



UDC 316

RIGHTS OF PEOPLE WITH DISABILITIES IN THE HUMAN RIGHTS CONTEXT

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Abstract. The paper shows how the human rights were developed over the centuries. The first part describes the history and development of human rights from ancient to modern times, and outlines the phenomenon of discrimination. In the second part we discussed the rights of persons with disabilities as a special case of the rights of a minority group. In conclusion possible directions for future action have been suggested to promote the rights of persons with disabilities.

Keywords: human rights; people with disabilities.

People with disabilities are talked about more nowadays. They are noticed and referred to more and more often. The increase in the number of international documents relating to persons with disabilities and documents in which attention is being paid to them proves the growing awareness of the importance of this problem, and not just locally, but also worldwide. People with disabilities are becoming increasingly aware of their rights and more often and loudly demand their compliance. However, quite many of those people are still unaware of them. Disability is no longer taboo. Growing number of society members become conscious of the importance of the problem. Increasingly, living and working environment is being consciously shaped in a way not to create barriers. However, the most serious barriers to overcome a mental ones. For example, in schools, parents of able-bodied students have the greatest difficulty in accepting their disabled colleagues.

In Poland, the economic situation causes additional difficulty in enforcement of the rights of people with disabilities. It directly affects the size of the financial resources available to this social group. Indirectly, it affects the reduction of social activity of the disabled, and hence, limits overcoming social barriers.

The first and second world war that swept the world in the twentieth century, showed

the international community the need to formalise the rights of persons with disabilities. Both of them left us with many disabled war veterans, people injured physically and mentally, and not only former soldiers.

In 1955 the specialised organisation of the United Nations, the International Labour Organisation (ILO) announced the first document relating specifically to the disabled – Recommendation No. 99 of the Vocational Rehabilitation of Disabled Persons. It relates to [6, p. 15]:

- vocational counselling, vocational training and employment agency for persons with disabilities ;
- organisation of services in the field of vocational rehabilitation;
- cooperation between the institutions responsible for health care and for vocational rehabilitation;
- extending employment opportunities for people with disabilities;
- protected employment;
- vocational rehabilitation the disabled youth and cooperation in the this scope with institutions responsible for education and vocational rehabilitation.

In 1983 the International Labour Organisation announced Convention No. 159 and Recommendation 168 on vocational rehabilitation and employment of persons with disabilities [2, p. 5]. These documents do not



change the Recommendation of 1955, but makes it more complete and extended.

The complement and extensions relate to [2, p. 5]:

- creating possibilities for vocational rehabilitation and employment of disabled persons,
- public participation in the development of vocational rehabilitation for persons with disabilities,
- vocational rehabilitation in rural areas,
- staff training for vocational rehabilitation,
- participation of employers and employees (trade unions) in the development of vocational rehabilitation,
- relationship between vocational rehabilitation and social security.

Recommendation No. 99 contributed largely to the development of vocational rehabilitation of disabled persons in European countries, while Recommendation No. 168 did so in developing countries. It also extended the same concept of vocational rehabilitation and included wider public in its implementation [10, p. 7]. Various government agencies and non-governmental organisations became responsible for its implementation, eg. employers' organisations, trade unions, organisations of disabled persons and the environment itself in which the disabled person lives. Particular emphasis was placed on the covering the disabled from rural areas with vocational rehabilitation and providing them with rehabilitation services at the place of residence. Since rehabilitation services require a professional approach, therefore it highlighted the need to train personnel for the vocational rehabilitation of disabled persons.

In 1975 the UN General Assembly approved the Declaration on the Rights of Persons with Disabilities. It is based on the conviction of the need to prevent physical and mental disability, to help people with disabilities and facilitate their integration into normal life as far as possible. The Declaration, in the intentions of its creators, is to provide a common basis for action at the international level. The resolution gives a definition of a disabled person and stresses that the rights

contained in the Declaration belong to all the disabled without any exception. Catalogue of rights granted to disabled, include, among others: the right to respect the human dignity, the right to medical and psychological care, the right to rehabilitation, the right to education and counselling, the right to economic and social security, the right to work, the right to life among families. Persons with disabilities are to be protected from exploitation and discrimination and are provided with legal assistance.

