

**Overview on the
'Developing a Code of Practice for the Employment of Workers with Disabilities'
Presentation made by:**

**Dennis de Peiza, General Secretary, to the Symposium hosted by
the Congress of Trade Unions and Staff Associations of Barbados, 12 July, 2017,
Lecturer Room, Warrens Office Complex**



A warm welcome is extended to all members of the audience who have graciously accepted the invitation of the Congress of Trade Unions and Staff Associations of Barbados (CTUSAB) to attend today's Symposium. In my opinion, today's forum is of strategic importance to all stakeholders, namely the labour movement, the private sector, the Ministry of Social Care and Constituency Empowerment, the National Disabilities Unit, the Barbados Council for the Disabled and other NGO organizations which represent sectors of the disabled community.



Today's exercise marks the final event in a planned series of education and awareness activities which have been organized by the Congress of Trade Unions and Staff Associations of Barbados in association with its strategic partners, for the expressed purpose of calling attention to the causes of workers with disabilities. It is anticipated that today's symposium which addresses the theme of Developing a Code of Practice for the Employment of Workers with Disabilities, will lead to an enriched discussion, similar to that which was experienced at the Seminar held on 11th April 2017. On that occasion, the theme was that of 'Engaging and Empowering Workers with Disabilities'.

Coming out of today's deliberations, the expectation is that the insights gathered, will inform the drafting of a code of practice, which is intended to guide employers in adopting a positive strategy in the management of disabled employees and disability related issues in the workplace.

As we engage in the discussions today, I invite you to be guided by the labour's position on the physically and mentally challenged. I call your attention to the Revised CTUSAB Statement of Policies Document 2015, where in it is stated:

"CTUSAB believes that those who are physically and mentally challenged should be ensured fair and equitable treatment allowing equal access to educational opportunities, employment and all civil and human rights and other rights guaranteed by the laws of Barbados."





It is an undisputed fact that the global workforce is made up of both able bodied persons and persons with disabilities. The perception that workers with a disability fall within a homogeneous group is far from being accurate. There are those who may have a physical disability, a sensory, intellectual or mental disability. When we consider that throughout the world, people with disabilities are participating and contributing in the world of work at all levels, the notion that a disability means inability, can easily be dismissed as nothing but a myth.

As we discuss developing a code of practice for the employment of workers with disabilities, the principal aim ought to be that of ensuring the barriers which restrict the many persons with disabilities who want to work but do not have the opportunity to do so, are removed.



As the ideal starting point to our discussions, we ought to establish a working definition of how the law defines persons with disabilities, to which a code of practice would apply. It is unfortunate that there is the absence of domestic labour legislation on persons with disabilities to which reference can be made. I therefore take the liberty to draw on a definition which defines persons with disabilities. It reads as follows:

“Having the total or partial absence of a person’s bodily or mental functions, including the absence of a part of the person’s body, the presence in the body of organisms causing, or likely to cause, chronic disease or illness, the malfunction, malformation or disfigurement of a part of a person’s body, a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, a condition, illness or disease which affects a person’s thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour and shall be taken to include a disability which exists at present or which previously existed but no longer exists, or which may exist in the future or which is imputed to a person.”

As it stands, in a 21st century Barbados where we can boast of being a developing third world economy and society, it is unacceptable that to date no legislation which addresses the concerns of persons with Disabilities has been put into law. It is unbelievable that a Draft Disabilities Bill which has been completed since 2015 is yet to reach the Order Paper of Parliament. Following on this, it comes as no surprise that there is an absence of an Employment Code of Practice which applies to workers with disabilities.

This is a further indictment as to where we are, considering that Barbados having been a member of the International Labour Organization (ILO) since 1967, is yet to ratify the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) and Recommendation (No. 168); United Nations Convention on the Rights of Persons with Disabilities.

This is a failing that must be corrected by members of the Social Partnership of Barbados. Let me hasten to add, that the other stakeholders also need to become more vocal on these issues, in an effort to get the required action taken.



When we reflect on the perceptions that generally constrain the employment of persons with disabilities in the workforce, these necessitate that a code of practice is actively considered. It is to be expected that government will play an essential role in creating a supportive legislative and social policy framework, and providing incentives to promote employment opportunities for people with disabilities.



Employers are cautioned that there ought not to fear the development of a code of practice for workers with disabilities. It would be for them to embrace the code as a positive development, inasmuch that it will outline best practices which enable employers to utilize the skills and potential of people with disabilities within the environment of the national labour market.

In developing a code of practice for the employment of workers with disabilities, it must be understood that it has to be completed within the dictates of existing labour legislation, international labour conventions and practices. It is important to understand that the code is not a legally binding instrument. Having referred to existing domestic legislation, it has dawned on me that there is no section in the Safety and Health at Work Act 2005-12, which is dedicated to Workers with Disabilities, in much the same way that it addresses the employment of young persons.

