

2. The Condition of People with Disabilities

Learning Goals

The participants will gain a basic knowledge of:

- the new vision of people with disabilities based on the human rights model;
- the history of international documents regarding the UN and international institutions concerned with disability and human rights.

2.1 People with Disabilities and the Human Rights Strategy

2.1.1 Brief history of the condition of people with disabilities over the centuries

Since ancient times people with disabilities have been considered negatively. Taking the history and culture of various countries and continents as a starting point, one can reconstruct the form of treatment they have undergone. In recent centuries this negative view has been embodied in similar treatments in all countries, based on segregation, different treatment justified by health conditions, and intervention models that created special treatments, often far removed from ordinary social life: it is the medical model that attributes to the condition of subjective limitation, to illness, the disadvantaged condition of people with disabilities. The social model, on the other hand, highlights the fact that disability is a social relationship and that people with disabilities undergo the limitations and prejudices created by society. The World Health Organization's ICF, which is the scientific reference framework for this issue, emphasizes that disability depends on the interaction between environmental, social and personal factors. The more society embraces people's characteristics and develops their abilities, the more it is able to remove barriers, obstacles and prejudices.

2.1.1 Disability and human rights

Disability is an evolving concept. The human rights-based approach highlights the fact that people with disabilities are invisible citizens because of the segregation and social exclusion produced by society. They are discriminated against and do not have equal opportunities. They are subject to unjustified differential treatment compared with other citizens, which continually causes violations of their human rights. The Convention aims to ensure the protection of human rights of people with disabilities by committing all the sectors and responsible institutions of the states that ratify it to acting using suitable policies, legislation and resources.

2.2 History of People with Disabilities in International and Regional Documents

2.2.1 The United Nations and people with disabilities

The United Nations has issued official documents, actions and programs regarding people with disabilities since 1971:

- Declaration on the Rights of Mentally Retarded Persons (1971), approved by the UN General Assembly with Resolution 2856 (XXVI), 20 December 1971
- Declaration on the Rights of Disabled Persons, approved with Resolution 3447 (XXX) of the UN General Assembly, 9 December 1975
- Declaration on the Rights of Deaf-Blind Persons, approved with Decision 1979/24 of the Economic and Social Council, 9 May 1979
- International Year of Disabled Persons (1981), approved by the General Assembly with Resolution 31/123, 16 December 1976
- World Programme of Action Concerning Disabled Persons (1983-1992), adopted by the General Assembly on 3 December 1982
- Declaration on human rights of 25 July 1993 at the end of the Vienna Conference (157/23) (Vienna Declaration)

The process of recognizing the rights of people with disabilities culminated in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted by the General Assembly of the UN on 20 December 1993 with Resolution 48/96. The Standard Rules are the first international instrument (non-binding for the countries that adopt them) to introduce the concept of equal opportunity for people with disabilities; they create a national system for monitoring respect for human rights based on these very Standard Rules, by nominating a special rapporteur. The special decades denoted by the United Nations in the different continents acted as instruments of awareness-raising (see those of the Asia-Pacific region 1993-2002, which was renewed for 2003-2012, Africa 2000-2009 and South America 2006-2015).

2.2.2 The United Nations agencies and people with disabilities

2.2.2.1 The ILO

The approach of the International Labour Office is also based on the principles of equal opportunity, equal treatment, non-discrimination and mainstreaming. These principles are underlined in ILO Convention 159/1983 Concerning Vocational Rehabilitation and Employment of Disabled Persons, accompanied by Recommendation 168/1983 on the same issue and other ILO Conventions on equal opportunity. The ILO also ran a campaign on “decent work” for people with disabilities and in 2002 launched a Code of Good Practice on the Employment of People with Disabilities.

2.2.2.2 The WHO

The World Health Organization has been involved in the disability area through various sections or units focusing on specific conditions such as mental health and the prevention of blindness and deafness. As well as these units, the section of the World Health Organization (WHO) concerned with disability and rehabilitation is the Disability and Rehabilitation Team (DAR). The DAR Team focuses its activities on five areas of action, namely health policies, health and rehabilitation, Community-Based Rehabilitation (CBR), assistive devices and appropriate technology, and skill building among medical staff and people in charge of political decisions concerning health and rehabilitation.

