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# **Business, development and inclusion of persons with disabilities**



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## Preface

The project “Business as an actor for development” was conducted on assignment from the Atlas Alliance, an umbrella organisation consisting of Norwegian organisations of people with disabilities, parents and patients involved in international work. The project is defined as a pilot study, and provides only a first and brief dive into this field of business as development, with a specific focus on the rights of persons with disabilities. The main goal has been to prepare a document as background to the to the Atlas alliance seminar on 1st December 2016, Disability Inclusive Employment – Whose business is it?

For years business and trade has played an increasingly prominent role in Norwegian development policy. The paper discusses the role of businesses as development actors in relation to the promotion of inclusion of persons with disabilities. Are the rights of persons with disabilities in working life addressed in policy documents related to business involvement in the global South? Are people with disabilities and their inclusion in working life part of Norwegian strategies to promote investments in developing countries, and are there any engagements with persons with disabilities in the CSR strategies of Norwegian global companies when operating abroad?

The paper is written in cooperation between Arne Backer Grønningsæter, Inger Lise Skog Hansen and Mark Taylor. We thank the Atlas-alliance for commissioning this paper. We hope that it contributes to advancing the discussion about the inclusion of people with disabilities globally, not least by identifying the need of more knowledge about how to promote the rights of persons with disabilities in working life in developing countries.

Oslo 21.11.2016

Inger Lise Skog Hansen

# 1 Introduction

In September 2015, the United Nations placed participation in working life for persons with disabilities on the agenda when adopting seventeen goals for sustainable development as part of its Vision 2030. The Sustainable Development Goals (SDGs) replace the Millennium Development Goals (MDGs) and, unlike the MDGs, apply to all countries not just developing countries.

The SDGs cover a broad range of societal sectors and all social groups, especially those at risk of exclusion. Persons with disabilities are one of those groups. They are especially mentioned in sub-goal 8.5. Goal 8<sup>1</sup> says the following:

- Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

Sub-goal 8.5:

- By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value

The SDGs are aspirational. They do not set out specific plans to reach each goal. It is up to individual countries to adapt to their specific circumstances to international standards. But one element that stretches across all the SDGs is the idea that all sectors of society must contribute to the implementation of the goals. Business is one of the most important actors. Underlying the SDGs is an assumption that the private sector is fundamental to achieving the 2030 vision. The SDGs look to business to drive innovation and value creation, as the basis for social and economic development. There is a clear assumption in the SDGs that social and economic development will rely on business to create value and jobs, as well as generate the basis of tax revenues needed to finance state welfare policies.

The SDGs illustrate that globally as well as in Norwegian development policy, there is a growing focus on business, trade and industry as development actors. If business and private sector investments in poor countries are to play a more prominent role in Norwegian development policy, it is interesting to consider the following questions: Are other policy obligations such as promoting human rights, especially the rights of persons with disabilities, addressed in these strategies and initiatives?

In this paper we discuss whether the rights of persons with disabilities in working life are addressed in policy documents related to business as development actors, and whether persons with disabilities and their inclusion in working life is an issue and included in Norwegian strategies to promote investments in poor countries. Last but not least, are there any engagements with persons with disabilities in Norwegian companies' CSR strategies and involvement abroad? The aim of this paper is to give a platform for further discussions about the potential of cooperation with the business sector to promote the rights of persons with disabilities in developing countries.

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<sup>1</sup> <https://sustainabledevelopment.un.org/sdg8>

Working life is a major arena for distributing living conditions. To be outside employment or working life has severe consequences for the individual, both for their economic situation as well as for their quality of life. To be included in a working community provides a possibility to use your abilities, to have colleagues and a social life, and not least to be economically independent. Inclusion in working life is not merely a question of getting equal opportunities and access to employment and to being offered a chance, it is also about the adaptability and openness of the workplace. This to ensure that persons with disabilities can stay in employment and have equal access to positions and advancement, but also accessibility and openness so that persons with disabilities can stay in employment and be treated equally at the workplace when it comes to access to positions and advancement in employment. The consequences of exclusion from working life are even more severe in countries where there is no comprehensive welfare state, and persons with disabilities have a higher risk of poverty than others (WHO 2011)<sup>2</sup>.

Access to work is therefore an important issue when it comes to the rights of persons with disabilities. The United Nation Convention on the Rights of Persons with disabilities (CRPD) adopted in 2006 states the rights of persons with disabilities as a human rights issue<sup>3</sup>. Norway ratified the CRPD in 2013, and doing so undertook a responsibility to include disability in all relevant policies and programs, such as to take all appropriate measures to eliminate discrimination against persons with disabilities by any persons, organizations, or private enterprises. The CRPD recognize the equal right of persons with disabilities to work and further, that “this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and a work environment that is open, inclusive and accessible to persons with disabilities” (CRPD, article 27).

On the international policy level, there seems to be increased focus on business, trade and industry as actors in development cooperation. In Norway the White paper nr. 35 (2014-2015) *Working together: Private sector development in Norwegian development cooperation* is one example<sup>4</sup>. The fact that labour market participation of persons with disabilities is mentioned in the sustainable development goals points to an emerging realization of the magnitude of this challenge. In this paper we will search for traces of these policy statements regarding the rights of persons with disabilities in working life in policy documents and in practice in development cooperation that involves the business sector.

The aim of this paper is not to deliver definitive conclusions and advice. Rather it attempts to provide some food for thought as a contribution to the wider policy dialogue about how to promote the inclusion of persons with disabilities through Norwegian development assistance, in particular with respect to business as a development actor.

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<sup>2</sup> WHO (2011) *World report on disability*. World Health Organization/The World bank. See [http://www.who.int/disabilities/world\\_report/2011/en/](http://www.who.int/disabilities/world_report/2011/en/)

<sup>3</sup> <http://www.un.org/disabilities/convention/conventionfull.shtml>

<sup>4</sup> <https://www.regjeringen.no/en/dokumenter/meld.-st.-35-20142015/id2423253/>



## 2 What do we know about employment of persons with disabilities?

“Almost all jobs can be performed with productivity by someone with a disability, and given the right environment, almost all people with disabilities can be productive” (WHO 2011:2355).

Access to work and livelihood is a basic precondition for overcoming social exclusion, as much as it is important for maximizing the use of human resources and fundamental to promoting human dignity and social cohesion. All countries face a challenge in this regard. The world report on disability issued of the WHO in 2011 presents a broad based picture of the situation of persons with disabilities around the world. One of the main chapters concerns work and employment.

It is well documented that persons with disabilities are disadvantaged in the labour market, and face numerous barriers (WHO 2011<sup>5</sup>). The UN Human development report state that work discrimination against persons with disability is common (UN Human development report 2015:36<sup>7</sup>). In both low- and high income countries the employment rates of persons with disabilities are low, but access to labour market seems to be even more limited in many developing countries (ibid.). The WHO report points to the fact that 80 per cent of all persons with disabilities in the world live in developing countries. The majority of these persons have very limited access to necessary services.

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<sup>5</sup> WHO (2011) World report on disability. World Health Organization/The World bank. See [http://www.who.int/disabilities/world\\_report/2011/en/](http://www.who.int/disabilities/world_report/2011/en/)

<sup>6</sup> WHO (2011) World report on disability. World Health Organization/The World bank. See [http://www.who.int/disabilities/world\\_report/2011/en/](http://www.who.int/disabilities/world_report/2011/en/)

<sup>7</sup> [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf)

Table 1 – Source: World report on disability (WHO) p. 238

**.1. Employment rates and ratios in selected countries**

Country	Year	Employment rate of people with disabilities (%)	Employment rate of overall population (%)	Employment ratio
Australia <sup>a</sup>	2003	41.9	72.1	0.58
Austria <sup>a</sup>	2003	43.4	68.1	0.64
Canada <sup>a</sup>	2003	56.3	74.9	0.75
Germany <sup>a</sup>	2003	46.1	64.8	0.71
India <sup>b</sup>	2002	37.6	62.5	0.61
Japan <sup>a</sup>	2003	22.7	59.4	0.38
Malawi <sup>f</sup>	2003	42.3	46.2	0.92
Mexico <sup>a</sup>	2003	47.2	60.1	0.79
Netherlands <sup>a</sup>	2003	39.9	61.9	0.64
Norway <sup>a</sup>	2003	61.7	81.4	0.76
Peru <sup>c</sup>	2003	23.8	64.1	0.37
Poland <sup>a</sup>	2003	20.8	63.9	0.33
South Africa <sup>d</sup>	2006	12.4	41.1	0.30
Spain <sup>a</sup>	2003	22.1	50.5	0.44
Switzerland <sup>a</sup>	2003	62.2	76.6	0.81
United Kingdom <sup>a</sup>	2003	38.9	68.6	0.57
USA <sup>e</sup>	2005	38.1	73.2	0.52
Zambia <sup>g</sup>	2005	45.5	56.5	0.81

**Note:** The employment rate is the proportion of the working age population (with or without disabilities) in employment.

