

A Descriptive and Analytical Report
about the Reality of Persons with
Disabilities in the policies of the
Palestinian Labor Market

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Introduction

The preparation of this descriptive, analytical and legal report is within the project of inclusion of disability in employment policies and support programs in the occupied Palestinian territories). It is implemented by the Palestinian Consultative Staff for the development of non-governmental institutions.

This descriptive and analytical report regarding the employment policies seeks to answer a key question about: how sensitive are the employment policies in the State of Palestine to the rights of persons with disabilities, and how much they are compatible with the standards of decent work. To answer this hypothesis, we seek to review the strategic policies of the labour sector, especially the strategic plan prepared by the Ministry of Labour regarding the decent labor standards, as well as the strategic document of social protection prepared by the Ministry of Social Affairs. We also need to examine the reality of the legislative policies in the labor law and the law of the disability. To get effective and applicable results, we must use the appropriate tools to measure the sensitivity of these policies through a number of indicators. The latter are indicators set by the National Strategy of employment, in addition to the related statistical indicators issued by the Central Bureau of Statistics.

We seek to get to a set of practical and applicable recommendations within a broad national vision to ensure a continuous inclusion of the rights of people with disabilities in the national policies at the legislative, operational and public policy.

The Objectives of The Report

Our report aims to provide advice to the Ministry of Labour and its partners, to the Ministry of Social Affairs and to the relevant entities regarding the public and legislative policies which are concerned about the inclusion of disability rights at the national level. This will ensure that persons with disabilities will enjoy the decent labor standards on an equal footing and without discrimination with the rest of the labor force in Palestine.

We also aim to reach to the application of decent labor standards in accordance with the international standards, in a way where the sectoral policies conform to national laws and the best practices on the ground. In particular we aim to achieve the following goals:

- Examine the standards of decent work in accordance with international labor conventions that are related to inclusion the rights of persons with disabilities in the labor market.
- Check how much the International Convention of the Rights of Persons with Disabilities is respected at the national level with regard to the inclusion of the right of persons with disabilities in the labor market.
- Look into the private labor policies to examine the extent of respect of the rights of persons with disabilities in the labor market. We want to check whether these policies are based on systems and clear instructions or on reactions and daily practical inputs.
- Explore the plans, programs and projects implemented by the Ministry of Labour and the Ministry of Social Affairs. Then review them in accordance with the measurement tools that have been indicated above
- Observe the magnitude of the challenges and the ways to deal with them in a national context that is based on integration and cooperation between all the relevant bodies at a national level.
- Come up with practical recommendations to the relevant bodies, especially the Ministry of Labour. So the relevant bodies can realize the legal and policy gaps that should be considered, Also working on remedying and correcting those gaps within a reasonable period of time. The aim of this study is not listing proposals to change the provisions or creating new legal drafts.

Methodology

The reference for the purposes of the preparation of this report stands on basic points related to reviewing the public and legislative policies at the national level. The review is done by relying on the international conventions that are specialized in organizing the labour market to get to the aim of inclusion the rights of persons with disabilities. To achieve the best goals, the methodology of this study is divided into the following themes:

a) The period of time covered by the report:

The report covers the period from 2013 and up to 2016, in terms of strategic policies related to decent labour and social situation. Our selection for this period of time is consistent with the best goals of this consultative task.

Covering this particular period of time doesn't mean that we only cure the reality of the current policies during the three years; it rather means that we reviewed all the relevant documents and legal regulations.

b) Choosing the axes of work in the report:

The selection of work axes comes in line with the strategy of decent work that is approved by the Ministry of Labour in agreement with the three partners, and with the support and assistance of the International Labour Organization. Also this selection is consistent with the social protection strategy that is approved by the Ministry of Social Affairs and partnership from the ministries of the Palestinian State, and the relevant civil society institutions.

We have also reviewed systematically the Palestinian Labor Law and the Palestinian Disability Law. We didn't review them in a traditional framework about how, where and why we want to conduct legal amendments by proposing new materials and / or amendment to the articles list. However we dealt with the issue as a must to resolve the issues related to persons with disabilities for the purposes of integrating them into the market Labor.

c) References and documents that have been adopted for the purposes of preparing the repor:

For the purposes of getting comprehensive and complete knowledge about the reality of the current policies, we return back to the:

- Palestinian Labor Law.
- The Law of the Rights of persons with disabilities.

- The implementing regulations related to the laws, the regulations, and the instructions issued by the Ministry of Labour and the Ministry of Social Affairs.
- The strategic plans of the Ministry of Labour and the Ministry of Social Affairs.
- The Previous Studies prepared by: the Independent Commission for Human Rights and the Young Men's Christian Association.
- Some other handouts.
- The report of the Central Bureau of Statistics for the year 2011 which has surveyed the reality of disability in Palestine.

The aim is to avoid repetition of what is stated in all of the previous studies, particularly the statistical policies, because the Independent Commission –short time ago- analyzed the statistical policies concerning the operational dimension for people with disabilities.

d) Field visits and personal interviews.

To bridge the gap between theory and actual practice, we have visited a number of specialists in the Ministry of Labour and the Ministry of Social Affairs. The aim of such visits was to get access to the data base and the operational policies in each of the two ministries with respect to the employment of persons with disabilities. The visits contributed in shaping our vision of this report with regard to highlighting the strategic policy over legislative policies. It was found that the strategic policy of the ministries has a direct impact on the work of persons with disabilities, especially that a lot of legislative texts have been violated by official bodies, and by the private sector.

The reality of the policies of labor sector for persons with disabilities in Palestine.

The Ministry of Social Affairs in Palestine represents the legal authority responsible for following up on the disability sector in Palestine. That was evident in the Law of Palestinian Disability Rights No. (4) of 1999. The Ministry of Social Affairs was committed to follow up everything related to this sector with other ministries, and with the international and the local bodies, whether private or civil. Consequently, the Ministry of social Affairs has developed a comprehensive national plan on the right of social protection for people with disabilities.