Year 1981 was declared by UN the International Year of Disabled Persons under the theme "full participation and equality of persons with disabilities in social life." In 1982 General Assembly adopted the World Programme of Action for Persons with Disabilities, aimed at promoting effective measures for the prevention of disability and rehabilitation. This program was to be implemented by the Member States in the years 1983–1992, ie. during the Decade of Disabled Persons. It is a very broad and comprehensive program of activities for persons with disabilities, including recommendations regarding the training and employment of children, adolescents and adults. In terms of employment it broadly coincides with the content of Recommendation No. 168 of the ILO [5, p. 42].

The Council of Europe has also adopted a number of documents relating to persons with disabilities. The first one was the European Social Charter of 1961 together with the Additional Protocol of 1988. It establishes two basic rights of people with disabilities: the rights of physically and mentally disabled people to vocational training, rehabilitation, professional and social re-adaptation and the right to equal opportunities and equal treatment in matters of employment and choice of profession, without discrimination based on sex. Then, in 1984 Council of Europe adopted Resolution AP (84) 3 on a coherent policy on the rehabilitation of persons with disabilities [1, p. 17]. This resolution was subsequently replaced by Recommendation No. R (92) 6 of the Committee of the Council of Ministers to Member States of the Council of Europe on a coherent policy for people with



disabilities [7, p. 2]. The policy adopted in that Recommendation very broadly and in comprehensive way determines the problems of people with disabilities and identifies the principles, ways and means of solving them. This document recommends the governments of member states [5, p. 44]:

- application of the principles and measures recommended in the appendix to this Recommendation, the creation of their own rehabilitation programs,

- ensuring wide dissemination of this Recommendation among public and private organisations dealing with people with disabilities,

- organising periodically tests and submitting an updated report covering legislation on the rehabilitation of people with disabilities and a list of specific results achieved in a given area.

Employers' organisations themselves create and popularise the policy towards people with disabilities. In 1986. Round Table of Caux, bringing together business leaders from Europe, Japan and the United States, published "Principles of doing business", which are the proposal of standards the sphere of business. The rules are based on two basic ethical ideals: *kyosei* and human dignity. "Japanese idea *kyosei* means: live and work together for the common good, enabling cooperation and mutual prosperity in the context of a healthy and fair competition. The idea of "human dignity" refers to the inviolability (sacredness) and the value of each person as an aim in itself, not just a mean to fulfil other purposes or even requirement of the majority. " Companies declare to promote employment of disabled workers wherever they can be useful, to protect employees from avoidable injury and illness in the workplace, to create jobs and to provide a decent salary, to avoid discriminatory practises, to listen and to follow the suggestions and proposals of employees, to respect human rights and to promote human development and social integration [11, p. 8].

Employers' Forum on Disability in the UK has developed and published its program of action in 1992. It raised issues related to:

the principle of equal opportunities, training of staff in order to improve the knowledge about disability, creating a favourable working environment, changing the recruitment procedures for persons with disabilities, career development, retraining and training of people with disabilities, monitoring the progress of activities designed for the disabled.

The Catholic Church also expresses interest in people with disabilities. In 1981. Vatican announced the document for the International Year of Disabled Persons. It recalls the principles that should be followed in dealing with persons with disabilities, "since the person with disabilities is subject to having all their rights, they should be facilitated to the participation in society in all its aspects and at all levels, that are in the limits of their opportunities ". The principle of integration requires opposing the tendency of isolation, segregation and marginalisation of handicapped person, the principle of normalisation means striving for the total rehabilitation of people with disabilities, by all available means and techniques, and if this proves impossible, creation of the conditions for life and action as close to normal as possible, the principle of personalisation requires consideration, protection and promotion of the dignity, quality of life and integral development of handicapped person in all its dimensions. The document also suggests some action lines: research on eradicating the causes of disability, the search for new possibilities of human development and social integration, providing education and work, supporting families of permanently handicapped people, caring action to raise awareness of people with disabilities that they are able to take responsibility for themselves, prevention arbitrary limitation of the civil rights of the mentally disabled [3, p. 21].

The problems of disabled people are constantly present in the teaching of Pope John Paul II - including the lists for the World Day of the Sick, celebrated since 1993 and in his homily in the course of meeting with the sick and the disabled. In the encyclical "Laborem Exercens" (22) The Holy Father brings the question of work. He points out that "a per-



son in some way handicapped [...] should have easier access to participation in the society in all aspects and at all levels according to their abilities", "various bodies involved in the world of labour [...] should support – through effective and appropriate means - the right of disabled people to vocational training and to work so that they could be involved in the production activities according to their qualifications." It is a difficult task and responsibility, but "one should wish this to [...] lead to a situation in which the handicapped person would not feel left at the margins of the labour world or would be dependent upon society, but that they could be full subject of work, useful and respected for their human dignity and called to contribute to the development and welfare of their families and society, according to their capabilities" [4, p. 2].

