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CHALLENGES OF THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ARTICLE 27 REGARDING WORK AND EMPLOYMENT RIGHTS OF PERSONS WITH DISABILITIES IN RURAL SOUTH AFRICAN SETTING

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Abstract. It is a challenge to implement the work and employment policies for Persons with Disability (PWDs). This study explored challenges regarding implementing the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in a rural South Africa setting. Participants were seven persons with disabilities (female =four, male= three, age range = eighteen to fifty five years). The researchers used a semi-structured personal interviews to get challenges regarding implementing employment of PWDs. Findings from the thematic analysis suggest language barriers, perceptions and attitudes towards disability and reasonable accommodation. The participants reported challenges related to reasonable accommodation, access to built environment barriers, assistive devices, and workplace adaptation. These findings have implications for the employers and the working conditions of PWDs. The researchers put a few recommendations at the administrative level forward to improve the PWDs challenges.

Keywords: *Challenges, Convention on the Rights of Persons with Disabilities (CRPD), Implementation, South Africa.*

Rezumat. Este o provocare să implementăm politicile de muncă și ocupare a forței de muncă pentru persoanele cu dizabilități (PWD). Acest studiu a explorat provocările privind implementarea Convenției Națiunilor Unite pentru drepturile persoanelor cu dizabilități (CRPD) într-un cadru rural din Africa de Sud. Au fost intervievate șapte persoane cu dizabilități (4 femei, 3 bărbați, interval de vârstă - optsprezece până la cincizeci și cinci de ani). Cercetătorii au folosit interviuri personale semistructurate pentru a obține provocări în ceea ce privește implementarea angajării persoanelor cu handicap. Rezultatele analizei tematice sugerează bariere lingvistice, percepții și atitudini față de dizabilități și acomodare rezonabilă. Participanții au raportat provocări legate de acomodarea rezonabilă, accesul la barierele din mediul construit, dispozitivele de asistență și adaptarea la locul de muncă. Aceste constatări au implicații asupra angajatorilor și condițiilor de muncă ale persoanelor cu handicap. Cercetătorii au propus câteva recomandări la nivel administrativ pentru a îmbunătăți provocările persoanelor cu handicap.

Cuvinte-cheie: *provocări, Convenția privind drepturile persoanelor cu dizabilități (CRPD), implementare, Africa de Sud.*

Introduction

South Africa was among the one hundred and fifty-five countries that signed the United Nations Committee on the [1]. The human rights underscore that Persons with Disability (PWDs) must fully enjoy all rights [1]. South Africa ratified both the CRPD and the optional protocol in 2008 [1]. The Articles address: (a) physical well-being; (b) access and privacy; (c) work employment; (d) autonomy, independence, and choice; accessibility, and participation; (e) social inclusion; (f) emotional well-being; and (g) personal development [2]. Notwithstanding the ratifying the CRPD, there are issues regarding domestic laws to align with the convention [1].

The legislation condemns discrimination against any person because of disability, language and culture [3, 4] share a new policy environment in South Africa that creates unique opportunities regarding the needs of PWDs. Policies are introduced to prevent barriers to employment for PWDs. [5] p. 2 states that “reinforce rather than undermine the traditional assumption that workers with disabilities are not equal to those without disabilities: the very opposite of what is needed.” Other obvious changes need to happen when PWDs are employed.

The UN General Assembly adopted the CRPD on 13 August 2006 to encourage and protect the rights of PWDs [6] and there was no clear framework, which was enforced on 03 May 2008 [6]. Thus, this is the first treaty- CRPD to protect and promote the rights of about 15% of the global PWDs [7, 8] contend the CRPD produces a new vision for PWDs. Although the policies are all-inclusive, the implementation is problematic [9].

Implementing CRPD is augmented by negative attitudes concerning PWDs [10]. These negative attitudes begin early in life. For example, in Madrid, high school learners’ had mixed emotions regarding similar sports opportunities [11]. In South Africa, negative attitudes towards PWDs been highlighted [12]. The employment conditions should meet a conducive environment, access to all facilities, reasonable accommodation, and promotion opportunities [13]. These standards place a lot of pressure on countries to comply. [14] highlight the negative right where some aspects are ignored and the positive where all are addressed to meet PWDs’ needs at the workplace. For example, Turkey uses the negative right approach to the work and employment of PWDs [15]. In Spain, [16] contend that women with PWDs received services as low as 38.4% even in prisons. However, this low number may be common in other parts of the world, suggesting that PWDs have challenges in the affordances of their rights. Currently, it is not clear what challenges, which are also not well researched, South African PWDs face regarding the implementations of Article 27.