The areas of action of the DAR Team reflect the profound change in definitions of health and rehabilitation brought about by the Declaration of Alma-Ata. The right of every individual to active involvement in his or her own health and the responsibility of every community form the basis for the participation of people with disabilities in decision making concerning their own rehabilitation. Many people with disabilities do not have access to basic health care, let alone to specific rehabilitation services. From medical rehabilitation to Community-Based Rehabilitation (CBR), the DAR Team emphasizes that principles of social inclusion are the basis for any medical action aimed at these people. The firm planks of the DAR action strategy are: eradication of institutionalization as a treatment method; medical rehabilitation treatments based on early diagnosis and operation; and community involvement in the course of social inclusion and development.

2.2.2.3 UNESCO

UNESCO has specifically focused on the education of people with disabilities through an approach based on inclusion; this approach addresses the educational needs of children, young people and adults with specific attention to those at risk of exclusion and marginalization. As early as 1960 UNESCO had adopted a Convention against Discrimination in Education. The principles of inclusive education were then adopted at the World Conference on Special Needs Education: Access and Quality, where the Salamanca Statement was approved (Spain, 1994). UNESCO dedicates special reports to the implementation of inclusive education activities. Moreover, a special initiative is underway: the Flagship “The Right to Education for Persons with Disabilities: Towards Inclusion,” designed as an instrument to build strategies for the development of high quality inclusive education. This theme was taken up again both at the World Education Forum (Dakar, Senegal, 2000) and at the Mid-Term Review Conference on adult education (CONFINTEA, Bangkok, Thailand, 2003), where for the first time particular attention was given to illiterate people with disabilities. Recently, the International Bioethics Committee launched the Universal Declaration on Bioethics and Human Rights, in which topics related to the protection of human rights in connection with the new biomedical sciences were discussed, with particular attention given to people with disabilities. A special Inclusive Education Unit works within UNESCO.

2.2.2.4 UNICEF

UNICEF is the UN fund that protects the human rights of children, and thus also those of children with disabilities. The international instrument that protects the human rights of minors with disabilities is the Convention on the Rights of the Child, to which UNICEF dedicates the Innocenti Research Centre. This convention - which in Art. 2 underlines the child’s supreme interest - lays out the principles and norms of protection for ensuring the human rights of all minors. In particular, in Art. 23 it focuses specifically on children with disabilities and their education.

2.2.2.5 Other agencies

Among the other international bodies dealing with people with disabilities we also note the Organization of American States (OAS), which has approved the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999), and the Council of Europe, which has a specific Disability Action Plan (2005).

2.3 Key Concepts of the Human Rights-Based Approach

2.3.1 The cultural context

The human rights approach is a cultural revolution in the reading of the condition of people with disabilities. This change in perspective is a conceptual system that reconstructs the relationship between people's characteristics and the ways in which society permits or limits their access to rights, goods and services and allows or impedes their full participation in the life of the society. This new view is based on some essential concepts that transform the actions and perceptions of governments and members of society regarding people with disabilities.

2.3.2 The most important concepts

2.3.2.1 Disability

Disability is a social relationship between the characteristics of people and the extent to which society is able to take them into account. Disability is not a subjective condition of people, but depends on environmental, social and individual factors, as the WHO's ICF underlines. Disability is a condition that every person goes through over the course of their life (as a child, in old age and in various other situations) and which belongs to the entire human race. Disability is an evolving concept that needs to be considered in connection with the cultural and material conditions of each country (see Preamble Point e). It is important to link this concept to the definition of persons with disabilities in the Convention (Art. 1).

2.3.2.2 Equal opportunity

Being excluded and segregated, persons with disabilities do not have the same opportunity to choose as other people. Equal opportunity, according to the Standard Rules, means that "the needs of each and every individual are equally important" and "that those needs must be made the basis for the planning of societies" and thus "all resources must be employed in such a way as to ensure that every individual has equal opportunity for participation" in society.

2.3.2.3 Accessibility and universal design

To offer equal opportunities it is necessary to remove barriers and obstacles that impede full participation in society. Accessibility means that all people must have access to the "various systems of society and the environment, such as services, activities, information and documentation" (Standard Rules). Since disability belongs to the entire human race, society must design and plan all its activities and policies with the aim of including all citizens. The "universal design" approach

allows the characteristics of all people in a community and nation to be taken into account. Universal design “means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. ‘Universal design’ shall not exclude assistive devices for particular groups of persons with disabilities where this is needed” (Art. 2).

2.3.2.4 Non-discrimination

The medical model of disability has brought about differential approaches and treatment compared with other people, thus developing solutions and actions that impoverish people with disabilities and cause continual violations of human rights. Indeed, all unjustified differential treatment is a violation of human rights. “Persons with disabilities [...] have the right to remain within their local communities” and to “receive the support they need within the ordinary structures of education, health, employment and social services” (Standard Rules). In order to combat the former situation, anti-discrimination legislation has been created, which includes the protection of people with disabilities, prohibiting any discrimination based on disability through a legal basis that provides for the removal of discriminatory conditions using “reasonable accommodation” (Art. 5). Anti-discrimination legislation has been introduced by some countries at the national level (the United States of America, Australia, New Zealand, Canada, the United Kingdom) and by the European Communities at the regional level.

