

## A b s t r a c t

*Where at one time professionals viewed disability as a condition inherent in a person, there now is widespread acceptance that, in large measure, disability is a social construct with roots in societal attitudes. Specifically, the case has been made by disabled people that they are the victims of discrimination. This paper reviews some of the empirical evidence of discriminatory practices in the areas of: access to education; meaningful participation in the labor force; and, physical and sexual assault. There is ample evidence of discriminatory practices in education and employment which further disadvantage disabled people. Disabled people receive less education and are much less likely to find a job than are non-disabled people and are much more vulnerable than the non-disabled to sexual or physical assault. Promoting and protecting the rights and dignity of disabled people will require a combination of legal approaches, attention to the concrete realities of disability and societal barriers, and changes in the perception of and societal attitudes towards disabled people.*

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*En algún tiempo los profesionales vieron la incapacidad como una condición inherente a la persona, ahora es ampliamente aceptado que, en gran medida, la incapacidad tiene una construcción social con raíces en actitudes sociales. Específicamente, el caso ha sido presentado por personas incapacitadas las cuales son víctimas de la discriminación. Este artículo revisa algunas de la evidencias empíricas de las prácticas discriminatorias en las áreas de: acceso a la educación, participación importante en la fuerza de trabajo, y en la agresión física y sexual. Existe una amplia evidencia de prácticas en la educación y en el empleo con una mayor desventaja para las personas incapacitadas. Las personas incapacitadas reciben menos educación y es menos probable que encuentren trabajo que las personas no incapacitadas, además son mucho más vulnerables que los no incapacitados para las agresiones física y sexuales. Promoviendo y protegiendo los derechos y la dignidad de las personas incapacitadas requerirá una combinación de enfoques legales, atención a las realidades concretas de la incapacidad y las barreras sociales, y cambios en la percepción y actitudes sociales hacia la gente incapacitada.*

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*Alors que les experts ont longtemps considéré l'incapacité comme étant inhérente à la personne, beaucoup pensent aujourd'hui qu'elle est, dans une large mesure, une construction sociale engendrée par l'attitude des membres de la société. Certains handicapés ont, en particulier, déclaré explicitement qu'ils se considèrent comme victimes de discriminations. Cet article passe en revue une partie des preuves empiriques de cette discrimination. Très peu de recherche ayant été menée sur ce sujet, cet article examine les preuves que des pratiques discriminatoires ont lieu dans les domaines suivants: accès à l'éducation; participation effective au monde du travail; et agressions physiques et sexuelles. De nombreuses pratiques discriminatoires peuvent être relevées dans les domaines de l'éducation et de l'emploi qui ne font qu'accentuer la vulnérabilité des personnes handicapées. Celles-ci sont moins éduquées, et ont beaucoup moins de chance de trouver un emploi que les personnes non-handicapées. Elles sont également beaucoup plus vulnérables que leurs homologues non-handicapés vis-à-vis des agressions physiques et ou sexuelles.*

# EMPIRICAL DIMENSIONS OF DISCRIMINATION AGAINST DISABLED PEOPLE

*Aldred H. Neufeldt, PhD, and Ruth Mathieson, BSc*

The United Nations launched a “Decade of Disabled Persons” in 1982 with the following observations: “More than 500 million people in the world are disabled as a consequence of mental, physical or sensory impairment. They are entitled to the same rights as all other human beings and to equal opportunities. Too often their lives are handicapped by physical and social barriers in society which hamper their full participation. Because of this, millions of children and adults in all parts of the world often face a life that is segregated and debased.”<sup>1</sup>

The intent of this article is to consider empirical evidence for discriminatory practices toward disabled people. First, however, it is useful to consider how disability and rights have become linked.

## **Disability rights: a paradigm shift**

Rachel Hurst of Disability Awareness in Action observes: “There has been a long, long history of the negative portrayal of disabled people. In western folk tales the wicked witch or evil person is always portrayed with a crooked back and using a stick. Tribal societies talk about the disabled person as being bewitched, possessed of evil spirits. Religions emphasize disabled people as

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*Aldred H. Neufeldt is Associate Professor of Rehabilitation Medicine at the University of Calgary. Ruth Mathieson is a doctoral student at the University of Calgary. Please address correspondence to Aldred H. Neufeldt, Rehabilitation Studies Programme, EdT. 434, University of Calgary, 2500 University Ave., Calgary AB, T2N 1N4, Canada.*

bearing the burden of sin.”<sup>2</sup> Finkelstein,<sup>3</sup> Foucault,<sup>4</sup> Wolfensberger<sup>5</sup> and others previously have documented the variety of negative societal perspectives of disability that have existed through the centuries.

