Citizenship rights of persons with disabilities

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‘THE RIGHTS OF PERSONS WITH DISABILITIES’
ORGANISED BY THE COUNCIL OF EUROPE

VADUL-LUI-VODA, 18-19 SEPTEMBER 2013
Overview

- Who are persons with disabilities?
- Persons with disabilities as citizens: From marginalization towards the human rights model
- Citizenship rights and their relevance for persons with disabilities
- Conclusion
- Discussion
I. Who are persons with disabilities?

- What is disability?
- Do you know somebody with a disability?
- Do you have a colleague who has a disability?
- Does this person require different accommodation?
Dilemma of whether or not having a definition.

Neither the Council of Europe Disability Action Plan nor the UN CRPD includes a definition of disability.

‘Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.’

(Article 1 UN CRPD)

‘Disability’ is an evolving concept.
Retarded, challenged, handicapped, cripple = NO

That’s so...

absurd
uncool
irrational
silly
pointless
indiscreet
irresponsible
childish
senseless
unreasonable
ill-considered
dull

...and you choose
retarded?

Buy a dictionary.

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II. From marginalization towards the human rights model

- Patronizing and discriminative attitudes toward persons with disabilities throughout history – ‘second class citizens’

- Physical and symbolical exclusion: being excluded from education, employment, deprived of the right to make own decision, locked up in institutions, no access to information or social spheres

- Human rights system had a little attention to the human rights of persons with disabilities

- People with disabilities were relatively invisible
From the Medical model…

Focuses on the lack of physical, sensory or mental functioning, and uses a clinical way of describing an individual's disability.

Considers disability as a tragedy for the individual and as a burden for the family.

Defines and categorizes disabled people by their impairment, and it casts the individual as the victim or problem.

From the Medical model…
Disability as the result of the interaction between a person with impairment and various barriers that hinders full participation.

Focus on interaction between individual and society.

Social barriers create exclusion.

Attitudes are the Real Disability... to the Social/Human Rights Model.
Disability as a human rights issue

- From object of....
  - Treatment
  - Care
  - Pity
  - Charity
  - Fear
  - Abuse
  - Neglect
  - Management

- ... to subject to
  - Human rights on an equal basis as other citizens
  - Dignity
  - Paradigm shift: re-conceptualizing disability as a human rights issue
Social model animation

- [http://www.youtube.com/watch?v=9s3NZaLhcc4](http://www.youtube.com/watch?v=9s3NZaLhcc4)
Persons with disabilities are rights holders

‘Disability is a human rights issue! I repeat: disability is a human rights issue. Those of us who happen to have a disability are fed up being treated by the society and our fellow citizens as if we did not exist or as if we were aliens from outer space. We are human beings with equal value, claiming equal rights.’

Bengt Lindqvist

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...it is also important that the debate on care and support comes to consider and address the following challenges:

Transforming attitudes to older and disabled people – in particular the widely held view that all such individuals are vulnerable or unable to contribute to society, rather than in vulnerable situations and without the support to participate in society – and the value we attach to their participation and well-being.’

(Neil Crowther, From safety net to springboard)
III. Citizenship rights and their relevance for persons with disabilities

- Right to live in a territory
- Right to move freely within this territory
- Right to work in this territory
- Right to participate in the political life of the community
- Right to stand as candidate in the elections
1. Right to live independently

- In Central and Eastern Europe still many persons with disabilities live in institutions, deprived of liberty and facing serious human rights violations (forced abortion, ill-treatment, detention etc.)