Definitions of working age differ across countries.

Sources: a (38); b (8); c (39); d (7); e (40); f (41); g (42).

Table 1 illustrates that all countries, including the richest in the world – like Norway – have a significant group of persons with disabilities that are outside the labour market. At the same time the rate of employment differs greatly and some developing countries score quite low in the statistics. The report illustrates how diverse the situation is and that there are huge differences between countries, but the trends are the same everywhere; persons with disabilities have lower employment rate than the overall population. It should be noted, and we will come back to this, that these employment rates are based on different data sources, applying different definitions of disability and hence not necessarily comparable.

At the same time, in many countries the gap between declarations of intent to improve inclusion and the realities of labour market participation remains a problem. In Norway, for example, a long-established political ambition to increase employment rates among persons with disabilities has not succeeded. Statistics Norway’s additional surveys to the Labour force survey show that less than 50 percent (44 per cent in 2016 ) of persons with disabilities are in employment, and this situation has been fairly constant for many years (Bø and Håland 2014, 2011, 2009<sup>8</sup>, Hansen et al. 2011<sup>9</sup>).

Statistics from other European countries show the same pattern. Eurostat statistics based on data from the ad-hoc modules of the EU Labour force survey show that the employment rate in the EU-28 was 47 percent for persons “having a basic activity difficulty” (such as sight, hearing, walking and communicating). Using a definition of people

<sup>8</sup>Tor Petter Bø og Inger Håland (2009) Funksjonshemma på arbeidsmarknaden. Statistisk sentralbyrå • Statistics Norway

<sup>9</sup>Hansen, I. L. S., Andreassen, T. A. & Meager, N. (2011). Employment of disabled people in Norway and the United Kingdom. Comparing two welfare regimes and why this is difficult. *Scandinavian Journal of Disability Research*, 13(2).

“limited in work because of a longstanding health problem and / or a basic activity difficulty”, they find an employment rate of 38 percent.<sup>10</sup>

To find data on employment of persons with disabilities which enables comparison across countries can be a challenge. A study of employment of persons with disabilities in Norway and the United Kingdom revealed that the observed differences between Norway and the UK in terms of persons with disabilities’ labour market participation, based on data from ad hoc modules of the Labour force survey, seem to a large degree to be explicable by differences in the definition and measurement of disability (Hansen et. al. 2011). The World report on disability (WHO 2011) draws on data from several countries that show large variations, but the overall picture is that persons with disabilities have a significantly lower level of employment than the overall population. The report states that there are few available data on employment of persons with disabilities in low and middle income countries. The report further explains a relevant factor that in many of these countries, a significant proportion of people work in the informal economy, and so do not appear in labour market statistics (ibid:237). They present an overview based on different sources (see table 1) that show for example in India an employment rate of 37,6 percent, in Malawi 42,3 percent, in Peru 23,8 percent and in South Africa 12,4 percent (WHO 2011:238, table 8.1).

There seems to be a need for more comparative data and knowledge on employment among persons with disabilities around the world. The development indicators of results from the work with implementation of the SDGs could be a good starting point for such knowledge. The work related to monitoring the Convention on the Rights of Persons with disabilities would do the same.<sup>11</sup> The main finding from our search for knowledge about persons with disabilities in the labour market is that a high percentage of people with disabilities are excluded from the labour market. The WHO states that almost all persons with disabilities can be productive, but they face several barriers in the labour market. The result is that persons with disabilities often are among the poorest and are put in a potentially marginalized position.

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<sup>10</sup> (Eurostat: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Disability\\_statistics\\_-\\_labour\\_market\\_access](http://ec.europa.eu/eurostat/statistics-explained/index.php/Disability_statistics_-_labour_market_access))

<sup>11</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

## 3 The Global Framework for Inclusion

There is a global normative and policy framework developed through declarations, conventions and policy-documents that responds directly to issues related to the right and opportunities for work and labour market inclusion among persons with disabilities. In this chapter, we examine two main contributions to this framework: The Sustainable Development Goals (SDGs) and international labour and human rights.

A key question is, what expectations do the international frameworks create for governments and employers when it comes to labour market inclusion of persons with disabilities?

### Sustainable Development Goals

The UN's adoption of the Sustainable Development Goals was presented in the introductory chapter as one of the main events behind the writing of this paper. The SDGs are an ambitious attempt to reconcile economic growth with sustainable social and economic development. The 17 goals cover a broad range of societal sectors and aim at including all groups, especially those at risk of exclusion. One aim, specified in goal 8 on decent work and economic growth, is full employment for all, including persons with disabilities.

The Sub-goal 8.5 mentions both gender and disability as factors that can be reasons for reduced labour market participation. Underlying the SDGs is an assumption that the private sector is fundamental to sustainable development. The SDGs look to business to drive innovation and value creation, as the basis for social and economic development. There is a clear assumption in the SDGs that social and economic development will rely on business to create value and jobs, as well as generate the basis of tax revenues need to finance state welfare policies.<sup>12</sup>

By mentioning persons with disabilities in connection with economic growth and job creation the SDGs placed the issue of inclusion both on the agenda of business and of government decision-makers concerned with the involvement of business in social and economic development. The SDGs have in effect mainstreamed the issue of inclusion and anti-discrimination, also for persons with disabilities, into development policy.

But while the SDGs rely heavily on business for their realization, the goals themselves say nothing about how business should do so. As we said in the introduction the

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<sup>12</sup> "State of Play: Business and the Sustainable Development Goals, Mind the Gap - Challenges for Implementation," IHRB State of Play Series, Vol IV (Institute for Human Rights and Business, August 2015). (2015), p. 16

SDGs are aspirational as targets, but they do not set out specific plans or strategies on how to reach each goal. This poses a challenge to public policy and business alike: what are the concrete steps business should take to ensure inclusion of persons with disabilities and what are the public policies necessary to encourage and demand that such steps will be taken?

Part of the answer lies in the international human rights frameworks adapted by Member States under specific conventions, and at the UN and the International Labour Organization(ILO).

## International Labour and Human Rights Law

The UN Convention of the Rights of Persons with disabilities presented in the introduction state that State parties have to recognize the right of persons with disabilities to work, on an equal basis with others (CRPD, article 27).

The UN CRPD, adopted by the UN General Assembly in 2006, entered into force in 2008. The Convention draws its authority from its widespread ratification (160 states) and its coherence with the Universal Declaration of Human Rights(UDHR)<sup>13</sup>. The latter states in Art. 1 that “*all human beings are born free and equal in dignity and rights*”, that (Art. 2) “*Everyone is entitled to all the rights and freedoms set forth in the Universal Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*”; and Art. 4 of the UDHR states that “*equality of opportunity and treatment for disabled men and women workers shall be respected*”. In addition to the Convention on the Rights of Persons with Disabilities, the issue of employment is addressed by the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No.159)<sup>14</sup>. This ILO Convention requires from its 83 ratifying countries to implement measures on vocational rehabilitation and employment of persons with disabilities.

An important aspect of the work against discrimination of persons with disabilities is universal access and consequently this is also an important aspect of the CRPD. Participation and independence are important points, and so is social inclusion. Article 27 concerns work and employment. Also in this article we find that many of the mentioned right are equal to the general human right found in other UN and/or ILO conventions. Article 27 of the CRPD clearly states that there is an obligation to promote employment opportunities and career advancements of persons with disabilities. A special paragraph includes affirmative action among the relevant measures.

Article 32 of the CPRD about international cooperation is, in addition to article 27, of importance. This article includes measures aimed at fulfilling the obligations of the convention into international development programs. The combination of these two articles makes it clear that the responsibility for responding to the challenges of inclusion in

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<sup>13</sup> <http://www.un.org/en/universal-declaration-human-rights/>

<sup>14</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312304](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312304)

employment is also one that is to be implemented through international development cooperation<sup>15</sup>.

