Conference of States Parties to the Convention on the Rights of Persons with Disabilities
Thirteenth session
New York, December 2020*
Item 5 (b) (i) of the provisional agenda**
Matters related to the implementation of the Convention: round-table discussions

Disability and business: realizing the right to work in open, inclusive and accessible environments for persons with disabilities

Note by Secretariat

The present note was prepared by the Secretariat in consultation with United Nations entities, representatives of civil society and other relevant stakeholders to facilitate the round-table discussion on the theme “Disability and business: realizing the right to work in open, inclusive and accessible environments for persons with disabilities”. The Secretariat hereby transmits the note, as approved by the Bureau of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, to the Conference at its thirteenth session.

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* The dates are still to be confirmed by the Committee on Conferences owing to the ongoing situation relating to the coronavirus disease (COVID-19) pandemic.
** CRPD/CSP/2020/1.
I. Introduction

1. In the world of work, the relationship between disability and business is complex and still needs to be fully understood. Effective policies and measures are needed in order to combat discrimination and to create enabling environments that are open, inclusive and accessible for persons with disabilities for their meaningful participation and inclusion at work. While inequalities, and discrimination remain as significant barriers to the participation of persons with disabilities in society, new opportunities also emerge to promote the right to work in more open, inclusive and accessible environments, which can benefit both persons with disabilities and business.

2. The rights of persons with disabilities, including their right to work, are legally recognized in the Convention on the Rights of Persons with Disabilities, which was adopted in 2006. Likewise, in the 2030 Agenda for Sustainable Development and in the Sustainable Development Goals the approach is rights-based and persons with disabilities are considered to merit specific attention by both public and private sectors and all other stakeholders, including in the context of decent work and economic growth.

3. Ensuring the right to decent work for persons with disabilities also translates into their empowerment to lead more independent lives, reach their full potential and contribute to their well-being as well as that of their families, communities and societies at large, and into the building of a more inclusive economy.

4. As Member States, United Nations entities and other stakeholders continue to address the coronavirus disease (COVID-19) crisis, accelerate their efforts to “building back better” towards implementation of the 2030 Agenda for all and deliver their commitments with regard to the rights of persons with disabilities contained in the Convention, the 13th session of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities will engage in a round table on the issue of disability and business. The round table will address the challenges and the opportunities surrounding disability and business, share good practices and explore different strategies to further promote open, inclusive and accessible environments for all, including persons with disabilities. The present note provides a general background and relevant information aimed at facilitating the discussion by the round table.

II. Current international frameworks

5. The current global normative framework, consisting of international human rights treaties and development instruments, provides comprehensive guidance to address the issues concerning disability and business, especially ways to promote open, inclusive and accessible environments for realizing the right to work.

6. For example, the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31, annex) and the Guide for Business on the Rights of Persons with Disabilities provide practical guidelines for businesses working along with Governments for protection and advancement of the rights of persons with disabilities in business and workplaces. For example, in the Guiding Principles, principle No. 3 establishes that guidance to business enterprises on respecting human rights should indicate expected outcomes and help share best practices; and it should advise on appropriate methods, including human rights due diligence, and how to effectively consider issues of gender, vulnerability and/or marginalization, while recognizing the specific challenges that may be faced by persons with disabilities among social groups in more vulnerable situations.

7. More importantly, the Convention is a legally binding instrument for States parties, which addresses the rights of persons with disabilities in the sphere of work
and employment. While the primary obligation lies with States parties to implement its provisions, the Convention also refers both directly and indirectly to the private sector, including businesses in a number of provisions that are of particular relevance. According to the Convention, States have a wide range of obligations and responsibilities with regard to promoting the rights of persons with disabilities through legislative, administrative, financial, taxation and other measures that interact with and have an impact on business sector players in the market. Article 27 of the Convention recognizes the right of persons with disabilities to work on an equal basis with others. This includes the right to work in an environment that is open, inclusive and accessible to persons with disabilities. In article 27 (h), States parties are called upon to “promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures”. In addition, according to article 4 States parties are required “to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise”. Article 9 also requires States to “ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities”. The Convention also recognizes the important roles played by business and other private sector players in promoting accessibility and universal design throughout aspects of business development and delivery, and business enterprises can become socially responsible enablers of the advancement of the rights of persons with disabilities in community and society. For example, article 21 of the Convention requires States to urge “private entities that provide services to the general public, including through the internet, to provide information and services in accessible and usable formats for persons with disabilities”. Moreover, according to article 2, the denial of reasonable accommodation is regarded as a form of discrimination. In addition, article 12 establishes that “States parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”.