In Poland, the document regulating the rights of the disabled is the resolution of the Parliament on 1 August 1997 – "Charter of the Rights of Persons with Disabilities. The charter defines the concept of a disabled person, gives them the right to an independent, autonomous and active life, and states that they cannot be subject to discrimination [8]. It also grants the disabled the right to medical treatment and rehabilitation, education, professional assistance and social assistance, living in an environment free of barriers, having their representation in consulting any laws relating to disabled people. In the same year the Parliament adopted the "Act on vocational and social rehabilitation and employment of persons with disabilities". The Act specifies in detail the definitions of: a disabled person, non-governmental organisations for the disabled, rehabilitation of people with disabilities, its scope, forms and objectives, and parties responsible for carrying and financing it. It defines the way of qualification of persons with disabilities, their rights, the rules of their employment and determine the duties and rights of employers of people with disabilities. It defines a protected workshop and plant of professional activity, establishes the rules for creation of special purpose funds (fund for rehabilitation and professional activation), determines forms and principles of

training of people with disabilities. It also appoints the Secretary of State, Plenipotentiary for Persons with Disabilities in the Ministry of Labour, the National Consultative Council for Disabled Persons and the State Fund for Rehabilitation of Disabled Persons and defines their objectives, tasks and rights as well as all rules of operation [9].

Modern society is a society which respects human rights, including the rights of persons with disabilities. It is a society wishing to see the problems of minorities, the weak, the injured and the disabled, and to take action aimed at solving them. Modern society is building a socio-economic system, which does not forget about an individual: their needs and abilities to satisfy them. The legislation operating in the country should therefore not be of aspirational character. The lawmaking should not be deprived of transfer into implementing legislation. Current assumptions of rights concerning the disabled remain on paper and their implementation is not satisfactory. Active right to vote can be an example; it does not apply to the physically disabled, because getting to the polls is simply impossible for them. Despite the instructions issued by the government authorities to local governments, aiming at creating appropriate conditions for the disabled to use their right to vote, they remained without response.

People with disabilities should be involved in public life in various ways – not only through employment. It should be remembered that in matters relating to disabled people, one should ask their opinion. People who become disabled during active life, whose world suddenly collapsed, are often left to themselves. It is important then to quickly reach them with information and support – both mental and material. This also applies to people who are disabled from birth, but they need slightly different kind of support. There is therefore an urgent need to create an efficient, easily accessible information network, enabling the exchange of information between disabled people and between the disabled and people without disabilities. A monitoring measuring activities



for the disabled should exist. Its purpose would be to control these activities and, consequently, to improve them and to prevent any negative effects. This will among other things, help to reduce or even to eliminate the bodies whose task is to assist the disabled, and that do not actually have any effect on destiny of this social group. One can already name good examples of understanding the problems of people with disabilities, which translates into practical solutions. There are people employed at the public administration offices who are trained to handle people with disabilities, including those with knowledge of sign language.

There are more and more effective organisations associating people with disabilities and their families. This is the result of the natural aspirations of those people to come out of isolation, contacts with their own kind, people with similar problems, satisfying the needs of mutual understanding and support. They are aware that "unity is strength" – the group may be more effective than an individual. These organisations fighting for their rights often replace different institutions from the implementation of their tasks, and they are usually do it much better. Therefore, such initiatives should be strongly supported.

All dysfunctional groups should have access to education at all levels. One should not forget the wider importance of education: it is not only education system as such, but also in its broad social context. It is one of the foundations of the culture of the society. This is associated with the celebrated Decade for Human Rights Education. The assumptions of the Decade shows the need for a broad-based educational campaign directed both to society as a whole, as well as minority of people with disabilities. Such action should raise public awareness on the rights of persons with disabilities.

The need for a balance between the rights and obligations of persons with disabilities comes from the context of human rights. One

does not have to be making the disabled demands for high standards, that does not mean any way of discrimination. These requirements must be tailored to a particular person and a particular situation.

The aim should be to ensure that the disabled feel as full and valuable members of society. Their mere presence of them protects the society against dehumanisation, makes one stop in the pursuit of material values and think about each other and the essence of society.

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