The Ministry of Labour has developed a strategic plan related to decent work in Palestine. This ministry is the sponsor and legal observer on labor affairs related to: the work environment, the work conditions like safety, vocational training, wages and union organization. It has other assistants like the Tripartite Commission which is composed of: the private sector, the government and the unions.

In this report, we seek to review the strategic plan of the Ministry of Social Affairs that is concerned about the protection and the economic empowerment of the most vulnerable people in the Palestinian community, especially persons with disabilities. Through this review we aim to examine to which extent there are clear and achievable policies with respect to the rights of persons with disabilities to work and get economic empowerment. We also seek to examine the strategic plan of the Ministry of Labour regarding the rights of persons with disabilities in the employment within the overall national vision of the concept of decent work.

1. The Strategic Plan of Labor Sector 2014-2016

The strategic plan of the labour sector for the years 2014-2016 is considered to be an extension of the previous Strategic Plan. The new plan focused on six axes:

- Reducing unemployment and promoting employment opportunities for both genders.
- Organized Vocational training.
- Cooperative organizations that have effective return.
- Institutions and organizations committed to the laws and regulations paving the way to decent work.
- Stable working relationships and solid social dialogue.

- Getting to a modern social security in the State of Palestine.

The six strategic goals tried to mimic the reality of the labour market, and the challenges that the Palestinian community faces to overcome unemployment. The whole aims focused on the rate of unemployment among females, and young people in general. The Strategic Plan in its six axes didn't mention the following:

- The topic of inclusion persons with disabilities in the labor market.
- Any kind of social protection.
- Providing vocational training for persons with disabilities.
- Support the establishment of cooperatives that aim to enable persons with disabilities through the existing associations to be able to have more active role in the labor market.
- Making persons with disabilities part of the tripartite social dialogue committee, by being monitors and / or participants and / or members who can deliver the sensitive issues of people with disability in the national context.

The Social Security -as one of the important tools in providing care for people with disabilities- is one of the most important opportunities in the integration of persons with disabilities in the labor market. Also it's a chance to enable them to take advantage of the social security programs when the law is stated. In the case of providing opportunities and possibilities for the integration of persons with disabilities in the labor market, their chances to obtain the social security become more effective. Also, the law will transfer persons with disabilities from the stage of care that depends on cash assistance to the stage of being a productive category in the society that can recover its rights after retirement.

Referring to the previous points, we can find that the Ministry of Labour defined- in its strategic plan for the years 2014-2016, and in its **first strategic objective** -five sub-policies for the purpose of reducing unemployment and promoting decent employment opportunities for both genders in the framework of sustainable human development. These policies were as follows:

- 1) The development and implementation of the National Strategic plan for employment with the participation of related parties.

This policy focused on the importance of the sensitivity of gender issues and persons with disabilities. However, the importance and role of persons with disabilities in the development and implementation of the national strategy plan as one of the co-parties wasn't mentioned at all. To ensure the participation of persons with disabilities in this body, or even consulting them in the executive frame when crystallizing the practical perceptions will give some sort of understanding of their needs, as part of the basis of community diversity. All this emphasizes the importance of involving them in decisions making regarding the labor market; and this is consistent with what came in the International Convention on the Rights of Persons with Disabilities about the importance and necessity of inclusion of persons with disabilities and their representatives in the development of public policies that ensure effective participation in society.

- 2)** The continuation of work on the establishment of the General Authority for Employment.

When it comes to work on the participation of the social partners to urge decision-makers to establish the general authority for employment, then the subject of persons with disabilities becomes urgent and necessary. This is consistent with the need to involve them in the tripartite dialogue as an observer and examiner of the policies and decisions concerning the employment and the labor market.

- 3)** Provide support for the National Fund for Employment to increase its efficiency and to activate its performance

The eighth intervention of this sub-policy axis defined a special intervention for people with disabilities. It's believed that this intervention should be reflected in the structure of the fund by ensuring the representation of persons with disabilities in the board of directors. Their representation will ensure the development of policies that protect the eighth intervention, and it will guarantee its success. We have a non-promising experience with the Social Affairs in its sponsoring of the fund to support special projects for persons with disabilities. We should remind of the importance of not mixing or adding names. As this might prevent enabling persons with disabilities of getting the chance of having viable projects which might mean reducing the number of people dependent on cash assistance, especially that persons with disabilities are the most vulnerable, the most needy, and the least qualified, trained and educated.

- 4)** Activation of the role of the labor market database information system in the development of the employment.

The database is one of the most important sources of information for policy-making. The efforts achieved a limited impact on policy-making, and on encouraging the parties in the use of this information. We can notice that persons with disabilities are overshadowed in this axis. It is important to encourage the Ministry of Labour in cooperation with the General Union of Persons with Disabilities to register in the database. The available data shows that persons with disabilities don't have adequate information on this matter. Also a number of

them do not trust this system. Therefore we need to look for mechanisms to enhance the confidence of people with disabilities in this system.

- 5) Continue updating, developing and offering of employment services.

Over the past years, the Ministry of Labour has established seven offices for employment. According to the strategic plan, it will activate them. The issue of activation must be linked to the need to adjusting these offices for persons with disabilities in terms of infrastructure. This needs to be a policy decision, and needs financial support from donors.

The second strategic goal of the Ministry of Labour focuses on vocational training to supplement the labour market with skilled workers. The Strategic defined two deep interventions as sub-policies that the ministry seeks to achieve. Those are:

- 1) continue to provide vocational training services, and expand horizontally and vertically in cooperation with internal and external parties. We see through the proposed interventions, which are thirteen interventions, that persons with disabilities have not been mentioned in the context of the implementation of the first sub-policy. We have previously suggested adapting the vocational centers of the Ministry of Labour in terms of infrastructure and in terms of the services, and now it is more important to invite the representative of the union and other organizations working in disability, which offer vocational training services for persons with disabilities, in order to be representatives in the orientation committee that is working on the development of the vocational training sector in Palestine. This step will make persons with disabilities part of the process and not just recipients.
- 2) continue to develop both the structural and the legal side of the vocational training. This sub policy intervention comes in line with the spirit of the desired change in the performance of professional training in Palestine. We see that the vocational training will not be able to develop and open the way for the integration of persons with disabilities in the labor market unless it is structured and updated legally, to the extent that all related parties are taking part. Persons with disabilities are the ones who most need rehabilitation and vocational training especially that a huge number of them were deprived from school and university education for reasons that couldn't be mentioned in this place.

