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The Rights to Work for Persons with Disabilities in Myanmar

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Abstract

As Myanmar is one of the member states of the Convention on the Rights of Persons with Disabilities (CRPD), the government of Myanmar has an obligation to implement the newly established Law for Persons with Disabilities effectively in compliance with the standards provided in the CRPD. This paper examines policy for rights to decent work for persons with disabilities. The most effective means to protect and promote the rights of persons with disabilities (PWDs) from any forms of discrimination, in areas such as job searching and at their working places, is through establishing and implementing the law, so they are not isolated from society. The research paper identifies the gap between the policy and reality by interviewing the authorized persons from the Department of Social Welfare in Yangon, the organizations which provide jobs and jobs opportunities for PWDs around Yangon, and those who living around Yangon of working ages with physically challenged. Factors such as educated and the non-educated, and their family background of the interviewees with disabilities were analyzed. Additionally, the paper identifies the gap between the international standards and the newly established law of PWDs in Myanmar particularly in areas such as defining the meaning of disabilities or being disabled, inclusion to the society, non-discrimination or equal rights for PWDs and creating job opportunities for PWDs. The potential impact of the newly established law on both to persons with disabilities and to the society is strongest in the following areas such as raising awareness on PWDs related issues on social medias, understanding the definition of disabilities, creating discussions on improving job opportunities for PWDs with stakeholders and PWDs themselves, and creating inclusive of persons with disabilities in society.

Keywords : *Persons with disabilities, impairment, barriers, protect, promote, work, rights, job opportunities, non-discrimination, Myanmar.*

Problem Background

While being disabled is defining as health issues of the specific persons in international community and scientifically, the definition of disabled is varied in Myanmar's concept. As most of the citizens in Myanmar are Buddhists and according to their belief, persons with disabilities have done something wrong in their past lives which have resulted in their disability. Persons with disabilities and their families constantly experience barriers to the enjoyment of their basic human right and their inclusion in society. Their abilities are overlooked, their capacities are underestimated and their needs are given low priority. Yet, the barriers they face are more frequently as a result of the environment in which they live than as a result of their impairment (UNICEF, 2007).

Generally persons with disabilities in Myanmar are not treated as normal people; as a result, many disabled persons become lonely and have feelings of depression. Also, in accordance with their clinical situation even some community members such as family members, friends and social welfare staff will acknowledge and assist disabled persons, often the attention they receive is not unwelcome, hurtful, or confined to looks and expressions of pity when especially if they are newly disabled living in an able-bodied world (Gerber 2014). Some families view their disabled child as a burden, a child that they cannot rely on, nor depend on in the future for income or opportunities. Even if many families choose to keep their child and care for them as best they can, some families will go so far as to abandon their child if he/she is disabled. Where cultural beliefs suggest that to have a disabled child is good luck, and a sign of prosperity for the family, the disabled child is not abandoned (JICA, 2002). They do not lead a normal life and are treated as differently from others in the community. Poverty is a pervasive barrier to participation not only in Myanmar but also in worldwide, especially in developing countries. It is also a cause and consequence of disability. Another barrier is the stereotypes of the society even the families of disabled persons. Lack of job opportunity for disabled persons who cannot access to special schools, vocational trainings or services, disabled persons from rural areas become beggars and they are not treated as human being. (WCRP, 2008).

There are very few job positions or options for the persons with disabilities and too many distractions to get decent work in Myanmar particularly for higher work positions even they have had a proper educational background for those positions. If there is no decent work for them, the persons with disabilities have to rely on their family members. If they do not have someone to rely on, most of them become beggars and end their lives on the streets

without decent living standard. The persons with disabilities/disabled persons are marginalized, vulnerable and more sensitive in both physical and mental condition than the persons without disabilities in every state or country. They are easy to get depression for being disabled or for the result of becoming disabled. The discrimination against the person with disabilities from the community in Myanmar is still ongoing because of the lack of knowledge and religious concept especially in rural areas outside and around Yangon.