- Deinstitutionalization and community-based care provisions in Central and Eastern Europe started only in the 1990s

- Concept of reasonable accommodation
Independent living

- Number of people in institutionalized care in CEE:
  - Hungary: about 9300 people
  - Czech Republic: about 22 000 people
  - Poland: about 25 000 people
  - Slovakia: about 2500 people
  (Source: MHE, Mapping Exclusion, 2012)

- Result: persons living in institutions cannot practice their right to choose where to live
- People thus live in isolation and extreme dependency
Independent living

- Alternative individualized forms of support system are necessary to develop
- Aim: ensuring that persons with disabilities will have the **choice and control** over their life – choosing the place where to live, how to live and with whom to live
- Creating community based living (avoiding to create mini institutions)
- Group home is one of the options, but does not automatically guarantee independent living without necessary structural features (well-trained support stuff, direct payment, central location, privacy, freedom etc.)
Independent living provisions in international documents

- **Action line No.8 Council of Europe Disability Action Plan 2006-2015**: Community living; ‘enabling people with disabilities to live as independently as possible, empowering them to make choices on how and where they live. This requires strategic policies to move from institutional care to community-based settings...’

- **Article 19 UN CRPD**: ‘right to live independently and be included in the community by removing the environmental barriers that hinder their full and effective participation in society on an equal basis with others’
Challenges for persons with disabilities when practising citizenship

2. Right to move and reside freely

- Accessibility – built environment, assistive technologies, standardization (e.g. accessible ticket machines, accessible trains and buses, easy-to-understand booking websites, standardized assistive tools etc.)
- Personal assistance service provided for persons with disabilities – who is the assistant?
- Is there a disability parking card?
- Inclusive service provider system available?
Free movement provisions in international documents

- **Action line No.6 and 7 of the Council of Europe Disability Action Plan 2006-2015:** ‘The built environment, Transport; To progressively establish an environment accessible for persons with disabilities by applying the principles of Universal Design, thus avoiding the creation of new barriers.’

- **Article 9 UN CRPD:** Accessibility – not a right: ‘State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.’

- Concept of reasonable accommodation
Challenges for persons with disabilities when practising citizenship

3. Right to participate in the political life of the community

- A number of countries links the right to political participation to the legal capacity of the individual – deny that right under a protective measure:

  Guardianship

- Persons with intellectual disabilities or mental health problems are placed under guardianship if they are not considered to be able to take their affairs

- Regardless of the individual level of functional ability the constitution or electoral legislation excludes people who are under guardianship from the right to vote

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Overprotection: persons with disabilities are not allowed to make their own decisions and own mistakes – presuming that the rest of the society does not make mistakes... double measure!

Result: people who are under guardianship cannot vote or stand as a candidate at any elections

Number of citizens under guardianship in Central and Eastern Europe:

- Hungary: 60 000 (resource: MDAC)
- Czech Republic: 25 000
- Slovakia: no data
- Poland: no data (about 60 000)
Right to participate in political life in international documents

- **Action line No.1 of the Council of Europe Disability Action Plan 2006-2015:** Participation in political and public life; ‘Efforts must be made to create the environment where people with disabilities are encouraged and are able to participate in politics at local, regional, national and international level.’

- **Article 12 UN CRPD:** recognizes that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. States must take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity. Systems must include safeguards, and people with disabilities should have equal property rights to others.

- **Article 29 UN CRPD:** right to vote and stand for election on an equal basis with others, and ensure that people with disabilities receive reasonable accommodation and support to enable them to vote.

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Participation in political life

Necessary changes to ensure persons with disabilities can participate in political life:

- Review of any legislation or regulation that excludes those under guardianship from voting

- Collecting data on the number of people currently excluded from practicing their right to vote

- Providing information on political issues in accessible formats (census, manifesto, campaign, reform etc.)

- Guaranteeing that ballot papers and voting boots are accessible and people can vote with the support they require
IV. Conclusion

• As a result of the paradigm shift and in scope of the human rights model, persons with disabilities shall be considered as rights holders and equal citizens.

• Despite of the fact that persons with disabilities are equal citizens, there are often barriers that prevent them from practising citizenship rights (right to live independently, right to move freely, right to participate in political life).

• Policies should be developed that facilitates independent living and combat dependency on the social welfare system. Progress with the de-institutionalization progress.

• Ensure that all relevant policy areas include the overarching aim of creating a barrier-free environment.

• No forms of guardianship should deprive the right to vote from persons with intellectual disabilities and mental health problems.
Comments?

Any questions?
Thank you for your attention!

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