

Learning from the Best: Lessons for
Ontario from the Employment Programs
for Disabled People in Germany and
Sweden

A Report to the Chief Commissioner,
Office of the Employment Equity Commission
Ministry of Citizenship

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Submitted by

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Amongst the earliest social programs established by governments were those designed to assist disabled people to succeed in the private employment market. For as long as these programs have existed, a debate has raged as to whether it was sufficient to adapt the disabled person to the needs of the workplace, or whether it was also necessary to adapt the workplace to their needs.

The debate is not ideological in the usual sense. Countries which are regarded as highly interventionist (eg. the Scandinavian countries) have invested heavily in improving the supply of disabled job seekers, while those regarded as being market-oriented (eg. Germany, Japan and the United States) have also attempted to influence the demand for their services, by imposing obligations on employers to adapt their workplaces or hire disabled people.

Any evaluation of the two competing theories should attempt to compare the best examples of each. Internationally, the two acknowledged leaders are Sweden with their supply side program and Germany on the demand side. Whatever criticisms I may have of these countries' respective approaches, I have learned nothing which would change my initial conclusion that they are the best at what they do. The commitment and ability demonstrated by those responsible for implementing their respective programs was confirmed in every interview.

Making international comparisons is always problematic. Even when efforts are made to place a particular program within its proper context, the differences in context limit the value of such comparisons. However, this does not justify neglecting the experience of other countries, which after all confront similar issues, albeit from their own vantage point. The real value of considering the experience of others comes from considering whether programs, which have proven successful in a different context can be adapted for beneficial use in our own. That is the purpose of this paper.

In the first and second sections I will attempt to describe the German and Swedish systems. Notable by its omission is reference to the ways in which generic employment programs (ie. those not specially modified to meet the needs of individual or groups of disabled people) have successfully included people with disabilities and assisted them in finding real jobs. The reasons for this omission are twofold: (1) it is assumed that every country will maximise efforts to include disabled people in generic programs; (2) it is virtually impossible to assess such programs either quantitatively or qualitatively because disabled people move through them without being identified as having a

isability.

In the third section I will attempt a brief comparison of major trends in Sweden and Germany. For the reasons mentioned above such comparisons have their limitations, but certain broad generalizations can be made.

It was not the purpose of this paper to provide an analysis of Ontario's employment programs for disabled people. This has been already done in A Status Report: Persons with Disabilities produced for the Ministry of Citizenship in 1989 by Abt Associates. The Status Report draws heavily on data generated by the 1986 Health and Activities Limitation Survey (HALS) conducted by Statistics Canada. In the fourth section I will summarize the conclusions contained in this report, and add certain details which update the Ontario situation to the present time.

The fifth section contains a list of conclusions which I have drawn from the programs I examined in Germany and in Sweden. In my view these conclusions have universal application.

The sixth section contains recommendations for reform in Ontario. These recommendations are based on the conclusions drawn in the preceding section. They are consistent with the introduction of a mandatory employment equity program for disabled people, such as that recommended in the Royal Commission Report on Equality in Employment (The Abella Report) of 1984 and the Private Members Bill introduced in 1989 by the current Premier of the province, Bob Rae. The introduction of such a program is entirely compatible with the conclusions I have drawn, based on my examination of Germany and Sweden.

Appended to the report is a list of German, Swedish and international contacts made during my study. I would like to acknowledge the contribution made by Mats Marling, the Swedish Consul General in Toronto, Dr. Harmut Haines with the German Ministry of Labour and Social Affairs, Wolfgang Zimmerman of the Disabled Forestry Workers of Canada, and Bernard Wehrens of the European Commission for their assistance in identifying many of the people with whom I spoke. Thanks to their efforts and the financial support of the Ministry of Citizenship and the Advocacy Resource Centre for the Handicapped, I am in the fortunate position of being able to report that while more could have been done, there was no person with whom I was unable to connect. Most contacts took the form of personal interviews, however some, of necessity, were conducted over the telephone. It was humbling to benefit from the contacts' facility in the English language. It was occasionally necessary to involve an interpreter to assist in a meeting or translate a document. Because some of the conclusions I draw may be interpreted as being critical, I want to emphasize that, except where specifically attributed, they are my own and I accept full responsibility for them.

Also appended to the report is a bibliography of books and studies relied upon in the preparation of this report.

In its current form, this Report is intended as a Working Paper. It is agreed between myself and the Chief Commissioner, Juanita Estmoreland-Traore, it is not yet finished for publication. Those who require clarification on any point are asked to direct enquiries to the author.

SECTION 1--THE GERMAN PROGRAM OF EMPLOYMENT FOR DISABLED PEOPLE

THE GERMAN CONTEXT

Germany has long been an international leader in the establishment of government sponsored social programs. The introduction of medicare, worker's compensation, social assistance and disability benefits amongst many others demonstrate the country's willingness to initiate programs which are deemed socially desirable without waiting for others to take the lead. Thus the establishment of the modern welfare state owes as much to German antecedents as it does to the example of any other country.

The Germans have also demonstrated an ability to change and revitalize their social programs. Many countries which have established their programs more recently (ie. most have emerged since the mid-40's) have not yet emphasized restructuring so much as extending these programs. In part this tradition of comprehensive review can be attributed to the fact that many of the programs are older and therefore more likely to need reform in order to reflect current needs. It is also a matter of necessity, if one assumes that there is a level of social spending beyond which a country cannot go without fundamentally jeopardizing international competitiveness. Ultimately it is attributable to the success of the federal state in Germany.

The underpinning of the federal system is a process of equalization between the federal and Lander [ie. state] governments. Without going into details. Germany has an intricate system of equalizing the average per capita tax revenue with which to carry out each Lander's social responsibilities. This means that the benefits which flow from decentralization can be achieved without placing an inequitable burden on the poorest Lander. It also makes it possible to achieve the benefits which can be gained by having national involvement in developing standards and coordinating policy development.

Germany has rebuilt an economy which was shattered during the Second World War. It currently enjoys a predominant position within a burgeoning European Community. It has experienced severe economic downturns and is not without clouds on the horizon. Historically, Germany has maintained relatively low levels of unemployment, has invested heavily in training its workforce and in keeping interruptions in employment to a minimum. The workforce is highly unionized, with large trade unions involved in sectoral wage negotiations and lobbying the federal and Lander governments. The latter are responsible for many of the social programs. At the level of the individual enterprise, employees elect Works Councils. They are mandatory creatures of legislation. Most are affiliated with unions; however this is not universally the case. Works Councils represent employees in matters of direct concern such as benefits, termination and scheduling of work; as well as in the management of

the enterprise.

Most recently, the reunification of Germany poses a major challenge to the social and economic fabric of the country. The industry of what had been known as East Germany is collapsing as it is exposed to the market forces from which it had previously been sheltered. The result is a high rate of unemployment and a serious challenge to the traditions of equalization between the Lander. Unless otherwise stated the data used will relate only to West Germany. This is because the German government has not yet unified data collection and because comparative use of statistics would be distorted by adding a whole new population base. Reference will occasionally be made to East German experience where it is relevant to better understanding the West German or Ontario programs.

DESCRIPTION OF EMPLOYMENT PROGRAMS FOR DISABLED PEOPLE

The motto of the German employment program for disabled people is "rehabilitation before pensions". In other words, productive employment is the government's goal for disabled people, despite the existence of a generous and comprehensive system of disability benefits.

While there are distinctive elements to the German rehabilitation system, it is the existence of the "grant-levy system" which is the decisive element in the German program. Without it the costs of the German system would be overwhelming, and the high level of motivation amongst disabled workers (and their advocates) and involvement by employers would not exist.

Grant-Levy System

History

Following the tragic consequences of World War 1, pressure was exerted across Europe, largely by organizations representing disabled servicemen, to establish pensions and employment opportunities. Germany was the first country to act. By decree dated January 1919, followed by comprehensive legislation in April 1920, a quota of 2% of disabled veterans receiving pensions was imposed on all federal, state and other public employers. Private employers of 25 to 50 employees were required to hire at least one disabled person and thereafter an additional disabled person for each additional 50 employees. The legislation was further amended in January 1923 to include all disabled people.

By the end of the 1940's a quota system based on the German model had been introduced in most European countries and in Japan.

The German system underwent a major reform in 1974 with the introduction of the Severely Disabled Persons Act and the Ordinance on the Compensatory Levy for the Severely Disabled. It shifted at that

time from a mandatory quota scheme to the grant-levy system.

As had occurred originally with its quota scheme, the new grant-levy system was widely imitated. The French, Dutch and Japanese have adopted similar models and the Irish are giving it serious consideration.

Grant-Levy

All public and private employers with at least 16 employees either fill 6% of their posts with severely disabled persons or pay a compensatory levy of 200 DM per month per place unfilled. The levy was increased from 100 to 150 DM in 1986, and was increased to its current level in 1990. The German Trade Union Confederation (DGM), joined by advocacy groups for disabled people, called for an increase in the levy to 650 DM back in 1987. The level of the levy is a matter of considerable dispute, and can be adjusted to effect particular policy objectives.

While employers deny the level of the levy should be raised, their own actions demonstrate how responsive they are to it. The number of unemployed people decreased significantly, more very severely disabled people were hired and the number of vacancies registered by employers skyrocketed in the 1980's. Employer representatives attributed this change in employer attitude to "stricter enforcement" of the Act. When this interpretation was investigated it was found that the number of bureaucrats had not changed over the relevant period, nor had their approach. Since it is a grant-levy system rather than a quota system enforcement is virtually 100% at all times in any event. The variable which changed was the levy and the improvement in employer performance can clearly be linked to the increase in the levy.

A grant-levy system (like an employment equity system) can be confused with a quota system. The former differs from the latter in the following respects:

1. The sanction for failure to meet the target produces a levy or equalization tax, enforceable through easily verifiable reports from employers, rather than a quasi-criminal prosecution: requiring expensive prosecutions involving complex issues such as mens rea;
2. The level of the target bears little relation to the availability of qualified applicants for vacant positions (as is essential to a quota system). In Germany, this can be demonstrated by relating the 120,000 registered disabled people who are considered by the government to be unemployed with the 287,000 unfilled quota posts and the 144,000 unfilled employer requests for disabled employees;
3. The levy is designed to recognize that certain employers

will accommodate disabled employees more readily and effectively than others. The system imposes what is essentially a tax on those which are unwilling or unable to make accommodation, and makes a grant or offers a permanent wage subsidy to those which do;

4. The system immediately rewards employers for partially meeting the target, while quota schemes emphasize compliance or noncompliance, thereby putting undue emphasis on a single hiring decision which would place an enterprise at risk of prosecution;

5. The administrative procedure not only minimizes the stigma for employers who are not in compliance, but also for employees of employers who have complied;

6. The levy is a certain outcome which can be used by executives when planning their company's operations, unlike a fine or other less predictable sanction under a quota scheme. The levy can be adjusted by the government in light of the relative priority attached to securing employment for disabled people and raising funds for governmental purposes (Germany has the good sense to return the full amount of the levy in various programs which improve the qualifications of disabled people, provide an additional temporary wage subsidy, or in subsidize the cost of accommodating an employee with a disability);

7. While it shares with quota schemes the merit of protecting disabled people against bearing a disproportionate share of the job loss from an economic downturn, it gives the employer more options with which to adapt to a new economic climate;

8. Because it avoids the all or nothing consequences of a quota scheme, it means a number of flexible options can be added to it (The Germans provide double credits for particularly handicapped persons and also give credit for purchasing goods or services from a sheltered workshop).

9. The grant-levy system is well-suited to providing direct permanent grants to employers who exceed the target of 6%. Despite this fact, there was no interest in adding what would appear to be a logical extension of the existing program. Employers feared it would reduce the pool of unemployed disabled people and feared it would increase the cost of the system and therefore, result in an increase in the levy on non-compliant employers. Unions appeared satisfied to leave it to collective bargaining, which in many sectors had succeeded in raising the employment rate of disabled people. Advocacy groups rejected the notion on the basis that it would make the wage subsidy element of the

current program unpalatably overt.