The vocational training sector is considered to be a solution to fight the high rate of unemployment among persons with disabilities. Through vocational training we can work on rehabilitation and reintegration of persons with disabilities in the labor market by giving them training opportunities that fit the nature of the disability. This will enable them to participate in community development. Of course, this requires working on the rehabilitation of the entire vocational training for persons with

disability sector which includes not only the rehabilitation of buildings and facilities, but also an environmental equipment, trainers and training curricula and everything related to enabling persons with disabilities to access to the labor market.

The third strategic objective, which emphasizes strengthening the role of cooperatives, has included three sub-themes policies that are distributed as follows:

- 1) continue working on the structural and legal development of the cooperative movement.

Referring to the four interventions of this axis policy we find that the draft law didn't include any reference to persons with disabilities to set up cooperatives or / any special tax breaks when they construct profitable projects through these cooperatives.

- 2) the continuation of cooperation with the local authorities (governmental and non-governmental), and the external parties for the development of the cooperative sector.

The cooperative sector is important in the local development process. We believe in the importance of giving it an area of interest, and in parallel we see that persons with disabilities should be given special privileges -as a type of positive discrimination- by the donor whether it is the International Labour Organization and / or any party working in the cooperation sector. As we need to build comprehensive policies for integrating people with disabilities.

- 3) carry out the tasks assigned to the staff of both sexes effectively and efficiently for serving the cooperative sector.

When we look at the interventions we find that there is one intervention that refers to enabling persons with disabilities to participate in the cooperative sector. We appreciate this effective development which gives persons with disabilities a chance to participate in the cooperative sector, however, we still think that this intervention would have been better to be included in the third intervention of the sub-policy for its importance, and then it could be included in all relevant axes.

With respect **to the fourth strategic goal**, we find that it focuses on the facilities of the labor sector, so they are committed to the laws, executive regulations and the relevant decisions, down to decent work for all employees.

- 1) Under this strategic goal there are four sub-policies that fall, as follows: control the application and the conditions of the law.

This intervention has two levels: the first is concerned with the most effective organization and empowerment of inspection services. The other is concerned with

reviewing of laws and regulations to ensure greater efficiency in the implementation of the inspection campaigns on various facilities. We notice that the issue of interventions is very general, and it requires more details and classifications. Especially if we want to examine the procedures relating to the control over the facilities which employ people with disabilities and / or in the case we wish to encourage employers to employ persons with disabilities.

2) Reduction of child labor and regulating it.

This intervention is limited in three axes. Because the law did not address the issue of persons with disabilities within its chapters or in a special chapter, as it did with child labour issues. We can understand the limitation of this intervention and why persons with disabilities are not addressed. So to protect the rights of persons with disabilities, and to offer them decent working conditions, it is important to work on the development of sub policy intervention for the employment of persons with disabilities when they are children, young persons and women as well as youth. This category is the focus of physical and sexual abuse, and sometimes they are not payed any salaries, instead they are given food or some drinks without realizing that they are exploited. Sometimes, they are exploited by their families or their relatives. Hence, reviewing and amendment to this axis is really vital and important within the tasks of the Ministry of Labour as long as it is about practical policies, not about items related to the implementation of the law until the amendment to the law concerning the rights of persons with disabilities is ready. We can influence the reality, even if in a limited way by making a full and comprehensive change.

3) reinforcing the legal preventive awareness among the two parties of production.

Interventions are limited to the field of awareness and education. They come on four axes. Because of the importance of this aspect, we suggest the following:

- Specifying special items to raise awareness about persons with disabilities.
- Ways to integrate them into the labour market.
- The employment standards and the incentives related to their employment and their needs and how to deal with them.

4) enhance safety and prevention measures by reducing work-related injuries.

The intervention is divided on two levels: first, activate the role of the National Authority for Occupational Safety and Health. Second: ensuring the application of occupational safety standards within the facilities, including those related to women. The key question that arises in this regard is: what about persons with disabilities? Is it possible for a disabled person who is armed with all occupational safety and health conditions to enjoy the same requirements that are needed in the employment of women? Can they enjoy having, for example, special toilets, emergency exits, special corridors, and areas easy for entry and exit? These enquiries make it more and more necessary to add certain interventions to the needs of persons with disabilities. Another important question that arises is: Is it possible to guarantee the

representation of one of the bodies and / or experts in the field of disability in order to be a member of the National Authority for Occupational Safety and Health?

With respect to the **fifth strategic goal**, which states "stable working relationships, well-established social dialogue and democratic union that are all protected by the law, in the context of economic and social development".

So the interventions came on the following themes:

- 1) the activation and development of the Commission of labor policies at the national level, promoting the social dialogue and strengthening the capacity of all parties. The proposed interventions enable persons with disabilities to contribute to the achievement of the Sub-policy. This intervention may be the best tool for the integration of persons with disabilities within the framework of protecting their right of having a decent work. During a meeting in Aqaba held in 2014, Nasir Kitami, the Undersecretary of Ministry of Labour, said he is ready and willing to nominate one of the union representatives to be a member in the tripartite social dialogue committee. Now we only need to discuss the nature and the description of this representation in a way that is consistent with the provisions of the law. We also need to get the agreement of the unions and the private sector representatives. It's really urgent to activate these interventions, in a way that contributes to the participation of persons with disabilities in the five interventions of the axis.
- 2) Contribute to the re-organization and activation of the union movement and providing it with technical assistance to improve its capabilities. The four proposed interventions emphasize the importance of concerning about persons with disabilities and their union as one of the unions which are looking for an effective defense of the rights of persons with disabilities. We think it's significant to include the people with disabilities as a body union in the draft law. Also, it's essential to defend the interests of persons with disabilities in the labor market and to ensure decent working conditions for them, at all levels and in all fields.

