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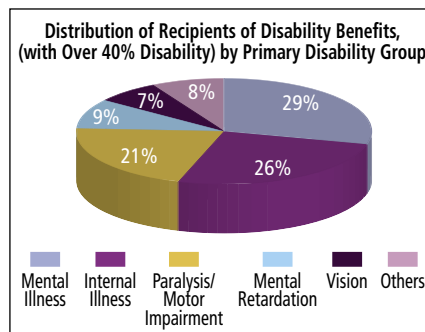
Shaping Vision into Policy and its Implementation - People with Disabilities in Israel

by **Dina Feldman**

המאמר עוסק בתיאור מצבם של אנשים עם מוגבלות בישראל והרוח החדשה שנוצרה לקראת ובעקבות חקיקתו של חוק השוויון לאנשים עם מוגבלות, התשנ"ח - 1998. חוק זה מקדם את מסורת הטיפול והשיקום של אנשים עם מוגבלות בישראל אל השלב הבא של השתלבות מלאה בחברה על בסיס של זכויות אדם, אזרחות מלאה ותורמת, שותפות ומעורבות בתהליכי קבלת החלטות וניהול חיים עצמאיים בקהילה. העבודה מתארת את המציאות הנוכחית, את האתגרים וכן את הפעולות הנעשות לשם יישום עקרונות חוק השוויון הלכה למעשה.

تصف المقالة وضع الأشخاص ذوي الاحتياجات الخاصة في إسرائيل، والسياسة الجديدة التي تم تطويرها والتي تتعلق بقانون الحقوق المتساوية لذوي الاحتياجات الخاصة الذي سن عام 1998. وقد ساهم هذا القانون في تطوير الثقافة الإسرائيلية العلاجية، وإعادة تأهيل ذوي الاحتياجات الخاصة، ونقلهما إلى مرحلة جديدة في عملية تكامل تامة مع المجتمع؛ انطلاقاً من مبدأ حقوق الإنسان، مواطنة كاملة وفاعلة، والمشاركة في عملية اتخاذ القرارات والحصول على استقلالية في المجتمع. كما تعكس المقالة الحقيقة على أرض الواقع، والتحديات التي تفرضها، وتضع مبادئ قانون المساواة في الحقوق قيد الممارسة.

According to the globally accepted estimate, people with disabilities make up more than 10 percent of the population. To date, the data which exists identifies the number of people with disabilities living in Israel as approximately 13 percent of the population.



Traditional Policy and Services

Since the establishment of the State of Israel, its policy towards people with disabilities has been characterized by assurance of their social security and delivery of personal, medical, and rehabilitative assistance.

These policies were aimed to ensure all persons with disabilities with basic living conditions and to enable them to acquire, or reacquire, skills that assist them to function in all aspects of life. The policy manifested in the following services (1):

School System:

- special education, small classes, extra teaching hours, adaptation of suitable teaching methods, technologies and materials, provision of supplemental paramedical care, assurance of safe transport, day care centers, and more.

Approximately one third of people with disabilities are in special education and two thirds are included in the mainstream education system. New legislation is being implemented which emphasizes the importance of inclusion.

Medical System:

- eligibility for medical and paramedical services, public, mental health and psychosocial rehabilitation, assistant technology and equipment.

Transportation:

- eligibility for vehicles and expenses for their upkeep as well as discounts or exemptions from public-transportation fares, allocation of reserved seats in public-transportation vehicles, special parking permits and accessibility in public transportation.

Housing:

- eligibility for accessible public housing.

Social Security and Rehabilitation:

- eligibility for disability benefits,



personal assistance, vocational training and placement, as well as sheltered housing and leisure activities.

Current Status

The broad array of services described above was intended to shape a social situation in which people with disabilities could integrate fully into society. But reality proved that despite these measures, the degree of such integration was much less than had been expected. A different strategy was needed to be employed in order to create the suitable infrastructure for the full integration of people with disabilities into society and the labor market. (2, 3)

It was determined that the desired reform required a transition from an

outlook aspiring to remedy the individual's disabilities and offer total protection out of grace and compassion to a more complementary outlook, which views all of society as responsible for integrating people with disabilities into its ranks. The alternative outlook is based on human rights, equal opportunity and accessibility, so that the individual with disabilities might feel and become an integral part of this society, regardless of the type or severity of his disability.