In Myanmar, out of 80 percent of persons with disabilities are jobless (Myanmar National Disabled Survey 2008-2009). It made them become more and more vulnerable than persons without disabilities. As Myanmar is a developing country which in its transitional period, there are loads of conflict and problems in political field as well as in social and economic fields between the newly formed civilian government and the citizens. Most of the people are encouraged to claim their rights. However, they tend to forget about those persons with disabilities are entitled to the rights as others. The economic situation of Myanmar is still very weak in the international community and it is still on the list of poorest countries of the world.

The draft law of the persons with disabilities in Myanmar has been drafted since 1948 but the draft law was not published to get public opinions and comments. The draft law has been forgotten for a long time. It is only a draft law that was not practiced even in the law schools in Myanmar. However, in December 2014 the draft law (after the long discussion between the government authorities, organizations working for the persons with disabilities and the persons with disabilities) contained some changes but over 80 per cent of the draft law is the same as the original one. It was finally established in 2015 June. There are gaps between the international standards and the law as there is very few research done on this issue. The opinions of the public and the persons with disabilities are not mentioned in public and State's newspapers. Therefore, this is another issue to be investigated or done more research on the public opinion and the position of the persons with disabilities to the law.

Research Objectives

Research objectives are as follows;

1. To identify the main barriers for the persons with disabilities while they are applying for the decent work positions of their choice.
2. To analyse the legal protection of the rights of persons with disabilities by international instruments and domestic laws.

Research Questions

Following are the research questions;

1. What are the main barriers to access jobs for PWDs?
2. How the newly established law for the persons with disabilities address the lives the persons with disabilities themselves and to the society?
3. Does the law empower or protect the PWDs in the workplace?

Research methodology

The research is qualitative in nature by conducting interviews to the authorized persons from Social Welfare Department those who giving services to the persons with disabilities, local organizations which working on the persons with disabilities issues, international organizations working for the persons with disabilities in Myanmar, and mainly to persons with physical disabilities or disabled persons both who are working and who without or looking for jobs of their dream. The duration of the collection of data, and transcribing and translation of data for this research took place eight months in Yangon, Myanmar. The interview sessions were taking place in seven different places such as Myanmar Council of Persons with Disabilities (MCPD), Development Aids for Persons with Disabilities (ABILIS), Myanmar Independent Living Initiative (MILI), the Call Center, Kyi Myin Dine School for the Blind (Department of Social Welfare), Mary Chapman School for the Deaf and Myanmar National Human Rights Commission. The interview sessions conducted with seventeen research participants and among them, fifteen research participants are with different kind of disabilities including persons with sight, hearing, and physical impairment. Other two research participants are persons without disabilities and who are working actively for persons with disabilities in Myanmar. The interview sessions took 45 minutes to 2 hours depends on the research participant's experiment. All the research participants are friendly and willing to answers all the interview questions and very helpful. All the interview sessions were conducted with informed consent to all research participants especially with the verbal consent and there was no research participant requesting for written consent. For the safety of the research participants who are from outside of organizations, their identities are secured and only pseudonyms were used in the records and in this research. Interview sessions were audio recorded and all the transcribed data were kept and store on a secure, password-protected laptop that is only available to the researcher.

Research challenges

There are four main challenges while collecting, transcribing and translating. The first challenge is that, there are still very few secondary data such as documents, articles and research papers on the rights to work for persons with disabilities in Myanmar. Even though the Law on the Right of Persons with Disabilities was established in July 2015 in Myanmar, there is no official English translation of that law yet. The second challenge is communication with the research participants especially with those who have a hearing impairment as there are very few sign language interpreters (volunteers) in Myanmar and each school for hearing impairment have their own sign language. The third challenge is there were very few research participants who are able to have an interview session with the researcher for the reason that there were some difficulties to arrange the time availability for both the researcher and research participants, even if they are willing to have interview session. The fourth challenge is the time period for transcribing and translating data after collection as they took much more time than expected time since some of the interviews took more than an hour and the all interview sessions were conducted in Myanmar language then translating to English after transcribing data.

Research scope

This research covered only for the persons with physical disabilities including hearing impairment and sight impairment focusing on the rights to work. The research participants are age of 18 to early 40s and all of them are working. This research merely discussed on the topic concerning disabilities movements from international level, regional and national level. This research will not be focused on the issues of the persons with mental impairment, being disabled due to the age.

Research analyze

After analyzing the data for this research, four major themes were found out.