In the West, a first step away from folk definitions occurred in the late nineteenth century with the rise of contemporary perspectives of science and medicine. Disability was seen as inherent in the person with an impairment. The impairments could be classified and categorized, with the hope that appropriate treatments would then follow. The medical perspective was of disability as a “deficit” or “loss” and accordingly successful intervention involved a “cure” of the condition. A number of problems arose through this perspective: the medical/professional model had little to contribute when impairments were of an ongoing nature; it didn’t recognize the expertise of disabled people regarding potential adaptations or adjustments; and it failed to recognize the important role of physical environment and social attitude to the experience of disability.

Thus, the “medical model” was too narrow, and disability was redefined as a statistical deviance from the norm. Goffman<sup>6</sup> and Wolfensberger<sup>7</sup> were particularly instrumental in introducing this perspective, which sought to redefine social attitudes and thereby help disabled people be seen as within the normal range of human experience. While this approach recognized the important role of social and physical barriers in separating disabled people, normalization based policies and practices did not necessarily guarantee access to resources, services or opportunities as a matter of right.

A shift occurred when disabled people themselves began speaking about their issues in terms of rights. The independent living movement in the USA and Canada identified environmental and social barriers as forms of discrimination requiring a response based on social justice.<sup>8, 9, 10</sup> Similar perspectives developed in Europe,<sup>11, 12</sup> Africa and Asia.<sup>13</sup> No longer was it adequate to consider disability as a problem that could be solved by having helpers and encouraging professionals to apply their technologies and knowledge, nor was it legitimate to think of the problem as inherent in people with an impairment. The issue became one of social oppression, in which societal structures needed to change so that disabled people could function as full members of society.

This shift from “intra-personal” to “interactionist” and then to “rights” occurred through impassioned arguments and social action derived from personal experiences with environmental and societal barriers rather than through analysis of empirical data. Statements such as: “...equality will be experienced when we are free of constructs and categories that limit and constrain our identities—when our disabilities are not our destinies”;<sup>14</sup> and, “...every nation must enact and implement a highly visible enforceable legal mandate that gives all people with disabilities protection from discrimination and equal access to full participation in society”<sup>15</sup> have been characteristic. Legal precedents such as reviewed by Hendriks followed.<sup>16</sup>

### **Definitions of discrimination and data collection**

Discrimination against disabled people has been defined in three ways:

- direct discrimination, which means treating people less favorably than others because of their disability, e.g. refusing to hire a disabled person on the premise that their disability would interfere with work, without having data to support the premise;
- indirect discrimination, which means imposing a requirement or condition for a job, facility or service which makes it harder for disabled people to gain access to it, e.g. requiring health records of disabled persons that are not commonly required of other job applicants when determining employability; and
- unequal burdens, which means failing to take reasonable steps to remove barriers in the social environment that prevent disabled people from participating equally, e.g. locating the place of work on a second floor with no elevator access, and failing to remove this barrier for mobility impaired people.<sup>17</sup>

For some purposes, not much empirical data are needed to demonstrate that discrimination exists. A person in a wheelchair facing a bank of stairs as the only entry into a classroom or washroom makes the point. For many situations and purposes, though, the nature of the evidence required to document discrimination is more complex and requires well-designed research. While the amount of research has been limited to date, a start has been made.

### **Discrimination in access to education**

Several studies have demonstrated that disabled people have been at a disadvantage in regard to education, and that these problems have been systemic.

One of the best sources of evidence involves a Health and Activity Limitation Survey (HALS) conducted by Statistics Canada.<sup>18</sup> (Much of this data also is available in the Disability Statistics Compendium published by the United Nations in 1990.) During the 1986 Canadian census, questions were asked to a subset of the population about disability; a secondary analysis of the data was also conducted.<sup>19</sup>

Table 1 summarizes the results. Overall, 29 percent of disabled persons aged 15-64 report having grade 8 education, compared to 11 percent for the non-disabled population—almost a three-to-one ratio. At the other end of the scale, only half as many disabled adults (5 percent) had a university degree compared to non-disabled adults (11 percent). Even when those with learning disabilities are excluded from the analysis, there is still a marked difference in educational attainment between disabled and non-disabled people.<sup>20</sup>

<b>Table 1: Educational attainment of disabled and non-disabled population aged 15-64 (1986)</b>		
<b>Educational Level</b>	<b>% Disabled</b>	<b>% Non-Disabled</b>
University	5	11
Certificate/ Diploma or Some Post-Secondary	26	34
High School or Part	40	44
Less than Grade 9	29	11
TOTAL	100	100

Adapted from Furrie, A. & Coombs, J (1990)

There also were consequences as measured by employment ratios, defined as the percentage of persons with a job against the total population of the specified class. Disabled people with grade 8 or less education had an employment ratio of less than 17 percent (compared to 55 percent for non-disabled persons),

while those with university degrees had an employment ratio of 50 percent (compared to 87 percent of all university graduates).