The sixth and last strategic objective in the plan which deals with the adoption of a comprehensive and modern social system has three sub-policies:

- 1- work-related injuries and occupational diseases insurance
- 2- old age insurance
- 3- death insurance, natural disability insurance and maternity benefits.

Yet, any insurance policy for people with disabilities has not been mentioned in the proposed social security system. Consequently, this defect requires a review of the system within a comprehensive social protection system administered by the Ministry of Social Affairs.

As a result, we conclude that the Ministry of Labour and in its Strategic plan indicated -in many axes- the importance of giving enough attention to persons with disabilities through the detailed interventions of the sub policies emanating from the six strategic goals. Nevertheless, it didn't specify strategic goals and policies that enable persons with disabilities to participate in the labor market in a way that is consistent with the international and national standards of decent work.

Based on what has been mentioned above, the Ministry of Labour can form a technical legal team dedicated to review this strategic document for decent work. The team is responsible for ensuring the inclusion of the rights of persons with disabilities in the policies and objectives of the Ministry of Labour. So, this inclusion will be reflected fully and deeply on all activities and events related to persons with disabilities, and at the same time it will be presented in the work of the various departments and offices of the Ministry of Labour at all levels.

It's important to note that Palestine -and two years after joining the International Convention on the Rights of Persons with disability- should submit a report to the committee that is in charge of the convention on the actions and measures taken to integrate and incorporate the concept of disability in the work of the ministries and government departments. Hence, the Ministry of Labour will be one of the main representative in the Palestinian delegation which will travel to Geneva to present this report. We see that introducing these amendments to the strategic plan and sub-policies will contribute to the facilitation of these interventions in line with the International Convention on the rights of Persons with Disabilities.

2. Strategic Plan for the disability sector 2013-2016

Through this study, we are trying to check and examine the themes related to the right of employment, in a frame that respects diversity and efficiency regardless of sex and / or disability, and according to the terms of international and national decent work.

We should point out that our role in this report is not criticism, nor getting to traditional and repeated recommendations about the National Strategy for people with disabilities. Rather, we aim to provide tools that are capable of helping some of the terms of this strategy to get to the implementation and application, in cooperation with the Ministry of Labour and the local partners from the General Union of persons with disabilities and those parties working in the field of local, regional and international disability.

Since Palestine has joined the International Convention on the Rights of Persons with Disabilities after the adoption of this strategy, and since the state of Palestine has joined the International Convention without any reservations to its provisions, then the challenge is that: our state must carry out all the terms as stated in the convention. Article no. (27) might be the most important of the International Convention with regard to the concept of the right to work and to be protected from exploitation.

When we reviewed the Strategic Plan for the disability sector, we found that the structure of the plan is based on interventions which could be carried out by each ministry and / or civil institution in the sector, and we did not find a clear focus -as in the case of the Strategic Plan on decent work. Therefore, viewing the right to work according to this strategy is a difficult and confusing matter. The role of each ministry is expected during the years concerning the implementation of the Convention, however, the following issues are not addressed:

- the right to work related to rehabilitation and training for entering the labor market -and / or to provide decent working conditions
- and / or economic empowerment for persons with disability and / or to their families.

The National Strategy of Disability Rights, which has been prepared by the Ministry of Social Affairs in full partnership with the various ministries and institutions of civil society and with the relevant authorities, specified the strategic interventions in six main points as follows:

1. Policies that are directed to the process of integration to meet the needs of persons with disability. (The political will)
2. Appropriate legislations, and ensuring the rights and justice. (Rights)
3. A decent standard of living for people with disabilities. (Poverty)
4. An understanding community which accepts disability as a part of community diversity, in a positive way. (Trends)
5. Equal opportunities and full access to inclusion. (Access)
6. Effective institutions in the sector that are able to play their role. (Sector capacity)

The first axis regarding the integration in a way that meets the needs of persons with disability, has the following points:

- 1) the process of integration of persons with disabilities should be linked to clear and announced policies to ensure the rights and the needs of persons with disabilities.

We find that the specific interventions focused on ten direct and contemporary interventions. One of the ten is the point regarding employment, where it was stated: "publish and declare the employment policies (implementation of the 5% absorbing policy)". Here we can notice that: although those who prepared the strategy criticized the non-human approach in dealing with the rights of persons with disabilities, they themselves failed completely when using and repeating the defective expression: "absorb 5% policy". As if the whole process is associated with absorbing these people regardless of the human rights origin. The expression used "absorb" is defect, it means: "absorb them please even if there is no need to them." As if we say in colloquial Arabic: "find them a way, please!" Here the strategy focused on the issue of the announcement of policies, though the strategy itself pointed to the lack of clear policies in dealing with the issues of persons with disabilities.

- 2) an integrated system to participate.

This policy has not pointed out to the interventions related to the realization of the right to work through the leading role of the Supreme Council of Disability, so we think it's vitally important to involve the private sector in the Supreme Council of Disability and the Association of Labor Union, so that the Council can adapt policies concerning the right of persons with disabilities to work through the representatives of the three parties.

- 3) A framework and principles leading the policies in the disability sector. This axis talked about contemporary interventions related to the concept of gender, the domestic dimension, linking policies, and respect for human dignity within rights perspective. However, it did not unfortunately address the most important principle regarding ensuring the work conditions for decent work for persons with disabilities, starting from all the previous stages before the employment up to ending the contractual relationship and its consequences as rights for people with disabilities.

- 4) an integrated system of measures that support prevention policies.