Notwithstanding these important differences from quota schemes, the grant-levy system shares with its poor cousin two important advantages. Firstly, it harnesses the creative potential of the private sector to the achievement of a public goal which is of acknowledged importance. Employers are left free to adapt their workplaces to maximize the capacity of their disabled employees. Rather than being subjected to continuous interference from bureaucrats seeking to offer inducements appropriate to the particular employer and employee, demand side programs acknowledge that people with disabilities beyond a prescribed level of severity will not be competitively employable unless all employers assume an equitable responsibility for providing employment opportunities.

Secondly, it minimizes the amount of money required by the public sector to secure a desirable social goal.

Employment-Compliance

The Federal Institute of Employment administers the wage-levy system. Of 123,000 employers required to employ disabled people in 1987, some 20% fulfilled their obligation. This group employed almost 112,000 more disabled people than the law required. This suggests that the grant-levy system is not always a predominate consideration. Some employers may find they can accommodate many disabled people once employment barriers have been removed for the 6%. Other employers are either socially conscious, or find it good labour relations to exceed the target. Employers in the steel and coal industries have a long tradition of progressive hiring practices in this regard. Their employees' unions (in most cases the influential IG Metall) heartily approve of this tradition. Finally, it is clear that many disabled people who are registered are not limited in the work they can perform, at least with their current employer, which suggests that the criteria for registration could be re-examined in order to determine whether the permanent subsidy afforded under the grant-levy system is required in all cases. Some 70,000 registrants were working for employers under no obligation to hire them (primarily small companies of 15 employees or less). This fact confirms that the registration criteria may bear re-examination.

Employment Among Disabled People October 1984 and 1987

	1984	1987
Compulsory posts	1,014,097	986,469
Severely disabled employees	823,839	752,630
Employees deemed equivalent to the severely disabled	26,417	25,763
Other eligible employees	17,688	13,072
Additional posts filled by multiple counting	25,743	29,641
Total numbers of posts filled	893,687	821,106
Posts not filled by severely disabled people	264,958	287,154
Actual ratio	5.3%	5.0%

Of the remaining 80% of employers who failed, or partly failed to fulfill their obligation, a full 30% did not employ any disabled people at all. This 30% of employers accounted for only 7% of all jobs, however, suggesting that smaller employers may find it cheaper to pay the levy than to go through the minimal amount of bureaucracy inherent in the German system.

Quota Compliance According to Size of Firm (1981)

Number of Employees	Number of Employers	Average Percentage of Disabled People Employed
16 - 30	46,942	2.7
30 - 100	47,871	3.4
100 - 300	14,609	4.2
300 - 500	2,936	4.7
500 - 1,000	2,055	5.0
1,000 - 10,000	1,538	5.5
10,000 - 50,000	111	5.9
50,000 - 100,000	11	4.4
100,000 or more	10	6.0

It may also reflect the greater involvement of large employers in the planning and operation of rehabilitation and training programs. This would ensure that registrants were either personally known to the large employer, having trained them, or alternatively that the employer would be aware that a graduate of a particular training program would be graduating with skills relevant to its operation.

While the overall target of 6% has been set, it has never been achieved. The employment ratio (ie. percentage of severely disabled employees working for employers of 16 or more employees) is currently running at 5% (4.7% in the private sector and 5.9% in the public sector with the federal government at 6.4%). It had reached 5.3% in 1984, but the grant-levy system is not entirely recession proof. With a national rate of unemployment of 2.24 million, it might be expected that the government might have been prepared to tolerate this erosion in the employment ratio, particularly since the unemployment amongst severely disabled people had fallen from 138,000 in 1984 to 130,500 in 1987. The government made its priorities clear by raising the levy by 50% in 1986. Similarly one might have expected the government to tolerate higher unemployment following the reunification of the two Germanies, particularly with the economy of the eastern region in a shambles. Again the government made its priorities clear by increasing the levy by another 50 DM to 200 DM in 1990.

To date the government considers the unemployment level amongst registered persons to be approximately 120,000. Of this group 57% are over 50 years of age and 53.7% are considered unskilled (ie. haven't completed a vocational training course). While it is subjective and somewhat self-serving, government officials considers that the major problem with this group is that they are "unmotivated". Nearly 33% of this group had been out of work for 2 years or more compared with 16% of the unemployed as a group.

Revenue from the compensatory levy amounted to some DM 304 million (\$204.4 million Canadian) in 1987. Virtually 100% of the levy owing was collected by the government. The discrepancy between the amount collected and the number of posts not filled by severely disabled persons (287,154) can be explained by referring to the reduction by 30% of an employer's target, if it enters into an agreement to purchase goods or services from a sheltered workshop. The duty on the employer to report the number of the registered individual, together with stiff interest charges on delinquent levy remitters have combined to produce an efficient and easily administered system.

This remarkably high level of enforcement compares favourably to that of quota systems such as that in the United Kingdom. Between 1961 and 1978 the level of compliance dropped from 61% to 37%, and it has fallen substantially since 1978. Despite the high level of non-compliance, there have been virtually no prosecutions over the years, and in the few examples of successful prosecutions, the fines have been nominal. Enforcement is such a problem, that virtually none of the central government departments or agencies is in compliance with its own law.

55% of the money raised through the compensatory/equalization levy is allocated to the disabled person's employment offices (Hauptfurorgestelle) of the Lander. They use these resources to improve the supply of jobs and training places for severely disabled

people. The other 45% goes into a compensation fund administered by the federal Minister of Employment and Social Affairs for supra regional employment programs, including a number of projects designed to integrate the most severely disabled persons. The details of how the money is spent will be discussed below. The significant point is that employers are shown that a very high percentage of the levy paid is returned to employers in one way or another. Even the administration costs of the Lander are separated from the compensation fund revenues, giving the employers as little as possible to grumble about. According to a representative of the German Employers Association, "employers in this country basically accept the system", and while they would not like to see the levy increased they are not seeking to have it reduced either.

Registration

Disabled persons are free to choose whether or not they wish to register as a severely disabled person under the Severely Disabled Persons Act. Only disabled people who have applied for and been granted registration and a small group deemed equivalent (eg. miners on a disability pension) will be considered as filling a compulsory post counting towards fulfillment of the employer's obligation under the Act.

Registration is open to persons who are considered to be 50% disabled, according to a detailed set of diagnostic criteria set out in a Ministry of Labour and Social Affairs publication Anhaltspunkte fur de arztliche Gutachtertätigkeit (1983). The criteria are applied by doctors working for the Ministry. Prior to 1986 the standard was referred to as persons "whose earning capacity have been reduced by 50% as a consequence of their disability". This terminology was considered "misleading", because it was becoming apparent a disabled person's earning capacity might not be reduced at all in a specific job, despite having a severe disability. The new terminology is considered to be more "neutral". Despite this minor concession to functionalism the criteria themselves were not changed.

Functionalism is increasingly being reflected in the German program in other more substantial ways.

(i) Persons who are considered to be 30% disabled and who can demonstrate that their inability to find employment is a result of their disability can become registered. No data is available on how large this group is.

(ii) Persons who are particularly disadvantaged either due to their disability (ie. 70% or more), age or need for ongoing assistance (eg. attendant care) are counted as filling two compulsory posts. Despite reductions in all other categories under the Act, "multiple counting" increased by 15% between 1984 and 1987. Due to a number of reforms introduced in 1986 and the comments of knowledgeable

persons, it can be assumed that this trend has continued up to the present.

(iii) Since July 1, 1986, the special promotion of the recruitment and training of the very severely disabled has been the statutory task of the Federal Institute of Employment. Severely disabled people who encounter particular difficulties in the labour and training markets because "they require a special helper or incur other extraordinary expenses in their employment, whose physical abilities are clearly badly impaired, who are mentally impaired or handicapped, who have not completed a course of vocational training because of their disability, or who are 50 or more years of age" qualify for wage subsidies. The subsidies are allocated by the disability offices of the Lander, and range up to 80%. The maximum term is 2 years but the norm is for between 3 months and one year. Between 1986 and 1991, 28,000 people qualified for a total of DM 452 million (\$304 million Can.) in subsidies. Over the same period the Labour Administration allocated an average of DM 300 million (Can \$202 million) per year on wage subsidies for persons eligible for disability benefits [ie. funded out of benefits funded 50/50 from contributions by employers and employees rather than the levy fund].

(iv) Also part of the 1986 reform, authorization was given to subsidize ongoing as opposed to extraordinary expenditures eg. attendant care, psycho-social care and sign interpreters. This topic will be revisited. Suffice it to say that discretion in this area is being authorized cautiously.

To summarize, the criteria for registration is based on medical criteria rather than a functional approach, although functional distinctions are becoming increasingly important as the Germans attempt to achieve successful results for more problematic cases.

The Germans have included all severely disabled people, regardless of the cause of their disability in their employment programs since 1923. They are still moving to harmonize rehabilitation programs, and employment incentives between those eligible for social insurance and those receiving social assistance. While this process is not yet completed, it is close to completion. Despite probing questions of union and employer representatives (ie. those who might be perceived as having an interest in maintaining the distinctions) they strongly supported the solidarity reflected in the move towards a unitary approach for all disabled Germans.

Registration is often pointed to as a stigmatizing and demoralizing experience for disabled people, by critics of demand-side employment programs. There is some recognition of this possibility. Strong confidentiality guarantees are imposed by law upon both

employers and government administrators. As a result many people whose disability is not readily apparent can and do work side by side with non-disabled peers in complete anonymity.

Nevertheless anonymity does not appear to be a major priority for most disabled people. One indicator may be that of 102,000 counselling sessions for severely disabled employees conducted by staff of the central disability offices, most were conducted at the place of work, despite having the option of holding the session in the employee's home. The overall impression one gets is that disabled people who are overcoming obstacles to work (notwithstanding the availability of generous disability benefits) are recognized as making heroic efforts and contributing in a tangible way to overall productivity of the country. Employer attitudes are particularly important in this regard. The grant-levy system appears to have created an environment in which employers do not regard disabled employees as a burden, but as people who work to keep taxes lower.

Another indication that stigmatization is not a big issue is the high rate of registration. While there is no data kept on the percentage of people eligible who actually register, it is clearly assumed by knowledgeable persons to approach 100%. In the 4 year period following the introduction of the new Act in 1974 the rejection rate for applications was approximately 40%. While no data was cited, it was said that the rate is currently about 50%. If it can be assumed that those who would be most sensitive to stigmatization would be those who are most mildly disabled, then the high rate of application amongst this group suggests that the advantages of registering were reckoned as exceeding whatever disadvantages there may be.

Effects of Registration

The fact that more than 50% of people who have been registered are considered to be outside the labour market suggests registration is not exclusively an employment issue. This turns out to be the case. In a Ministry of Labour and Social Affairs publication entitled Rat Geber fur Behinderte (1990) the benefits of registration are listed. Many benefits such as free public transportation or exemption from television and telephone taxes are contingent upon registration. Thus a high number of registrants are senior citizens or children.

There are also a substantial number of benefits which relate directly to employment.

.. Vacation

Consistent with the view that disabled people make an extra effort to meet productivity norms, disabled people are given extra vacation time. They receive an extra 6 days per year if they work 6 day weeks, and otherwise an extra 5 days.

2. Early Retirement

While it is often not exercised, disabled people are eligible for early retirement after age 55. For the period age 55 to 60 the funds for a pension come out of the unemployment insurance funds and after age 60 they come out of the pension funds.

3. Overtime

Registrants are not under an obligation to work overtime.

4. Discharge

After a 6 month probationary period (introduced in 1986 at the request of employers), a registered disabled person cannot be terminated without securing the approval of the disability office of the Lander. The probationary period gives the employer the opportunity to assess whether the disabled employee will meet the productivity levels which it deems necessary to justify continuing the relationship. It also allows the employer to decide whether the individual "fits in" with other members of the workforce.

Once the probationary period is over it can be assumed that these concerns have been satisfactorily addressed. Thereafter the issues relate to either changes in the workplace or disability which require assessment and technical solutions; or changes in the motivation of the worker or expectations of the employer.