8. The 2030 Agenda constitutes a global development agenda for inclusive, equitable and sustainable development. In the 2030 Agenda, Member States pledged to leave no one behind and emphasized the responsibilities of States to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, including disability or other status. References to disability and persons with disabilities appear 11 times throughout the targets and indicators of the Goals (Goals 4, 8, 10, 11 and 17). For instance, Goal 10 underscores the importance of reducing inequalities within and among States, including for persons with disabilities, and Goal 8 enshrines a long-standing commitment of the international community to achieving full and productive employment and decent work, as well as equal pay for work of equal value for all, including for persons with disabilities, which cannot be realized without the provisions enshrined in article 27 of the Convention.

9. Education and training have a direct impact on employment opportunities. In this regard, the Convention recognizes the right of persons with disabilities to education and ensures an inclusive education system. The 2030 Agenda also stipulates ensuring equal access to all levels of education and vocational training (target 4.5 of Goal 4), as well as access to life-long learning opportunities, including for persons with disabilities, to help them to “acquire the knowledge and skills needed to exploit opportunities and to participate fully in society” (see General Assembly resolution 70/1, para. 25). And finally, in the 2030 Agenda, Member States set out actions for States to address the most important economic, social, environmental and governance challenges by 2030, and also call specifically on businesses to contribute to their implementation (ibid., para. 67).
10. Examples of legislation and policies to combat discrimination against persons with disabilities include those related to finance, taxation, public procurement and affirmative action, where feasible, to regulate the market and protect the rights of persons with disabilities. In response to the challenges brought by the COVID-19 pandemic, the policy brief of the Secretary-General,¹ which was broadly supported by Member States, highlights the impacts of COVID-19 on persons with disabilities and outlines recommendations to make the response and recovery inclusive of persons with disabilities.

III. Current situation, issues and challenges in the realization of the right to work for persons with disabilities

11. Globally, persons with disabilities are more likely to be unemployed, work in the informal sector, work in more precarious employment and be deprived of social protection, labour rights and decent working conditions. Available data from 91 countries and territories across the world show that only 36 per cent of persons with disabilities of working age are in employment, while the same rate is around 60 per cent for persons without disabilities.² In most countries, persons with disabilities in the sphere of employment are also more likely to be in situations of vulnerability, or to be paid less than their peers without disabilities. As a result, persons with disabilities are at a greater risk of poverty and social exclusion than those without disabilities. In 2019, only 27.8 per cent of persons with severe disabilities worldwide received a disability benefit.³

12. Within the disability community, some groups appear to be worse off. For instance, data from some regions show that a higher percentage of women with disabilities are unemployed, and youth with disabilities are more likely to drop out of school.⁴ Persons with intellectual and psychosocial disabilities experience increased stigma and discrimination, lack of appropriate skills and capacity-building and lack of job-oriented transition support and are often placed in work roles with low value-added activities and lower remuneration. They may have difficulty retaining positions, including, as a result of periods of forced hospitalization or institutionalization. Reports from many countries suggested that the COVID-19 pandemic may further entrench existing patterns of discrimination and stigma against older persons with disabilities and women and girls with disabilities, among others.⁵

13. Although there is a lack of internationally comparable official statistics on persons with disabilities in the sphere of work and business, there is sufficient evidence to reveal the existence of gaps that impede the realization of the right to work for persons with disabilities.

14. There are key barriers and challenges to the full enjoyment of the right to work for persons with disabilities and to their inclusion in the labour market, including the frequent lack of open, inclusive and enabling environments. Such barriers are found

in built surroundings, transportation, products and services, and access to information and communications technology. There is also a lack of access to information, inclusive education, and job-oriented vocational skills training, as well as inadequate school-to-work transition support for youth with disabilities. In some cases, legislation based on the medical model of disability results in discriminatory practices. On the one hand, some policy tools, such as disability benefits, where they exist, are not well-designed to achieve the intended purpose of supporting persons with disabilities to pursue decent work opportunities. On the other hand, including in the private sector, there is often a lack of compliance with applicable laws and policies, such as quota laws that are aimed at guaranteeing the employment and retention of workers with disabilities.

