

UNCRPD 的
國際與台灣經驗：
法律適用與社會政策改善
國際研討會

International Symposium on
International and
Taiwanese Experiences of
the UNCRPD Implementation:
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Social Policy Improvement

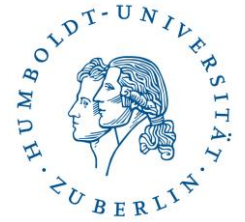


Inclusion in Society: Changes and Challenges of Social Policy in Germany after the UN-CRPD

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Outline



1. German disability policies before the CRPD
2. Current changes and challenges – taking the example of the right to work
 - Employment situation of persons with disabilities in Germany
 - Promotion of employment on the general job market
 - Sheltered workshops
3. Summary and outlook

1. German disability policies before the CRPD



- No radical transformation of social and disability policies through the implementation of CRPD
- Continuation of changes that have been already under way since the 1970s

1. German disability policies before the CRPD

- The 1970s: the decade of rehabilitation

"The quality of life for persons with disability in our society reflects the quality of society as a whole." (Walther Arendt, Minister for Employment, 1974)

- Traditional perspectives of disability policies:
 - Political-legal definition: Disability is a reduced capacity to work
 - Goal of social policy: Providing social security and rehabilitate the ability of persons to participate in gainful employment
 - Appropriate measures: Medical intervention and professional rehabilitation

1. German disability policies before the CRPD

New orientation of rehabilitation in the blooming welfare state (since the 1960s):

- Participation in community as a goal of disability policies (Federal Social Assistance Act 1961)
- Measures to promote social participation of people with disabilities: Pedagogical support in the areas of housing and leisure activities
- Increasing number of special institutions and professional services (residential homes, sheltered workshops, special needs schools)

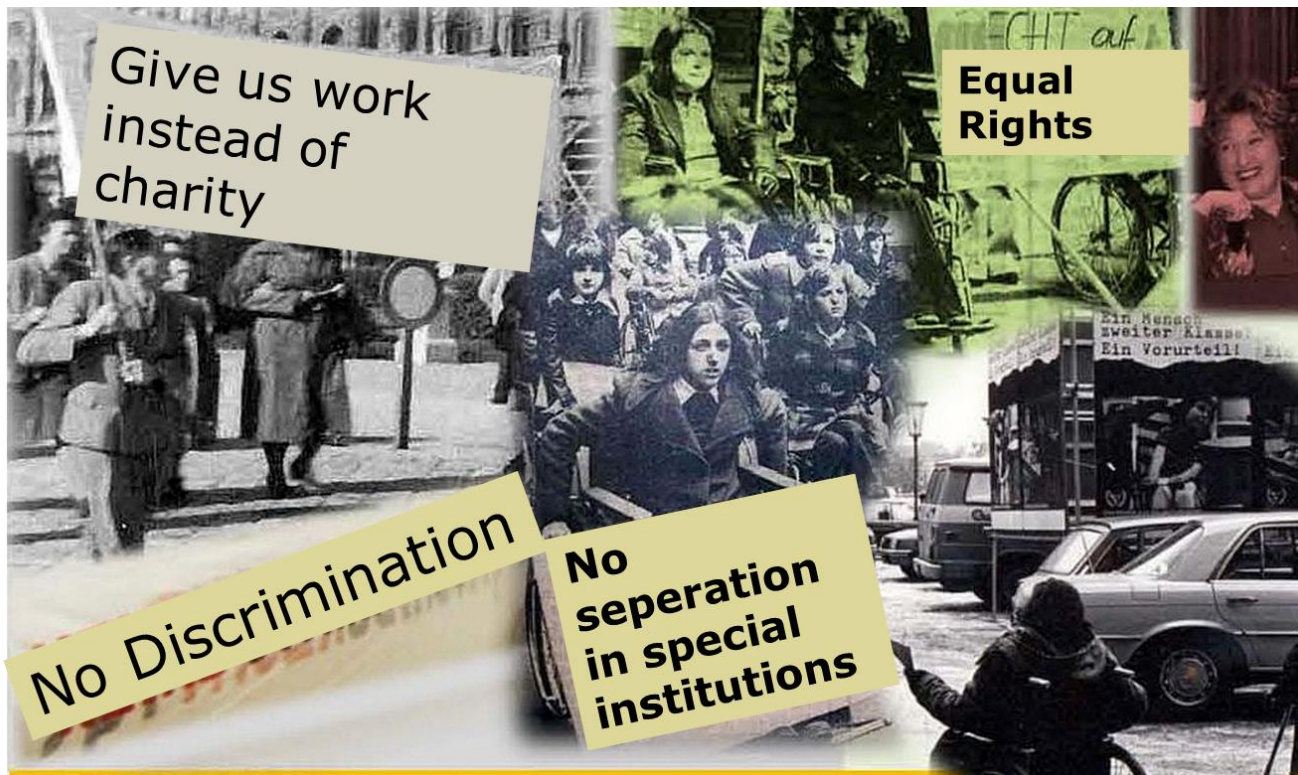
Achievements: More protection for people with disabilities, disability policy as a specific area of social policy, opportunities for education, work and leisure in general