The International Labour Organization (ILO) adopted in 1983 the Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159). The ILO is an international tripartite organisation consisting of states, employers and trade unions. This convention calls for a policy on vocational rehabilitation and employment promotion based on equal treatment and equal opportunity for persons with disabilities. This convention is accompanied by Recommendation No. 168. An important point in the recommendation is that there is a need for the use of measures to ensure that persons with disabilities are given the same employment and salary standards applicable to workers generally.<sup>16</sup>

The ILO “promotes equality of opportunity and treatment for persons with disabilities in the world of work. Access of persons with disabilities to decent work is important both as an essential right and in terms of the economic advantages it brings. To achieve this goal, the ILO works to increase the employability of persons with disabilities, to support employers becoming more inclusive and to promote enabling legislative and policy environments”.

All members of the ILO have the obligation to adhere to these policies and to ensure that

“appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market [...] based on equal opportunity between disabled workers and workers generally”<sup>17</sup>

The ILO has adopted a Disability Inclusion Strategy for the years 2014-17. This strategy states that the organization as a whole should work on disability rights as a cross-cutting issue. The focus is especially on pathways into decent work for persons with disabilities in developing countries. Pathways into decent work and promoting disability-inclusive social protection are seen by the ILO as key areas and the organization should cooperate with other international organizations and agencies and contribute to the implementation of the Sustainable Development Goals.<sup>18</sup>

The ILO Disability Inclusion Strategy is primarily a general approach to inclusion, awareness raising at state level, to a lesser degree a strategy for inclusion at company level. At the same time the existence of such a strategy is another example of the presence of issues concerning persons with disabilities in international policies and conventions. The ILO require that states take specific measures to make effective equality of opportunity and treatment between disabled workers and other workers, not least through the principles of non-discrimination in the labour market, just and favourable conditions of work . CRPD Article 27 provides a menu of policy options for governments which includes legislative or other measures (Appendix B). In addition, the ILO

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<sup>15</sup> Article 27 and 32 of The UN Convention of the Rights of Persons with disabilities are attached to this paper in Appendix B and C

<sup>16</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_194822.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_194822.pdf)

<sup>17</sup> ILO; Vocational Rehabilitation and Employment (Disables Persons) Convention, 1983 (No. 159)

<sup>18</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_407645.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_407645.pdf)

report on decent work for persons with disabilities from 2015<sup>19</sup> contains an overview of policy instruments and initiatives, employment options, measures to facilitate work and employment, as well as an agenda for inclusive labour markets. The WHO world report on disability from 2011 recommends cooperation and division of work and responsibility between three sets of actors: governments, employers and other organisations such as NGOs including disabled people’s organisations, microfinance institutions and trade unions (WHO, 2011 251 – 252).

The rights of persons with disabilities as framed by international human rights laws are primarily addressed to states. This does not mean that business has no responsibilities. In fact, much of the international human rights law which creates duties for states is relevant for considering the responsibilities businesses have for the rights of persons with disabilities.

The UN Guiding Principles on Business and Human Rights (UNGPs), which were adopted by the UN Human Rights Council in 2011,<sup>20</sup> stress the duty of the state in protecting human rights. They also define what it means for a business to respect human rights. The UNGPs define the “*corporate responsibility to respect human rights*” as a company taking active steps to make sure that it does not infringe on the rights of others. The principle of business respect for human rights as elaborated in the UNGPs has also been incorporated in the OECD Guidelines for Multinational Enterprises (2011)<sup>21</sup> as well as the EU Strategy on CSR (2012) and the EU Non-Financial Reporting Directive (2014). In practice, this requires the company to take concrete measures to identify the risks that company activities or relationships will cause or contribute to human rights abuse, and to take steps to prevent, mitigate or remedy such abuse. These steps are termed “human rights due diligence”:

“In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.” (UNGP 17)

The UNGPs make it clear that human rights due diligence conducted by a company should take into consideration “all internationally declared human rights”, which includes the rights of persons with disabilities (UNGP 12, Commentary)<sup>22</sup> In conducting due diligence, a company should examine its own activities and the way in which these activities interact with society in order to identify the risk that the company might be participating in the violation of certain human rights. The UNGPs allow for the fact

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<sup>19</sup> [http://www.ilo.org/skills/pubs/WCMS\\_430935/lang--en/index.htm](http://www.ilo.org/skills/pubs/WCMS_430935/lang--en/index.htm)

<sup>20</sup> “Guiding Principles on Business and Human Rights, Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, UN Doc HR/PUB/11/04” (United Nations Office of the High Commissioner for Human Rights, 2011).

<sup>21</sup> <http://www.oecd.org/corporate/mne/oecdguidelinesformultinationalenterprises.htm>

<sup>22</sup> UNGP 12 Commentary, “Depending on circumstances, business enterprises may need to consider additional standards. For instance, enterprises should respect the human rights of individuals belonging to specific groups or populations that require particular attention, where they may have adverse human rights impacts on them. In this connection, United Nations instruments have elaborated further on the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families.

that that every company is different, both in size and in the nature of its particular business, and therefore its due diligence efforts should be tailored to fit both the size and nature of the business and the nature of the specific human right risk associated with company activity.

These international instruments provide a global framework for the inclusion of persons with disabilities in working life. They provide a menu of options for both governments and businesses to contribute to the inclusion in employment of persons with disabilities and to protect against discrimination in the labour market as well as at work. These options include legislative and policy options identified by the CRPD Article 27, supported by efforts at the ILO to ensure collective state harmonization of standards. In addition, the UNGPs provide the basis for businesses to develop their own plans for ensuring they are respecting the rights of persons with disabilities. Human rights due diligence, as described by the UNGPs, is a systematic approach which aims to ensure a minimum standard of respecting rights. For businesses operating in developing countries, this means that the inclusion of persons with disabilities should begin with a human rights impact assessment and the identification of specific measures to ensure the company is not excluding persons with disabilities from its hiring practices. But this is only the starting point. As we shall see in chapter 4 and 5 labour market inclusion is not only a rights issue, it is also a result of conscious policies and engagement on the local level in the actual work-place.

If we want to draw the line from international labour and human rights to local consciousness and engagement, it is necessary to take another step and look at policies on the national as well as corporate level. The Norwegian government has supported the new sustainable development goals as well as ratified the UN Convention on the rights of persons with disabilities. Both documents presents aims on work participation of persons with disabilities. The next step is therefor to look for traces of these issues in national policies.



## 4 Disability in Norwegian Development Policy

The legal framework of Norwegian anti-discrimination measures includes legislation protecting against discrimination based on gender, sexual orientation, gender identity, ethnicity and disability. Since 2001 there has been a tripartite agreement (employers, labour and government) on Inclusive Working Life. One of the three main objectives of this agreement is to increase the employment of persons with disabilities. Norway has also ratified and incorporated the European Convention on Human Rights (ECHR)<sup>23</sup>. The European Court of Human Rights has a substantial body of case law which protects the rights of persons with disabilities, including under Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to private and family life) and Article 14 (prohibition of discrimination).<sup>24</sup> Norway signed the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2007 and ratified it in 2013 and has taken a range of steps to ensure its policies and practices are consistent with the treaty.<sup>25</sup>

In 2013, as a follow-up of the ratification of the UN CRPD, the Norwegian Ministry of Foreign Affairs and the Ministry of Children and Equality jointly published a policy paper on Norway's international engagement for the rights of persons with disabilities. The paper was published by the previous, centre-left government. It stated that inclusion would be given priorities in Norwegian foreign engagement. The key issues mentioned were education, gender equality, health, humanitarian aid, international cooperation, knowledge and research. An important part of the paper was the commitment to make persons with disabilities a focus for government efforts in the coming years. As part of that commitment, actors in development cooperation were urged to give priority to and promote the rights of persons with disabilities. Taking into consideration that business is regarded as a main contributor to development it is, however, striking that business is not mentioned among those actors.

Under the subsequent centre-right government, the role of both business as a development actor and human rights in foreign and development policy have been a high-profile issue. In its white paper "Working together: Private sector development in Norwegian development cooperation" (Meld. St. 35 (2014–2015)) the government points to objectives such as increased democratisation, realizing human rights and poverty alleviation:

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<sup>23</sup> <http://www.echr.coe.int/pages/home.aspx?p=basictexts>

<sup>24</sup> "Fact Sheet - Persons with Disabilities and the European Convention on Human Rights," (European Court of Human Rights, July 2016), [http://www.echr.coe.int/Documents/FS\\_Disabled\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Disabled_ENG.pdf).