Apparently, those who prepared the strategy confused between the concept of prevention on genetic diseases and prevention concerning procedures for occupational safety, which are connected in a way or another to the strategy of the Ministry of Labour. It would be much useful if the specific interventions in this strategy are consistent with the interventions set by the strategy of the Ministry of Labour; the Ministry of Labour is responsible for occupational health and safety conditions, while the genetic diseases and vaccinations are part of the policies of the Ministry of Health. And this is not our topic to discuss.

The second axis of the strategy, which is about the appropriate policies and rights and justice, has the following points:

- 1) Palestinian legislations are subject to an in-depth review process that is based on the concept of development and human rights, and on obligations related to the International Convention for the year 2006.

This policy axis points to a number of possible interventions which are related to the definition of the concept of disability and how to harmonize it with the International Convention on the Rights of Persons with Disabilities. It should be noted that the International Convention did not define the “disability” as a concept as the Palestinian law did, but it only described it. So this intervention doesn’t suit the actuality of the intervention as it disagrees with the heart of the agreement. Moreover, the agreement now and after Palestine has joined it, became precedence over the national law, and what we need to focus on is: forcing the government to apply its provisions. The stakeholders need only to go to the judicial authorities for the acts of the International Convention according to the national laws.

Also, the intervention pointed to an item regarding the labor regulations, yet the item is not clear, and it needs to be clarified as the phrase which was used is flexible and is not consistent with the above sub-policy !!!!

- 2) the leadership and the relations in the sector, according to the regulations, systems and procedures.

We find that this approach is contrary to the Palestinian basic law, in terms of who decides and puts the rules and regulations. Additionally, there wasn’t any clear item in the sector related to the rights of persons with disabilities to work.

- 3) accountability and ensuring the implementation of legislation and subsequent regulations, and procedures.

We will not argue about the legal failure in displaying the specific interventions of this sub-policy, as there is a lot of confusion between the laws, the procedures and the relevant authorities. What concerns us in this place is that the supposed intervention in this regard should include setting up a guide related to the right of persons with disabilities to work, similar to the guide which was prepared by the International Labour Organization in collaboration with the Palestinian Ministry of Labour and experts from stakeholders.

- 4) effective access to justice for persons with disabilities.

The proposed intervention in this strategic axis does not agree with the concept of complete inclusion of the rights of persons with disabilities in the justice sector. In spite of that, we suggest adding a guarantee to ensure the employment of persons with disabilities in the justice sector, in accordance with the provisions of the law. Also, we suggest providing comprehensive adapters in the infrastructure of the justice sector, and in the services provided by it to enable persons with disabilities to access to justice.

The third strategic objective, which deals with providing a decent standard of living for persons with disabilities, has the following sub policies within the following themes:

- 1) a package of interventions to ensure that persons with disabilities enjoy a decent standard of living.

The concept of decent standard of living is not limited to clothing, food and drinks as mentioned in the interventions of this strategy, but to the overall concept that was set by the United Nations. This one is composed and associated with the right to access to basic services, including the right to work, the right to have a decent housing, and the right to have suitable health and safety conditions physically and psychologically. Therefore we propose the amendment to the poverty program, which excludes persons with disabilities from poverty criteria and at the same time connects between the work of the mother and/or father and depriving them of their rights, particularly with regard to economic and social empowerment. It's also vital and essential to work with the Ministry of Labour and with the donors to develop a comprehensive national policy regarding the economic empowerment programs for persons with disabilities and their families.

- 2) the inclusion of the disability perspective in all policies and programs aimed at social and economic development.
- 3) expand the access to jobs as the key to a major improvement of the economic security and well-being of persons with disabilities and their families.

The proposed interventions in this context are applicable when changing and correcting of some expressions, and when linking this intervention with intervention number one on providing a decent standard of living.

The strategic direction in its fourth item completed working on building a community that positively accepts disability as a social diversity. The axes branched into the following issues:

- 1) Upgrading the community into a state of acceptance, and expanding the area (space) for persons with disabilities to participate.

With the importance of interventions referred to in this axis policy, we add an executable and applicable one. It's offering radio and television episodes presented by persons with disabilities and their families about topics related to their right to work and its conditions, and the difficulties they face by the related governmental, civil and private authorities, and by the international bodies to get to the services.

- 2) encourage positive practices to reduce the negative trends and practices within the institutions that hinder the integration of persons with disabilities.

We see that interventions should be comprehensive and permanent. They should ensure sustainable rights, including: the right to work and to be promoted, and the right to get access to jobs in the private and / or public and / or national and / or international organizations and associations, according to the Law of Labor, and / or the Law of Disability and / or the Law of Civil Service and / or any other related laws concerning the rights of persons with disabilities to work.

The fifth strategic objective focuses on equal opportunities and equal access. Within this, we find the following policy goals:

- 1) to activate and facilitate procedures and transactions to reduce the bureaucratic procedures.
- 2) to develop a professional and a cohesive system for the diagnosis of degrees of difficulty.
- 3) to provide all the basic and vital services for persons with disabilities so they can enjoy a decent life.
- 4) provide opportunities for people with disabilities to build self-capabilities that enable them to participate in socio-economic life.
- 5) to try to build inclusive and convenient societies that enhance the participation of persons with disabilities.

The sixth strategic objective revolves around enabling the active institutions working in the field of disability to perform their mission through several operational policies, namely:

- 1) controlling the relationship between all the parties in the sector to work according to partnership, active participation and the distribution of roles within a clear public interest for the sector itself.
- 2) investment and building the capacity of the institutions working in the disability sector.

It's clear that the total proposed sub-policies and interventions seeks to enable persons with disabilities to participate in public life at all levels. Yet, we have some reservations on the length and the repetitions of the interventions in many cases, and the lack of clarity in other cases. All in all, we still think that the national strategy for people with disabilities represented a quantum leap in addressing the rights of persons with disabilities in Palestine, though it didn't define a particular strategic

objective of the right to work, training and vocational rehabilitation for the purposes of equal access to public and private jobs.