According to the International Labour Organization, the objective of a code is to provide practical guidance on the management of disability issues in the workplace with a view to ensuring that people with disabilities have equal opportunities in the workplace; improving employment prospects for persons with disabilities by facilitating recruitment, return to work, job retention and opportunities for advancement; promoting a safe, accessible and healthy workplace; assuring that employer costs associated with disability among employees are minimized – including health care and insurance payments, in some instances; and maximizing the contributions which workers with disabilities can make to the enterprise.

At the forefront of developing the code in accordance with ILO Standards, would be the focus on positive measures which are aimed at effective equality of opportunity and treatment of disabled people at work, in much the same way that these apply to able bodied workers. If the code is to be successfully developed and implemented, this will only be achieved if there is positive cooperation among governments, workers' representative bodies, employers' organizations, and organizations representing persons with disabilities.

In developing the code of practice for the management of disability issues in the workplace the responsibility falls on employers to adopt a strategy for managing disability as an integral part of their overall employment policy and specifically as part of the human resource development strategy. This strategy may be linked to employee



assistance programmes, where they exist. The disability management strategy should include provision for recruiting jobseekers with disabilities, including those who have not worked before and those who wish to return to work after a period of unemployment; equal opportunity for employees with disabilities; and job retention by employees who acquire a disability.



Similarly to the employers, labour representatives have an important role to play in the developing of the code of practice. Labour must undertake to promote policies of equality of employment opportunity for workers both at the level of the individual employer and in the national consultation and negotiation processes. Workers' organizations should actively advocate employment and training opportunities for persons with disabilities, including job retention and return-to-work measures.

It has already been established that government has a decisive role to play in the legal and policy frameworks which will support and give effect to code of practice for workers with disabilities. The government of Barbados would do well to follow the lead of countries such as the United Kingdom and the United States, Australia, Canada, New Zealand, the Scandinavian countries, South Africa, France and Germany, which have introduced a range of measures to support the implementation of policies and laws. Some of these countries have introduced anti-discrimination or employment equity laws which make it unlawful for employers to discriminate on the basis of disability in recruitment, promotion, dismissal and other aspects of employment.

On the other hand, some have introduced what is known as quota legislation. This ensures that a certain percentage of jobs are reserved for persons with recognized disabilities. The legislation has a built in enforcement mechanism, in that an employer who fails to comply, is mandatory required to pay a contribution into a central fund. These funds are used to promote the accessibility of workplaces or for vocational rehabilitation purposes. These are universal policy initiatives which Barbados can move to embrace.

Given that such policies initiatives and legislation are important to supporting a code of practice, it is for the stakeholders to ensure that critical aspects of the code are not overlooked. These include employee orientation to job, career development and confidentiality of information. Workers with disabilities need to be oriented into the job in the same way as the able bodied workers, should be afforded equal opportunities with other workers at the workplace to acquire the skills and experience necessary to advance in their careers, and have the right to confidentiality on their health status.

This brings me to the point of taking a look at what constitutes a code of good practice. Based on the premise that the code is a guide for employers and workers on key aspects of promoting equal opportunities and fair treatment for people with disabilities, we can start by addressing the integration of employment equity into the human resource policies and practices.



Secondly, attention should be paid to the working times of workers with disabilities, especially in the instance of shift work and night work. Careful consideration ought to be given to the impact these could have on workers' health and safety.

Thirdly, attention must be paid to the matter of Sexual Harassment. It requires that procedures are identified to deal with any problem and prevent it from recurring.

Fourthly, the code should also address the protection of workers during pregnancy and after the birth of a child. With respect to this we can refer to the Maternity Act, The Occupational Safety and Health at Work Act 2005-12, and the Employment Rights Act, here in Barbados.

Fifthly, the code should provide guidelines for employers, workers and trade unions on how to manage occupational safety and health issues and HIV/AIDS within the workplace.

Finally, the code should provide guidelines on industrial relations procedures, and conditions of service.

This brings us now to take a brief look at the implementation phase, which is probably the most crucial, as success or failure of the implementation of the code will rest with the participation and initiative of people with disabilities. The advice to be offered to employers is that they should accept their responsibility to communicate the policies, provide training for members of staff and to produce an employee handbook.

In closing, I wish to remind you of the commitment of the labour movement to representing the interest of workers with disabilities, as it is an indisputable fact that this group forms part of the productive Barbadian workforce. I take this opportunity and echo CTUSAB's position as contained in its Statement of Policies Document, where it calls on the Social Partners to adopt a mutually binding policy in respect of the disabled in the workforce, which is premised on policies initiatives and legislation to support a code of practice, and the commitment of employers to promote equal opportunities and fair treatment of disabled workers.

Thank You

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