<sup>25</sup> "UN Convention on the Rights of Persons with Disabilities – Norway's Initial Report" (Government of Norway, 2015), <https://www.regjeringen.no/contentassets/26633b70910a44049dc065af217cb201/crpd-initial-report-norway-english-01072015.pdf>. (2015)

“Business development and growth within a framework of sustainable development are fundamental conditions for this. According to the World Bank, access to work with good working and wage conditions are the most powerful ways to combat poverty. Work gives better living conditions, economic growth, higher productivity and social integration. It develops resilience among individuals and is a stabilising factor in society (Meld. St. 35. 2014-2015:11)

The report lists eleven policy changes or new measures. These include “Greater emphasis on marginalised groups” under which the government notes that “Support for formalising the economy is important, although Norwegian support will also be provided to the informal sector.” (p.24). As well as “Greater emphasis on responsible private sector development” including “safeguarding human rights and workers’ rights”.(p.25) The report does not make specific mention of persons with disabilities.

A second white paper released the same year does include reference to persons with disabilities. The government white paper “Opportunities for All: Human Rights in Norway’s Foreign Policy and Development Cooperation” (Meld. St. 10 (2014–2015) seeks to incorporate and mainstream human rights issues in foreign and development policy and practice. Persons with disabilities are discussed in relation to equality of opportunity in general and in particular with respect to children with disabilities, persons with disabilities in humanitarian crises and the need for priority of education, in particular for out of school children.<sup>26</sup>

The white paper “Opportunity for All” also goes into some detail about government expectations of Norwegian business operating abroad, including state owned business, including in developing countries.<sup>27</sup> It integrates the UN Guiding Principles on Business and Human Rights as the normative framework for Norwegian business respect for human rights when operating internationally. The white paper indicates that human rights due diligence, as defined by the UNGPs, should be actively pursued by companies, but it signals an uncertainty about what that responsibility entails in practice, stating that “There is a need for further knowledge about the most effective strategies for identifying and preventing the risk of companies becoming complicit in human rights violations.”<sup>28</sup>

With respect to state-owned companies the white paper communicates clear expectations. It cites a separate white paper on state-owned companies, “Diverse and Value-creating Ownership” Meld. St. 27 (2013–2014<sup>29</sup>), and repeats the government expectation of state-owned companies:

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<sup>26</sup> “Opportunities for All: Human Rights in Norway’s Foreign Policy and Development Cooperation” (Meld. St. 10 (2014–2015) p. 37-38 See: <https://www.regjeringen.no/en/dokumenter/meld.-st.-10-2014-2015/id2345623/sec1>

<sup>27</sup> 4.5 Meld. St. 10 (2014–2015, p. 57-61

<sup>28</sup> Ibid p. 60

<sup>29</sup> <https://www.regjeringen.no/en/dokumenter/meld.-st.-35-20142015/id2423253/>

...the Government also expects that:

- enterprises in which the state has an ownership interest respect fundamental human rights, as set out in international agreements, in all their activities, and that the same applies to their suppliers and business partners;
- all enterprises in which the state has an ownership interest integrate all factors relevant to human rights into their activities;
- enterprises conduct relevant due diligence assessments in line with the recommendations in the UN Guiding Principles in order to avoid complicity in human rights abuses, and report on how they deal with issues that have a bearing on human rights

In October 2015, the government launched a National Action Plan (NAP) as follow up to the UN Guiding Principles.<sup>30</sup> “Business and Human Rights: National Action Plan for the Implementation of the UN Guiding Principles” The NAP integrates the basic elements of the UNGPs to government policy and attempts to create policy coherence across a range of government functions. It communicates government’s expectations of Norwegian businesses operating abroad and proposes specific government measures, such as the consolidation of government competence on business and human rights issues into a competence centre to advise business.

At the level of policy, Norway has made significant steps to adapt its domestic approach to persons with disabilities to its international development efforts. Norway has domesticated the key international standards of human rights generally, and in relation to business and human rights in particular, including those standards directly relevant for the implementation of development assistance by the private sector. But as policy moves to implementation, the value of including persons with disabilities quickly becomes invisible or gets lost in competing priorities.

One of the most important state actors in the area of development cooperation is Norad. In 2012 Norad issued an evaluation report on mainstreaming disability in development cooperation (Norad 2012)<sup>31</sup>. A main finding in this report is that the policy on mainstreaming disability into Norwegian development initiatives has not become reality or been translated into concrete action by hardly any of the development partners. Employment as such is not an issue in this report, although human rights are. The evaluation report point several reasons to the failure to translate policy into practice; lack of

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<sup>30</sup> The NAP is seen as an update of government policy on business and human rights since the white papers “Næringslivets samfunnsansvar i en global økonomi” (St.meld. nr. 10 (2008-2009), “Strategi for et anstendig arbeidsliv” (lagt frem 2. september 2008) og “Stortingsmelding om aktivt eierskap” (St.meld. nr. 13 (2010-2011)). However, while white papers are formulated by as a message to parliament from a particular ministry and therefore have a formal status in the Norwegian policy apparatus, the status of the NAP is less clear: formally it is a report from Norway about its implementation of the UNGPs, although the decision to undertake the NAP was taken by cabinet and engaged all departments as a result.

<sup>31</sup> <https://www.norad.no/om-bistand/publikasjon/2012/mainstreaming-disability-in-the-new-development-paradigm-evaluation-of-norwegian-support-to-promote-the-rights-of-persons-with-disabilities/>

awareness, lack of political priority, lack of understanding of disability as an important human right and poverty reduction issue, a belief that inclusion of persons with disabilities are difficult, and also a lack of advocacy by the disability organisations (ibid.:xvii).

Norad state that in their effort to promote human rights efficiently the inclusion of vulnerable groups, as persons with disabilities, will be in focus<sup>32</sup>. This follows a mainstreaming policy. If we look specifically for Norad's engagement in promoting the rights of disabled people in business participation or job creation this is not easy to find. As a follow up of the white paper on private sector in development (Meld. St. 35 (2014–2015)) the Ministry of Foreign Affairs together with Norad recently launched a grant scheme for stimulating job creation and enterprise development in developing countries. The grant scheme is called «Enterprise Development for Jobs» and the first application deadline was on November 1<sup>st</sup> 2016<sup>33</sup>. This is one of two new grant schemes aimed at job creation in developing countries, the other grant scheme, Building Skills for Jobs<sup>34</sup>, is on vocational training. In this first call on the grant scheme “Enterprise Development for Jobs” there is a requirement that grant recipients must have ethical guidelines for their business operation and a following reference to Norad's ethical guidelines: Guide for Norad's grant recipients<sup>35</sup>. In these guidelines, chapter 3, it is specified that these guidelines at a minimum require respect for human rights, and “that work should be carried out without discrimination on the bases of race, gender, social status, sexual orientation, disability, religious or political affiliation”. There are no further references in this new grant scheme to goals of contributing to inclusion of persons with disabilities other than this reference to anti-discrimination.

In this chapter we have seen again that on a general policy level the ideals of participation and inclusion of persons with disabilities are strong. The role of business as an actor for development is highly emphasized. Issues regarding employment and persons with disabilities are mainly handled through a mainstreaming approach, and there are no concrete initiatives combining these two issues. Hence when it comes to more concrete measures to promote the rights of persons with disability developing countries through business cooperation, the approach seems to be a bit diffuse. And when it comes to the implementing agency, these issues are almost absent. It seems that in such an environment persons with disabilities and their rights to work are not on the radar.

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<sup>32</sup> <https://www.norad.no/tema/menneskerettigheter/funksjonshemmedes-rettigheter/>

<sup>33</sup> See <https://www.norad.no/en/front/funding/private-sector-development/enterprise-development-for-jobs/first-call-for-proposals---enterprise-development-for-jobs/>

<sup>34</sup> <http://siu.no/Videregaaende-opplaering/Andre-stipendordninger/building-skills-for-jobs>

<sup>35</sup> <https://www.norad.no/globalassets/filer-2015/sivsa/ethical-guidelines---guide-for-norads-grant-recipients.pdf>

## 5 Inclusion as Business Practice

To get an impression of how Norwegian businesses respond to the policy framework outlined above, we interviewed a handful of professionals within the Norwegian business sector.<sup>36</sup> All of them have many years direct experience with the implementation of measures for responsible business practices in developing countries in their particular sector. This was not a comprehensive survey or a rigorous discussion, as there were no resources available for a proper empirical investigation. The goal was to get an impression from those dealing with issues related to companies' respect for human rights about whether perspectives on securing job opportunities for persons with disabilities or disability rights in general are part of corporate decision making on issues of social responsibility, in particular when investing abroad.