This study used the strategic implementation theoretical framework [17] to interpret the challenges of PWDs regarding the implementation of Article 27. The theory emphasises the strategies used to implement the Act. The strategies deal with what will change when an Act is implemented. During the implantations, there are two schools of thought: 1) the top-down ([18] versus the bottom-up [19], and 2) the macro-level [20] versus micro-level [21]. The Top-down relates to top management who enforce the Act, while the bottom-up refers to the grassroots (PWDs) who experience the Act implementation. The management looks at the macro-level and pays little attention to the micro-level. The bottom-up is concerned with the discrete issues which are at the micro-level. The macro-level stances do not extend their

concepts to the satisfaction of those at the micro-level [17]. To date, a knowledge gap exists from a micro-level perspective regarding the implementation of Article 27 of the CRPD. The researchers used the strategic implementation theory from this backdrop, focusing on micro-level perspectives to contribute to the gap. Therefore, the researchers explored the challenges of implementing Article 27 of the CRPD from PWDs in rural South Africa.

Goal of the Study

The study aimed to explore challenges regarding implementing work and employment Article 27 of the United Nations Convention on the Rights from the PWDs perspectives in a South Africa rural setting. The findings of this study might help the government and private institutions speed up implementing CRPD, focusing on the needs of PWDs. South Africa.

Methods

Participants and Setting

The participants from the rural area in Vhembe District composed seven (female = four, male = three) purposively selected because they had a form of physical disability. All participants were Tshivenda speaking, aged between eighteen to fifty five.

Procedure of Data Collection

The first author devised three open-ended questions. The questions asked for the different aspects of work and employment concerning UN article 27. The questions were: 1) What challenges do you have to access work and employment? 2) Why do you think these challenges exist? and 3) Do you know the policy regarding work and employment for PWDs? For Face validity, which refers to two university experts, checked the tool's appropriateness, sensibility, and relevance. Unfortunately, there was no pilot study because the researchers did not find candidates in similar situations. However, the authors are confident that the data collected with a valid instrument is credible.

Data were collected using personal interview [22] because they present the researcher with experiences, knowledge, thoughts and feelings. Interviews were conducted in the participants' homes within one hour, with each participant following [23] style, where participants (PWDs) narrated [24] their challenges. The first author, however, interjected with a few probe questions to clarify what they meant. The interviews lasted between 50 and 60 minutes. The data were audio recorded, transcribed verbatim, and translated from Tshivenda into the English language. To find out the translation was done well, the transcripts were back-translated into Tshivenda [25]. Also, the participants accepted the invitation to take part in the study and signed the consented form. Therefore, participation was voluntary, and anyone could withdraw from the study without penalty.

Data Analysis

The thematic analysis approach was utilised to themes from the interview data [26]. The author re-read the themes to find out they relate to the title. The researchers grouped similar themes into one theme. Researchers resolved differences regarding themes through discussions and reached a consensus. Pseudonyms (A-J), for instance, PA represented participant A, and PJ, participant J. were used to ensure anonymity.

Findings and Discussion

The findings show that there are challenges in implementation the CRPD in the country. These challenges emanate from some people not being aware of Article 27. The

language used was complex and hard to understand for ordinary people in South Africa. The attitudes towards disabled people, which have not changed, impeded the implementation of Article 27, and also there are indefinite statements like “reasonable accommodation”, which can be misinterpreted by both the employer and the disabled persons. Below, we present three themes and the verbatim statements from participants challenges. They are presented in three themes from the data analysis: language barriers, perceptions and attitudes towards disability, and reasonable accommodation. Thereafter, brief discussion and conclusion will be presented.

Theme: 1 Language Barriers

Participants reported they got frustrated from experiencing language barriers to read the CRPD written in English, not their mother tongue. They highlighted the extract below showing evidence of this claim:

My highest qualification is standard five. I can only read and write in my mother tongue; I have to get somebody to read and interpret my mother's language in English. This government is not thinking of illiterate like me (PE, female, fifty years old).

I heard about this policy on the radio one day; I do not even copy this policy. How do I advocate for my rights if I do not know what is in the policy? This government always forgets about rural areas, and the government is not committed. (PD, female, forty eight years old).

