of qualifications (Regulations under the Civil Servants Act § 9). This means that an employer is allowed to hire a disabled person in favor of a better-qualified person. It is still essential that the hired disabled person have the necessary qualifications required in the advertisement. This regulation has eliminated a formal impediment for employers in the public sector who wanted to employ the disabled.
If a disabled person applying for a job in the civil service in Norway informs the employer that he/she is disabled, and the required job qualifications are satisfactory, the employer is obliged to call at least one disabled for a job interview.

*Flexible working hours arrangements in the civil service*

There are several possibilities for flexible working hours arrangements in the civil service in Norway. These are general practices, and thus not exclusively related to disabled persons. For instance:

- General agreement on flexible working hours in the civil service;
- Part-time work adjusted to individual dysfunction;
- Calculation of average work time;
- Reduced working time;
- Dispensation from overtime;
- Home office arrangements.

*United Kingdom*  

British policy towards people with disabilities dates back to 1944, when the Disabled Persons’ (Employment) Act set up a quota system requiring most employers to take steps to ensure that at least 3% of their employees were registered as disabled. But it is only in the 1970s and 1980s that employers developed equal opportunity statements and policies, which often covered people with disabilities. In the early 1990s, the British civil service was one of the leaders in developing coherent programmes relating to employment opportunities of people with disabilities. Its Code of Practice displayed a commitment to action and gave a wide range of best practice recommendations, which departments could tailor to meet their own needs. Also, appointments were made, in departments, of staff whose major responsibility was the implementation of the equal employment aspects relating to disability. In 1995, the Disability Discrimination Act (DDA) came into force in Great Britain. The Act gave disabled people new rights in the areas of employment; access to goods, facilities and services; and buying or renting land or property. The Act made it unlawful for employers to discriminate against a current or a prospective employee for a reason related to their disability.

In December 1997, the Government established the Disability Rights Task Force. The job of the Task Force was to address the full range of issues that affect disabled people’s lives and to advise the Government on what further action it should take to promote comprehensive and enforceable civil rights for disabled people. The Task Force noted that although disabled people generally enjoyed the same legal protections and rights as others in society, barriers preventing full participation in society confronted them every day of their lives. Attitudes towards disabled people and stereotypes about them were viewed as two of the most prominent issues facing the Government and society at large. The Task Force noted that inappropriate attitudes and stereotypes lead to institutional discrimination. In the employment field, the discrimination.

---

9 The case study does not cover Northern Ireland.
10 People with Disabilities: Improving Civil Service Employment Opportunities in Britain and Germany.
resulted in the fact that “disabled people are twice as likely as non-disabled people to be unemployed and have no formal qualifications”. The Task Force recommended that the public sector should have a duty to promote equal opportunity for disabled people in employment.

The British Government has initiated a number of measures to promote equal employment opportunities for the disabled and other under-represented groups in the context of the Civil Service Reform. According to the Civil Service Reform Programme, every department has a diversity action plan, with objectives against which the performance is being measured. The Cabinet Office is also supporting work in departments and agencies on embedding diversity in business planning, improving performance and accountability for diversity and equality and identifying opportunities for positive action. The British Home Civil Service is responsible for setting targets for under-represented groups, including the ones for people with disabilities. According to Sir Richard Wilson, Head of the Home Civil Service, there was an increase of people with disabilities in the senior civil service from 1.5 percent in 1998 to 1.7 percent in 2000. The representation of disabled people in all civil service amounts to 4 percent. It should be noted that progress on the disability front has been slower than progress against gender and minority targets.

Common practices used in hiring people with disabilities in the civil service include advertising in publications specifically aimed at people with disabilities, ensuring that recruitment literature positively encourages applications from people with disabilities, use of specialist recruitment centers in the public employment service, a recruitment drive to encourage high-flying disabled graduates into the civil service. The civil service has also undertaken to try to retain existing staff with disabilities through restructuring their jobs, the purchasing of special equipment, part-time working or enabling them to work from home.

All the four countries reviewed have legislation and policies to cover the displaced persons. At the same time, the case studies suggest that in practice even in such developed and wealthy countries as Canada and Great Britain, there are barriers, either physical or social on the way to the employment of disabled persons. This might explain the fact that the integration of the disabled into the workforce is progressing slower than that for women or ethnic minorities in Great Britain. The countries differ in their approaches to the employment of persons with disabilities in the civil service and in the workforce generally. Germany and the United Kingdom have put a strong emphasis on formally established quota systems, with Germany having a modified version of a quota-levy system. In Canada, there is a reporting mechanism on the composition of the employer’s workforce, including underrepresented groups, without specific targets for their recruitment being set. In the Norwegian public sector an employer is allowed to grant preferential treatment to a disabled person in the hiring process. In all the countries reviewed the civil service is the leader in the promotion of the employment of the disabled.

---

13 From Exclusion to Inclusion, Report by the Disability Rights Task Force.
III. Strategies

The UN Expert Group Meeting on International Norms and Standards relating to Disability sought to identify strategies to enhance human rights of persons with disabilities. These strategies included legal, legislative, and international standards strategies.

Legal strategies include the revision of a nation’s constitution or the adoption of a new Constitution to enhance the protection of the human rights of persons with disabilities. Legislative strategies mean the enactment of laws at the national level that would ensure the rights of persons with disabilities. “As the international community has recognized the importance of promoting the equalization of opportunities for persons with disabilities to participate in social life and development on the basis of equality, it has become evident that the rights of persons with disabilities require more comprehensive and adequate treatment than in the context of rehabilitation and social services and should include the full range of human rights: civil, political, economic and cultural rights. This approach must be translated into domestic legislation.”