### Investment arms of the government

At the level of policy implementation, several state bodies which engage in private sector activities internationally have taken steps to integrate human rights to their business practice. Three of the most important global investment arms of the government are the Government Pension Fund, Norway's development finance institution Norfund, and the Norwegian export guarantee agency, the Garantiinstituttet for eksportkredit or GIEK. As a part of this project we spoke to representatives from these institutions.

Norway's Pension Fund is a sovereign wealth fund set up in 1990 to ensure the long-term viability of Norway's oil wealth. In 2016, the total market value of the Pension Fund – Global was hovering around NOK 7 trillion, with investments in over 9000 companies in over 70 countries. The management of the Government Pension Fund – Global (Statenspensjonfondet-Utland, eller 'Oljefondet') can be said to have been a pioneer in human rights due diligence in that it has a mandate to screen the portfolio of the fund for, among other things, serious or systematic human rights violations. This mandate has been implemented through recommendations by the Ethical Council of the pension fund, which is an independent committee appointed by the Ministry of Finance and served by a secretariat. The Ethical Council makes recommendations for the observation of certain companies or their exclusion from the Fund's portfolio.<sup>37</sup> The recommendations are made to the board of Norges Bank, the central bank, which is the overall body responsible for the Pension Fund. The Ethical Council has made a number of

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<sup>36</sup> We spoke to professionals from Telenor, Statoil, GIEK, Norfund, the Council of Ethics for Government Pension Fund - Global.

<sup>37</sup> These are published after a positive decision has been made on a recommendation, See "Observation and Exclusion of Companies, Latest Update of the List: 30 September 2016," *Norges Bank Investment Management*, accessed November 8, 2016, <https://www.nbim.no/en/responsibility/exclusion-of-companies/>.

recommendations over the years, including the exclusion of companies on the basis of labour rights. In addition, one of its present focal points is on working conditions in the textile supply chain.

Norges Bank Investment Management (NBIM), which is responsible for the day-to-day and strategic management of the fund, has long focused on issues of child labour in its active ownership programme. In 2016, after a mandate from parliament, NBIM released its first ever comprehensive human rights expectations document. This in principle integrated a wider human rights approach to NBIM's expectations of companies in which they invest, based on the UNGPs. The expectations document is directed primarily at the boards of companies, based on the idea that NBIM acts as a shareholder in their relations to these companies.

GIEK provides guarantees to the financing of Norwegian exports, in order to safeguard against political, commercial and other risks. At the close of 2015, GIEK had just over NOK 100 billion in export guarantee exposure, mostly covering industrial exports in the oil and gas sector as well as shipping. GIEK companies have a human rights policy which "commits to operationalize the UN Guiding Principles on Business and Human Rights".<sup>38</sup> GIEK has harmonized its approach with other export credit agencies via the OECD Common Approaches for Environmental and Social Due Diligence and adopted the Performance Standards of the International Finance Corporation (IFC). GIEK has adopted a risk based approach, in that it assesses the environmental and social risks based on information provided by the company as part of the application process, as well as on GIEK's own review of a variety of information sources. Where risks of negative impacts to human rights or the environment are detected, GIEK seeks more information, may conduct project inspection and requires specific measures by operating companies and their partners, in order to manage those risks. With regards to the projects assessed as entailing higher environmental or social risks, GIEK publishes a summary of the risk assessment and the measures taken.<sup>39</sup> Those companies seeking export credit or insurance are required to submit a human rights due diligence.

Norfund (Statens Investeringsfond for Næringsvirksomhet i Utviklingsland) was established in 1997 as a part of Norwegian development policy to pursue poverty alleviation in developing countries through private sector development. Norfund supports the establishment and development of profitable and sustainable companies in low income countries through the provision of investment capital and loans. Its priority sectors are clean energy, financial institutions, and agriculture. It also operates a specialised investment fund focusing on small and medium enterprises (SMEs). At the start of 2015, Norfund had a contracted portfolio of NOK 15,2 billion.

Norfund's adopted approach to ethical investing is based on international standards, in that it is concerned to limit "the negative impacts on social and environmental conditions."<sup>40</sup> Norfund emphasizes that it does not expect companies in developing countries to be "perfect businesses" but that it does not support companies that contribute to

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<sup>38</sup> "GIEK Environmental and Human Rights Policy," August 29, 2013, [http://www.giek.no/resources/pdf/diverse\\_engelsk-1/Environmental\\_and\\_Human\\_Rights\\_Policy.pdf](http://www.giek.no/resources/pdf/diverse_engelsk-1/Environmental_and_Human_Rights_Policy.pdf).

<sup>39</sup> To see some of the documents visit "Retningslinjer for Samfunnsansvar Og Miljø," *GIEK - Garantiinstituttet for Eksportkreditt*, accessed November 8, 2016, [http://giek.no/om\\_giek/samfunnsansvar-og-antikorrupsjon-1/samfunnsansvar-og-miljo](http://giek.no/om_giek/samfunnsansvar-og-antikorrupsjon-1/samfunnsansvar-og-miljo).

<sup>40</sup> "En Ansvarlig Investor," *Norfund*, accessed November 8, 2016, <http://www.norfund.no/en-ansvarlig-investor/category488.html>.

irreparable harms, including harm with respect to working conditions. Norfund has developed an “Exclusion List” which excludes forced labour and child labour among a range of other negative impacts. In addition Nordfund adopts a risk-based approach based on the IFC Performance Standards which, not unlike GIEK, involves increasing risk management measures in accordance with the risk assessment.

The IFC Performance Standards are standards designed to guide the implementation of development projects in avoiding or remedying risks to workers, environment and affected communities. Norfund refers to the IFC General Guidance on Environmental Health and Safety includes reference to the risk of disabling injuries, as well as the importance of ensuring workspaces and exits specifically and “Facilities also should be designed and built taking into account the needs of disabled persons.”<sup>41</sup> GIEK refers to the same EHS standards, but also to the broader documents of the IFC Performance Standards. These refer to disability in two ways: in a footnote defining “personal characteristics” with respect to non-discrimination:<sup>42</sup>

#### Non-Discrimination and Equal Opportunity

15. The client will not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The client will base the employment relationship on the principle of equal opportunity and fair treatment, and will not discriminate with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices. The client will take measures to prevent and address harassment, intimidation, and/or exploitation, especially in regard to women. The principles of non-discrimination apply to migrant workers.

In a footnote defining «disadvantaged or vulnerable» groups, for which the a company must take “differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities.”<sup>43</sup>

## International Norwegian Companies

All of those we spoke to were concerned first and foremost with legal compliance in the countries in which they operated, or in which their partners operated (in the case that they were involved in a project as an investor, but not as an operator). In recent years,

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<sup>41</sup> “Environmental, Health, and Safety (EHS) Guidelines,” (International Finance Corporation, World Bank Group, April 30, 2007). P.61

<sup>42</sup> “Performance Standards on Environmental and Social Sustainability” (International Finance Corporation, World Bank Group, January 1, 2012) p.3 footnote 9.

<sup>43</sup> Ibid, IFC PS p. 4 footnote 18.

the development of the legal frameworks governing workplace health and safety has shaped business compliance with the rights of persons with disabilities in Norway and many other European countries. EU regulations and collective agreements have had profound effects, in particular on inclusive hiring practices and workplace access, health and safety. All of those we spoke with indicated that the domestic laws in the country of operation are vital for ensuring that business understands its obligations to persons with disabilities: where laws encourage or require inclusion, business is more likely to hire persons with disabilities.

A similar process of changing attitudes seems to be underway in developing countries, reflected in the widespread ratification of the UN Convention on the Rights of Persons with Disability. But progress has been slow. Those we spoke with raised two main challenges in trying to encourage Norwegian businesses to consider inclusion of persons with disabilities in their operations in developing countries: first, constraints imposed on inclusion by attitudes to disability and, second, the competition over priorities companies face in complex operating environments.

Several of those we spoke to indicated that while the inclusion of persons with disabilities was in principle a part of company human rights policy, in particular rights to work, in practice it was hard to make inclusion a priority over other human rights concerns. According to those we spoke with, inclusion was difficult to make a priority for several reasons: companies operating in developing countries face a range of human rights issues, including various labour rights violations, the absence of living wages, child labour and gender discrimination, and in some cases risks to lives and health from violence and insecurity. Exclusion of persons with disabilities was one challenge among many others and not always (or seldom) perceived as the most pressing. In addition, the nature of the business activity in combination with a person's particular impairment was seen as imposing constraints on inclusion in some cases. Some industrial processes – such as those involved in heavy industries like oil and gas exploration, or construction – were perceived as difficult to adapt to the accommodation of persons with disabilities.