It is possible to terminate a disabled employee. In 1990 there were 14,900 applications for permission to terminate disabled employees, 80% of which resulted in termination. An additional 3000 terminations were the result of closure of firms or a major curtailment of their activities. In 62% of the cases the employee agreed to the termination. In these cases the disability office authorities do not become involved. Almost 50% of the cases involve people over the age of 55 years, who are therefore eligible for early retirement. They apparently decide that it is time to "stop working and enjoy life" to use the words of those who work in a disability office. Many other cases involve the person going onto disability benefits.

The 38% of cases which are contested are investigated by the staff or the disability office. About half these cases produce a mutually acceptable solution, through the involvement of engineers, psychologists, sign interpreters, etc. In these cases, the application to terminate is withdrawn. The remainder go before an administrative court where the employers are successful in about 80% of the cases. The tribunals powers include being able to order that the disabled person be reinstated in their old job or be given another job within the enterprise.

There are two important conclusions to be drawn from the

protection against dismissal. First, the existence of the process prevents employers and disabled people from precipitously concluding the employment relationship. In the vast majority of cases employees or employers seek assistance prior to a break down in the relationship. The central disability offices attach a high priority to prompt and thorough responses to such early signals of problems. Employers are aware that this process exists and most will explore other options before even considering termination. In the words of a worker in the system, "the smart employer does everything he can in order to avoid dismissal". Perhaps surprisingly, employers are fully supportive of this process and have not sought to have it changed or ended. In the words of a representative of the German Employers Association, "it is a way of getting to individual cases and finding solutions". He believes the disability offices have been efficient, helpful and fair in their administration of the legislation.

Secondly, the existence of the special protection against termination emphasizes that there is a separate labour market for severely disabled people. The ongoing wage subsidy provided through the grant-levy system, and the cost of additional benefits provided to disabled employees (eg. extra holidays, early retirement, etc.) make it clear that different rules apply. Evidence linking termination and the rate of the levy can be found. Termination (excluding layoff) fell from 21,000 to 14,900 between 1984 and 1990, over a period when the levy increased by 100%. This does not mean that productivity is not an important goal. Jurisprudence in termination cases emphasizes that individuals are expected to behave in a motivated and respectful fashion, and to be adaptive and productive to the best of their abilities. At the same time it also recognizes the importance of continuity and the additional barrier disabled people face in adapting to change in the workplace. The most difficult cases involve balancing the legitimate interests of employers and employees in cases where technical solutions are unavailable, as in the case of chronic absenteeism.

The point is that this right is critical to the success of the system as a whole. Despite the widespread rhetoric that registered disabled people are "competitively employed" in the labour market, the reality is somewhat different. Disabled people are competitively employed in a labour market of disabled employees. On a day to day basis employees in the two labour markets function side by side. Both are competitive and maximize individual productivity. But they are not part of the same market.

5. Representative

Every employer which has 5 or more registered disabled employees is responsible for facilitating the election of a disabled employees' representative and an alternate. The procedure for the election is laid down in the First Order for Implementation of the Severely Disabled Persons Act (Election Regulation). The role of this representative is compatible with the elected Works Council within

each enterprise, but not a member of it. Amongst other duties they are in attendance at the monthly meeting of the Works Council and representatives of the employer. They are free to speak but do not have a vote.

The representatives are felt to play a crucial role in improving the integration of disabled employees into working life. Their legal position was strengthened in the 1986 amendments to the Act, reflecting the importance of their role. They must be registered with the Federal Institute of Employment in order to ensure the employer is complying with the law. They must also be registered with the disability office operated by the Lander, which organizes training opportunities for them. In 1987 the offices organized 750 training programs concerning the rights of disabled employees and their representatives. Unions and advocacy organizations for disabled people were also involved in program content and presentation. Of the 25,000 people who attended these programs, at least 12,000 were representatives of severely disabled persons.

In larger organizations with more than 300 severely disabled employees, the alternate representative must also be permitted to perform some of the tasks of the representative and to attend training programs in their own right.

The representative must be consulted by the employer on the possibility of filling vacant posts or training positions with severely disabled persons. They have a right to be informed and to be heard on all matters concerning their constituents. Where action has been taken without their being consulted, it must be suspended until the proper procedure has been followed.

The representative is a conduit through whom information flows to disabled employees about their rights and entitlements and from these employees to the employer, the Works Council and the trade union. Collectively they are able to assist the government in fashioning an employment program which meets the needs of severely disabled people in a realistic and relevant way.

Training Subsidies and Accommodations

Germans are justifiably admired for their highly developed and successful apprenticeship programs. Not surprisingly therefore they seek to find training opportunities for disabled people within private businesses whenever this is possible. This is also consistent with the goal of integrating disabled people into working life. Disabled people have the same vocational opportunities as the non-disabled to obtain training towards a "recognized occupation" under the Vocational Training Act. The number of disabled people seeking advice from government employment offices (almost 25% of whom applied for a training place) has risen by 40% in recent years.

A recommendation adopted by the Central Committee of the Federal

Institute for Vocational Training in May 1985 includes guidance on how the special interests of the disabled can be taken into account in intermediate, final and journeyman's examinations. This must not result in any qualitative change in examination requirements. The Institute's Committee for the Disabled is developing mechanisms to modify the curriculum for disabled people who, despite receiving the best possible assistance, are unable to receive a certificate but who would benefit from modified training. There are 493 programs in 123 occupations available for disabled people.

24,300 severely disabled people receiving training assistance from the Federal Institute for Employment in 1987 underwent in-company training. By far the largest proportion, 90%, were being trained in a recognized occupation, with only 10% attending special courses. This group is virtually assured of finding employment.

A total of 22,000 people with "special medical, therapeutic, psychological or pedagogical needs" went through the 58 segregated rehabilitation centers. One year after graduation it has been found that 80% of their graduates had found employment. This is regarded as high in light of the graduates' high proportion of "mental disorders and other behavioural abnormalities and previous records of unemployment". These centres specialize in expensive technology training in high demand occupations.

Representatives of unions and employers are heavily involved in rehabilitation bodies, including the Advisory Council on the Rehabilitation of Disabled Persons at the Ministry of Labour and Social Affairs, the Advisory Committee for Disabled Persons at the Federal Institute of Employment and the independent boards of the rehabilitation centres.

In 1986 it was decided that training posts would no longer be treated as being included towards meeting the 6% target under the grant-levy system. At the same time, the training grants for trainees was increased by 5% (70% single and 80% for married or with children of former wage or prevailing wage of occupation into which they will be going). For the first time subsidies were paid to employers who admitted very severely disabled people into training positions. As with wage subsidies, these are administered by the disability offices. Subsidies have been used sparingly (approximately 4000 per year) and there appears to be some uncertainty about how they relate to the grant-levy system.

Much clearer is the role of disability offices in making accommodations. Their emphasis is on cooperation and facilitation with both employers and severely disabled persons. They most emphatically are not advocates for the latter. Their staffs are dominated by engineers and ergonomists who specialize in assisting in the adaptation of workplaces to the needs of physically disabled people. Since 1986 efforts have been made to develop psycho-social mechanisms for supporting persons with a mental disability but this is

not yet highly developed.

Grants for one-time accommodations are usually done with 80% paid by the agency and 20% by the employer. They are routinely approved by front line workers and involve little or no delay. Since 1986, grants for ongoing accommodations have been available on a 50/50 cost-sharing basis between the agency and the employer. It is assumed that where the expense is for an assistant's salary, for example, that the assistant will have duties apart from meeting the disabled persons needs. In the case of deaf people, efforts are made to find co-workers willing to develop skills in signing as an alternative to providing ongoing services from a sign interpreter. Interpreters are available for retraining or important meetings with the employer. There is a clear preference for technical or training solutions before agreeing to ongoing expenditures such as assistants.

Because of their success in job placement the disability offices do not expend a large proportion of their resources on finding initial job placements. As a result they are able to invest heavily in supporting employers and employees, who wish their involvement, to adapt to the changing circumstances of the job. This together with the protection against unwarranted termination reduces the demands for finding new jobs and training people to be able to perform them. In summary, the success of the employment program comes from being able to utilize training, subsidy and accommodation resources when required over a person's working life.

Sheltered Employment

The existence of a large and growing number of disabled people in sheltered workshops is probably the most neglected element in the German employment program. Recently it is starting to be a contentious issue. Over 100,000 people are working in more than 400 workshops. Under German law disabled citizens have a right to meaningful occupations. Sheltered employment is included as work for these purposes. Nevertheless the people in workshops are not considered to be either employed or unemployed for statistical purposes. They are considered to be altogether outside the labour market.

Sheltered workshops are open to all disabled people-irrespective of the nature and severity of their disability (as in Ontario they are primarily persons with developmental or emotional disabilities)- who are capable of doing a minimum amount of economically viable work, but who are considered incapable of working on the open labour market. Included in this group are people who would be considered to be capable only of "work activity" in Ontario, or Sweden.

Workshops in Germany are operated by non-profit agencies, with the vast majority under the auspices of Lebenshilfe (comparable to the Canadian Association for Community Living) affiliates. An affiliate seeking to establish a workshop must demonstrate that there are at

least 120 persons who qualify for admission and that they have a workplan which will make the shop economically viable. They negotiate through an intermediary, with both the federal Ministry of Labour and Social Affairs and the Social Ministry of the Lander. The former spent DM 121 million and the latter DM 61.5 million on the construction and capital improvement of workshops in 1988. The number of workshops and the number of people working in them continues to increase, a trend which becomes particularly noticeable when there is a downturn in the economy.

Approximately 15% of the disabled people in workshops are there for a period of introductory courses and work training which lasts for approximately 2 years. The subsidy for the workshops during this period is paid by the Federal Institute of Employment at an enriched rate based on a staff-trainee ratio of 1:6, totalling DM 283 million in 1988. Thereafter, the subsidy is paid by the regional social agency based on a ratio of 1:10 and totalling DM 1453 in 1987.

According to the Federal Ministry of Labour and Social Affairs:

As in the past, the trend forecast for the next few years will necessitate the creation of further workshop places and associated residential facilities..... the age structure of the disabled people now employed in sheltered workshops is such that virtually none of them will be leaving to make way for the expected number of new entrants. The vast majority of the disabled people employed in sheltered workshops are still under 40 years of age.

This official acceptance of a growing reliance upon sheltered workshops, and virtual zero transition from the workshop into private employment is the cause of considerable ferment and controversy in Germany.

Trade union representatives expressed concern that workshops competed unfairly with the private labour market, thereby depriving union members of jobs. It was suggested that some major employers had closed their own production lines and sub-contracted work to workshops. They were also upset by the 30% reduction in the target under the grant-levy system, which they felt reduced the number of posts open to disabled union members. As one representative stated, "Unions are hurt in two ways by sheltered workshops".

Low salaries have impeded the organization of disabled employees in sheltered workshops. They range from a statutory minimum of DM 110 per month, to an average of DM 220 with a few highly productive workers receiving a substantial percentage of the prevailing rate. Unions felt they could not organize workers earning less than 70% of the prevailing rate. Disabled employees elect representatives who function in a manner analogous to Works Councils, but only a few have been able to affiliate with a union.

While union representatives did not foresee the complete closure of the workshop system, they did believe that their demand that the levy be increased would result in the successful movement of many, if not the substantial majority, of the disabled employees of sheltered workshops into private employment.

Advocates for disabled people such as BAGG and Lebenshilfe share this view. They point out that in the former East Germany there were no sheltered workshops and disabled people worked in regular jobs. They are critical of the government's refusal to learn from this example.

Employers for their part have little to say on the issue. On the one hand they are critical of the burgeoning costs of sheltered workshops, citing their inefficiency. On the other hand, when asked of their capacity to absorb the disabled people in workshops into their workforces, they were noncommittal.

The government representatives were candid about the problem. Dr. Haines stated that "moving people out of workshops is an unsolved problem in Germany" and acknowledged they "have not bridged the gap between workshops and normal employment". He was disparaging of the East German experience stating it was only achievable in a command economy. He stated that their "focus remains on those we hope will be integrated into normal employment".

