

4 Laws and Legislation

4-1 Introduction and historical development

Laws concerning the disabled in modern Egypt can be traced to the mid 20th century. The first piece of legislation was developed in 1950. The law came as a response to the International Human Rights Declaration proclaimed in 1948 to which Egypt was a signatory. However, **the 1950 Law number 116** mentioned the disabled only within the context of their eligibility to some forms of social insurance and pensions. This, however, was specifically for those who became unable to work due to conditions out of their will, including aging, illness, ...etc., among which the disabled were for the first time mentioned. It must be mentioned that this view will, to a certain extent, govern the legal approach to disability to date.

Following the **1959 Labour Law**, the compulsory allocation of job opportunities for the disabled was first made. All firms hiring more than 50 workers were to allocate 2% of their jobs for disabled people (Osman H, 1988). In addition, the law stipulated for the first time the rights of those who become disabled for rehabilitation services as part of their social insurance and health insurance schemes. Again it should be noted that the context concerns those who become incapacitated during work and hence, applies mainly to the adult male working population.

In **1964 the new law number 133** was declared, in which articles 32 - 34 stipulated the following:

- the Ministry of Social Affairs has the duty to establish the different necessary institutions to provide **vocational rehabilitation for the disabled**.
- a certificate would be given to all disabled who received vocational rehabilitation. The certificate would spell out the types of professions to which the disabled was trained to perform. They are to be produced by the above mentioned institutions and hence;
- disabled persons would be exempted from the normal regulations for health eligibility for jobs and that this certificate would be used in place of the normal health check up.

(Mahmoud, 1994)

The major significance of the 1964 legislation could hence be summarized in the following:

- The state represented by the MOSA took the responsibility of establishing institutions for vocational rehabilitation.
- The state, through its labour offices, in cooperation with the institutions (NGOs), under the MOSA had the right to attach people to work places which they had been rehabilitated for. This included the stipulation of a fine for those firms which do not abide by the legislation.

However, the major piece of legislation which organizes the statutory rights of the disabled came in 1975, in the Law number 39 which was developed specifically for the disabled (Mahmoud, 1994). Up till 1975 the different pieces of legislature came as articles within the context of wider issues, such as labour laws or social and health insurance laws. Moreover, administration and follow-up was left to the different institutions mentioned.

The major significance, hence, of the 1975 law lies in the fact that it was the first attempt to collect the different pieces of legal proclamations, study them and organize them in a more comprehensive legislation, specifically directed to the disabled. In the meantime, it attempted to unify the different institutions responsible for provisions for the disabled into one institution. Although new pieces of legislation have since followed, they were only directed at developing certain items of the Law rather than replacing it. It is safe to say that Law 39 for the year 1975 is to be considered the main piece which till today specifies the rights of the disabled. It also must be added that this law comes after the 1973 war and the growing interest in rehabilitation of the disabled.

4-2 Current Laws and legislatures

4-2-1 The Law 39 for the year 1975 concerning the rehabilitation of the disabled

The law contained 21 items among which stand the following (MOSA, 1985):

- A definition of the disabled was for the first time given (*mentioned earlier*). This definition still holds till the present.
- The rehabilitation services were defined as
“ all social, psychological, medical, educational and vocational services required to enable the disabled and his/her family to overcome the consequences of his/her disability.”
- The establishment of the Higher Council of Rehabilitation.

The membership of the council consisted of 9 undersecretaries of different ministries, such as: MOSA, MOHP, MOE, Ministry of Higher Education, Ministry of Finance (MOF), Ministry of Industry (MOI), Ministry of Labour (MOL),... etc. In addition, six experts or activists in the affairs of the disabled and their rehabilitation, joined the council. The council was to be headed by the Minister of Social Affairs. It was entrusted with the task of preparing and developing general policies and legislatures for the disabled as well as for the coordination and integration of the services offered by the different sectors.

Regional councils were established in the different Governorates of Egypt, and entrusted with the provision, and coordination, of services on that level. The regional councils were to be headed by the different governors.

In reality however, this council only met twice since its establishment and has nearly ceased functioning.

- A vocational certificate is to be provided to each disabled by the institution in which he has been rehabilitated. The certificate is to spell out the vocations which the person has been equipped to undercarry. The certificate is to be given also to any disabled who has not received vocational rehabilitation, but through assessment proved to be able to carry out certain vocations. They are provided free of charge.
- The MOSA is the body to be entrusted with establishing the different rehabilitation bodies and institutions. In addition, the law denied this right to any other body or institution without a special certification from the Ministry of Social Affairs.
- The other items concerned themselves mainly with issues related to the right to work and Job opportunities, in which the percentage of workplaces appointed to the disabled increased from 2% to 5%.