The reality of the legislative policies of the labor sector for people with disabilities.

Before talking about any legislative amendment to create national laws sensitive to the rights and disability issues, we see it is more important to resort to approved standards so that the amendment will be harmonious, productive and able to serve the issues of people with disabilities. The basic reference in the adoption of common and agreed labor standards must be based on the International Convention on the Rights of Persons with Disabilities, which entered into force in 2008. It stipulated a range of fundamental rights, which represents the international consensus on the way to work, to protect and to promote the rights of persons with disabilities at the national, regional and international level.

The outstanding effort of the ILO in promoting decent work for persons with disabilities may precede the international effort to protect and promote the rights of persons with disabilities. It was created in partnership with the World Health Organization and UNESCO of the United Nations.

The effort, which was done by the International Labour Organization to incorporate the concept of disability in employment policies, was reflected through a special manual on the standards of employment of people with disabilities according to the standards of decent work.

This humble effort goes in line with the ILO's trends to promote the concept of disability at the national level. It's done by proposing public policies and orientations by the Ministry of Labour to suggest possible amendments to the Labor Law in order to be consistent with international standards of decent work.

This part of the report will try to address the current Palestinian Labor Law in terms of the best policy directions to make the amendment sensitive to the issues and the rights of persons with disabilities, and according to the standards of decent work. We will focus on proposing a framework which governs the legislations, with distinctive comment on the work undertaken by the Young Men's Christian Association with regard to a review of labor law in force.

It will be in vain if we just get back to the Labor Law, without referring to the Law of the Rights of the Disabled No. (4) for the year 1999. So, we will look into it to propose amendments related to structure, governance and terms of reference that govern the disability sector relying on the International Convention.

Since this report focuses on labor policies in the employment of persons with disabilities, we're not in the process of making comprehensive proposals for amendment to the Palestinian Disability Law in force.

1. Palestinian Law of Labor.

The Palestinian Law of Labor No. 7 of 2000 entered into force in the morning of 26 December 2001. Perhaps the most important benefit guaranteed by this law is its part on definitions- in some of the provisions-. It defined the concept of disability in its first article, and the right of the disabled to work in Article 13. These provisions weren't defined in the previous labor legislation, which was in force in the West Bank and the Gaza Strip earlier. The Law, which consists of (141) articles, divided into ten sections, did not include any special or separate chapter dealing with organizing the rights of persons with disability to work. Consequently, we should ask basic questions:

- Did the Palestinian legislature in its organization of its provisions omit intentionally forming special rights of persons with disabilities either in employment, or vocational training or the conditions of employment?
- Or did it leave the organization of the detailed provisions of these rights to be addressed at the level of secondary legislation?
- Or did it take the principle merger; as the law provides protection for workers whether normal or disabled?

And then the key question is: Have these provisions succeeded over the past years to provide basic guarantees of decent work?

After reviewing and assessing the provisions related to disability, in the current Law of Labor, namely the ones in articles (1) and (13), we find that it's clearly that the objectives of these provisions, can't meet the minimum level of the rights of workers with disabilities, or the rights of those disabled who look for work. In details we can say:

- 1) It's urgent to get to a definition or concept of the disabled for the purposes of the application of Labor Law. We should note the fact that the expression "disabled" is the legal term used in the Palestinian Labor Law. It doesn't fit at all the internationally approved expression: (the person with a disability). Determining the definition is one of the most important challenges facing the development of a modified or new policy.
- 2) Hiring at least 5% of disabled workers in the facilities. In addition to the absence of legal guarantees that are necessary for the proper implementation of this commitment by employers, other reasons have led to hinder this figure to access to

work. Thanks to the Independent Commission for Human rights for its investigation and hard efforts in the field of the right of persons with disabilities in the decent work.

Despite the importance of what was addressed by Article (1) and (13) of the Labour Law, still, it is important to put a framework that should be taken into consideration when developing relevant material regarding the right of work for persons with disabilities, and which fall under four main axes namely:

1. Any amendment must include the right to access within a comprehensive concept, and in accordance with the international established standards, and in consistent with the ILO manual, and the relevant international evidence when talking about the right of access.
2. The right of access to services (vocational training, appropriate environment, and goods and products) related to the work of persons with disabilities.
3. The right of having comfortable places and personal services, such as adapted W.C, work spaces, and break rooms for persons with disabilities.
4. Put the necessary legal texts that deal with the specificity of the work of persons with disabilities of all types into practice to ensure their rights. Set a control system for those who do not adhere to strict legal rates related to employment of persons with disabilities.

The main obstacles which prevent the employment of persons with disability, are:

- The discrimination on the basis of disability, whether direct discrimination and / or indirect.
- The exploitation, whether physical and / or sexual and / or wage by relatives and/or employers.
- The medical examination conditions or what is known as “health fitness test”.

All the previous are tough challenges facing persons with disabilities, and making them the victims of discrimination.

Based on this philosophy, the Young Men's Christian Association in collaboration with a number of local authorities, including the Ministry of Labor, proposed a number of amendments to the Labor Law. The paper suggested a series of general and specific recommendations. Of the most notable is: Allocation of a special section of the employment of persons with disabilities along with the line of those related to the employment of women and delinquents. So that this section includes issues related to: vocational training, guidance and ways to end the employment relationship, working hours, facilitative measures, standards and functions of the diagnosis and evaluation, medical committees, employment quota, and the jobs available for people with disabilities.