It frustrates me. I have a hard copy of the policy: I struggle to understand the policy because English is not my first language. My child does sometimes read and translate for me, but she struggles to translate this big English. Sometimes. I feel as though I am stupid since I am a beneficiary of this policy, but I do not know what it talks about in my language. Sometimes I feel useless and know what it talks about (PF, female, fifty years old).

In the CRPD, the English language was cited as a challenge, and also, there was no interpreted version of the participants’ mother tongue. This challenge forced participants to look for other people to interpret the policy, as shown by participant PE and PD. Participant PD stated he heard on the radio about the CRPD and had no clear understanding. This challenge has salient issues like wishing to study the policy, but those who know the language could not be available. It is no wonder participant PF expressed pity for not being able to read and understand the policy. This observation implies that the employers did not consider such discrete challenges. For instance, the challenge was to update PWDs with the CRPD policy. They operated at a micro-level and neglected the micro-level where the PWDs are affected. At the same time, the employers violated part of the CRPD convention regarding communication to the PWDs on their rights [27]. This observation agrees with the Strategic Implementation Theory, which deals with macro-level stances and neglects the micro-level [17]. Also, the findings agree with CRPD, which contends a proactive approach in dealing with PWDs disadvantages and barriers so that they achieve equal rights like other people with no disability [28]. Proactive may imply changing paradigm to move beyond micro-level and top-down to micro-level and incorporate the bottom-up approach to address the needs of PWDs.

Theme 2: Perceptions and Attitudes Towards Disability

The participants reported many negative attitudes they encountered from employers. PWDs were perceived to be less valuable for employment. For instance, some participants made the following observation:

I think employers should change their negative attitudes towards disability as it can happen to anyone, and they must realise that persons with disabilities have enormous potential. To be

employed is not a favour: I have matric qualification and experiences (PA, male fifty two years old).

This government is just writing policies on 2% employment of people with disabilities; and no implementation because disabled people still experience discrimination from employers. We do share these experiences with my friends who are disabled. Why do we have these good policies in place if the government is not encouraging employers to comply? I have a right to be employed, too (PE, female, fifty years old).

I was employed for twelve months' contract doing filling work in my local municipality. Towards the end of the contract, I approached my supervisor for a permanent position. He said to me. "Why demand a permanent position? Be grateful for this contract since you have a disability." After twelve months, I depended on my disability grant only, which is not enough for my family and me. I have three children to take care of, and without a job, I feel it. I mean, pulling things together is hard (PD, female, fortyeight years old).

The results show negative attitudes; a case in point is the comments of participants PA and PD, who were both told that they were employed in favour and not on their ability. These sentiments reiterated the need for disability sensitisation: workshops convey a good understanding of the needs of PWDs and their rights in line with CRPD. Our interpretation of the results agrees with [29] in India contend the negative attitudes towards PWDs humpers the implementation of CRDP at the workplaces. The exact content of the right to work depends on the underlying legal document for an individual to pursue a chosen occupation without discrimination [30]. The only way out is to change the social, cultural, and political barriers to labour [31] and society needs to address these barriers for the good of all members.

Theme 3: Reasonable Accommodation

All participants strongly emphasised the need for reasonable accommodation such as access to the built environment barriers, assistive devices and workplace adaptation. For example, they observed:

I was just over the moon when I received a call for a job interview. When I arrived at the venue, which was identified for the interview, I could not get into the building because the building was not accessible. The boardroom was on the second floor, and I am using two crutches; the building does not have a lift. HR personnel was called by security to come and help. The venue was changed immediately to the nearest office building. The HR official's apologies for the inconvenience "Sorry! Sorry! Eish, we are very sorry we forgot. This building is too old. "We did not know..... we apologies" (PA, male, fifty two years old).

It is painful, a new building which is not accessible for persons with disabilities..... I have to use the next-door bathroom because in the building I am currently working in, the bathroom cannot accommodate my wheelchair. When I was appointed, I was told by my employer that "bathroom is not an issue, we will sort it with the landlord". I was told by my employer that "You appreciate that you have the job as long as we have the wheelchair ramp which accommodates you to get in and out, we are renting in this building, and we inform the landlord about altering the bathroom". I need a job. I have to be patient; I have no choice, but it is difficult for me (PD, female, forty eight years old).