In addition to the above, and in the internal charter, all the funds allocated for rehabilitation were transferred from the Social Insurance Institution and the Health Insurance Institution and the Ministry of Labour into one Ministry namely the MOSA. The MOSA became not only the major supervisory body, but also the major provider in reality. However, as will be shown later, it must be noted that most of the executive work is to be carried out under the banner of NGOs.

In 1982, Law 39 for the year 1975 was amended. The major weight of the new additions were directed towards overcoming loop holes in the implementation of the labour laws related to job opportunities for disabled. The new law in short added the following items (Osman H, 1988);

- The 5% compulsory allocated jobs was to be applied to all units and branches of the different firms and not only the central branch.
- The fine was increased from 30 L.E. to 100 L.E. to any owner or employer who does not apply the law.
- The 5% was generalized to include jobs in the governmental and public services, including administrative and higher posts.

4-2-2 The Childhood Law number 12 for the year 1996 (Peoples Assembly 1996)

In 1996, and within the context of the development of the past decade in the area of childhood in general, and in childhood disability in particular, the childhood law was produced.

The law concerned the disabled children in its 6th chapter under the name “Care and Rehabilitation for the Disabled Child”.

The major items of the law came as follows:

Article 76: Disabled children have the right to enjoy special social, health and psychological care, which increases their ability to depend on themselves and to facilitate their integration and participation in their society.

Article 77: The disabled child has the right to rehabilitation, which includes all social, psychological, medical, educational and vocational services, required to help the disabled child and their families to overcome the consequences of their handicap. The state provides the rehabilitation services, the technical aids and appliances free of charge and according to the budget allocated for this purpose.

Article 78: The MOSA establishes the institutions and bodies required to provide rehabilitation services to children with disabilities. In addition, the MOSA can provide certificates giving the rights to other bodies to open such institutions according to the regulations identified by the internal charter. The MOE is entrusted with establishing schools and classes to educate the disabled children according to their abilities and potential, and the entry requirements, curricula, and examinations are to be decided by the internal charter.

Article 79: The bodies mentioned in the above two articles would provide, free of charge, a certificate to each disabled child who has been rehabilitated. The certificate would include the vocation that the child was trained for.

Article 80: The rehabilitation institutions should notify the Labour offices with the name of children who have been rehabilitated and the Labour offices have the duty to help those registered accordingly to acquire appropriate jobs to their ages, abilities and residence. In addition, the Labour Offices should inform the MOSA

department with a monthly report on those children who have been allocated jobs, within their district.

Article 81: Both the Minister of Labour and the Minister of Social Affairs identify the suitable jobs in the governmental apparatus and public offices for the disabled children with certificates.

Article 82: Any employer using 50 workers or more, whether working in different sites or in one site, is to use disabled children who have been nominated by the Labour Office with a minimum of 2% of the 5 % allocated for the disabled population in the law 39 for the year 1975.

Article 83: A special register should be created by every employer showing the number, names, rehabilitation certificates of the disabled children employed as well as their tasks, jobs and their income. The employer has the duty to show this to the supervisor from the Labour office upon request.

Article 84: Any employer who does not follow these regulations is liable to a penalty of not less than a hundred pounds and not more than a thousand pounds. It is also permissible to make the owner pay a qualified disabled who was refused a job, a monthly income equal to the job entitled to him, for a year since the decision was taken.

Article 85: A special fund would be established for the care of the disabled children and their rehabilitation.

Article 86: All Technical aids for the disabled, and transportation for the use of the child and their rehabilitation are to be exempted from all taxation.

4-3 Summary and Conclusion

Till very recently, laws and legislatures governing disability dealt with the question mainly from the point of view of incapacity to work. Hence, its concentration was mainly on compensation for loss of employment or vocational rehabilitation to enable people to go back to work and to secure job opportunities (the 5% quota for disabled in all firms). Such laws, have witnessed important development in the past twenty years. However, complains that they are not usually enforced is a common one. In addition, as can be seen such laws deal mainly with the male and adult work. Many women and children had little place in these laws.

However, the new Childhood Law for the year 1996 reflects the growing interest in childhood in general, and the pieces of legislature dealing with disability reflects a new interest in childhood disability in particular.

In general, laws and legislature concentrate mostly on securing rights for rehabilitation and job opportunities, but do not deal with the social and environmental barriers which play a major role in handicapping people with disability.