We would like to add to these general recommendations a group of observations that must be consistent with the general directives to make the law sensitive to the rights and issues of disability. So we would like to say:

- a) The separated section must address the issue of work conditions, and must be linked to the first article of the Law after the amendment. So that the article on definitions includes everything related to the concept of the right of decent work for persons with disabilities in accordance with the definitions in the International Convention on the Rights of Persons with Disabilities, and in accordance with the concepts and terms of the ILO on decent labor standards. So it will be clear and void of confusion when amending the law.
- b) The aim of this treatment is to fit the definitions to the work conditions, and at the same time to omit or transfer any written materials that deal with the rights and issues of employment for persons with disabilities to be included in this section and / or in subsequent articles of this section, such as the occupational safety and health conditions, and the employment conditions and so on.
- c) To amend all legislative formulations within this section and other subsequent articles in line with the international standards of the International Convention for the Rights of People with Disability. So that clear texts are added regarding motivations relating to the employment of persons with disabilities by both the private and civil sector. These motivations include: tax breaks and other incentives in a very clear way so they will never be interpreted in a way that makes hiring people with disabilities a burden instead of being a motivation. That should include texts related to specific years, so that if the employer doesn't hire a certain percentage of disabilities over five years, s/he will lose his/her right to such exemptions and incentives.
- d) Establishing clear texts related to penalties and their forms in case the employer is not committed to employing persons with disabilities, and in accordance with the provisions of the law.
- e) The Labour Law should re-classify the facilities in terms of size, and number of employees. Also it should differentiate between small, medium and large

facilities so that they could be adapted to harmonize the conditions of employment of persons with disabilities.

- f) it's vitally important to specify in the article on definitions the types of disability, so it would be easier to handle the requests received by the employment offices and partner institutions.
- g) It is important to make amendment to the: wages committee, employment and labor relations, vocational training and labor policies so that the law can ensure fair representation of persons with disabilities.
- h) It is important to address gender when formulating the section related to the rights of labor and employment of persons with disabilities, especially women and delinquents with disabilities.

With regard to the special recommendations that the Young Men's Christian Association came up with, regarding amendment to the articles (1) (8) (9) (10) and (11) (12) (13) and (16), they all agree with the spirit of the policy which falls within a legislative dimension.

We feel that it's essential to rewrite all these mentioned legal texts, and even to add to them by specifying a special section. We see that amendment is not enough because there is a legislative imbalance in these above texts, and there is absence of the legislative approach that is sensitive to the issues and the rights of persons with disabilities. Therefore, and as long as the amendment is happening for sure on the Palestinian Labor Law, it is better to focus on texts that are clear, fresh, sophisticated, and harmonious with the spirit of the law, rather than amendment to it. So those who interpret the law in a way that suits their interests won't be able to exploit persons with disabilities.

As long as persons with disabilities are the most vulnerable, it is obvious that the influential and powerful people will interpret texts to be in their favor. A good example is when the persons with disabilities were provided the custom tax exemption to their vehicles, and then the council of Ministers decided to give the exemption only to persons who are physically disabled and prevent other types of disability from this right.

The proposal of any legislative policy on the right of persons with disabilities to work requires an assessment of the situation of persons with disabilities in the labor market. It also needs a great level of compliance by employers to the provisions of law. The reports issued by the General Directorate of Employment, the General Directorate of Inspection and Labor Protection, and the General Directorate of Vocational Training in the previous years, indicate clearly that the inadequate provisions for the rights of persons with disabilities led to the absence of actions and interventions. It also led to the weakness of the executive programs directed to this category. Even though the workers and decision-makers in the Ministry of Labour and the social partners are convinced about the importance of the right of persons with disabilities to work.

To recap, the Palestinian Labor Law is one of the legislations which works on providing the minimum protection. However, this law is not able to provide the desired protection or promotion of decent work because of different reasons, like:

- The absence of fundamental legislation that complements and guarantees its proper application, such as social security, the law of labor union organization and the labor courts, and other necessary guarantees for the successful application of it.
- The political, economic and security conditions imposed by the occupation practices against the Palestinian worker and employer.
- The weak infrastructure of the Palestinian government which makes it unable to provide the proper environment for production and investment.

2. Disabled Rights Law No. (4) of the year 1999

It is pointless to say that the Palestinian Disabled Rights Law has been deeply and intensely studied and analyzed by a number of local, Arab and international parties. Even though it is one of the best laws that were enacted at that time with regards to the rights of people with disabilities, we still have to ask ourselves these questions:

- How did the law deal with the right of work for persons with disabilities?
- did its articles go in line with the international standards according to the Convention on the Rights of Persons with Disabilities, the recommendations of the International Labour Organization, and the standard rules on equal opportunities?
- Did it have a complete clear definition of “persons with disabilities”?
- What about people with intellectual disabilities and their rights to work and rehabilitation?
- What about the families of Persons with Disabilities?

We believe we should necessarily review the Palestinian Disabled Law and the Implementing Regulations issued under this law, as it has been 16 years after its entry into force. Moreover, the fact that the State of Palestine has joined the International Convention for the rights of persons with disabilities in 2014, makes this review more and more urgent and necessary.

Although we are not going to conduct a legal review, nor propose comprehensive amendments to the rights of the Palestinian Disabled Law, we still believe that it is

important to refer back to a number of points that should be taken into consideration when reviewing and modifying the Law. Those points are:

1. The name of the law must be changed, so instead of saying: “Disabled Law”, it should be called: “the Law of Persons with Disability”. Also, there should be amendment on the definitions article, so it can be consistent with the International Convention on the Rights of Persons with Disabilities. Furthermore, reference to the issues and rights of persons with disabilities should be reconsidered through the establishment of a higher national commission dealing with rights and issues of persons with disabilities, so this commission replaces the Ministry of Social Affairs.
2. Establishing a national mechanism to monitor and document the extent of compliance with the International Convention in terms of legislations, policies, administrative measures and related decisions.
3. The law should be dealt with in accordance with the rights covered by the Convention, so that each right is dealt with according to the Palestinian reality.
4. The law must provide clearly for the right of employment, and it should ensure the conditions of decent work for persons with disabilities. The law can ensure their participation in the development process, if vocational training is provided to them.
5. We must ensure canceling any legal text that is inconsistent with the Law of persons with disabilities in the fields of: health, labor, social security, mobility and forming labor unions and so on. There should be a clear text to cancel the “health fitness test” that is applied in the Health Law, as it prevents the employment of persons with disabilities. Amendment in the Health Law should be also done to the insurance Law. The Law must expressly provide for forcing insurance companies to make insurance of persons with disabilities, and otherwise the text provides for punishment the insurance companies if they don’t. Plus, and at the same time the Law must give insurance companies incentives to encourage them to offer insurance to persons with disabilities in the workplace.
6. There should be a text in the law that protects persons with disabilities from all forms of exploitation, both from relatives and / or employers. Also, the minimum wage should be decided according to the needs of persons with disabilities especially when they commute to get to work.
7. There should be a clear text on the right of persons with disabilities to obtain a periodic financial subsidy from the Ministry of Social Affairs. This financial assistance should be given regardless if the person with disability has a family member (father and / or mother and / or brother and / or sister) works or no, because they have their independent personalities.