According to an official Ministry of Labour and Social Affairs publication:

Ways must also be sought to help the disabled to make the transition from the sheltered workshops to the general labour market...Further developments must be based on the experience already gained by regional social assistance agencies and individual workshops with concepts for assisting the disabled and with organizational models.

Current discussions revolve around the legal status and remuneration of disabled employees in workshops. Trade unions support the efforts of advocates for full employment status and wage parity for workshop workers. Resources seem committed to expanding the current system rather than to restructuring it. Thus Lebenshilfe finds itself applying to the Horizons Program of the European Community for funds to develop demonstration programs offering integrated employment opportunities for those currently in workshops.

Despite the numerous changes authorized in 1986, the grant-levy system has not adapted to the needs of developmentally and emotionally handicapped persons. Thus while persons with increasingly severe handicaps are finding private employment as a result of multiple counting (ie. double credits for hiring certain employees), wage subsidies and ongoing accommodation subsidies, those in workshops have been excluded. One clear example is the subsidy for ongoing psycho-

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social supports. While available for 5 years it has virtually never been implemented, and Lebenshilfe was not aware that it had been. Government officials at the federal and Lander levels seemed uncharacteristically apprehensive or embarrassed when asked about implementation.

Since the capacity of developmentally and emotionally handicapped persons to work successfully in integrated settings has been demonstrated many times, I would suggest the explanation for this failure lies elsewhere. In my opinion, the problem is created by the two solitudes of the integrated and the segregated employment systems. Employers and the disability offices have no experience with the abilities of this group of people. As a result, employers are hesitant to hire them and the agencies do not know how to successfully market them or provide them with useful supports once they are hired. Typical is the comment of a senior staff member with a Lander disability office: "This is still a problem where solutions have to be discovered." When asked, he had no knowledge of the successful experience elsewhere integrating developmentally and emotionally disabled workers into private employment. The expertise of their staff is heavily weighted towards mechanical and site design accommodations (ie. engineering and architects) rather than on social support and modified training techniques.

For their part, the non-disabled staff in workshops have few incentives, little opportunity and no experience with moving their most capable employees into private employment. Virtually the same criticisms which apply to sheltered workshops in Ontario would apply in Germany. Just as the staff of the disability offices have been isolated from workshop staff, the reverse also holds true. No systematic criticism of the discriminatory way in which the disability offices are currently operating has been heard because organizations such as Lebenshilfe are so absorbed in operating their workshops that they have not had the opportunity to learn what the agencies are actually doing. BAGH looks forward to the closing of sheltered workshops. They believe the grant-levy system can be adapted to include those currently working in workshops. Their current emphasis is on finding integrated (ie. in-company) training opportunities for those who are currently being segregated, or as BAGH says "written off". This recommendation would create greater awareness of the capabilities and support requirements of this group of people, leading to successful permanent employment in the private sector.

SECTION 2--SWEDISH EMPLOYMENT PROGRAMS FOR DISABLED PEOPLE

THE SWEDISH CONTEXT

While Sweden cannot claim to be the originator of the modern welfare state, it currently is its undisputed leading exponent. The movement into a position of leadership occurred relatively recently. In 1960 the Swedish public sector represented 30% of its gross national product (GNP), which was about the average amongst the member states of the Organization for Economic Cooperation and Development (OECD) at that time. By 1980 this had doubled to approximately 60% while the OECD average leveled off at 40%.

Not surprisingly, Swedes enjoy a comprehensive network of social benefits and services. Most are provided without means or income tests, in what is viewed as a quid pro quo for what were until quite recently, steeply progressive rates of taxation. So comprehensive are these services that the role of private charity has been virtually displaced by public spending. There is a long tradition of public support for independent advocacy organizations on behalf of members of disadvantaged groups. However, the non-governmental sector does not deliver social services, their role is restricted to advocacy. Services are delivered almost exclusively by workers in the public sector. This explains why this sector comprises more than a third of all employment in Sweden contrasted with an OECD average of 20%.

While the government is highly centralized on certain key issues such as economic and labour policy, it is relatively decentralized on social policy issues and is rapidly becoming increasingly so. Responsibility for these issues devolves upon either the 24 county administrations or the 280 municipalities.

Social policy comprises one half of what is known internationally as the "Swedish Model". The other major component is its unique labour market policy.

Sweden is a medium sized, resource rich country of 8.5 million people, 83% of whom live in cities and urban areas. Its labour force participation rate of 82.6% is amongst the highest in the world, due largely to the support offered families in the raising of their children. Sweden has the most highly unionized workforce in the world. Roughly 90% of blue collar workers are members of the 24 nationwide unions affiliated with the Swedish Trade Union Confederation (LO). A comparably high percentage of white-collar and professional employees are members of affiliates of the Central Organization of Salaried Employees (TCO) and the Swedish Confederation of Professional Employees (SACO). Public sector employees are primarily represented by the Federation of Salaried Employees in Industries and Services (PTK).

With strong trade union support, particularly from the predominant LO, which has more than two million members, the Social

Democratic Party (SAP) governed Sweden from 1932-76 and from 1982-91.

The SAP together with its partner, the LO, were responsible for developing a labour policy which maintained full employment while keeping inflation under control and achieving strong economic growth. Having a highly internationalized economy which precluded the erection of trading barriers, Sweden was sorely challenged to achieve these three objectives. From the mid-1950's it has pursued an active labour market policy through the National Labour Market Board (AMS). Unlike virtually all other OECD countries, Sweden spends far more on active employment programs (eg. job training, job creation in the private sector and expansion of the public sector) than on passive programs such as unemployment insurance. With private employment agencies prohibited in Sweden, AMS plays a decisive role in matching workers and jobs.

The other element to labour market policy in Sweden is wage solidarity. Labour negotiates in 35 sectors, with rates set to ensure international competitiveness rather than to maximize short term returns. Labour's commitment to the economic success of enterprise is reciprocated by the active involvement of employers in corporatist structures within government. It is suggested that a broad consensus exists in support of the Swedish model which transcends the political spectrum.

Whether or not that was ever true is probably beside the point. The oil crisis in the mid-70's began to shake loose the policy of wage solidarity. A pattern of wage drift began to appear and unions started adopting a "me first" attitude. Swedish goods were kept competitive by a series of devaluations which only revealed further cracks in wage solidarity. While talk about privatization was muted, moves to decentralize and "marketise" (ie. create internal public markets) public services were begun during the 1980's.

Progress here was too slow to satisfy the electorate who replaced SAP with a Centre-Right coalition in 1991. The new government has already begun to cut the taxes which finance the massive welfare state services and to seek membership in the European Community, which will restrict the country's ability to maintain a fundamentally different labour or social policy. Unemployment is rising quickly to unprecedented levels. The Swedish Employer's Confederation (SAF) has withdrawn from tripartite decision-making bodies making corporatism a dead letter. Whether or not consensus existed before, its pretty clear some fundamental ideological rifts have come to the surface as Sweden enters the decade of the 90's. As a result, both components (ie. the welfare state and labour market policy) of the "Swedish model" are under considerable stress.

Description of Employment Programs for Disabled People

"Employment for All" is stated as being the aim of Swedish employment policy. Unfortunately, the reality falls somewhat short of

this lofty goal. In its place could be substituted, "Spending more and enjoying success less".

Two mainstream advocates for disabled people suggest employment is the major preoccupation for disabled persons' organizations in Sweden:

Its struggle has primarily concerned fighting for everyone's right to employment in a labour market that tends to reject an increasing number of [disabled] people.

(Carlsson at p. 27)

This increasing rate of rejection is not a product of government neglect. According to a World Health Organization survey:

Over the last 10 years [1980-90], the money earmarked by the central government for assistance that directly concerns disabled people has increased almost fivefold... local government [ie. both county and municipal] expenditures have increased at about the same rate as those of central government.

(Pinet at p. 264)

To place it in some international perspective, Sweden is spending three times the percentage of its gross national product on employment programs for disabled people, contrasted to Germany, which we have seen is very well resourced.

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I am indebted to professor Marten Soder for the following simple but clear visual description of how the Swedish system differs from the German one:

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In both systems there is a sincere and enlightened effort made to provide vocational training which is relevant and designed to meet the needs of the individual. Under the Swedish system a disabled person must climb the rehabilitation ladder to competitive employment. It assumes that the handicaps created by a person's disabilities are personal to the individual rather than environmental and within the control of the employer. It also assumes that handicaps can be overcome through rehabilitation.

The German system also emphasizes the need to climb the rehabilitative ladder. It differs from the Swedish system by acknowledging that some disabled people will not be competitively employable unless an obligation is placed on employers to give them employment. The rehabilitative process then continues after the person is employed.

In Germany the grant-levy system is the decisive element in their program of employment for disabled persons. In Sweden it is the rehabilitation service.

History

Sweden is a highly industrialized country, with a strong tradition of social responsibility. It has not been at war for 180 years. Since the Second World War, it experienced exceptionally good economic growth. It clearly was a country ripe for a leadership role.

One of the very first elements in what was to become the Swedish welfare state was an employment program for disabled people. In 1946 a government committee presented a proposal on how to improve the access of adult handicapped persons to employment and working life. The committee commenced its work by formulating a social-political policy known as the "normalization principle".

They criticized the type of social work carried out in the pre-industrial society. The philanthropic and the public protectionist attitude of social work was in their eyes not an adequate basis for modern social work.

It was also considered unsatisfactory that help like medical care, vocational training and employment exchange, even housing, was supplied from within the framework of institutional care.

As an alternative to institutionally based services the committee emphasized that handicapped persons should avail of the social services which were provided for the non-handicapped persons.

Special solutions should only be recommended if general solutions had been tried and found unacceptable.

For the committee this was a question of democracy. They considered it to be a basic civil right that the handicapped citizens of a society should have the same rights as the non-handicapped to avail of social services in society.
(Ericsson at pp.2-3)

Those involved in human services will see recognize the essential attributes of what was more fully articulated by Nirje more than 20 years later. Emphasis is on public rather than charitable resources, community rather than institutional living and a right to social services rather than to private employment. Nirje was brought to Ontario in the early 1970's. He had a profound influence on the development of the province's next generation of services for disabled persons.

A massive program of vocational rehabilitation services was developed during the 1950's. During the 1960's, there were major expansions of the medical rehabilitation system and disability benefits. Training institutions were developed which were intended to include disabled trainees. Unfortunately, the counselling received from the AMS, together with intensive training, were not producing the desired results. In 1970 AMS recognized the need for a special employment program for disabled people. They began to hire disabled people and "rented them out" to private employers. This relieved the employer of the cost and inconvenience of having a direct employment relationship with a disabled employee. AMS absorbed the financial uncertainty of hiring a person with a disability, adjusted the

"rental" fee to reflect the person's productivity and allowed the arrangement to be terminated at will by the employer. Criticism of the paternalism and one-sidedness of this system produced a shift to wage subsidies in 1980. As well, AMS assumed responsibility for vocation rehabilitation and the training institutes.

Counties, frustrated by the high economic and personal costs of unemployment amongst disabled people, established a large number of sheltered workshops to absorb those who were not absorbed into private employment. Much of the output of these workshops was being sold to one purchaser, IKEA, which was successfully forcing them to bid against each other. In 1980 a combination of rising costs, largely produced by depressed prices for output, and a decision that sheltered employment was employment rather than a social service led to the merger of these workshops under a federally owned company called the Swedish Communal Industries Group (Samhall) program of employment for disabled citizens. What is notable is that Sweden's program began as a social service/vocational rehabilitation system in contrast to Germany which began as a labour market program which left responsibility for vocational rehabilitation with the employer.

Work Activity Centres

While sheltered employment was transferred to the federal government, work activity continued to be considered a social service. It is available for intellectually handicapped adults. There are approximately 280 centres all over the country. Advocates expressed frustration at the deep gulf between work activity and sheltered employment. It was felt that many of those in the former could and should be offered the opportunity of working in the latter, but funding constraints and high productivity expectations made this impossible.

Samhall

Certainly, the most unique component of the Swedish model is Samhall. There are 24 county enterprises, each with an average of 14 workshops. In total it employs 29,550 occupationally handicapped persons, all of whom were referred by AMS once it was determined either on the basis of assessment or experience that there would be no demand for their services amongst private employers. The number of positions in Samhall is limited by the level of the government subsidy. Demand to enter is much greater than the number of jobs available so Samhall has considerable discretion as to whom they employ.