15. Employers and business stakeholders are significant actors in promoting work environments that are inclusive for persons with disabilities and advancing the rights of persons with disabilities in the workplace and in communities. However, many business owners and employers often lack an awareness of the rights of persons with disabilities, an understanding of their skills and competence and the confidence to include them in an inclusive and accessible manner in their companies and workplaces. They often also lack specific knowledge and capacities to provide reasonable accommodation for employees with disabilities and support to help them to maintain jobs and pursue career development. In addition, there are often widespread stigmas, stereotypes and negative attitudes about and discrimination against persons with disabilities, which in turn discourage employers from hiring, retaining and supporting them. Moreover, such attitudes often result in a perception of the employment of persons with disabilities as a charitable act, the misrepresentation of the value of their labour, wage discrimination, workplace segregation and a lack of respect for the principle of choice. A study by Sense International Peru concluded that the main barrier to the employment of persons with disabilities and persons with deafblindness in particular, is the prejudice of employers and co-workers.

16. It is vital to foster a positive attitude towards persons with disabilities and the understanding of their rights, well-being and perspectives in terms of their abilities and employability. Young jobseekers with disabilities frequently refer to their internalizing the constant restrictive and paternalistic messaging from society and even from family members, which limits their employment aspirations. This provides a partial explanation as to why employers report an absence of applications from persons with disabilities.

17. In the business community, while many obstacles remain with regard to ensuring the full enjoyment of the rights of persons with disabilities, there are encouraging examples that can serve as best practices. For example, there is an increasing appreciation of persons with disabilities as a source of diversity, talent and innovation, providing businesses with a greater opportunity to excel as responsible corporates. In recent years, some companies have gone beyond corporate social responsibility by

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6 Juanjo Cordero, Tania Ortiz de Zúñiga and Marleen Rue, Disability and Corporate Social Responsibility Reporting: An Analysis Comparing Reporting Practices of 40 Selected Multinational Enterprises (Geneva, International Labour Organization, 2014). As revealed in the study on the practices of 40 selected multinational companies, less than half the enterprises analysed provided data on workers with disabilities, and many of the companies failed to identify and acknowledge disability as a human rights issue.

7 According to article 2 of the Convention on the Rights of Persons with Disabilities, “reasonable accommodation” is referred to as “necessary and appropriate modification and adjustments not imposing a disproportionate burden, where needed in a particular case, to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”.

taking progressive approaches to advancing disability inclusion in business. For example, some major companies joined the “Valuable 500” global initiative, in which they made a commitment to promoting accessibility and disability inclusion within and throughout the entire organization, including at the board level. Other companies are pioneering to make a business case through advancing accessibility and inclusion in their business strategies and corporate cultures. With personal commitments, leadership and affirmative measures such as loans to support entrepreneurs with disabilities, such companies proactively engage and involve persons with disabilities, as customers, clients, employees and managers, and thereby gain a competitive advantage in business.

18. The world’s more than 1 billion persons with disabilities constitute a huge source of talent for employment. According to a report of the World Bank, the economic loss for excluding persons with disabilities from employment can be as high as about 6.7 to 8.7 per cent of annual national gross domestic product.

Disability-inclusive responses to and recovery from the coronavirus disease (COVID-19) pandemic

19. Although the COVID-19 pandemic affects every person and community, persons with disabilities, owing to their specific health and socioeconomic circumstances, are among those who risk being hit even harder, and they are more likely to experience severe effects from the pandemic. Many of them are at greater risk from COVID-19 because of their limited ability to protect themselves from infection or to seek diagnosis and treatment, owing to the lack of information about the virus in accessible formats and poor accessibility to health facilities. The physical confinement that has been enforced in many countries to curb the transmission of the virus may create unexpected barriers that impede access to goods and services that are essential for persons with disabilities. Disruption to skills and training programmes are likely to have far-reaching effects on youth with disabilities who face a multitude of barriers to entering the workforce.

20. Persons with disabilities are particularly affected by the contraction of the labour market during the crisis and the recovery period. Although specific data in this regard is scarce, one study found that an estimated 40 per cent of persons with disabilities in a country in Latin America had become unemployed after the start of the quarantine, with significant impacts on their household incomes.