In Britain, Barnes examined discriminatory practices in a broad range of domains. With respect to education, his findings were similar to those described on the previous page.<sup>21</sup> Disabled people received less education, were likely to leave school with fewer qualifications, and faced a variety of discriminatory barriers to entering higher education. Ancillary data indicated that only .3 percent of higher education students have disabilities.<sup>22</sup> Given that a significantly higher portion of the population have some type of notable disability (at least 7 percent of young adults according to the HALS data), there would appear to be systematic reasons which keep them out of higher education. Barnes also found practices that kept disabled students in segregated schools. These schools were developed for the ostensible purpose of providing good education while accommodating the particular needs of disabled individuals. However, just as racially segregated programs never turned out to be equal, so segregated programs for disabled people have rarely been found equal.

A third example comes from Hong Kong.<sup>23</sup> Here again, the educational experience of disabled persons was substantially different than the experience of the total population. Among all youth and young adults aged 15 to 34, less than 4 percent had received no schooling at all. In contrast, among disabled youth/young adults, at least 25 percent had no schooling. In terms of higher education, more than twice as many non-disabled youth and young adults (about 12.5 percent) achieved senior matriculation or higher, contrasted with less than 5 percent of disabled persons of the same age.

In short, it seems clear that practices exist which systematically discriminate against disabled people in education.

### **Discrimination in the workforce**

Inequality of opportunity is particularly evident in the workforce; the disabled are universally and substantially under-represented in the formal labor force, and over-represented among the poor. Representative data from both high- and low-income countries follow.<sup>24</sup>

#### **Disability and employment in high-income countries.**

The first comparative data were reported in 1984 by

Haveman,<sup>25</sup> who reviewed experience in the USA and several European countries. After allowances for differences in data collection, it was evident that in all countries disabled people were at a serious disadvantage relative to persons without disabilities. Disabled people were less likely to work, and when they did it was more likely to be part-time. Average wage rates of disabled people in the USA were only 60 percent of those without disabilities. Even in countries such as the Netherlands and Sweden, which have more generous income support policies, disabled people were still disadvantaged. A more recent report from the USA found that from 1981 through 1988, disabled people had only a 31.6 percent participation rate in the labor force compared with 78.9 percent for non-disabled people, and among those in the labor force the unemployment rate among disabled persons was twice as high (14.2 percent vs. 5.8 percent).<sup>26</sup>

The HALS study directly compared employment experiences of disabled and non-disabled Canadians.<sup>27</sup> Fifty-six percent of adults with disabilities aged 15 to 64 were found to be poor (defined as individual annual income of C\$10,000 or less), as compared to 44 percent of non-disabled adults. Income figures include revenue from all sources including government income support, insurance benefits and pensions. Of the 1.8 million working age adults with disabilities, 51 percent were not in the labor force (defined as not having worked for the previous twelve months and not seeking employment) compared to 22 percent of non-disabled persons. A limitation of the survey was that people in sheltered workshops or living in residential institutions were under-represented. Since both these populations are considered "not in the labor force," the labor-force participation rate for disabled adults would appear to be even smaller, and the proportion living in poverty higher than indicated.

Very similar data are reported from Australia.<sup>28</sup> In the age range 15-64, 51 percent of disabled men were not in the labor force as compared with 13 percent of all men; and 44 percent of disabled men were employed compared to 83 percent of all men. For disabled women in the same age range, 72 percent were not in the labor force and 24 percent were employed, compared with 47 percent not in the labor force and 48 percent employed among all women.