Its goal is "to offer meaningful and developing jobs to occupationally handicapped people where needed".

Salary allocation for the disabled employees is a revealing issue. All employees are members of five unions who represent workers in the wage groups whose skills are required in the workshops. Far

from an incentive bonus, piecework, or even minimum wage, Samhall's employees have negotiated salaries which are 85% of the prevailing rate in competitive employment. It is understood between the unions and management that salaries will move to 90% in the foreseeable future.

No diagnostic data is maintained on who these workers are, but contacts indicated that former drug and alcohol abusers are the largest single group, then persons with physical disabilities and sensory disabilities, followed by chronic psychiatric patients and some persons with mild intellectual (ie. developmental) disabilities.

There are ongoing disputes about the inherent conflict between the goals of rehabilitation and productivity within workshops. Critics, and there are many, point to:

1. a management style based on military discipline and a strict hierarchy (ie. Taylorism) at a time when Sweden is in the forefront of a new management style based on teamwork and flattening of management;
2. the activities within the workshop are determined by the narrow range of job opportunities available in the local workshop, as opposed to the wide range of options in the private sector;
3. the lack of work may preclude offering sheltered employment in areas where it is required (eg. Goteberg); or result in significant "down time" instilling negative rather than positive work ethic (eg. Stockholm, where it is said the workshop is overstaffed by approximately 33%);
4. the emphasis on productivity means training relates to the internal needs of Samhall rather than the external demands of the private sector for qualified workers; and
5. capable workers are in demand within Samhall, and therefore receive little or no encouragement or assistance to move into the private sector.

Samhall's response is quite simply to acknowledge the existence of the conflict but to point out how the employment program as a whole has not generated alternatives for the individuals concerned.

They point out that transitions to regular employment increase during times of economic expansion, although an economic downturn appears to reduce the rates to earlier lower levels. They also feel that AMS should assume more responsibility for referring Samhall employees for private sector jobs.

The current debate has shifted somewhat. The government operating subsidy to Samhall is SEK 3983 million or 57% of its 1989/90

operating revenues. When the average annual capital subsidy of SEK 600 million is included, government support is running at over 120% of the total salaries paid to disabled employees. This is more than if they were working in comparable jobs in the private sector on 100% wage subsidies. The question being asked is whether the private sector can do more for less.

The question is being asked more persistently in light of two developments:

1. The disabled workers are increasingly expressing their desire to work in integrated workplaces and are tired of being told there is no place for them in the private sector (Handicap och Valford? SOU 1990:19). Advocacy groups are somewhat divided on this. The HCK (ie. cross disability coalition of advocacy groups) advocates structural change and expressed interest in the German grant-levy system, while the FUB (Swedish equivalent of the Canadian Association for Community Living) was unequivocal in its support of Samhall. This is a difficult issue to assess because no alternatives are currently available to people. The fact that it is an issue at all suggests how committed disabled people are to integrated employment.
2. The international economic situation is having its impact. Workshops have traditionally been involved in manufacturing with 70% of their work done on sub-contracts. Twenty percent of their capacity is exported. They are now finding East European countries are successfully underbidding them for contracts. Believing that requesting increased subsidies from the government would be pointless, Samhall is emphasizing higher productivity, often at the cost of accepting more severely disabled new entrants. With current high rates of unemployment, they are able to choose from a larger pool of applicants. In the longer term they recognize they will have to shift from the industrial into the growing service sector. They currently have 10% of their revenue coming from "in built" workshops of five or more people. In some ways this is a return to the old AMS practice from the 70's of renting out a disabled workforce, - avoiding thereby the costs and responsibilities of functioning directly as employer. Samhall has generated two powerful opponents as they make this adjustment. Municipal administrations are major purchasers of the workshop's services. Their workers, and more particularly,, their union views this as yet another part of the privatization debate which threatens their job security. As well, AMS is critical of the development, pointing out that Samhall is competing in job markets in which they (ie. AMS) had been successfully placing disabled job candidates, and at a substantially lower cost.

Rather than attack Samhall directly, AMS has picked up on a government commission (Samhall, I Gor I Dag I Morgon, SOU 1991: 67) recommendation that placements with Samhall be viewed as temporary. AMS is now saying it will negotiate the subsidy to Samhall on an individual basis annually and reassume responsibility for placing Samhall's disabled employees in private sector jobs. The Swedish Employers Confederation (SAF) has already endorsed this proposal. Samhall has responded with a vision document (Samhall 2000) which essentially recommends maintaining and intensifying current practices.

The Nation Labour Market Board (AMS)

Under the incrementalist title of "The Aim is Work" AMS has developed a new employment program for Sweden's disabled job seekers. As the key players in Sweden's labour market strategy, it is significant that AMS is shifting directions yet again. Unlike Germany, which refines its model, Sweden seems to be still searching for a structure that works.

The Swedish labour market policy has long been distinguished by the fundamental conviction that unemployment is of primary concern to society and that a principal task for the government is to keep it as low as possible. AMS is mandated to take general and selective measures to improve the employment prospects of job seekers who are poorly or insecurely established in the labour market.

Every month 6000 new people are registered with Sweden's employment offices as "occupationally handicapped".

Most occupationally handicapped persons have some form of physical disability. Orthopaedic disabilities account for the largest group (40 percent) and if to this we add other somatic impediments (cardiovascular and lung diseases, hearing impairment and vision impairments), the figure rises to about 70 percent. The socio-medically handicapped constitute about 18.5 percent, the mentally and intellectually handicapped 10 and 3 percent respectively. Many of these jobseekers can have secondary handicaps.

(Johansson 3 at p.1)

AMS is responsible for assessing people and assigning them to different components of its programs. Even those in activity centres are indirectly placed there as a consequence of an AMS decision not to develop programs which meet their needs.

Currently occupationally handicapped people are distributed as follows within AMS affiliated programs:

Occupationally Handicapped Persons--Programs

(Second quarter of 1991)

<u>Program</u>	<u>Number</u>	<u>Cost SEK</u> (millions)
1. unemployed-receiving counselling	22414	
2. Samhall--sheltered employment	29550	4583
3. Employability List Training		
-AMS vocational trianing institutes AMI-S	3813	202
-labour market training AMI-A	9067	431
-training allowances		<u>385</u>
TOTAL	12880	1018
4. Sheltered Work with Public Employers (OSA)	10500	500
5. Introduction and Wage Subsidies	45068	4112
6. Business Grants	1000	16
7. Technical Aids	4600	166
8. Persons on Early Retirement	361,391	
9. Persons on Long-Term Sickness Benefit (of more than three months duration)	150,000	37,940

AMS has control over assessing and assigning eligibility for all programs except early retirement and long-term sickness benefits which are administered by the National Social Insurance Board.

AMS is structured in a hirerarchical fashion, with offices throughout the country. Its organization is outlined below:

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AMS is the central administrative authority for general labour market affairs and the supervisory authority for the county labour boards, official employment offices and the employment institutes. The 24 county labour boards direct, co-ordinate and follow up activities in their several counties. Upwards of 390 employment offices provide placement services for companies and job-seekers, as well as counselling services.

Training Institutes

There are 84 AMI-A institutes with 19 sub-branches. 35 of these (AMI-S) have special resources for those with severe occupational handicaps. They were established in 1980 to provide vocational rehabilitation services. Their aim is to prepare jobseekers "to find, obtain and keep a job in the open labour market". All those in AMI institutes are referred there by AMS following a determination that, "owing to occupational indecision, limited work capacity or other adjustment problems, they would encounter special difficulties in the labour market".

The programs in the AMI institutes include counselling and work testing. Work testing, which is performed in all sectors of the labour market, is aimed partly at giving jobseekers a firmer basis on which to choose their employment, occupation or education, and it is also intended as part of the vocational rehabilitation process.

According to an official AMS publication:

Altogether during the 1989/90 fiscal year [ie. still a period of high employment] there were 28,000 persons enrolled at these institutions [ie. approximately 50% would be considered occupationally handicapped]. Of those leaving AMI and AMI-S institutes, about 40% proceeded to jobs in the open labour market without wage subsidies. Another 15 percent went on to employment training or other education. Rather less than 3 percent were given temporary public employment. 17 percent left the AMI institutes for other reasons (eg. at their own request and on account of illness) while 25 percent returned to the Employment Service with recommendations for other programmes.

(Johansson 1 at p.4)

Sheltered Work with Public Employers (OSA)

"Public employers" include the national authorities (though not state owned enterprises), municipalities, county councils, associations of municipalities and inter-parochial organizations. The primary target group for those with socio-medical handicap (eg. former drug or alcohol abusers). The work may be temporary with a rehabilitative goal or it may be a permanent alternative to unemployment or early retirement. Job content varies, but consists primarily of landscape maintenance and repair work. Work may not take

the form of industrial production.

Public employers receive subsidies covering up to 75 percent of wage costs (non-wage benefits included). The possibility of transition to work in the regular labour market is subject to ongoing assessment. If this possibility is considered to exist the subsidy is terminated.

Business Grants to Handicapped People

Handicapped persons who are unable to find suitable employment in the open labour market may apply for a grant of up to SEK 30,000 to assist in starting a business. It must be established that the business would make a substantial contribution to their livelihood. Outside experts are often retained to assess the viability of proposals. Grants are repayable upon the sale or winding up of a business.

Recent stipulations have reduced the uptake of this program, as has the increase in investment costs, nevertheless AMS "has gradually come to attach growing importance to the long-term viability of the business idea".

Technical Aids for Handicapped People

This program provides grants for work experience programs for disabled young people and handicapped persons enrolled in an employment institute; as well as grants to purchase technical aids, either when the employee is hired or in special cases for those who are established employees.

Grants range up to SEK 50,000 and cover the full purchase price, repair, assessment and installation costs for such aids. 4,600 grants were made in the 1989/90 fiscal year, including 950 grants to cover work assistance. These latter grants usually cover the cost of training an existing employee to provide a service and a small portion of their salaries thereafter.

While the program was designed to make grants to established employees on an exceptional basis only, 77 percent of grants for-aid went to those who already had a job. This reflects the success of the adjustment group process in accessing government resources in support of the continued employment of disabled workers (see below). According to AMS:

It is in keeping with the rising level of aspirations in the context of labour market policy and rehabilitation that employers should assume a greater share of responsibility for supplying technical aids to established employees.

(Johansson 3 at p.7)

To date no strategy has been developed which would induce employers to

assume a larger share of this responsibility, although the employers' responsibility is now a legislative one (see below).

Many of the grants for new employees went to blind, deaf, physically and intellectually disabled persons under the TUFFA project. This project was designed to install 2000 disabled persons (500 per year for 4 years) in high tech work stations. The uptake has been somewhat disappointing. More than 3 years into the program, "fewer than 600 work stations have been installed."

Employers have been critical of the Technical aids program, considering it under resourced and inflexibly administered. Changes announced on July 1, 1991 may alter this somewhat, however, it remains very much a "discretionary-negotiated" program. Thus, access costs for employers are very high.

Introduction and Wage Subsidies

This is the major AMS program designed to encourage an employer to hire a new disabled employee. In 1980, it was substituted for the earlier employee "rental" system. While many differences remain it is noteworthy that wage subsidization is becoming increasingly important in Sweden as it is in Germany.

Under this system government employers and non-governmental non-profit organizations (NGO) were eligible for subsidies of 100 percent and 90 percent respectively. These grants were permanent. Not surprisingly the uptake on these grants was very high, and appears only to have been constrained by the budget which was allocated. As a result a high percentage of the non-professional work done in institutions such as museums and universities is performed by disabled people on permanent wage subsidy. One non-profit organization with which I spoke has 500 disabled employees under this program.

Meanwhile in the private sector an "introduction grant" based on 90% of wage and benefit costs was available, but only for the first 960 hours worked. Thereafter, the subsidy was 50% for two years and 25% thereafter.