Side effects: Separation, social isolation and paternalism



1. German disability policies before the CRPD

- New understanding of disability (late 1970s): Disability is (also) caused by social and cultural circumstances
- Disability Movement – Independent Living



1. German disability policies before the CRPD

- Ban on discrimination in the German Basic Law (1994): “No person shall be disfavoured because of disability.”
- Book IX of the German Social Code - Rehabilitation and Participation (2001)
- Definition of disability: Persons shall be considered disabled if their body functions, intellectual capabilities or mental health (...) deviates from the age-typical condition over a longer period **and their participation in societal life is therefore restricted.**
- Equality for Persons with Disabilities Act (2002) (public area)
- General Act on Equal Treatment (2006) (employment and civil law)
- No legal definition and entitlement to reasonable accommodation

2. Current changes and challenges

– taking the example of the right to work

The right to work – Art. 27 CRPD

(...) 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.

Appropriate steps (selection):

- to enable persons with disabilities to have access to vocational guidance programmes, placement services and vocational and continuing training,
- to promote employment opportunities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment,
- to promote the employment of persons with disabilities in the private sector through appropriate policies and measures and
- to promote programmes of vocational rehabilitation and return-to-work

2. Current changes and challenges

– taking the example of the right to work

Functions of work

- ✓ Livelihood and social safety
 - ✓ structure to the day,
 - ✓ social contacts,
 - ✓ self-confidence and identity
 - ✓ experience as competent achievers
 - ✓ social recognition
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- The interdependence between work performance and social recognition is a central mechanism of inclusion.
 - Exclusion from gainful employment is associated with a high risk of exclusion from participation and recognition within society.

Employment situation of people with (severe) disability in Germany



	Severe disability	Total Population
Total	7,8 Mill. ²	82,8 Mill. ²
Population share	9,4%	
Quote working age (15-65)	3,3 Mill. = 42%	
Labour force quote (ILO)	45%	80%
Employed	93,8%	94,8%
Unemployed	6,2%	5,2%
Unemployed ³ (Federal Social Code)	12,4%	7,8%

¹2013, ²2017, ³2016

2. Current changes and challenges

– employment situation of people with disability

Measures and instruments to promote gainful work for people with (severe) disability - selection

- Quota system/ employment obligation (20 employers and more: 5%), compensatory levy
- Specific protection against dismissal
- Employer benefits (e.g. financial support, information, advice)
- Benefits for people with disabilities (e.g. financial support for technical work equipment, workplace assistance, information, advice)
- Inclusion companies (30-50% people with severe disabilities)

2. Current changes and challenges

– Sheltered workshops

- No commercial enterprises, but welfare institutions of occupational rehabilitation
- Tasks:
 - providing adequate vocational education and occupation for persons who cannot (yet) be (again) employed in an inclusion business or on the general job market
 - preserving or improving performance or earning capacity
 - Support of personality development
 - *Promoting the transition to the general labour market*

2. Current changes and challenges

– Sheltered workshops

- Entitlement to admission to the competent workshop in the regional area
- Exceptions:
 - the persons may present a significant danger to themselves or others,
 - a high degree of support and care is necessary or
 - a minimum contribution to commercially useful work performance cannot be expected
- remuneration: averages at €180/month (6,300 TWD)
- Social security contributions are assumed
- Pension rights after 20 years that are based on average wages in Germany

2. Current changes and challenges

– Sheltered workshops

- Around 740 workshops currently operate in Germany, employing roughly 310,000 persons with disabilities
- Mainly persons with intellectual disabilities, persons with mental disabilities are increasingly accepted as well

Must the workshops close due to the CRPD?

- Growing admission numbers to the workshops
- Low remuneration; incentives due to pension entitlements
- Lack of (recognized) vocational education
- Low transition rate to the open labour market (0,1%)
- Few Choices
- No experiences of social recognition
- Discrimination, stigmatization and social isolation

2. Current changes and challenges – Sheltered workshops

The United Nations Committee on the Rights of Persons with Disabilities: Concluding observations on the initial report of Germany 2015

- Recommendation:

- Gradual abolition of workshops
- greater incentives for employment on the general job market

Reactions

- Criticism of workshop providers and councils
- No political efforts in Germany to abolish the workshops
- New instruments to promote employment on the general job market, e.g. Budget for Work (wage subsidy, assistance at the working place)

3. Summery and Outlook

Equal
rights

Societal
policy of
inclusion

Disability
main-
streaming



Special
needs

Special
Disability
policy

Special
social
services