**Contribution to OHCHR report on the relationship between the realization of the right to work and the enjoyment of all human rights by persons with disabilities**

Pursuant to the Human Rights Council resolution A/HRC/43/7 entitled “The right to work”, outlined below are some observations on the relationship between the realization of the right to work and the enjoyment of all human rights by persons with disabilities, based on the obligations under the Convention on the Rights of Persons with Disabilities. Discrimination (including failure to meet reasonable accommodation needs) in employment is a major factor in exposing persons with disabilities to a disproportionately high risk poverty, which, *inter alia,* is a social determinant that has a significant impact on the enjoyment of the highest attainable standard of health. This submission outlines key points from the normative framework, and offers some recommendations for good practice to enhance the inclusion of persons with disabilities in the workforce.

**General duty of non-discrimination, including reasonable accommodation**

**Article 27 of the Convention on the Rights of Persons with Disabilities**

* Article 27 of the CRPD sets out the rights of people with disabilities to employment – this includes the right to be paid on an equal basis with others, the right to reasonable accommodation within the workplace, the prohibition of discrimination on the basis of disability in the workplace, and the assurance that people with disabilities are equally protected by labour rights, among others.
* Article 27 notes the need for people with disabilities to be included in both the public and the private sector, and secures the right of people with disabilities to access vocational training, trade unions, and other spaces within the labour market.
* Article 27 directs countries to achieve this through the adoption of positive measures to promote employment for people with disabilities, by aligning national standards and practices for employment with the CRPD and adopting all appropriate measures for implementing the right to employment.
* Article 27 sets out the right of people with disabilities to work in a “labour market and work environment that is open, inclusive, and accessible” to them, which speaks to the broader need to transform labour markets and work environments which should translate into programming.

We note the views of the CRPD Committee on non-discrimination in the context of work and employment, as articulated in paragraph 67 of General Comment No. 6, in which the Committee said:

“In order to ensure reasonable accommodation as laid out in article 5 (3) and to achieve or accelerate de facto equality in the work environment as laid out in article 5 (4), States parties should:

 (a) Facilitate the transition away from segregated work environments for persons with disabilities and support their engagement in the open labour market, and in the meantime also ensure the immediate applicability of labour rights to those settings;

 (b) Promote the right to supported employment, including to work assistance, job coaching and vocational qualification programmes; protect the rights of workers with disabilities; and ensure the right to freely chosen employment;

 (c) Ensure that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start work;

 (d) Expressly recognize the denial of reasonable accommodation as discrimination and prohibit multiple and intersectional discrimination, and harassment;

 (e) Ensure proper transition into and out of employment for persons with disabilities in a non-discriminatory manner. States parties are obliged to ensure equal and effective access to benefits and entitlements, such as retirement or unemployment benefits. Such entitlements must not be infringed upon by exclusion from employment, thereby further exacerbating the situation of exclusion;

 (f) Promote work in inclusive and accessible, safe and healthy working environments in the public and private sectors;

 (g) Ensure that persons with disabilities enjoy equal opportunities regarding career advancement opportunities through regular assessment meetings with their managers and by defining the objectives to be achieved, as a part of a comprehensive strategy;

 (h) Ensure access to training, retraining and education, including vocational training and capacity-building for employees with disabilities, and provide training on the employment of persons with disabilities and reasonable accommodation for employers, representative organizations of employees and employers, unions and competent authorities;

 (i) Work towards universally applicable occupational health and safety measures for persons with disabilities, including occupational safety and health regulations that are non-discriminatory and inclusive of persons with disabilities;

 (j) Recognize the right of persons with disabilities to have access to trade and labor unions.”

**Systematic change**

Inclusive employment programming must be framed in an understanding of the need for broader system level transformation - to be inclusive of people with disabilities, the labour market system requires the removal of barriers to employment and to fundamentally shift the way that businesses conduct recruitment, support their employees, and create inclusive environments for all people with disabilities.

Employment programming often focuses too much on interventions at the individual level, i.e. placing people with disabilities into jobs and ensuring that they have reasonable accommodation in the workplace. While reasonable accommodation is one essential step towards inclusion for an individual jobseeker or employee, CRPD-compliant employment programming addresses inclusion at all levels within a business. This means that interventions with employers do not stop at supporting recruitment and facilitating reasonable accommodation, but also work to build an inclusive workplace through supporting the business to adopt inclusive policies, and working to build a culture of inclusion within the company - not only in senior management and in the human resources department, but at *all* levels of the organization.

**Under-represented and marginalized groups within the disability community**

For programming that aims to support the transformation of labour market systems to be inclusive, there must be a conscious effort to include all people with disabilities, particularly under-represented and marginalized groups within the disability community. Working within the existing labour market system, employers and program interventions may target people with disabilities who have been traditionally seen as easier to integrate at the expense of marginalized groups. System level inclusive employment programming cannot be truly inclusive without a meaningful effort to ensure that marginalized groups (such as people with intellectual disabilities, people with psychosocial disabilities, and people with deafblindness, among others in other contexts) are also included in the labour market.