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9 See www.thevaluable500.com/
11 Many organizations that work directly with the private sector to advance inclusive hiring, retention and promotion, promote inclusion within supplier diversity initiatives and develop inclusive policies, among other things. See, for example, Disability: IN (https://disabilityin.org/) and Business Disability Forum (https://businessdisabilityforum.org.uk/).
12 For example, Accenture in 2018 published a study entitled “Getting to equal: the disability inclusion advantage”, in which it showed that some of the surveyed companies employing persons with disabilities were above average in terms of profitability (revenue and net income) and value creation (profit margin).
contagion, while also permitting them to maintain their jobs and incomes. A survey among 10,000 persons with disabilities and family members in late April 2020 showed that in one African country, 45 per cent of people with disabilities worried about how they would feed their family, compared with 14 per cent who worried that they might get infected by COVID-19.16

21. When working on-site is too risky due to the COVID-19 pandemic, there are promising ways that can help to mitigate infection risks and also provide protection for workers with disabilities while maintaining a safe and healthy workplace, such as making adjustments on the work premises or offering options for telecommuting or paid leave. When implementing alternative working arrangements or reviewing on-site working arrangements, consideration should be given to accessible environments and reasonable accommodation on the basis of the individual needs of workers. Telecommuting, for example, can also open up new job opportunities for persons with disabilities, especially those with mobility difficulties, as long as broadband Internet connections are available and digital content is created in accessible formats.17

22. Since many persons with disabilities are business owners, are self-employed or are in the informal economy, many are facing particularly challenging situations. They need to receive support to maintain their livelihoods and allow them to take adequate precautions. In the context of the COVID-19 response, governmental policy interventions, including financial stimulus packages, grants and targeted social protection schemes, such as cash transfers, and in-kind support and assistance, are more vital now than ever and should be provided to persons with disabilities, including those who own and run businesses, in order to mitigate the impacts of the pandemic.

Emerging challenges and opportunities in the context of the future of work

23. The future of work will be affected by emerging frontier technologies such as digitalization, robotics, artificial intelligence and automation, as well as other megatrends, such as demographic changes, including ageing, migration and urbanization, as well as climate change. As underscored at the multi-stakeholder forum on science, technology and innovation for the Sustainable Development Goals held in 2019, progress in technology itself does not necessarily lead to technology divides and inequalities. Rather, it is public policy and institutions that play a decisive role in determining the ultimate direction of technology and innovation (E/HLPF/2019/6, para. 59).

24. In this context, it is a significant challenge to ensure that technology is inclusive and accessible to all, including persons with disabilities, and to enable all workers to benefit from future opportunities that new labour-saving and skills-based technologies can offer. Measures need to be taken urgently to ensure that persons with disabilities are engaged in all stages of the technology development cycle, since they have typically been excluded from these processes, despite the fact they are key users of many of the technologies, such as artificial intelligence and robotics (E/HLPF/2019/6, para. 61).

25. Technology can be transformative for persons with disabilities, in particular disabilities such as deafblindness, enabling learning and communication in a way that

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was previously impossible. Ethical considerations and the principle of “universal design”18 can help to ensure that technology is available, affordable and accessible.

IV. The way forward

26. The COVID-19 pandemic continues to have a great impact on the lives and work of people around the world. The unique perspectives and lived experiences of persons with disabilities who, even before the pandemic, succeeded despite isolation and having to adjust to their environment on a daily basis, are very valuable in the current context and could contribute to creativity, new approaches and innovative solutions to challenges. The current pandemic presents opportunities to further advance inclusion of persons with disabilities and to build back a new and better future for all, including in the workplace and business.19

27. Learning from past good practices, including those emerging from responses to COVID-19,20 the following may be considered by Governments and business stakeholders as action to promote the rights of persons with disabilities in open, inclusive and accessible environments in businesses and the workplace:

   (a) A two-pronged approach (by mainstreaming and targeted actions) to disability inclusion is needed to prevent discrimination and ensure equal access to and full participation in employment;

   (b) Robust national legal and policy frameworks in alignment with the Convention should be developed and effectively implemented, along with strategies, not only to remove physical, informational and attitudinal barriers but also to create enabling conditions and equal opportunities for participation;

   (c) Employment policies need to be inclusive and benefit all persons with disabilities, reaching out to the most marginalized groups, such as persons with intellectual or psychosocial disabilities;

   (d) Intersectional interventions need to be taken, as necessary, to address multiple and intersecting forms of discrimination, including against women and girls with disabilities;

   (e) Appropriate support (such as adapted skills training and job coaching strategies) should be provided to those who require them as a matter of reasonable accommodation in workplaces and businesses;

   (f) Data disaggregated by disability is urgently needed to be made available, through the application of relevant United Nations principles, standards and guidelines as well as tools, such as the Washington Group on Disability Statistics question sets, to help to track progress and identify gaps with regard to employment among persons with disabilities;

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18 “Universal design”, according to article 2 of the Convention, means “the design of products, environments, programmes and services to be usable by all people, to the greatest 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”.