In short, persons with disabilities seem simply to be less visible. Among investment practitioners, the issue of the exclusion of persons with disabilities was described as simply not being “on the radar of the global community of socially responsible investors”. For those investors concerned with development, the priority was growth and job creation and questions on who has access to those jobs was a secondary consideration.

If we look at the guidelines of the Norfund, GIEK and the Pension Fund the rights of persons with disabilities and inclusion are not an explicit task. So while it was described as “not on the radar” for international investors, it to a large degree does not seem to be on the domestic radar either. It is not easy to identify any explicit engagement on inclusion of persons with disabilities among Norwegian business actors operating in developing countries. One exemption seems to be Telenor and their Open Mind Programme.



## Telenor Open Mind

Telenor seems to be one of its kind when it comes to Norwegian multinational enterprises with an explicit engagement abroad on the inclusion of persons with disabilities. The program Telenor Open Mind, a two-year trainee program for persons with disabilities, has been running as a permanent department in Telenor in Norway since 1996. The program is defined as a labour market program (supported employment) and the participants selected in cooperation with the Norwegian Labour and Welfare administration (NAV<sup>44</sup>). Even though the participants are not guaranteed that the program will end in permanent employment, an evaluation from 2006 shows that this accounts for as many as 75 percent of the participants (Skøien et al. 2006).

Telenor Open Mind has later been introduced to Telenor operations in other countries, as a best practice example on promoting diversity and inclusion of persons with disabilities. Today there are Telenor Open Mind programs in Pakistan and India, as well as in Sweden and Bulgaria. Telenor's Annual Report 2015 states that Telenor has a global ambition to launch Telenor Open Mind (for persons with disabilities) to all Telenor markets by the end of 2019 (Telenor Annual Report 2015:26). The Open Mind programs are reported under the Sustainability report of the Telenor Annual Report, and considered as a part of their initiatives for gender balance and diversity in the workplace in their global activities (Telenor Annual Report 2015:52).<sup>45</sup>

In an interview with Telenor Open Mind it was emphasised that they have not systematically introduced the program to all markets, but worked to stimulate local awareness and interest, to have the program emerge from the local company as something built on best practice more than an obligation. In both India and Pakistan there have been engaged persons in the local branches that have initiated the programs.

Telenor Open Mind Pakistan has been operating since 2013, and is known as Khuddar Pakistan. The initiative was first introduced as a Corporate Responsibility initiative, but from 2015 handed over to the Human Capital Division at policy level as a regular recruitment feature.<sup>46</sup> In its promotional material, the program is presented as happening after a thorough online testing and screening process. The selected participants are given a three month course with functional and on the job training at the National Institute of Special Education, and after that an internship or placement in the organisation or a partner organisation for another 9 months.

This is a recruiting and training initiative and a stepping stone into permanent employment. The advertisement states that of those 16 persons that will be given the three months course, 8 of them will be given a placement in the Telenor organisation, and the rest in partner organisations. The program of Khuddar Pakistan has managed to establish a network of cooperating companies, to increase the possibilities of the participants

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<sup>44</sup> The program is financially supported by NAV.

<sup>45</sup> Skøien, Reidun, Karl-Gerhard Hem og Geir Tyrmi (2006), Evaluering av Handicap-programmet ved Telenor. SINTEF Helse:STF78 A06005f.no

Telenor Group: Annual Report 2015. [https://www.telenor.com/wp-content/uploads/2015/09/Godkjent-Annual-Report-2015\\_7y8erjhregj745.pdf](https://www.telenor.com/wp-content/uploads/2015/09/Godkjent-Annual-Report-2015_7y8erjhregj745.pdf)

<sup>46</sup> See the advertisement for the third time announcement of the program: <https://www.telenor.com.pk/about-news-events/telenor-pakistan-announces-third-batch-of-open-mind-pakistan>

being employed after they have ended their training. In a way this can also be seen as extending the awareness of including persons with disabilities and the experience of hiring persons with disabilities as well, to other companies in Pakistan. The program has received positive attention. In 2015 the program won the 8<sup>th</sup> All Pakistan National CSR Award in the Category Diversity. Atifa Asghar, Director Corporate Communications and Responsibility stated; “Khuddar Pakistan’s Open Mind Programme has successfully become an effective mechanism of integrating persons with disabilities into the mainstream corporate world and thus strengthens their prospects for future employment. I am delighted at the performance of the cross functional teams who are effectively implementing and facilitating the program and making it a success.”<sup>47</sup>

In 2014 Open Mind was launched in India, and according to an article on the ILO website, they aim at having 100 employees with disabilities by the end of 2016<sup>48</sup>. There has been an Open Mind program as a project in Malaysia as well, but this was not continued after the project period ended.

## **Are there other initiatives?**

There are other companies in Norway having initiatives on including persons with disabilities, but no other, as far as we know, have this kind of trainee programme in the private sector. There have been trainee programs for persons with disabilities in directorates and ministries, and at the time a trainee program in the municipality of Oslo. Despite this, initiatives of any kind to include persons with disabilities cannot be said to be high on the business agenda in Norway. From 2009 a duty was introduced which obliges all employers in the public sector and employers in the private sector with more than 50 employees to work actively to promote equality and prevent discrimination of persons with disabilities. The initiatives should be reported in the respective companies’ Annual Report. In a separate study in 2012, Fafo examined 30 Annual Reports<sup>49</sup>. Our findings, however, leave little room for optimism: Out of these 30 companies we found that even though half of them report on the area of disability very few of these reports were in line with the intentions of the obligation. The reports were mainly about good intentions concerning anti-discrimination and good practice on accessibility, but only two out of thirty enterprises reported on activities as part of a goal oriented and planned work within the area of disability (ibid:71). The study illustrated two main barriers against hiring persons with disabilities; attitudes and lack of knowledge among employers, as well as an economic barrier based on worries that persons with disabilities have reduced workability and productivity (ibid.).

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<sup>47</sup> <http://www.telenor.com/media/articles/2015/telenor-pakistans-open-mind-receives-national-honors/>

<sup>48</sup> <http://www.businessanddisability.org/index.php/en/news-and-events/featured-initiatives/392-impacting-companies-and-societies-with-an-open-mind>

<sup>49</sup> Hansen, I.L.S. og H. Haualand (2012) Diskriminerende barrierer i arbeidslivet. Aktivitets- og rapporteringsplikt som virkemiddel for området nedsatt funksjonsevne Fafo-rapport 2012:25 <http://www.fafo.no/index.php/nb/zoo-publikasjoner/fafo-rapporter/item/diskriminerende-barrierer-i-arbeidslivet>

Of course the situation could be very different today, five years later, nevertheless this is an indication that there is still a way to go to get inclusion and ant-discrimination of persons with disabilities as a priority of Norwegian companies, not only in their global activity, but at home as well.

From this limited study of business as developments actors we see three main barriers to an increased business engagement to promoting the rights of persons with disabilities: 1) Lack of awareness on the area of disability and work, 2) attitudes, lack of knowledge about persons with disabilities and work, and 3) economy and risk assessments when the main priority is growth and job creation. There are not many similar projects as the trainee program of Telenor, but there are other projects of multinational enterprises, as for example IBM. Many of these companies are represented in the ILO network on Business and Disability, The ILO Global Business and Disability Network<sup>50</sup>. One purpose of this network is to raise awareness of inclusion of persons with disabilities, and spread good examples. As such this network meets one of the identified barriers to inclusion of persons with disabilities in working life, lack of awareness and knowledge. It could be seen as an illustration of inclusion not being on the radar of Norwegian global businesses that Telenor is the only Norwegian, and Scandinavian, representative in this network.

Except for Telenor we do not see that companies and the business sector have any explicit engagement in inclusion of persons with disabilities in their global business activities. We have looked into annual reports and human rights strategies for two large Norwegian global enterprises: Statoil and Jotun, which illustrate the situation.

Both the Annual report of Statoil 2015, and the 2015 Sustainability report<sup>51</sup> illustrate that inclusion or anti-discrimination of persons with disability is not an issue on the agenda. Persons with disabilities are not mentioned in any of these documents. With respect to inclusion, diversity and anti-discrimination the references are mainly related to gender or more specifically to inclusion of women.