Inclusion of marginalized groups must be a focus at every stage of programming, from employer sensitization to recruitment and job placement to ensuring that “accessibility” is not only limited to building ramps and using Braille but also includes accessible transportation, adapted communication styles and the provision of support. Marginalized groups must be included in all programming and activities, and programmes may also include specific interventions to support the removal of barriers and inclusion of marginalized groups alongside their inclusion in the broader programming.

**Key principles**

1. Inclusive employment programming is not just about putting people with disabilities in jobs – it is about workplace transformation, and all activities and advocacy work must reflect and contribute to this bigger picture.
2. Reasonable accommodation for individual jobseekers is an essential element of inclusion, but reasonable accommodation alone does not make a workplace inclusive. Interventions must work to change systems and attitudes in workplaces for employees with disabilities to be genuinely included at work.
3. Inclusive employment methodologies are only truly inclusive if they are designed to explicitly include marginalized groups within the disability community in activities and advocate to external stakeholders for their inclusion.

**Other articles of the CRPD**

While Article 27 defines the right to work, for people with disabilities employment is heavily influenced by access to education (Article 24), access to social protection systems (Article 28), their right to live and be included in the community (Article 19), and the degree to which communities and workplaces are accessible (Article 9), among other factors.

Employment programming that aims to fulfil Article 27 must approach access to employment holistically, keeping in mind these influencing factors outlined elsewhere in the CRPD and accounting for barriers in place in these areas that must be removed in order to make labour market systems more inclusive.

The provisions for meaningful engagement of organizations of persons with disabilities (OPDs/DPOs) outlined in Articles 4.3 and 33. For inclusive employment programming specifically, meaningful OPD engagement requires organizations and employers working in equal partnership with OPDs to develop interventions that align with the needs of the disability community, and ensuring that OPDs as the representative groups for people with disabilities take the lead in directing messaging on advocacy for the transition to inclusive and accessible labour market systems.

**Recommendations for good practice on including Organisations of Persons with Disabilities (OPDs) in the context of employment**

* When planning any activity related to people with disabilities, partners must set aside financial resources to ensure meaningful engagement of OPDs. Part of ensuring meaningful participation of OPDs requires providing the resources for them to engage. This may take the form of consultancy fees or contributions to administration and staff time. This resourcing is even more particular for under-represented groups, which are chronically under-resourced and may need more financial support to engage in project work.
* Once resources are set aside, OPDs should be involved from the beginning, prior to the discussions with the private sector or any specific employer begin. OPD engagement could begin with supporting the Labour Market Assessment process that would clearly define the need among employers, or engaging in needs assessments with employers directly, and OPDs can support with the use human rights approaches to determine the path forward with employers. Any questionnaires or needs assessment must be developed hand in hand with OPDs, and must be framed from the human rights based perspectives.
* When determining what type of activity is needed for sensitization of employers, OPDs should be a core part of the team for the analysis and decision-making about the direction the activity should take. OPDs should be involved in the analysis of any needs assessments or questionnaires, which will ensure that the activities that the project team decides to implement in response to the needs assessments are not only informed by the questionnaire, but also by OPD’s experiences of the barriers to formal sector employment and strategies for sensitization.
* When the planning stage reaches the point of outreach to employers, meetings and communication with these companies must at the very least have in copy representation from OPDs. This ensures that from the very beginning, these companies are aware that they are also reaching out directly to OPDs and that OPD representatives are being positioned to employers as content experts.
* When working with the employer to design the content for the sensitization training, the employer may ask for specific content and resources, which should be incorporated into the training with the OPD lens – the messaging must always be vetted by OPDs, and OPDs representing marginalized groups must also be consulted to ensure the specific barriers they face are included and that employers are also being trained to understand and respond to these barriers.
* Select a date for the session at least a week or two in advance, select an accessible venue, and ensure any materials for the training are available in accessible formats to model good practice in communications for the employer. Ensure that interpreters, including sign language interpreters, are arranged for well in advance if anyone involved in the session needs this accommodation. Accessibility should be at the forefront of every activity.
* Engage people with disabilities from different impairment groups as facilitators of the training – ensure their access needs are met, and do not limit their engagement as facilitators to only sharing their lived experiences with employers.
* Make it clear to employers that OPDs are the technical experts in workplace transformation for inclusion and support a continued dialogue between OPDs and the employer to ensure ongoing support with the transition to inclusive workplaces. Create channels that help them maintain that connect, and access ongoing support!
* Co-develop the monitoring and evaluation mechanisms with OPD representatives.