19 United Nations, “Policy brief” (see footnote 6 above).

20 Member States, the United Nations and civil society organizations are undertaking initiatives, including in many cases through multi-stakeholder partnerships. For instance, the Global Forum event on the theme “COVID-19 crisis and persons with disabilities: building back better towards an inclusive, accessible and sustainable world for all”, was held on 3 August 2020.
(g) Institutions and mechanisms should be established and strengthened to monitor the situations of persons with disabilities in employment and to hold those responsible duty-bearers accountable;

(h) Investment in building an enabling environment in the sphere of work and employment is needed, on the side of both employers and job seekers, in order to boost the latter’s self-confidence and readiness for employment.

28. Governments can achieve progress by eliminating discriminatory laws and policies concerning employment, in line with the Convention, and by taking an inclusive approach in such areas as:

(a) Building forward-looking and inclusive education systems to ensure the availability of opportunities for persons with disabilities, including women and youth, to gain and upgrade skills;

(b) Investing in infrastructure and new technologies, in particular, to promote equal access to opportunities;

(c) Ensuring a level playing field in profit-sharing and wage negotiation;

(d) Expanding social protection coverage and adapting it to meet changing situations since more future workers, including those with disabilities, may work as freelance or contractors in an increasing gig economy.21

29. Partnerships with Governments, persons with disabilities and their representative organizations, other stakeholders and the business sector – including multinationals and small to medium-sized enterprises – can help unlock the full potential that the future of work can offer to persons with disabilities in such strategic areas as:

(a) New forms of employment and the transformation of current workplaces. For example, the business sector should embed disability inclusion throughout the company and its business policy and strategy, create a stigma-free, accessible environment and provide reasonable accommodation to workers with disabilities;

(b) Quality education, skills development and lifelong learning. Companies should engage in and support educational and training programmes and ensure that they are accessible to all employees with disabilities;

(c) Universal design. The private sector should take a “universal design” or “design-for-all” approach, starting with the initial phase for all new developments. A universally designed accessible environment can benefit all users and would also be cost-effective;

(d) Available and affordable assistive technologies. Business employers can supply relevant assistive technologies to employees as a form of reasonable accommodation in the workplace;

(e) Integration of persons with disabilities in emerging sectors, such as the green economy. The private sector, which often engages providers of technical and practical solutions, is best positioned to incorporate disability inclusion into initiatives in emerging growth areas and support a development strategy that is inclusive of persons with disabilities.22

30. The private sector also has a key role to play in empowering persons with disabilities, including:

(a) By promoting the entrepreneurship of persons with disabilities through supportive systems, including through loans and taxes, and making necessary procedures and processes more accessible, for example, obtaining business licenses;

(b) By supporting persons with disabilities to engage with stakeholders with expertise and experience, such as the International Labour Organization Global Business and Disability Network.

V. Questions for consideration

31. The following questions are presented for consideration at the round-table discussion:

(a) What are the major barriers and challenges that prevent Governments and the business sector from advancing the rights of persons with disabilities in the workplace?

(b) What are some concrete examples of businesses that have been successful in fulfilling their responsibilities to respect and protect the rights of persons with disabilities in the workplace and business, including those owned by persons with disabilities?

(c) What are some concrete examples of existing policy tools that have proved to be effective in motivating companies to ensure that they provide an open, inclusive and accessible environment in which persons with disabilities can work or do business?

(d) In response to the COVID-19 crisis and its ongoing health concerns at the workplace, many public institutions and private sector companies have adopted telecommuting as a viable method for meeting with requirements at work. What can be further facilitated to support the rights of workers with disabilities in the “COVID-19-adjusted work environment”?

(e) How can the right to work be exercised by all persons with disabilities, including the most marginalized, such as women with disabilities and persons with intellectual or psychosocial disabilities?

(f) Article 32 of the Convention calls for international cooperation, and Goal 17 for multi-stakeholder partnerships. How can greater progress be made in this regard to better support the capacities of States and disability stakeholders in improving accessible and inclusive working environments for persons with disabilities?