First of all, there is a huge gap between families from urban and rural as well as educated and non-educated family backgrounds. Most of the research participants are from rural who moved there to get better education and better job opportunities, however, there are a lot of challenges to access services provided for persons with disabilities even in Yangon, the former capital of Myanmar. The families living in the rural area are mostly non-educated persons who still believe that being disabled or becoming disabilities is the consequence of bad things they have done in previous lives. Some of the research participants were kept in

their home and they never had special treatment until they are grown up. Although most of the research participants were willing to continue higher education, only some families of the research participants encourage them to continue higher education. Families from rural areas are not willing to let their family member who is with disabilities go work in the cities and want those persons to rely on the family as they assume that working in their absent would be too tough for the persons with disabilities. Once the persons with disabilities have engaged with special schools or capacity trainings, most of the research participants found insecure, uncomfortable, unnecessary care and discrimination against them even when they stay with their own family and those facts becoming push factors for persons with disabilities to work outside on their own where they can easily communicate with the world.

Second, for accessing job opportunities, most of the research participants have different types of difficulties because of the view of the society to them. Only some of the research participants achieved their dream job such as social worker, teacher, makeup artist, etc., While speaking about job opportunities of persons with disabilities, the psychological and intellectual differences between different disabilities has to be considered (Daw Cho, Interpreter #1). Comparing the intellectual level of persons with hearing impairment and persons with sight impairment, the former ones are moderately slower than the other ones in learning and concentrating at school or at work. Another challenge to be considered for the persons with sights impairment is communication with them as they find difficult to communicate without interpreter particularly when someone wants to have an actual conversation with them. While applying for jobs, some private companies offered persons with disabilities to work in their companies; however, their premises are not disabled friendly buildings or disabled friendly environment such as there is no transportation for persons with disabilities, no wheelchair accessible buildings, etc. Moreover, most of the private sectors which offer job positions for persons with disabilities are charity-based approach not right-based approach offers. For instance, the government departments address the qualifications of applicants in the job application form that does not allow an applicant with disabilities or visual impairment to apply.

Third, there are two kinds of legal protection for the right of the persons with disabilities. Internationally Myanmar is a member state of the Convention on the Rights of the Persons with Disabilities. Another one is the Law on the Rights of Persons with Disabilities which was established on 15 July 2015. The Law mentioned that a National Committee shall be established in 90 days of the establishment of the mother law. The National Committee has obligation to draft Rules of Procedures to implement the mother law.

Some of the research participants were played a part in drafting process of the Law on the Rights of Persons with Disabilities and most of them are pleased with the Law as 80 percent of their recommendations were included in the Law by the Parliament. However, there is still no National Committee to implement the mother law, no establishment of the Rules of Procedures even after a year of the establishment of the mother law, and no translation to Braille and English. Also the quota system of hiring in private and public enterprises but it does not mention how many percentages of the persons with disabilities should be employed in the workforce. According to the research participants, there is no complaint in the court from the persons with disabilities lawsuits against any kind of discrimination towards them until present. Most of the research participants are of not well educated and they were not aware of the Law, which protecting their rights, has been established since July 2015. It is showing that public awareness of the Law is still needed.

Fourth, theme is the capacity building for both employers and employees in promoting the rights of persons with disabilities and welcoming them with disabilities friendly environment. Most of the research participants mentioned that there has to be an advocate to serve as a link between the employees and employers so as to protect the rights of persons with disabilities and to ensure equitable vetting processes for the hiring of new employees – free from discrimination. This advocate will also serve to inform and train both PWDs and the enterprises/companies about the need for both sides, namely the obligations of accessibility to working places on the part of employers and basic technical requirements for a proposed position on the part of the persons with disabilities. This process seeks to minimized discrimination in the workplace and ensures that persons with disabilities can contribute to the workforce. There are some organizations which run capacity building trainings for persons with disabilities, however, only some of the trainees were able to work in some private enterprise or companies as they were only trained for independence living in daily life and not trained for working in specific enterprises.

Possible Solutions

There are four possible solutions to be considered.

The first possible solution is to establish the By-Law of the Law on the Rights of the Persons with Disabilities with more specific articles to promote and protect the rights of PWDs, for example, by adding the exact percentage of the quota system in hiring employees in both private and public enterprises.