The aforementioned rights are inclusive of the right to employment. As far as the civil service is concerned, the employment issues of persons with disabilities can be elaborated in secondary legislation (regulations, executive orders, etc.) which will take into account the specific role the civil service play in the promotion of the employment of people with disabilities.

Strategies that might be implemented in other areas are the following:

- Collecting reliable statistics in order to analyze needs and formulate responsive policies;
- Developing codes of conduct governing domestic and international activities;
- Providing accessibility to the physical environment. The Secretary-General noted in his Message on the International Day of Disabled Persons that “For more than half a billion people in the world, accessibility can mean an education, a job and a community that would otherwise be denied them.” The United Nations “Standard Rules on the Equalization of Opportunities for Persons with Disabilities” provided, in Rule 5, a broad policy framework for environmental accessibility, which states: “States should recognize the overall importance of accessibility in the process of the equalization opportunities in all spheres of society. For persons with disabilities of any kind, States should (a) introduce programmes of action to make the physical environment accessible; and (b) undertake measures to provide access to information and communication.”

---

15 The Secretary-General Message on the International Day of Disabled Persons 3 December 1999
16 General Assembly Resolution 48.96
• Educational policy and decision-makers in viable economics of proactive disability employment policies, for example the cost avoidance of the loss of employment of a skilled disabled individual (disability insurance of employers);

• Setting quotas or targets is a common strategy across many countries. The quota system is a mechanism to equalise employment opportunities for disabled people. It is a form of positive action, which allows for special help to a defined group on the grounds of their disadvantaged situation in getting and retaining employment. However, this strategy is often effective only in the short term and falls short of achieving its objective without more proactive strategies such as outreaching to disabled persons and their education;

• Incorporating the disability perspective in the civil service policies and programmes;

• Educating managers, especially human resources professionals, in the civil service on how to deal with specific needs of disabled persons. For example, the Treasury Board of Canada published a guide called “Creating a Welcoming Workplace for Employees with Disabilities”. This publication recommends some ways to include persons with disabilities in the work environment, to make them feel welcomed as contributing members of the team.

• Encouraging government agencies to develop formal equal opportunities policy statements, which include disability issues.

IV. Costs associated with the employment of disabled persons:

In order to have equal employment opportunities, disabled persons should be ensured equal access to the physical environment and reasonable accommodation at their working place. However, it might entail substantial costs, which might be prohibitive for the governments of developing countries. This problem can be alleviated by cost analysis and feasibility studies for viable options, for example, one can use cost-effective materials and designs to provide reasonable accommodation and access to the physical environment. Also, in contrast to the developed countries that had to reconstruct their infrastructures to accommodate the specific needs of persons with disabilities, developing countries can build their infrastructures taking into account the needs of the disabled.

Some disabled employees need simple equipment to facilitate their mobility and communication. In many countries such aids are not easy to obtain due to a lack of their availability or high cost. The design of simpler, less expensive and locally produced aids will help reduce the associated costs to a great extent. At the same time, there exist cheap methods of job accommodations, which can be easily applied to integrate a disabled person into the working environment. “More than half of all job accommodations cost employers absolutely nothing, reports the U.S. General Accounting Office; another 30 percent of accommodations cost less than $500.” 17

The following are some cost-effective options:

17 HR Magazine, July 1997, Vol. 42, No.7, Pg. 84-88
• Adjust work schedules;
• Restructure jobs and processes;
• Use a team approach;
• Make inexpensive structural modifications that can help retain a productive employee;
• Work from home;
• Exchange assignments with another employee;
• Assign the person to a different place of work;
• Provide additional supervision.

Case studies demonstrate that some of the aforementioned cost effective methods of job accommodation are widely and effectively used both in the public and the private sectors.

Short-term costs associated with the employment of persons with disabilities will yield long-term benefits, because they will lead to the efficient use of currently untapped employment resource. The civil service employing persons with disabilities will be viewed by the general public as diverse and representative, which in itself is an additional non-monetary benefit. More important still, the measure to safeguard the civil and human rights of the disabled gives democracy meaning. In an effective democracy, no class of individuals should be permanently barred from fulfilling their potential.

V. Conclusion

Full participation of persons with disabilities in society as citizens of their country is not possible without equalization of their employment opportunities. The civil service should be the leader of promoting the equal employment opportunities for people with disabilities - only in this case it can be viewed as truly representative, diverse and trustworthy. Most developed countries have legislation, policies and practice in the field of employment of disabled persons in the civil service. Their experience can be learnt by developing countries, where 80 per cent of the world’s population lives. There are different legal, legislative and other strategies to further equal employment opportunities of the disabled. Methods to accommodate the needs of disabled persons do not necessarily imply substantial expenses - cheap methods are widely practiced across governmental agencies in such countries as Great Britain and Norway and can be recommended as examples for the civil service of other countries.

Recent expansion in new technologies and communication networks presents a great potential for persons with disabilities to participate in social life and development. For instance, the Internet is an instrument to overcome obstacles of distance for disabled persons and thus, help them obtain education or find a job. It should be borne in mind that “as computer-based communications and learning become more and more widespread, special needs must be taken
into account. If they are not, the technological revolution will be lost on many talented people, and their contributions will be lost to the rest of us.”18 Also, if employers take into account special needs of disabled persons in human resources management policies, considerable gains will be derived from the integration and commitment of disabled employees. At national levels there is a tendency among countries to commit themselves to the solution of economic and social problems of people with disabilities. At the World Social Summit in Copenhagen in 1995 countries agreed that special attention should be given to the solution of problems of long-term unemployment and under-employment of disadvantaged groups and individuals, including persons with disabilities. At a special session of the United Nations General Assembly in Geneva in June-July 2000, many governments reiterated their commitments to integrate disabled persons into the workforce and improve their quality of life.

REFERENCES