Japan's Ministry of Health and Welfare conducts a survey once every five years on the conditions of physically disabled

persons aged 18 and older. The definition of physical disability includes impairments of vision, hearing, limb or trunk, and is estimated to involve about 3.5 percent of Japan's adult population. A retrospective review of these results found that the employment rate of physically disabled adults from 1960 through 1987 remains between 50 – 65 percent of the employment rate for non-disabled adults.<sup>29</sup> Data in a recent report prepared for the Organization for Economic Cooperation and Development (OECD) estimated that only 30 percent of people with physical disabilities in Japan are employed.<sup>30</sup>

British experience is similar; recent estimates suggest that only 31 percent of physically disabled adults under retirement age are employed, and 61 percent are outside the labor force altogether.<sup>31</sup> Barnes' analysis of additional data shows that: "...when disabled people do find work, the majority find themselves in poorly-paid, low-skilled, low-status jobs which are both unrewarding and undemanding—the type of work which has been termed 'under-employment.'"<sup>32</sup>

In short, taking into account differences in definition and data collection methodologies, it appears that disabled people in high-income countries are employed at a rate roughly one-half that of non-disabled people and when employed, there is a greater tendency for disabled people to be under-employed relative to their levels of training.

Finally, additional evidence of "direct discrimination" has been collected by the Spastics Society in Britain using surveys of hiring practices with techniques similar to those used for measuring racial discrimination. Parallel fictitious applications were sent in response to publicly advertised jobs, one of which purported to be from a disabled person.<sup>33</sup> Foley and Pratt report that "...the non-disabled applicant was one-and-one-half times more likely to get a positive reply, while the disabled applicant was six times more likely to get a negative response".<sup>34</sup> A subsequent government survey in Britain found supportive information. The survey of public and private sector employers found that 91 percent were reluctant to employ a disabled person citing a variety of reasons, the most frequent of which were lack of job suitability and premise unsuitability.<sup>35</sup> Yet, as noted by Barnes, little effort has been made by employers in Britain to either adapt their work environments or determine whether available jobs might be suitable for disabled people.<sup>36</sup>



### **Disability and employment in low-income countries**

Reliable data from low-income countries are much more difficult to secure. Typically, there are no systematic means of collecting data on labor force participation, let alone on the experience of persons with disabilities. When records are kept, the reliability and validity of the data are uncertain, particularly given the large informal economies that exist in most countries. For instance, the Disability Statistics Compendium<sup>37</sup> contains survey and census data on various aspects of disability from 50 countries. Of these, only four countries that might be classified as low-income provided information on employment characteristics of disabled persons. None of these provided information sufficient to compare the experience of disabled and non-disabled persons.

The World Bank estimates that at least one-fifth of the world's population lives in acute poverty; the majority of these are in rural areas.<sup>38</sup> Since disabled people are over-represented among the poor, organization such as Disabled Peoples' International point out that the largest portion of disabled people are among the poorest of the poor.<sup>39</sup> The following observation from Fatima Shah illustrates the challenges and complexities:<sup>40</sup>

Very few, if any, blind girls have the chance to receive any kind of education. Some may be given religious instruction of a limited kind. However, this is more to inculcate in them resignation to their fate rather than to accomplish anything else... So the blind girl leads a vegetable existence with nothing to look forward to, except a dependent life as a burden on the charity of parents or relatives.<sup>41</sup>

Bonita Janzen Friesen remarks that:

People with disabilities who are also beggars are visible... From birth or accidental injury they have been destined to occupy a place at the fringe of society, resigned to their status as beggars. Physically disabled women among them are outwardly bold. Sometimes they display their contorted limbs... in a way that will attract the pitying eyes of those who pass by... Still lower in status are mentally disabled women who have run away or, sometimes, been driven from the shelter of their home to scavenge off garbage heaps in towns and cities.<sup>42</sup>

### **Barriers to economic participation**

Whether in high- or low-income countries, disabled people's

difficulties in obtaining paid employment by are remarkably similar and include:

1. Transportation to work frequently presents a problem, particularly for people with sight and mobility impairments.
2. Workplaces frequently are not accessible: steps present problems for people with mobility impairment; work places are organized with little regard for people with difficulty reaching or moving about; people with sight, hearing or speaking impairments find that appropriate communication aides are not available. Inexpensive adaptations are available which would improve the situation for disabled people yet, workplaces are slow to change.
3. Disabled people typically have had much less opportunity to learn appropriate work skills than their non-disabled peers (particularly those who have their impairment from birth or early in life). The lack of learning opportunity severely limits the ability to pursue meaningful employment options.
4. Underlying the above are the pervasive attitudes that disabled people are not capable of making a livelihood. Such discriminatory attitudes influence all facets of the environment in which disabled people live.

### **Sexual and physical assaults on disabled people**

There is increasing evidence that disabled people are exposed to high risk of physical and sexual abuse.