Some participants reported the challenge of accessing assistive devices to perform their duties independently. They highlighted the following are statements in interviews:

I cannot cope without using assistive. I am using one crunch and partially sighted. It took me eleven months to work because there was an assistive device to perform my duty. A computer

and a printer in the office they allocated meted me, but I could not use them because of my disability. "Hey..... I did not know that your assistive devices are very expensive" (My supervisor). I was told that the department does not have a budget for my brail printer and my computer with speech (JAWS), interfaced speech synthesisers for the visually impaired. I have to wait for the new financial year for the department to buy assistive devices (PG, male, forty nine years old).

I feel embarrassed when I have to request assistant from my colleagues at work; many requests have been submitted to the office of new executive management to erect the ramp on the door entrance. It is frustrating because the previous executive management was promising, now I have to start from scratch with the entire process. I deserve a decent life like everyone else in that company (PE, female, fifty years old).

Some participants noted the workplace was not accessible and was interpreted as discrimination against persons with disabilities when the request for adaption in their workplace was not universal design. For instance, some participants made the following observations:

It was difficult for me to be moved to another office. I wrote two letters to the facilities directorate for the allocation of the new office. The first letter responds I was told to motivate why I need another office. I was told to add more to my motivation in the second letter since it was convincing enough. They moved me to one of the director's office because my office was tiny and could not stretch my legs. Her office was enormous and with enough space for my movement. It was a serious fight for me to enter the office (PD, female, forty eight years old).

I told them that the sink is too high for a wheelchair user; they do not care. It makes me dependent and further worsens my disability. To beg for help every time, even with simple things like fetching water, was a challenge. I was always told about the insufficient budget for the company, and sometimes I will keep quiet and be patient because I need a job to work for my family. I can do nothing because I cannot force them, and you know that getting another job as a disabled person is difficult (PG, male, forty nine years old).

The results show that there is no commitment by employers to offer reasonable accommodation. For example, participant PA explained he was given an office at an old building because he could not access the modern building because of his disability. Although the Human resource officer apologised, it did not remove the negative feeling in the participant. This observation concurs with the statement of [32] "Among the yardsticks by which to measure a society's respect for human rights, to evaluate the level of its maturity and its generosity of spirit, it is by looking at the status that it accords to those members of society who are most vulnerable, disabled people, the senior citizens and its children." Thus, there was little regard for the needs of PWDs, which concurs with "top-down" or "bottom-up", the model used in management. The former likely miss more than half (greater than 50%) of the needs of the least fortunate of society, like the PWDs [20]. Conversely, the bottom-up approaches consider the consultation with the less fortunate to address their plight [33]. A similar approach has been adopted in China where Disabled Persons' Organizations (DPOs) suggestions are considered [34], and it has been hailed because it is in agreement with the social model of CRPD ([35]).

It helps understand the PWDs challenges from all spheres of life. Article 27 (i) encourages States to ensure PWDs are not discriminated against employment and should have reasonable accommodation. Accommodation should be accessible when PWDs use wheelchairs. The furniture should be flexible to accommodate PWDs in wheelchairs, and that they should be able to access restrooms and parking places. Participant PG, a male, forty

nine years old, noted that while using the wheelchair, the disabled person could not access the computer. This study highlights the challenges PWDs encounter regarding the implementation of CRPD. The researchers would have looked at religious, traditional beliefs, and curriculum regarding the rights of the PWDs, but these were not the focus of the study and needed further study.

Limitations of the Study and Suggestions for Further Research

This study was limited to exploring the challenges of implementing Article 27 of the UN on the Rights of PWDs at the workplace. Eight participants was a small sample. Again that sample was limited to Tshivenda language. Thus, it did not represent the population of PWDs in South Africa for generalisation [12]. Also, the findings may be different for participants who speak Xitsonga, English, or Afrikaans. Further studies are needed using a quantitative approach with a large sample.

Conclusions

The study on implementing United Nations Article 27 regarding the work and employment of PWDs shows that there are many subtle challenges, including language, peoples' perceptions and attitudes, and environmental issues. Also, it established a lack of commitment to implementing CRPD, which is an overarching obstacle to including PWDs within work and employment. While some PWDs had a basic understanding of CRPD, others were unaware of its existence. There were persistent attitudinal challenges within work and employment that stigmatised and excluded PWDs. Built Environments played a huge role in preventing PWD's accessing places of work. There is a need for a significant change from the use of top-down to bottom-up organisational strategy. Finally, there are salient human right issues that were not addressed, and they need further study using qualitative and quantitative approaches.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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