While uptake in the public and NGO sectors was high and grew substantially over the life of the program, uptake in the private sector steadily declined to the point where it was almost non-existent. As a senior AMS official acknowledged, "the program was a hidden subsidy to museums, universities and NGO's". Whether the decline was due to reduced interest by private employers or displacement by allocation of all available resources to public and NGO employers was not determined.

The program has recently changed. Following experimental pilots in a number of counties, on July 1, 1991 AMS decided to change the wage subsidy structure so that it will no longer reflect the sectorial identity of the employer and will instead be based entirely on the

The Security of Employment Act.

This Act provides that any dismissal of employees must be on "reasonable grounds". If an employee (usually with the union's assistance) believes that a dismissal has not been reasonable, the matter can be taken to court. While the Act does not specify what are reasonable grounds, extensive jurisprudence has developed. As a general rule, illness and reduced work capacity are not considered sufficient grounds for dismissal.

When a firm must reduce its workforce the Act establishes the order in which the layoffs are to occur, giving special protection to elderly and disabled workers.

One indication of the strength of this law is the fact that employment status is retained by fully 85% of the 200,000 people receiving long-term sickness benefits. If they were successfully rehabilitated, they could return to their old job.

The Promotion of Employment Act

This legislation is intended to encourage measures which promote the employment of elderly persons and employees with a reduced work capacity due to a disability. The mechanism for action is the "adjustment group" which should exist in all workplaces with at least 50 employees. True to the corporatist model so prevalent in Sweden, an adjustment group is to be a three-way collaboration between management, the trade union and AMS. Sweden is said to be a "country of negotiations". Certainly, this is how adjustment groups routinely function. Nevertheless, there is an ultimate sanction available if negotiations fail. AMS has the mandate to demand information from the employer or the trade union and to require that an elderly or disabled person be hired.

In practice, however, the groups mainly work with transfers of existing employees to suitable jobs at the workplace to prevent them from being "squeezed out" through their inability to cope.

(Pinet at p. 270)

While AMS would like to have this function (ie. transfer and accommodation) dealt with in bilateral negotiations between the employer and the trade union, leaving adjustment groups free to create opportunities for disabled and older people to enter the workforce, this has not occurred. As a result, a structure which theoretically could restructure the workplace and force the private sector to employ disabled people, has become a mechanism for avoiding litigation under the Security of Employment Act.

In 1989 a third piece of legislation was added, the Work Environment Act.

The Work Environment Act

Buried in a law outlining the broad range of employment standards is a provision dealing with the accommodation of disabled people. The employer "must give consideration to the particular aptitudes of each employee for the work in hand". In the planning and arrangement of work due regard must be taken of the fact that individuals differ in their aptitudes to perform tasks.

Because the law is so general, it has primarily benefitted existing employees. It adds yet another level of protection for disabled people fighting to save their jobs. A disabled person who is seeking a job has no effective means of enforcing the employer's obligation. This may explain why there is interest in Sweden amongst advocacy groups in enforceable equality rights guarantees, which include a duty to accommodate. It is still too early to tell whether the duty imposed under this Act will result in reduced public subsidization of the costs of technical aids for established employees.

Working Life Services

Notwithstanding these protections, more than half a million Swedes have been rejected by the labour market because of their disability. According to AMS:

These groups represent a very high level of social security expenditure, and the figure will increase still further unless vigorous action is taken to rehabilitate as many people as possible as quickly as possible.

(Johansson 1 at p. 5)

While 85% of those who are sicklisted have a job to return to if they were capable, only 10 to 15 percent of them have been given any form of vocational rehabilitation. It would be difficult to imagine a more stark contrast to the German practice of "rehabilitation before pension".

Mindful of the staggering social as well as economic costs of this situation, the government inaugurated a series of reforms based on Government Bill 62 which was passed in April 1990.

First, employers hiring persons eligible for permanent disability pensions can receive a wage subsidy of up to 50% of the total wage cost involved. The same rule now applies to the recruitment of persons on temporary disability pensions.

Working Life Services have now been established at each of the county labour boards. They are to promote the ability of vocational rehabilitation services to assist those who are currently on early retirement or long-term sickness benefits to return to work. AMS has been authorized to sell its rehabilitation services to the National Social Insurance Board and to private employers. The employers had

been drawing upon AMS services for assessment, rehabilitation services and technical aids. As cost constraints become more of an issue it can be anticipated that increasing efforts to recover these costs will be made.

The average number of sick days per insured person in Sweden increased from 18.4 in 1983 to 26.2 for 1989. In 1990 the sickness benefit cost 37,940 million Kr. The 1990/91 Swedish Budget contained an increase of 400 million Kr. for the Social Insurance Offices to increase surveillance of reported sickness and rehabilitation services and by 500 million Kr. to purchase rehabilitation services. The increasing costs for disability benefit programs, and the government's decision to tighten enforcement are ominous signals of possible cuts in such programs as occurred recently in the Netherlands.

SECTION 3-- COMPARING GERMANY AND SWEDEN

The Swedes have demonstrated an unparalleled commitment to rehabilitation for disabled people who are seeking employment and compensation of those who are not. Despite all these efforts, they are quite candid in acknowledging their disappointment in the results.

According to an official Swedish report to the Council of Europe:

There has been a negative trend for the disabled on the labour market during the last few years. The efforts of labour market policy are aimed at breaking this trend and increasing disabled persons' opportunities for obtaining employment above all on the open market.

(Council of Europe at p. 231)

This trend is not simply a product of a downturn of the economy. A recent AMS report states:

additional efforts are needed to draw attention to the handicapped as a resource in working life. Without strong support from the community, the occupationally handicapped cannot benefit from a growth of labour demand. This was confirmed during the latest upturn.

(Johannson 3 at p.7)

Based on the available information it is difficult to share this optimism about voluntary solutions. The basic problem is a shortage of job opportunities in the private sector. Until this issue is addressed, Sweden will have no ability to move away from its dependence upon sheltered employment and early retirement.

The German trends are much more positive. The number of unemployed disabled people seeking employment has gone down despite overall high rates of unemployment. Even the staggering costs of reunifying the two Germanies, in particular the unemployment amongst dislocated

workers in the East, has not deterred the country's commitment to jobs for disabled people. The levy has been raised by 100% over a period of four years, increasing the amount of the hidden subsidy for employers who meet all or a part of their target, and also increasing the pool of funds available to move more severely disabled people into private employment.

It is not for lack of effort that Sweden finds itself in this unenviable position. The 1980's was a period of retrenchment in overall government spending. Nonetheless spending on disabled people, and in particular employment programs for disabled people continued to grow exponentially. Unwilling to cut the programs upon which disabled people have become dependent, the government now finds itself without the funds it needs to implement the two programs which do open private employment opportunities: flexible wage subsidies and subsidization of accommodation expenditures.

The German system contains a hidden subsidy through the grant-levy system of over DM 1,700 (million). This is the amount the government does not collect from the employers who have met all or part of their 6% target. Not only is it not collected, but it doesn't have to be distributed back to employers or used to deliver government rehabilitation services which employers in Germany are expected to deliver. Distribution is not a simple matter of issuing a cheque in Sweden since their most effective programs for accessing private employment (wage subsidies and grants for aids) require individual assessments and ongoing monitoring. Most of the employed registrants in Germany require no monitoring or negotiation.

Another issue which requires re-examination in Sweden is the commitment to rehabilitation rather than "in company" training for specific occupations as is provided in Germany. Sweden is not the only country to invest heavily in rehabilitation, then depend upon the marketplace to absorb disabled people voluntarily. A similar situation existed in the United States prior to passage of the Americans with Disabilities Act in July 1990:

In fact, the level of unemployment amongst those with disabilities (about 40%) compared with the adult population is less favourable in the United States than in the United Kingdom [ie. with its outmoded and unenforced quota system] despite our small army of trained rehabilitation counsellors, psychologists and social workers concerned with disability and British underutilization of clinical methods.

Some 30 million workers with disabling conditions in the U.S. guarantees lifelong security for rehabilitation practitioners and researchers. It is hardly remarkable, therefore, that the limitations of clinical methods are not being questioned by the philosophers and social scientists of rehabilitation, but by lay leaders of those with disabilities.

(Stubbins at 141-2)

It is not simply that rehabilitation does not deliver employment opportunities which causes concern. It has been clearly demonstrated that rehabilitation can be counter productive. Indeed, overemphasis on the importance of rehabilitation services can be counterproductive and prevent integration rather than promote it.

(Momm and Konig at p. 497)

Clearly overemphasis is more likely to occur in circumstances when private sector jobs are not available (eg. in Sweden) than in circumstances where they are (eg. Germany).

Sweden has relied heavily upon the expertise of rehabilitation specialists virtually from the outset. While services have been shifted from social service to labour market administrations the pre-eminent position of the rehabilitation specialist remains unchanged. However, in Germany administrative duties are largely performed by MBAs, lawyers, and engineers. Rehabilitation specialists play a consultative rather than administrative roles. Most training and rehabilitation occurs on the work site under the supervision of the private employer. The hidden wage subsidy in the grant-levy system provides employers with an incentive to assume these responsibilities. The result is a much smaller public bureaucracy, and the potential of higher transfers, in the form of financial incentives, back to the private sector.

Germany is a leading member of the European Community. Sweden has applied for membership. Its application will be considered in 1992 with a view to granting membership in 1994.

The European Community was established as an economic union in 1957 pursuant to the Treaty of Rome. By 1993 economic union will be virtually complete, with the establishment of a single market for goods, services, capital and labour.

More contentious has been the issue of the Community's role in establishing uniform social policy for its members. In the mid-1980's the "have not" members proposed amending the Treaty of Rome to include social as well as economic policy. This initiative was rebuffed by the "have" countries because they perceived uniform social standards would necessarily entail equalization payments to pay for them.

This set back was followed by the qualified success of the endorsement of a Community Charter of Basic Social Rights for Workers (Social Charter) in 1989, by 11 of the 12 member states. Britain was the lone hold out.

Article 31 of the Social Charter reads as follows:

Measures shall be taken to ensure the fullest possible integration of the disabled into working life, in particular where vocational training, professional reinsertion and readaptation and social integration are concerned, by means of improving accessibility, mobility, means of transport and housing.

The Social Charter must be described as only a qualified success because the British vote meant the unanimous consent necessary to amend the Treaty of Rome was denied.

The European Commission (the administrative bureaucracy of the Community) has adopted the position that all the articles of the Social Charter are economically based and therefore enforceable under the original Treaty by a majority vote. Nevertheless Gerassimos Zorbas, the Principal Administrator of the Social Charter on behalf of the Commission states the prevalent view is that the Social Charter is a document of "political engagement". At the time of writing of this Report, this engagement is being carried on in the Dutch town of Maastricht. The leaders of the twelve member states are debating the future of the Community as supreme decisionmaker in areas of social policy. Once again, Britain is the lone holdout. The result appears to be that the Treaty of Rome will be amended to include social policy but Britain will be given the choice of "opting out". Clearly Germany and potentially Sweden as well, will be directly affected by this change.

This is not to suggest no action has been taken in the meantime. In 1981 the European Parliament endorsed the German grant-levy system as a model to be emulated in other member countries. While this endorsement had no direct legislative consequence, it is a notable expression of opinion by the only pan-European directly elected body. It confirmed what was already well understood:

In nearly all European countries unemployment of disabled people is viewed primarily as a manpower issue and not a social services or rehabilitation problem.

(Conte at pp. 134-5)

Because it was viewed as an employment issue the Council of Ministers (the 12 foreign ministers of member states and the supreme decision-making body within the Community) endorsed an "Action Plan for the Disabled" which called for states to introduce quota or grant-levy systems over a four year period, starting in 1983. Unfortunately, the British objection to any manpower issues being considered economic matters under the Treaty of Rome and the objections of Belgium to German style employment programs produced some backtracking in 1987. While the European Commission proposed a 5% target for the employment of disabled people across the Community, the Council of Ministers did not endorse it. Instead, the Second

Action Plan (1988-91) and in all likelihood the Third (1992-94) merely encourage states to engage in programs of mutual cooperation. No firm standards have yet been established.