The New Approach

The Equal Rights Law for Persons with Disabilities (1998) rejected the widespread claim that the inability to fully integrate into Israeli society stems from the weakness or the

incapability of the people with disabilities, and instead put the responsibility for this state of affairs on the physical, technological and psychosocial inaccessibility of society. The new law challenged Israeli society to view persons with disabilities as endowed with both the capability and the right to dignified life, liberty and honest labor, based on independence and human rights rather than favors, compassion and charity. (4) This amounted to a declaration of the need for investment of public resources in decreasing stigma, assuring accessibility of the living environment and encouragement of employment in the open market, at the expense of long-term sheltered facilities as implemented, for example, by the United States federal



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administration. (5)

This breakthrough in the legal situation was scored by the ruling handed down in 1996 by the High Court of Justice in the suit brought by Shahar Botzer against the municipality of Maccabim-Re'ut, which concerned the inaccessibility of dual-purpose structures (for schools and shelters) in a new town. In this ruling, Supreme Court Judge Barak, addressed, for the first time, the realities of life for persons with disabilities as a human rights issue and ruled that there must be a shift from benevolence toward people with disabilities in isolation to an approach which integrates them into society and assures them of equal opportunities based on human rights.

Gaining momentum, social organizations led by people with disabilities led two long strikes held opposite the Ministry of Finance in 1999 and 2002, with the participation of hundreds of persons with dis-

abilities and their family members, to demand that they be provided basic conditions for a dignified life, with an emphasis on social security and mobility. Beyond the material achievements, these strikes enhanced awareness that people with disabilities must be part of the society and participate in any forum discussing their affairs, as declared by the universal slogan "nothing about us without us".

The Equal Rights Law

The new Law views persons with disabilities, of any kind and severity, as citizens equal to any others, who are entitled to fulfill all their rights and to receive services provided to all citizens.

Furthermore, the Equal Rights Law set a goal for Israel to "protect the dignity and liberty of persons with disabilities and anchor their right to equal and active participation in society in all fields of life, as well

as properly provide for their special needs in a manner enabling them to spend their lives in maximum independence, privacy and dignity, while making the most of their capabilities".

The new Law considers affirmative action a legitimate means for promoting equal rights principles. This mechanism, which is cited in the preamble to the law, refers to all fields of life¹, but of the full draft of the Law, only four sections have so far been enacted². These sections deal with the principles of equality, the continuity of employment, accessibility of public transportation and the establishment of the Equal Rights' Commissioner's Office and its Advisory Committee. The range of this mechanism's applicability is currently limited, and is relevant mainly to the field of employment in the open market. It should be noted that in many foreign countries, affirmative action also applies to higher education.

Employment Status of People with General Disabilities (6)

Unemployed:

- 85% of recipients of general disability benefits from the NII are not working.
- Among recipients, only 19% report that they would like to work.
- 34% report that they are unable to work due to the state of their health.
- 2% do not wish to work at all.
- 30% are people over 55 years old who do not believe that they can find their place in the workforce because of their age.

Employed:

- Among those who are working, only 15% have any form of employment:
 - 9% are working in the free market (usually part-time)
 - 6% are engaged in protected employment provided by the Ministry of Welfare and Health which are often segregated from the population.

Employment

Employment is a central area of human life that ensures dignified livelihood. In order to enable persons with disabilities to become inclusive in the working world, proper physical, sensory, mental and psychosocial accommodations and affirmative action must be assured, and indeed these matters occupy a central part of the Equal Rights Law.

The Equal Rights Law refers explicitly to accommodations and to affirmative action and states that "actions by the employer, according to this section, may be carried out as a plan including provisions for preferential employment, or promotion, of persons with disabilities who are qualified for the role or the position, and whose qualifications are similar to those of other candidates for the role or position." That is, in order to enjoy affirmative action, candidates with disabilities must first be qualified for the post. This does not mean lowering requirements or bending criteria, but rather activation of a system of adjustments to permit a candidate to manifest the capabilities relevant for carrying out the job. In the matter of affirmative action, a consensus has been forged that the focus must be on persons with severe disabilities,

while relying on as clear and applicable definition as possible.

According to the definition of the Equal Rights Law, a person with disabilities is "a person with a physical, mental, or intellectual (including cognitive) impairment, whether permanent or temporary, which substantively limits the person's functioning in one or more central areas of life." A special, quantitative formula has been developed by professionals and civil societies to define severity, based on evidence, existent tools and structures for assessment.

The generic approach toward persons with disabilities requires enlarging the investment to change the attitudes of employers and employees about the capability and motivation of people with disabilities to work and improve dramatically the vocational, technical and academic training. However, this task poses additional, challenges both for the universities and school system, particularly the special-education system, and for the vocational rehabilitation system, which at present are not designed enough to prepare a reservoir of employees with disabilities for the open, modern market. (3)

Accessibility

Accessibility is the main mechanism of implementing equality. It is what opens the material and psycho-

logical gates for people with all kinds of disabilities to society by enabling them to enter and move freely in buildings and in open spaces and to get accommodating services free of social stigma and barriers.