2.3.2.5 Multiple discrimination

Discrimination affects people on the basis of characteristics that are subject to differential treatment, prejudice and obstacles and barriers to full participation in society. When such features of gender, race, culture, religion, political opinions, age, and disability combine, multiple discriminations are produced which make the persons concerned still more vulnerable. A typical example is women with disabilities, whose access to rights, goods, services and participation in society can be severely limited.

2.3.2.6 Independent living

The obstacles and barriers, differential treatment and negative views concerning people with disabilities, particularly those who cannot represent themselves or require complex assistance, have in the past led to such people being institutionalized. In reality, these people have the same human rights as everyone else and must be supported in their acquisition of autonomy, self-determination, independence and inter-dependence. It was for this reason that the independent living

movement arose, first in the United States of America at the end of the 1960s, and then throughout the world, through its own philosophy and appropriate solutions, such as centres for independent living and personal assistants.

2.3.2.7 Social impoverishment and empowerment

Disability is a cause and an effect of poverty. The differential treatment that people with disabilities undergo has produced a social impoverishment in access to rights, goods and services that combines and often multiplies with economic poverty in a negative cycle that leads to social exclusion. For this reason, people with disabilities represent almost half the world's poor, given that more than 80% of these people live in developing countries (Preamble Point t). In order to break this vicious circle it is necessary to act both by changing society's approach to people with disabilities and by working with these people for individual and social empowerment. The United Nations global initiative against poverty, the Millennium Development Goals, should focus on people with disabilities as a priority.

2.3.2.8 Social inclusion

In order to transform a society that excludes and discriminates, it is necessary to aim for the construction of inclusive societies, in which everyone can participate and contribute to the development of society. The path from exclusion to integration produces a presence in society of people with disabilities who adapt to rules that have already been established by the community that receives them. Inclusion, meanwhile, is a process that provides for the people included to have the same opportunities and decision-making powers on how to organize society as others. Inclusion is a right based on the full participation of people with disabilities in all aspects of life, on an equal footing with others, without discrimination, respecting dignity and valuing human diversity, through appropriate action: overcoming of obstacles and prejudices and support based on mainstreaming in order to live in local communities.

2.3.2.9 Participation

The construction of inclusive societies implies that the people included are protagonists in the process of inclusion, as experts on the way in which society must treat them. This means that people with disabilities must be present with the same opportunities as other members of society in decisions on all policies, action and plans that concern them. Therefore, the participation of people with disabilities and organizations that represent them is a necessary methodology/action, based on the slogan/right “Nothing about us without us”.

2.3.2.10 Inclusive development

Economic development theories consider the creation of a group of people who are excluded from the benefits of development to be a necessary consequence of this development. Development mechanisms are in fact often tied to conditions of disadvantage and unequal opportunities created by society itself. In the case of people with disabilities these conditions are found to be caused by mechanisms of discrimination and social exclusion that the United Nations Convention has made clear. On this basis the necessity arises for inclusive development that does not produce mechanisms of social and economic impoverishment but ensures respect for the human rights of all citizens.

2.3.2.11 Human diversity

The condition of disability is an experience that all human beings have lived, live and will live through. It is therefore important to consider disability as one of the features of human diversity. The history of negative cultural views and of the treatment that some characteristics of human beings have undergone over the centuries has given people with disabilities a social stigma, loading these characteristics (and therefore all the people who possess them) with social undesirability. It is therefore important to include disability as one of the many differences that distinguish human beings, placing disability among the ordinary characteristics of human beings and removing social stigma.

2.4 The Situation of People with Disabilities within the Country

2.4.1 Available statistical data

Underline the importance of statistics concerning disability, which give the opportunity to know and monitor the status of actions, policies and legislation in a country. Illustrate the condition of the people with disabilities of the country in various areas related to rights using the available data, publications and reports.

2.4.2 National disability policies

Illustrate the policies, legislation and actions towards the country's people with disabilities and emphasize the working agenda at national level, highlighting the interrelationships with the contents of the Convention.

2.4.3 Evaluative elements and the requirements of the movement of people with disabilities

Have the organization of people with disabilities present its evaluations of national policies and the high-priority requirements that arise from them in the agenda.