When they are, it is reasonable to assume that the German model will be selected. In the last five years Japan, France and the Netherlands have all adopted German style grant-levy systems. Ireland appears on the verge of following suit. Thus, while the European Community may not presently have the power to impose by majority vote a grant-levy model on the Community as a whole, this may well be the eventual outcome.

SECTION 4--THE ONTARIO BACKGROUND

Ontario is currently poised to choose an approach suited to its own conditions. While the long-standing debate will once again be central to the decision, it does not exist in isolation. There are basically 4 components to a successful employment program:

1. acute/rehabilitation medicine
2. education and vocational training
3. programs to promote employment
4. disability benefits

Each component must not only function as an integral unit, but must be harmonized with the goals and structures of the overall program.

The current climate in Ontario is ripe for reform:

1. The province has appointed a Chief Commissioner of Employment Equity and released a Discussion Paper on Employment Equity,
2. Efforts are being made to improve the operation of the Ontario Human Rights Commission,
3. At the federal level, there are several reviews ongoing of the Employment Equity Act,
4. The government is moving to end the "welfare trap" through the implementation of the Transitions Report,
5. The Worker's Compensation Act and Ontario Motorist Protection Plan have undergone major reforms and are currently under review,
6. A Committee of Parliamentary Assistants is considering harmonizing rehabilitation and disability benefits through a comprehensive system of disability benefits
7. The Ministry of Community and Social Services is reviewing

coordination of non-employment supports. These strategies are not currently available in Ontario, however COMSOC's Project Opportunity is a modest first step towards establishing private sector employment as a goal for severely disabled people, and recognizing that "supported employment" is a mechanism for achieving this goal.

9. Ontario's other VRS services are underfunded and discretionary. They are characterized by demoralizing waiting periods before people can even be assessed. Other areas of concern include assessment procedures, counselling and the training provided. Resources are allocated almost exclusively for post-secondary education and placement in an initial job. Virtually no support is provided for ongoing support, retraining or advancement.

10. Employers seem to be more amenable to hiring individuals who are physically handicapped than they are to hiring individuals who are sensory disabled (eg. blind) or cognitively disabled (eg. developmentally handicapped). They are willing to make special allowances, including more support and encouragement, extra time for training, more detailed directions and identifying the job suited to the particular person's abilities. However, they are less willing to make allowances involving reduced work demands or to become more involved in the personal lives of the workers.

11. A tremendous gap exists between profoundly disabled individuals, who may be multiply handicapped, and people with a mild disability who can with accommodation make themselves competitively employable. Notwithstanding those statistics it is also well known that two people with comparable disabilities may be limited by their disability varying degrees. These variations relate to legitimate psycho-social reasons which are beyond the individuals control, and can only partially be mitigated through structural changes.

12. Statistics consistently show that the more severe the disabilities, the less likely a person will be employable. Nevertheless, the wide variations in individual cases suggests functional definitions of disability are more useful for identifying the employment needs of disabled individuals than are diagnostic ones. Functional definitions are even more important if efforts are being made to mess employment and disability systems.

13. Success in employment is related in some measure to changes in the kinds of jobs available and to management practices. Educational level achieved is increasingly associated with improved income, job access and socio-

the operation of its vocational rehabilitation services, including the role of sheltered workshops,

8. The Federal Ministry of Finance is using the income tax system to encourage the accommodation of disabled persons,

9. The Ministry of Education has released a Discussion Paper on providing an integrated primary and secondary education for disabled students,

10. The Ministry of Transportation is committed to an integrated system of municipal transportation,

11. The Ministries of Citizenship, Health and Community and Social Services have released a Discussion Paper on long term care which recommends enabling more disabled people to live longer in their own communities.

While other initiatives could be added to the list, the foregoing should suffice to confirm that Ontario's employment programs are in a state of transition. It is therefore a most opportune time to be considering major structural reform.

As a result of the Health and Activities Limitations (HALS) Survey conducted by Statistics Canada in 1986 and the Status Report: Persons with Disabilities (1989) which was based on that data, we have baseline information from which to assess the current situation. Relevant highlights include:

1. According to the "limited in activities of daily living" definition adopted by the World Health Organization (WHO) and HALS, 11.1% of the working age (15-64) population of Ontario has a disability.

2. The majority of this group report the onset of their disability after age 25. Disease or illness causes 60% of the disabilities, with accidents at work or elsewhere accounting for 24%.

3. Almost a quarter of those disabled prior to completing their formal education, had to discontinue their schooling because of their condition.

4. Until relatively recently, persons with disabilities have been educated in alternative or sheltered settings. Currently, 8.2% of those enrolled in educational programs are segregated in this way.

5. Vocational Rehabilitation Services (URS) provided by the Ministry of Community and Social Services (COMSOC) serve approximately 14,000 clients per year, of whom 13,000 are in sheltered workshops.

6. Sheltered workshops have been the primary mechanism for preparing severely disabled people for competitive employment. Unfortunately, sheltered workshops have often failed to accomplish their stated objective. The longer one stays in a sheltered employment setting, the less likely one is to obtain competitive employment. The Status Report provides the following explanations for this failure:

a) The environmental limits of the sheltered workshop are not conducive to generalization into industrial or community-based employment settings. These centres have not developed a strong on-going production base. Consequently, there is little opportunity within them to develop current and marketable work skills.

b) In the main, sheltered workshops seek contracts that require skills already in the behavioural repertoire of workshop employees, rather than seeking contracts that would present a greater challenge and prepare the person for transition into an appropriate competitive employment setting. Most of the work currently found in sheltered workshops tends to be highly repetitive and simplistic.

c) Sheltered workshops usually pay clients for subassembly tasks, packaging, or similar jobs obtained through contracts or subcontracts with actual businesses. The work tends to lack meaning and challenge. Motivation to perform is low. The sub-contract source of work introduces another problem: insufficient quantities of work result in considerable worker down time. Instead of encouraging high productivity rates, workshops reinforce low productivity.

d) Aggravating the situation further is the fact that many workshops are under-staffed and have little time to investigate potential community placements.

7. Many people with severe (and multiple) disabilities who would have been considered "unemployable" by traditional rehabilitation standards have been prepared for, obtained and maintained competitive employment. These impressive results have been achieved in pilot projects in the United States, France, Canada and in more generalized programs in Italy (see Enrico Mortobbio and Paolo Ferrigno, "The Integration of Young People with Mental Disabilities into the Adult Working World", Research Centre for the Social Integration of Young People with Mental Disabilities, Italy 1991) Germany (see below) as well as in several Eastern European countries.

8. These programs require more than job procurement and an initial accommodation. They also require retention strategies involving retraining, ongoing support and

economic status in general. This reflects a shift within the economy away from resource-based to service jobs, and to the increasing levels of skills required within the industrial sectors which are employing new technologies in order to improve productivity. These trends cause concern for those with disabilities which do not correlate with academic success (eg. deafness, learning disability and developmental handicap). Some new technologies however, assist those for whom they can provide an accommodation (eg. mobility handicap or blindness). Similarly, the trend towards a flattening of the management hierarchy and a flexible team approach to production and away from "Taylorism" and rigid job descriptions can be seen as a mixed blessing. It holds out the potential for greater flexibility and inclusion of people with different skills and capacities; but it may lead to a broadening of the capacities required for employment and an ability to participate at a high level of independence.

14. Assessing the employment rates of disabled people is complicated by the criteria used to categorize a person as being in or outside of the labour market (ie. recent history of seeking employment). Thus, while the unemployment rate for disabled people (13.4%) is substantially higher than for their non-disabled peers, this is compounded by the much lower participation rate of disabled (49.8%) as opposed to non-disabled (65.7%) people.

15. An important criteria developed by Statistics Canada for use in HALS is the concept of a person being "limited at work" (ie. the range or degree of occupation) as a result of their disability. 49% of employed disabled people reported being limited at work, compared to 77% of unemployed disabled people.

16. In general, special arrangements or equipment are not required by employed disabled people. Of those who do have special requirements, almost one-third (31%) of the needs have been met by the employer. Presumably the remainder either do without, work without a needed accommodation or meet their requirements at their own expense. Amongst unemployed disabled people, almost 35% reported being refused employment specifically because of their disability. This suggests that employers either questioned the person's capacity to perform the job or were unwilling to make needed accommodations.

17. When severely disabled people are employed, they tend to be concentrated in low-paying, part-time or marginalized sectors of the labour force, and therefore, face correspondingly low incomes. Amongst employed disabled persons 33.4% characterize their chances for advancement in

c.
their current jobs as "poor". Disabled people may also cling to their current jobs rather than accept the uncertainty of seeking advancement with another employer.

18. About one-third (227,000) of Ontario's working-age disabled population report that they are "completely unable to work". This is a large group that bears careful examination. Many of these people are receiving disability benefits such as Family Benefits Act (FBA) GAINS D, Canada Pension Plan (CPP) disability benefits, Worker's Compensation (WCB) benefits, Ontario Motorist Protection Plan (OMPP) no fault benefits and private long term disability (LTD) benefits. Despite the fact that these plans require that a recipient be "unemployable" they all (with the exception of CPP), make concerted efforts to encourage rehabilitation and a return to employment. As well, the ability to work must be viewed as a subjective (and realistic) assessment of the willingness of employers to hire the individual. Thus a person may be able to work as a result of successful rehabilitation, or a substantial shift in the willingness of employers to make accommodations or to hire people whose productivity level is less than what is currently considered to be competitive or marketable.

19. In the future a very high percentage (approximately four fifths of new entrants between now and the year 2000) of the workforce will be drawn from employment equity target groups. Thus in times of prosperity, disabled people will be increasingly in demand. The problem is that their marginal position within the labour market suggests that an economic downturn would produce wholesale dismissals of disabled people. The experience of the federal public service (hardly the most market sensitive employer) is a telling example. Disabled people were hired on contracts and when downsizing occurred, their contracts were terminated.

20. Age is a major codeterminant of unemployment for a disabled person. Older people will decide the effort of seeking employment is not justified in light of the benefits available, which will likely have peaked. If they return to work at a lower salary, they may actually reduce their benefits. For employers, hiring an older employee produces higher benefit costs, and requires a return on investment (eg. in recruitment and training costs) over a shorter time.

SECTION 5--CONCLUSIONS

History and Development

1. It is easier to "privatize" responsibility for employment, rehabilitation, training and accommodation of disabled people in a system based upon a grant-levy system than a system of sheltered employment and segregated rehabilitation.
2. The management and personnel in a grant-levy system are more results oriented than their counterparts in a rehabilitation system who tend to be process oriented.

Target Group

3. As many disabled people as possible should be encouraged to use the regular system of training and entry into employment. For this group the key legal safeguard required is effective anti-discrimination legislation.
4. Special programs are required to ensure either employers and/or government pay the extra costs for the accommodation of disabled people who are "limited at work". This program would take the form employment equity. Compliance cannot be left entirely to a case by case approach. Employment equity is the best way to track disabled people up the promotional ladder to full equality.
5. If the program adequately deals with the limitation at the outset, or at irregular intervals thereafter a permanent wage-subsidy, or hidden subsidy (ie. grant-levy) is not required for all the members of the group who are "limited at work".
5. For people whose disability requires a substantial ongoing outlay for accommodation, whose disability is compounded by another disadvantaging condition (eg. age), or who has a demonstrated inability to access the private employment (eg. sheltered employment or receipt of disability benefits for more than one year) a permanent wage subsidy through a grant-levy system should be considered. Such a person should also be protected under an employment equity program and not be required to sacrifice any rights under a human rights code.
6. Medical definitions fail to recognize the psycho-social factors which affect individuals differently. A functional definition allows for a smaller target group and concentration of resources on those who have demonstrated a

need for them. It also reduces the bureaucracy required for assessment of eligibility.

8. It is easier to begin a grant-levy system with a small target group and expand it, than the reverse (ie. removing registration from those no longer eligible for it).
9. The capacity for very severely disabled people to be productive has only recently been firmly established. Any modern grant-levy system should incorporate this knowledge from the outset.
10. A permanent wage subsidy (whether direct or hidden) creates a separate labour market, where the issue of "competitive employment" is misleading. The goal of a grant-levy system is "private" or "real" employment, not employment in direct competition with persons in the non-subsidized labour market.