Statoil has developed a human rights policy, adopted by the board in September 2015<sup>52</sup>. In this policy document they state: “We will conduct our business consistently with the United Nations Guiding Principles on Business and Human Rights and the ten principles of the United Nations Global Compact. We respect all internationally recognised human rights, including those set out in the International Bill of Human Rights, the International Labour Organization Declaration on Fundamental Principles and Rights at Work and applicable standards of international humanitarian law” (ibid). Included in this international framework on human rights is of course also an obligation to avoid discrimination of persons with disabilities. The problem is that there seems not to be specific measures in place to ensure awareness within the company on the relevant obstacles to inclusion nor specific initiatives to tackle them.

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<sup>50</sup> <http://www.businessanddisability.org/index.php/en/>

<sup>51</sup> [http://www.statoil.com/no/InvestorCentre/AnnualReport/AnnualReport2015/Documents/DownloadCentreFiles/01\\_KeyDownloads/2015\\_Sustainability\\_report.pdf](http://www.statoil.com/no/InvestorCentre/AnnualReport/AnnualReport2015/Documents/DownloadCentreFiles/01_KeyDownloads/2015_Sustainability_report.pdf)

<sup>52</sup> <http://www.statoil.com/no/EnvironmentSociety/Sustainability/Downloads/Human%20Rights%20Policy.pdf>

A similar reality is reflected in the annual report of Jotun. Jotun has developed a human rights policy for the company<sup>53</sup> with guidelines on business, ethics and integrity.<sup>54</sup> These guidelines state that Jotun works to respect internationally recognized human rights and seeks to avoid human rights abuses. The rights or protection against discrimination of persons with disabilities are not mentioned in these documents. It should be said that, as in the case of Statoil, some of the human rights conventions mentioned and the UN Guiding Principles on business and human rights, explicitly mentioned the inclusion of rights of persons with disabilities. As such these companies have a policy and commitment to strive for that. But when we look at their concrete guidance on business and ethics, and their reference to anti-discrimination, we see that concretization is limited to “avoid discriminatory practices with regard to gender, age, race and religion”.

We know from earlier studies of Norwegian companies their annual reports that very few companies in Norway have an explicit policy on preventing discrimination of persons with disabilities<sup>55</sup> (Hansen and Hualand 2013). Reference to Statoil and Jotun here is not because we think they are worse than other companies. Rather they illustrate a general invisibility of disability in companies’ implementation of human rights policy. It is not on the agenda. Or as was noted above, companies operating in developing countries face a range of human rights issues, and the rights of persons with disabilities are not a high priority.

The conclusion is that except for Telenor we do not find any explicit attention or projects on Norwegian global businesses engagement for labour market inclusion of persons with disabilities in developing countries. This is as we have shown in stark contrast to what we find at national and international government policy level. What happened on the way from policy to implementation?

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<sup>53</sup>[http://cdn.jotun.com/images/3.6%20Human%20Rights%20policy%20and%20statement%202016-09-01.docx%20333154..\\_tcm29-115618.pdf](http://cdn.jotun.com/images/3.6%20Human%20Rights%20policy%20and%20statement%202016-09-01.docx%20333154.._tcm29-115618.pdf)

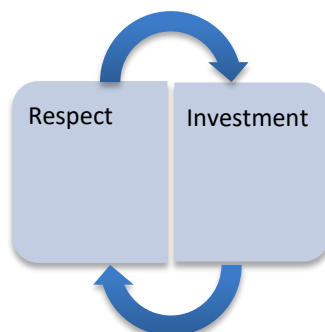
<sup>54</sup> <http://www.jotun.com/es/es/corporate/about-jotun/business-ethics-and-integrity/>

<sup>55</sup> Hansen, I.L.S. og H. Hualand (2012) Diskriminerende barrierer i arbeidslivet. Aktivitets- og rapporteringsplikt som virkemiddel for området nedsatt funksjonsevne Fafo-rapport 2012:25

## 6. Investing in Inclusion

Those we spoke to recognised that persons with disabilities often are less visible, or unfairly perceived as less capable of certain tasks and discriminated against, and that this resulted in exclusion. Those we spoke to recognised the importance of responding to these challenges. All indicated that, at a minimum, the human rights due diligence processes with which they were familiar could be adapted to detect and respond to such exclusion. The objective of such adaptations should be to make persons with disabilities more visible in company decision-making. The platform for doing so is there in the form of the UN Guiding Principles on Businesses and Human rights (UNGP).

Adapting human rights due diligence could be the first step in ensuring that a given company respects the rights of the disabled. The UN Guiding principles on Businesses and Human rights describes a systematic approach to human rights<sup>56</sup>. This is a set of guidelines for states and companies to protect, respect and remedy human rights abuses associated with business operations. Company policies should be inclusive and company due diligence investigations should be urged to be even more sensitive to indicators of risks of exclusion. For example, it is common for companies to conduct due diligence against the risk of workplace accidents, and to respond to the risk of work place accidents by ensuring that employees disabled by such accidents – including those employed by sub-contractors - receive proper care and compensation. Some companies also look for ways to re-hire workers who had been disabled by industrial accidents into positions in other areas of operations. Investors include due diligence with respect to workplace health and safety in their human rights policies and practices. For company operators and investors, due diligence with respect to accidents was described as a kind of minimum standard of respect for the rights of workers.



Several of those we spoke to suggested that respecting rights of persons with disabilities through due diligence processes can be twinned with social investment by companies to

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<sup>56</sup> "Guiding Principles on Business and Human Rights, Implementing the United Nations 'Protect, Respect and Remedy' Framework, UN Doc HR/PUB/11/04."

generate a virtuous cycle of anti-discrimination processes. Social investment has evolved from 'old school' CSR (building schools and digging wells) to a practice in which foreign companies invest in local society in ways that help to improve the value added by local economies. Investments in, for example, local vocational training improves the skill sets of workers and in that way strengthens the skills of workers available to the company through the local labour market. Overall, the effect of social investment is not only to improve access to employment for persons with disabilities, but also to strengthen the company's social license to operate.

Social investment by a company in skills development for persons with disabilities can be seen as not only a good thing to do, it could be a natural mitigation of the risk of exclusion of persons with disabilities from employment. It would generate real skills the company needs and at the same time help to address perceptions about the ability of persons with disabilities, which is ultimately a key source of discrimination and exclusion. It is important to emphasise that doing so is not an act of charity or philanthropy; it is an integral part of the human rights responsibilities of companies. In this sense, social investment in the inclusion of persons with disabilities is part of a company's implementation of human rights due diligence, which is fundamental to responsible business practice. According to Telenor Open Mind it is a strategic move to approach inclusion of persons with disabilities as a part of a wider diversity strategy. In this way, paying attention to disability is not a specific priority but part of the company's efforts to ensure they respect human rights. The goal must be to include disability in the companies' human rights initiatives.

## **Inclusion as part of sustainable development**

The SDGs and Norwegian government development policy is based on a strategy that has as assumption that increased growth fueled by foreign direct investment can contribute to poverty reduction - and that economic growth is often accompanied by more openness, democracy and respect for human rights, preservation of the environment and equality. But the policy also relies on recognizing that direct investment and economic growth can just as often create inequality, exclusion and violate rights. It is hoped that the private sector should contribute to development. But the reality so far raises questions about how wealth creation can be managed in a responsible manner. What does 'responsible' mean in practice with regard to the inclusion of persons with disabilities in Norwegian companies operating in developing countries?

The private sector participates in the development process, both directly through value- creation and job creation and indirectly through participation in publicly funded assistance and cooperation. Norwegian aid policy has strengthened the emphasis in the private sector as an actor in development cooperation. Where companies participate in development initiatives financed by public funds, such as through Public Private Partnerships (PPP), development cooperation means a dual responsibility: both State duty to protect human rights and corporate responsibility to respect human rights.

Governance is crucial for success of development objectives with respect for human rights. A practical approach to the challenges is found in the SDG Partnership Principles, the Institute for Human Rights and Business (IHRB; see below as a one-page Appendix). The objectives of development cooperation between the public and private actor should be “explicitly pro-poor, inclusive ... Facilitating access to services ... Enhancing capacity to participate in the economy”. In addition, services designed with a human rights approach and should “respond to the Availability, Accessibility, Acceptability, Quality Standard” In addition, the SDG Partnership Principles identify two procedural principles that are important for the integration of rights of people with disabilities: the use of “social, environmental and human rights due diligence” and “broad based and inclusive engagement with potentially affected stakeholders”.