We find that the Palestinian Disabled Law addressed the issue of employment only in terms related to “Absorb of at least 5% in public and private institutions”, and “counting the number of educationally qualified people who can teach the disabled, each according to his/her disability”. In the field of rehabilitation and employment, the Law has stressed the importance of preparing technical staff qualified to work with different categories of disabled persons. Moreover, the Law guaranteed the right of persons with disabilities to enroll in rehabilitation and vocational training centers, according to the applicable laws and regulations and on the basis of the principle of equal opportunities and the provision of vocational training programs for people with disabilities.

The Law has also defined the “protection centers” for the employment of persons with intellectual disabilities, where the legal text states: "the protection centers: are those centers where the intellectual disabilities is served in terms of rehabilitation, operation and accommodation"

Article (5) of the Law has talked about the rehabilitation of persons with disabilities in general. It states: “The state must provide various rehabilitation forms for the disabled as required by the nature of her/his disability, and she she/he shouldn’t pay more than 25% of the cost of the rehabilitation. Those who resists the Israeli occupation are exempted from this contribution of cost.

In total it could be said that the law lacks the mechanisms that explain the forms of dealing with these themes for the integration of persons with disabilities to work. The law, nor the executive regulations of the law addressed ways of dealing with the rehabilitation of persons with mental disabilities.

Recommendations

Based on the smooth analysis of the reality of current policies at the legislative and strategic level of the concept and the content of the employment of persons with disabilities in the Palestinian labor market, we recommend the following:

First, in terms of the formulation of trends and regulatory frameworks for the inclusion of the rights of persons with disabilities”

The Law of Labor allowed to the minister to issue instructions regarding labor law. Also, the triangular parties: (Ministry of Labour / association of labor union / private sector) can agree to sign a memorandum of understanding to include persons with disabilities in the labour market. Furthermore the three partners can allow the representatives of the union and the experts of disabilities to attend the meetings of the tripartite dialogue committees.

We suggest: signing of a Memorandum of Understanding between the Ministry of Labour and the Ministry of Social Affairs concerning the rights of inclusion the persons with disabilities in the labor market. This could happen through exchange of experiences on the level of economic empowerment. This is done in coordination with the Empowerment Project of the United Arab Emirates Red Crescent, and with DEEP project.

We believe that allowing the representatives of persons with disabilities, and the institutions working in the disability sector in getting a membership of the legislative plan of the Council of Ministers will help in the inclusion of the concept of disability in legislation, laws, rules and regulations issued by the Council of Ministers. We believe that the representation of persons with disabilities in the Legal Committee of the Presidential Office will allow them and their organizations to influence the policies. We think we need special workshops for each of: the Council of Ministers, the Office of the President, the Ministry of Social Affairs, and the Ministry of Labour on the subject of inclusion, so that we can localize this concept in these genuine institutions.

Second, the level of public plans and strategies:

We need to review the Strategic Plan for the labor sector and the inclusion of the rights of persons with disabilities in the plan in terms of: vision, mission, the policy and strategic objectives for access. Also we need the application of these objectives through different programs, both within the ministry and / or strategic partners, and through the civil society

institutions and the institutions of disability. The desired interventions focus on the required modifications via a decision taken by the Deputy Minister and the Minister approval to form a team of experts in the field of disability and planning which will be responsible for the inclusion of a comprehensive concept of disability, and the rights of persons with disabilities in the National Plan for the Ministry of Labour 2014-2016.

The adoption of this decision will be followed by a change in the level of executive and operational priorities and policies for the inclusion of the rights of persons with disabilities in the labor sector.

Third, at the level of legislation.

Work on the review of legislation needs a lot of time and effort. We prefer to review the rules and regulations issued by the Council of Ministers concerning the employment. Consequently, we can change according to the concept of inclusion the disability in the labour market in the work of the Ministry of Labour. By this, the efforts regarding policies integrates with the Legislative/sub efforts, until it's appropriate to have the opportunity for amendment the legislations and laws that organize the labor sector in Palestine.

Fourth: the level of services and infrastructure of work sites and facilities.

We believe that this level can be accomplished by:

- holding workshops with the three parties to include the concept in the level of services, infrastructure and the regulations which aim to organize the work.

- working on the concept of inclusion in the infrastructure of the services provided by the three parties.

We can start with the Ministry of Labour via training and qualification of the staff on the concept. Also via the instructions of the agents, agent assistants and general managers about the conditions of work environment in accordance with the standards of the International Labour Organisation , and in accordance with the laws in Palestine. We have to remember that Palestine, especially after its accession to international conventions, particularly the Convention on the Rights of Persons with Disabilities, should adjust and harmonize its legislation, policies and administrative measures in accordance with the Convention. We firmly believe that this is possible, what remains is the political will.

Services can be associated with “disability card” in general, but that does not mean it’s only having the card or not having it. For example, we can transform the issue of services to an agreed pattern between the tripartite parties.

All in all, we can say that the direct and productive interventions can create trust in the system, and can strengthen the relationship with persons with disabilities as basic integral part of the work system at a national level.