Stigma

11. Unemployment, segregated rehabilitation and sheltered employment are far more stigmatizing than registration and employment under a grant-levy system.
12. The tri-partite negotiation of a temporary, flexible or permanent direct wage subsidy is stigmatizing. Wage subsidies (preferably only temporary ones) should not be negotiated but assigned unilaterally by the body providing the subsidy.

Administration

13. A system of hidden subsidy is far more effective and justifiable than a system of hiring quotas.
14. A grant-levy system requires far less bureaucracy than either a quota or a rehabilitation and direct subsidy system.
15. A grant-levy system generates far lower access costs for an employer than a rehabilitation and direct subsidy system.

Rehabilitation

16. Rehabilitation services are useful in support of training and employment. They should not be an end in themselves.
17. Timing is a critical issue in rehabilitation. Rehabilitation should begin as soon as possible following disability and should be fully explored before a permanent disability benefit is provided.

18. If rehabilitation and training is not provided "in company", programs should actively involve the expertise of employers and unions to ensure their ongoing relevance to the demands of the marketplace.
19. Rehabilitation resources are not wisely spent unless there is ready access to private employment. Money is wasted on sheltered employment, finding temporary employment and finding "permanent" employment which turns out to be transitory. This money is best spent in establishing people in a job and enabling them to hold on to a job once they've found one.

Permanent versus Flexible Subsidies

20. Where demand overwhelms resources available to meet it, there is a temptation to use flexible subsidies (ie. renegotiated based on performance on the job). Such cost-cutting produces false economies, because it reduces the employee's incentive to excel and causes the employer to reassess the employee's position in the company.

Advocates

21. Unions are powerful advocates for their disabled members, but in the context of an employer/employee relationship, they are much less effective at creating employment opportunities for new employees with a disability.
22. Government is most effective as an enforcer of job access legislation and provider of resources to support the employment relationship. Despite having strong moral, economic and political incentives to secure employment for disabled people, they would compromise their two primary roles if they added to them the role of advocate for disabled job seekers.
23. Disabled employees should be able to elect their own advocate or representative. By linking the representative to advocacy organizations for disabled people it would be possible to broaden the representative's responsibilities to include the needs of prospective as well as existing employees.
24. Such a representative would have a useful role to play in an employment equity or anti-discrimination system, as well as in a grant-levy system.

Incentives for Employers

25. Government should be subject to the same incentives and responsibilities as private employers.

26. Employers value certainty, ease of administration and timeliness.
27. The private sector is the critical goal for any employment program. Opportunities in the private sector are extremely varied, and therefore the private sector is best equipped to select people and train them.
28. The private sector is extremely flexible. It can adapt to a grant-levy system. It will respond to clear and consistent incentives.
29. Employers are critical of wasted resources in a segregated employment system.
30. Employers will accept a 100% increase in a levy virtually without complaint if they are shown that creating employment opportunities is good for the economy, minimizes bureaucracy and dependency on social programs and that the levy funds are efficiently administered for a worthwhile purpose.

Incentives for Trade Unions

31. Trade unions demonstrate solidarity with all disabled people who want to work, not only with their own members who become disabled at work.
32. Collective bargaining is designed to benefit current employees, or former employees. If it is desirable to achieve improved employment opportunities for all disabled people who wish to work, even in countries with much higher rates of unionization than Canada, it is necessary for the government to intervene.
33. Trade unions welcome strong government intervention in this area, and are critical if the intervention does not go far enough.
34. Unions have ambiguous feelings about sheltered employment, but are unanimous in their support for direct or hidden wage subsidies.

Incentives for Disabled Jobseekers and Employees

35. Disabled people, particularly those entitled to disability benefits, are entitled to certainty of employment. For this reason a special system of termination protection is necessary.
36. The termination procedure provides an effective mechanism for ensuring all accommodation options have been fully

explored.

37. Consideration should be given to finding ways to afford disabled people preferred status when an employer lays off employees.
38. Any astute employer will engage in "creaming" (ie. select the most profitable combination of employee and wage subsidy). A "grant-levy" system can be adapted to reflect the employability of a particular individual. The basic levy can be raised or lowered, special credits can be given for persons who are functionally more handicapped, and direct grants (presumably temporary) can be included in the system. Such a system would motivate the more severely disabled individual to seek employment.
39. A disabled person who wants to work should be recognized by all (ie. government, employer, trade union, co-workers) as someone who is making an important contribution to the overall wealth of society, and not as someone looking for favours and handouts. This combined with timely rehabilitation and training and real job opportunities will maximize the motivation of disabled people. Psychological motivation is just as important as financial motivation.
40. Those eligible for registration under a grant-levy system should be assumed to be eligible for one form of disability benefit or another. No duress should be used to force an "unemployable" person into a job which might cause additional physical or psychological impairment. Clear financial and psychological incentives will produce the desired result.

Incentives for Reform in the Public Interest

1. The key issue for any employment program for disabled people is what opportunities to offer disabled job seekers who are not competitively employable.
2. A grant-levy system for such people can be justified on social and moral grounds, but also economic ones. In a modern industrial state the cost of maintaining disabled people in a state of dependence on disability benefits is very high.
3. A grant-levy system is the best known way to maximize the productivity of disabled people who are deemed to be non-competitive.
4. A grant-levy system is more dynamic than a system based on continuing entitlement to a job, although the two are in no

way incompatible. Grant-levy is based on entitlement to employment, is partially insulated from economic downturns (ie. pain is fairly distributed) and does not depend upon the survival of a particular employer.

45. The level of public acceptance from all sectors of society for grant-levy systems is extremely high. This conclusion can be substantiated by considering the number and type of countries which have adopted such a system in recent years.

SECTION 6--RECOMMENDATIONS: THE RELEVANCE OF GERMANY AND SWEDEN TO ONTARIO

RECOMMENDATION 1:

DISABLED PEOPLE WHO ARE NOT LIMITED IN THE RANGE OF WORK THEY CAN PERFORM BY THEIR DISABILITY SHOULD BE INTEGRATED IN REGULAR EMPLOYMENT PROGRAMS, BUT HAVE ACCESS TO ANTI-DISCRIMINATION REMEDIES.

RATIONALE: Any employment program for disabled people should integrate as much as possible, and target resources and safeguards on those who require them. Both Germany and Sweden reflect this in their employment programs. Interestingly, advocacy groups in both countries are lobbying for anti-discrimination legislation.

RECOMMENDATION 2:

DISABLED PEOPLE WHO ARE LIMITED IN THE RANGE OF WORK THEY CAN PERFORM, SHOULD BE PROVIDED WITH THE ACCOMMODATIONS THEY REQUIRE IN ORDER TO MAXIMIZE THEIR PRODUCTIVITY, AND BE ELIGIBLE FOR INCLUSION IN A MANDATORY SYSTEM OF EMPLOYMENT EQUITY.

RATIONALE: Accommodation is the key issue enabling disabled people to be competitively employable. Whether the cost of accommodation is the responsibility of the employer or the government, a systemic mechanism is required to ensure accommodations are made not only at the entry level but throughout all levels of the organization. Until employment equity has been tried in Ontario, it is inappropriate to introduce a grant-levy system for such a large group of people.

RECOMMENDATION 3:

ALL PEOPLE WHO VOLUNTARILY SELF-IDENTIFY AS BEING LIMITED AT WORK DUE TO THEIR DISABILITY SHOULD BE ELIGIBLE FOR SPECIAL PROTECTION AGAINST TERMINATION WITH OR WITHOUT CAUSE, IN A MANNER COMPARABLE TO THE GERMAN SYSTEM.

RATIONALE: Disabled people who are limited in the range of work they can perform are at a disadvantage in finding new work. For them continuity is a major issue. As Germany has demonstrated, even employers can agree that termination protection ensures that every effort is made to find an accommodation which will enable an employee to continue her employment.

RECOMMENDATION 4:

ANY EMPLOYER WHICH HAS MORE THAN 5 EMPLOYEES WHO ARE LIMITED AT WORK SHOULD BE REQUIRED TO ASSIST THEM IN CONDUCTING AN ELECTION OF A REPRESENTATIVE AND ALTERNATE, COMPARABLE TO THE GERMAN SYSTEM. THEY SHOULD BE CONNECTED TO ADVOCACY ONTARIO.

RATIONALE: Because of the range and complexity of accommodation and disability benefits issues which arise on a day to day basis, it would benefit all parties to the employment relationship to have an informed person available to assist disabled employees and jobseekers on the premises. By connecting the representative to Advocacy Ontario, it is possible to provide them with necessary training and broaden their mandate to include jobseekers as well as current employees. Such a person would have a valuable role to play in the negotiation of employment equity plans.

RECOMMENDATION 5:

ONTARIO SHOULD INITIATE A GRANT-LEVY SYSTEM, RESTRICTED INITIALLY TO PEOPLE WHO ARE FUNCTIONALLY UNEMPLOYABLE, INCLUDING:

1. People eligible for permanent disability benefits, or in receipt of GAINS D for one year;
2. People who are limited at work due to their disability and have high ongoing accommodation costs (eg. for assistants);
3. People who are limited at work, have higher than average benefit costs and have been unemployed for 1 year (eg. people over the age of 55 years); and
4. People who have been in sheltered workshops for more than 1 year or unemployed people temporary wage subsidies for more than 2 years.

THE GRANT-LEVY SHOULD BE COMPARABLE TO THE GERMAN SYSTEM.

RATIONALE: A grant-levy system could be phased in (ie. increasing the target and reducing the size of the employer over a five year period). It would provide a permanent subsidy for those who would not otherwise be competitively employable.

RECOMMENDATION 6:

THE LEVY FUND SHOULD INITIALLY BE DEDICATED TO MAKING AVAILABLE ACCOMMODATION AND WAGE SUBSIDIES FOR REGISTERED PERSONS SO THAT THE APPROPRIATE BALANCE BETWEEN THE PRODUCTIVITY OF THE TARGET GROUP AND THE LEVEL OF THE LEVY CAN BE DETERMINED.

RATIONALE: Once the employment goal has been stated (ie. virtually full private employment for functionally "unemployable" jobseekers) and the structure established (ie. grant-levy) it is important to allow the market to operate. Rather than adjusting the levy wildly, a system of direct grants could be used find an equilibrium point. Once the levy has been adjusted to the appropriate level, funds could be then used to subsidize accommodation and training costs.

RECOMMENDATION 7:

THE MINISTRY OF COMMUNITY AND SOCIAL SERVICES, EMPLOYMENT AND IMMIGRATION CANADA, THE WORKER'S COMPENSATION BOARD (AND OTHER PAYORS OF DISABILITY BENEFITS) SHOULD RESTRUCTURE THEIR REHABILITATION AND TRAINING PROGRAMS TO REFLECT THE CHANGED LABOUR MARKET SITUATION. STEPS SHOULD BE TAKEN TO ENSURE NO UNWARRANTED WINDFALL PROFITS ARE REALIZED (PARTICULARLY BY PRIVATE INSURERS) AS A RESULT OF THE ENHANCED EMPLOYMENT OPPORTUNITIES WHICH THE RECOMMENDATIONS WOULD PRODUCE FOR DISABILITY BENEFIT RECIPIENTS.

RATIONALE: While it is outside the scope of this paper to detail consequential reforms to the rehabilitation, training and disability benefit programs currently in existence, it is important to recognize that they will necessarily be significant.

RECOMMENDATION 8:

AT LEAST INITIALLY THERE SHOULD BE NO BENEFITS MADE CONTINGENT UPON REGISTRATION.

RATIONALE: This recommendation is consistent with encouraging a gradual development of a program. Just as it is important to offer appropriate inducements to employers, it is also essential to identify inducements which would encourage people to register. Initially, the prospect of subsidized employment, together with improved training and comprehensive accommodation grants should be a positive attraction. Ensuring that disability benefits are not jeopardized through registration will be critical to motivating a positive response. If it is later learned that improving benefits for registrants is necessary as an inducement or as a means of adequately compensating disabled people for the rigours of holding private employment then changes could then be made.