#### **Assaults in community settings**

In the USA, the California State Department of Developmental Services estimated the prevalence of sexual abuse among people with developmental disabilities to be 70 percent.<sup>43</sup> Other studies cite estimates that from 39 percent to 83 percent of girls with developmental disabilities, and between 16 percent and 32 percent of boys with developmental disabilities are subjected to sexual assault before the age of 18.<sup>44</sup>

Sobsey and Doe found that women with a variety of disabilities were about one-and-a-half times as likely to have been

sexually abused as children than were non-disabled women.<sup>45</sup> The majority of victims (about half) were assaulted on “many” (greater than 10) occasions. Only one-fifth of assaults were reported as single offenses.<sup>46</sup> Jacobson and Richardson report that 81 of 100 women admitted to psychiatric care had a history of major physical or sexual abuse prior to admission.<sup>47</sup> Another study has reported a high risk of sexual abuse in children with hearing impairments, with 54 percent of deaf boys and 50 percent of deaf girls sexually assaulted as children.<sup>48</sup> This rate of sexual abuse of hearing-impaired children is doubled for girls and five times higher for boys compared with non-disabled children.<sup>49</sup>

One explanation for abuse of disabled people has been the stress of caregiving on families.<sup>50</sup> However, most of the increased risk of abuse comes from outside the home.<sup>51</sup> Sobsey and Doe found that in 44 percent of cases the abuser had a relationship with the victims as a disability service provider (personal care attendant, specialized transportation provider, etc). Strangers accounted for only 8 percent of assaults.<sup>52</sup> Widespread concern about sexual and physical assault also exists in low-income countries.<sup>53</sup>

#### **Abuse in residential institutions**

Historically, people at the margins of society in high-income countries, including those with disabilities, have been sent to residential institutions for “treatment” or “care.”<sup>54</sup> One rationale for institutionalization is that such settings are safer than community living arrangements. While some may be relatively secure, many place disabled people at high risk for abuse. Indeed, the high probability of physical or sexual assault has been one of the driving forces behind the closing of such institutions.

Sobsey and Mansell cite evidence that the risk of sexual abuse for institutionalized women with disabilities is from two-to-four times greater than if living in the community.<sup>55</sup> Sobsey also found that the risk of abuse increased with the level of disability.<sup>56</sup>

Part of the above problem is associated with the number of different care-givers who pass through institutions, and who therefore feel little personal accountability to the people with whom they work. A USA study, for example, found that the average annual staff turnover was about one-third in public residential facilities and over 50 percent in private residential facili-

ties.<sup>57</sup> Similarly, a report from the Mental Health Act Commission in Britain highlighted a “crisis in the care of the mentally ill, particularly in psychiatric wards in the inner cities.” Particular attention was focused on over-crowding, a shortage of beds, shortages of trained staff and inadequate management.<sup>58</sup>

## Conclusion

Despite the limitations and difficulties of data collection on the experience of disabled people, both in industrialized and developing countries, it is clear that societal barriers severely limit the personal opportunities and societal participation of disabled people. The available evidence suggests strongly that people with impairment are at risk of being discriminated against in several important domains of life. From studies in a variety of countries and cultures it is evident that, compared to non-disabled peers, disabled people receive less education, participate in the labor force to a substantially lower extent, and are vulnerable to physical or sexual abuse.

Disabled people must be treated by society as “equal in dignity and rights” (UDHR). Differences among people—including differences in physical or mental capability—can be accommodated without discrimination.<sup>59</sup> Yet this article presents empirical evidence that societies do discriminate—directly, indirectly, and by creating unequal burdens—against disabled people. These injustices represent a systematic pattern of human rights violations whose redress and amelioration demand our attention. As with other systematic human rights abuses towards marginalized or stigmatized populations, promoting and protecting the rights and dignity of disabled people will require a combination of legal approaches (i.e., the Americans With Disabilities Act; national charters), attention to the concrete realities of disability and societal barriers, and changes in the perception and societal attitudes towards disabled people.

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distinctions: "Impairment: any loss or abnormality of psychological, physiological, or anatomical structure or function. Disability: any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or in the range considered normal for a human being. Handicap: a disadvantage for a given individual, resulting from an impairment or disability that limits or prevents the fulfilment of a role that is normal, depending on age, sex, social and cultural factors, for that individual." There is at present some debate within the disability movement as to these terms: one argument is that these definitions still place the burden of responsibility on the individual, when in fact much (some would argue, all) of the problem is societal and environmental. A second is that the terms "impairment" and "disability" often are used interchangeably, and therefore one should be dropped. Patrick Fougeyrollas, Chairman of the Canadian Society for the ICIDH has developed a conceptual model addressing some of the issues in a document called *The handicaps creation process* (Lac St-Charles: ICIDH International Network, 4 (3), 1991).

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