The third section of the Equal Rights Law states that persons with all types of disabilities shall be entitled to accessible and suitable public-transportation services at a reasonable frequency, including access to stations and ports where public-transport services operate. In this section, public-transportation services include urban bus lines, trains, air transport and ships intended for the general public.

General accessibility is the next section of legislation which is close to pass in the coming months. It is intended to enhance the reasonable accessibility of governmental, public, municipal and private sites which serve the public in all areas of life (Proposed Law #2951, 2000).

Establishment of the Equal Rights Commission and its Advisory Committee

In the summer of 2000, the Equal Rights Commission for Persons with Disabilities was established in the Ministry of Justice, signifying additional steps in a process towards social reform. The Equal Rights Commission is responsible for the promo-

An Institutional Example

On November 30, 2003, the cabinet adopted Resolution #1073, which pertains to the promotion of the human rights of persons with disabilities. Section 3 of this resolution refers to affirmative action for persons with severe disabilities in hiring and promotion by the Civil Service, as follows:

- a) In accordance with the provisions of section 15 a (b) (3) of the Appointments Law, [it is resolved] to require every ministry and budgetary unit to grant priority in hiring and promotion of employees to candidates with severe disabilities, provided that these candidates are qualified for the positions in question and that their qualifications are similar to those of other candidates for said positions.

- b) The requirement stated in paragraph a) shall apply to all procedures of training, hiring and promotion of workers in the Civil Service.

The Civil Service Commissioner is required, in consultation with the Commissioner for Equality of Persons with Disabilities and with the Minister of Welfare, to promulgate instructions in all that concerns the application of paragraphs a) and b) above, including the setting of tests to determine severe disability and methods of diagnosing such disability, all according to the recommendations of the inter-ministerial team (Civil Service-Ministry of Justice-Ministry of Industry and Trade) which will be joined by a representative of the Minister of Welfare, for the application of the requirement of proper advocacy for persons with disabilities in the Civil Service.

tion and the implementation of the Equal Rights Law's basic principles, the prevention of discrimination against persons with disabilities, the removal of obstacles they face, the formulation of a comprehensive social policy for the encouragement of the integration and full participation of persons with disabilities in society and more. The office now includes the Commissioner, a legal counseling unit, a unit for the promotion of accessibility, an Internet

case. Fifteen of the 25 members of the Advisory Committee are persons with disabilities, including the chairman and deputy chairman. They include persons with disabilities on behalf of the representative organizations of persons with disabilities and represent people with physical, sensory, mental, intellectual, and cognitive disabilities as well as representatives of the public and families.

The members of the Advisory Committee represent the perspec-

people with disabilities and the general public, so that the stigma can be alleviated and society will become fully accessible in every respect. Progress in the enactment of the Law for Equal Rights of Persons with Disabilities, the framing of the United Nations Convention, the enlistment of activists and practitioners and the increase in budgetary allocations in this area, are greatly bolstering hopes that in the foreseeable future, Israeli society will enable more and more people with disabilities to become an integral and contributing part of society.

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information center (www.mugbaluyot.justice.gov.il), a unit for public applications, public relations and a training unit. A senior division for inclusion into society is now in the process of being staffed.

Advisory Committee

The Law for Equal Rights of Persons with Disabilities mandated the creation of an Advisory Committee to the Commission, with the purpose of advising the office on matters concerning its missions, the promotion of the law's principles, equality and prevention of discrimination, and the encouragement of active integration in society by persons with disabilities. Most of the committee's members are required to be persons with disabilities, and that is indeed the

tive of people with disabilities and participate in official international activities like the formulation of the convention for protection and promotion of the rights of persons with disabilities currently underway in the United Nations. (7)

Summary

After many years of broad investment in the medical system, social security and rehabilitation, Israel is moving forward to promote the full inclusion of people with disabilities within the society on the basis of human rights and full eligibility to contribute and express their talents in practice. This new approach is only in its initial stages and requires a change in attitudes and priorities among policy makers, professionals,

Footnotes:

1. At this stage, only the initial parts of the law have been passed and the bill now being deliberated in the Knesset includes additional parts.
2. The remaining sections deal with accessibility, housing in the community and personal assistance, culture, leisure and sports, education and schooling, the judiciary system, special needs and information (Equality Law proposal, 2000.)

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7. U.N. (2004). Draft comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities. Final text compiled as adopted (CRP.4, plus CRP.4/Add.1, Add. 4 and Add. 5)

Electronic Resources:

Myers - JDC - Brookdale Institute Website <http://brookdale-en.pionet.com/default.asp>
National Insurance Institute of Israel Website www.btl.gov.il/English/eng_index.asp