The objective of such principles should not simply be to minimize harm in the context of growth-led development but to guide growth towards the benefit of those who are normally excluded from the benefits of growth, such as persons with disabilities. To do so require defining what is an appropriate role for private actors in publically financed development schemes. The SDG Partnership Principles offer a framework for doing so in a way to integrate respect and fulfillment of the rights of persons with disabilities to the objectives of development aid.

Norway has undertaken to contribute to a concerted global effort to promote equal rights for people with disabilities as part of achieving the SDGs by 2030. Norway has also committed to the relevant global frameworks, such as the UN Convention on the Rights of Persons with Disabilities and the UN Guiding Principles on Business and Human Rights. What is very clear from the overview presented is that there is still a way to go before this policy become practice and the available framework is implemented.

## 7 Closing: Responsible Business in Development Practice

Access to work is important for the realization of the rights of persons with disabilities. Those rights are embedded in international human rights, and particular in the UN Convention on the Rights of persons with disabilities, and have been given a voice in the Sustainable Development Goals. As Norwegian development policy to an increasing degree emphasizes the role of business as development actors there is a need to pay more attention to how the rights of persons with disabilities are addressed in strategies and initiatives involving Norwegian business actors in developing countries and Norwegian global businesses involvement abroad.

We have seen that during recent years the rights of persons with disabilities have risen on the political agenda, both in a national context and in an international context. The rights of persons with disabilities have been strengthened, not least due to the signing and ratification of The UN Convention of the Rights of Persons with Disabilities. Also in the governmental white papers and policies the rights of people with disabilities are at least mentioned. But it also seems that the closer you come to implementation of these policies the less visible persons with disabilities become.

On the general policy level the ideals of participation from trade and industry in development cooperation are strong. Issues regarding employment and persons with disabilities are mainly handled through a mainstreaming approach. But when it comes to more concrete measures the approach seems to be a bit more diffuse. And when it comes to the implementing agency, these issues are almost absent.

Our analysis indicates few actors, both from government development agencies or the business community, have a high level of consciousness with respect to labor market inclusion for persons with disabilities. The one exception is Telenor's Open Mind project. Other than that, we did not find substantive attention, in terms of policies or projects, in businesses engaged in developing countries aiming at labour market inclusion of persons with disabilities. This is in stark contrast to what we find at national and international policy level.

We have tried to draw a line from international policies and statements to national level and further follow these policies into practice in working life. This line seems to vanish as it is drawn. There is a large gap between human rights policy on the one hand and actual operationalisation in strategies and practices by business and development actors on the other. As one of our respondents said, the issues concerning people with disabilities in developing countries is "simply not on the radar" in particular with respect to their inclusion in working life.

This is not a surprising finding. Less than 50 percent of persons with disabilities in Norway are in employment, even though this has been high on the political agenda for



years and with several measures have been implemented to stimulate to employment. To mobilize the employers seems to be a challenge. To put the rights of persons with disabilities on the agenda of global companies might be an even bigger challenge. As we have described some of those we spoke to feel that it is difficult to have an explicit attention on inclusion persons with disabilities when they face human rights issues perceived as even more pressing; as child labour, forced labour and gender discrimination, and in some cases risks to lives and health from violence and insecurity. But it should be mentioned that all of those we spoke to recognised the importance of responding to the challenges of discrimination and exclusion of persons with disabilities. For them to actually do so demand a more explicit attention on how to include disability in the human rights due diligence processes with which they are familiar, and as they suggest. The objective of such adaptations could be to make persons with disabilities more visible in company decision-making. The platform for doing so is there in the form of the UN Guiding Principles on Businesses and Human rights (UNGPs). But there is a need for more explicit attention and guidelines in this area, and on how to include disability in companies' human rights initiatives. Telenor has included disabilities as a part of a wider diversity strategy. In this way, paying attention to disability is not a specific priority but part of the company's efforts to ensure they respect human rights.

There is a need for a higher awareness on disability among Norwegian business actors. The government could lead in this area by adopting explicit principles relevant to the inclusion of people of disabilities as part of their implementation of the SDGs; or by urging state owned businesses to act, for example by using their social investment work in developing countries to improve labour market access for people with disabilities. In addition, Norway could show leadership and send important signals by requiring recipients of aid and/or investment to take steps to ensure against exclusion and ensure that inclusion is happening. The point is that there is a need for a more explicit engagement from the state on placing inclusion of persons with disabilities on the radar of development policy and businesses social responsibility. It is necessary that all actors, including the government, development agencies and the business community have a higher level of consciousness on labor market inclusion, also for persons with disabilities.

What steps might be taken is a question to be addressed in more detailed programming involving relevant actors and research. How can business ensure inclusion for persons with disabilities? What is the most effective role for state policy in promoting inclusion? We have not provided answers to these questions. Rather we have attempted to provide some food for thought as a contribution to the policy dialogue about how to promote the inclusion of persons with disabilities through Norwegian development assistance, in particular with respect to business as a development actor. Hopefully we have contributed to urging government, business and trade to put labour market inclusion of persons with disabilities on their agenda.

## Appendix A

<b>SDG Partnership Principles</b> All SDG partnership programmes or projects should:	
<b>Objectives</b>	Be explicitly pro-poor, inclusive and targeted at: <ul style="list-style-type: none"> <li>• Defined objectives that specifically focus on one or more SDG</li> <li>• Facilitating access to services</li> <li>• Enhancing capacity to participate in the economy</li> </ul>
<b>Principles for Service Design</b>	Apply a human rights based approach and in particular: <ul style="list-style-type: none"> <li>• Be designed to respond to the Availability, Accessibility, Acceptability, Quality Standard<sup>6</sup> to help ensure that such services benefit the poorest communities</li> </ul>
<b>Processes</b>	Be informed by: <ul style="list-style-type: none"> <li>• social, environmental and human rights due diligence</li> <li>• broad based and inclusive engagement with potentially affected stakeholders and other relevant stakeholders</li> </ul>
<b>Standards</b>	Apply relevant standards of responsible business conduct to the private sector participants, including at a minimum: <ul style="list-style-type: none"> <li>• UN Guiding Principles on Business and Human Rights</li> <li>• ILO Conventions – the ILO core labour standards &amp; ILO conventions relevant to the partnership area</li> <li>• UN Convention against Corruption</li> <li>• International environmental standards set out in multilateral environmental agreements</li> <li>• Relevant international standards for the areas covered by the partnership (e.g. CFS Principles for Agriculture)<sup>7</sup></li> </ul>
<b>Transparency</b>	Be transparent by default (with permitted exceptions limited to well-defined and justified areas of confidentiality), covering: <ul style="list-style-type: none"> <li>• Governance arrangements for the PPP explaining clearly how the partnership is structured and funded, listing participants and directors and others in key roles. Entities at each level of governance should be both responsible and accountable for appropriate aspects of applying the relevant standards;</li> <li>• Financing arrangements, (including private sector and government obligations, liabilities, including contingent liabilities and debt implications);</li> <li>• Operating agreements, concession contracts or other contracts;</li> <li>• Impact assessments, action plans, monitoring results, evaluations;</li> <li>• Revenue payments, taxes, royalties or other payments made to a government and received by a government;</li> <li>• Periodic reporting to the public on the outcomes of the partnership.</li> </ul>
<b>Accountability</b>	Include a range of accountability mechanisms: <ul style="list-style-type: none"> <li>• Ensuring that the PPP tracks and takes accountability for its development impact, and in particular is measuring impacts on the poorest communities and those who are the hardest to reach;</li> <li>• Carrying out independent evaluations throughout the life of the PPP, including with input from relevant stakeholders;</li> <li>• Put in place specific mechanisms (such as grievance mechanisms, ombudsman, or other arrangements) that can accept and effectively address and remedy grievances from stakeholders who have been negatively impacted by the PPP.</li> </ul>

Business and the Sustainable Development Goals: Mind the Gap – Challenges for Implementation, Institute for Human Rights and Business (IHRB), State of Play: volume four 2015

## **Appendix B CPRD Article 27 - Work and employment**

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
  - (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
  - (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
  - (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
  - (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
  - (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
  - (g) Employ persons with disabilities in the public sector;
  - (h) 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;
  - (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
  - (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
  - (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

## **Appendix C CPRD Article 32 - International cooperation**

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:
  - (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
  - (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
  - (c) Facilitating cooperation in research and access to scientific and technical knowledge;
  - (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.
2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.



# Business, development and inclusion of persons with disabilities



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