The second possible solution to be considered is giving awareness to the public about the rights of persons with disabilities frequently to both rural areas and in the cities especially on the right to work; for instance, released shot video clip of raising awareness on the rights of persons with disabilities and talk shows on television and on some social media.

The third possible solution to be considered is to establish an advocate which is to link between private or public enterprises and persons with disabilities who looking for jobs. The advocate is to protect their rights and to ensure the reasonable scrutinizing process for the hiring new employees especially without discrimination against PWDs.

The last possible solution to be considered is to have more informal meeting or discussion with organizations working for person with disabilities, persons from private enterprises which start hiring persons with disabilities in their workforce, persons from government departments and with researchers to discuss the needs from both employers and employees, to discuss amending of some laws which are discriminating against persons with disabilities especially on the right to work, and to build disabilities friendly working environment.

Bibliography

1. Arlene S. Kanter. 2014. *The Development of Disability Rights Under International Law: From Charity to Human Rights*. Routledge. Taylor and Francis Group, London and New York.
2. Arthur O'Reilly, 2007. *The Right to Decent Work of Persons with Disabilities*. International Labour Office, ILO, Geneva.
3. Bawi, S V, 2012, *Understanding the Challenges of Disability in Myanmar*. Internship Asia and Hussman Foundation
4. Bawi, S V, 2013, *Participation of Persons with Disabilities in Labour Market, The Role of Vocational Training*, Chulalongkorn University, Bangkok, Thailand. Available online at <http://cuir.car.chula.ac.th/handle/123456789/43111>.
5. Blaser, W Arthur. 2003. *Taking Disability Rights Seriously*, *New Political Science*, Volume 25: Number 4, December 2003, pp 593-605. Available online at [DOI: 10.1080/0739314032000145260](https://doi.org/10.1080/0739314032000145260).
6. David B. Wiegand, 2009. *Job Success for Persons with Developmental Disabilities*. Jessica Kingsley Publisher, London, UK.
7. Debra A. Perry, 2003. *Moving Forward: Toward Decent Work for Persons with Disabilities, Examples of Good Practices in Vocational Training and Employment from Asia and the Pacific*. International Labour Office, ILO. Geneva.
8. Department of Social Welfare, Ministry of Social Welfare, Relief and Resettlement, 2010. *First Myanmar National Disability Survey 2010* (Yangon, Ministry of Social Welfare, Relief and Resettlement, Government of the Union of Myanmar).
9. Draft Disabled Person Law, 1982 Myanmar. Available online at <http://apskills.ilo.org/resources/draft-disabled-persons-law-1982>
10. Fleischer, D. and Zames, F. 2001. *Disability Rights Movement: From Charity to Confrontation*. Temple University, Philadelphia.
11. Goran Melander, Gudmundur Alfredsson and Leif holmstrom, 2012. *The Raoul Wallenberg Institute Compilation of Human Rights Instruments*. 3rd revised edition.
12. Japan International Cooperation Agency (JICA), 2002. *Country Profile on Disability, Union of Myanmar*. JICA Myanmar. Available online at

http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_Myanmar.pdf.

13. Micheals, S. 2013. *In Burma, Children with Disabilities Struggle to Access Schools*. Available online at <http://www.irrawaddy.org/feature/burmas-disabled-children-struggle-access-schools.html>
14. Mitra, S., Posarac, A and Vick B, 2011. *Disability and Poverty in Developing Countries: A Snapshot from the World Health Survey*. Social Protection and Labour, the World Bank. Available online at <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Disability-DP/1109.pdf>.
15. Persons with Disabilities Law, 2015. Myanmar.
16. Sabatello, M. and Schulze, M. 2014. *Human Rights and Disability Advocacy*. University of Pennsylvania. Available online at <http://www.jstor.org/stable/j.ctt5hjm1h>.
17. The Constitution of the Republic of Myanmar, 2008.
18. UNICEF, 2007. *Promoting the Rights of Children with Disabilities*, Innocenti Digest No. 13, The United Nations Children's Fund.
19. WCRP, 2008. *The Plights of Burma's Disabled Population*. Available online at <http://rehmonnya.org/archives/106>.