Nowadays, the focus of the human rights agenda for disabled persons is not so much to establish that we have human rights – at face value, this is accepted.
Human Rights and Disability

- An often overlooked dimension of human rights.

- Too often disabled persons are excluded from mainstream society and are denied equality because of deep rooted attitudinal, as well as, physical barriers.

Related Legislation

- Social Security Act
- Children’s Special Allowance
- Disability Pension
- Carer’s Allowance
- 1969: Disabled Persons Employment Act
- October 2000: Equal Opportunities (Persons with Disability) Act
Act 1 of 2000: The Equal Opportunities Persons with Disability Act (EOA)

The need for anti discrimination legislation was felt because,
- Disabled persons are effectively excluded from full participation in the life of their communities,
- The invisibility of disabled persons reflects, the failure to accommodate us in the ebb and flow of daily life.

The EOA part 1

PRELIMINARY

"disability" means, a physical or mental impairment that substantially limits one or more of the major life activities of a person;
The EOA Part II

DISABILITY DISCRIMINATION

A person shall be discriminating against another person on the grounds of disability if he treats or proposes to treat such other person less favourably than he treats or would treat others who do not have such a disability..........

The EOA Part III

AREAS COVERED

- employment
- education
- physical access
- services
- housing
- insurance
The EOA Part IV

TEST OF REASONABLENESS

- EOA only considers technical and financial reasons for exemption

The EOA Part V

THE NATIONAL COMMISSION PERSONS WITH DISABILITY

- Various functions
- Regulator of EOA
THE EOA PART VI

- COMPLAINTS
- INVESTIGATIONS
- ENFORCEMENT

Important Aspects of the EOA (1)

- Promotes the Social Model

The social model simply affirms that our disability is created by a society that does not take into account us as people with impairments (UPIAS 1975).
Important Aspects of the EOA (2)

- Applies to both private and public sectors
- The onus of proof is on the respondent
- Only accepts technical and specific financial reasons for exemption

Important Aspects of the EOA (3)

- Includes an Enforcement mechanism
- Supersedes other laws, regulations, administrative provisions
- Eliminates existing barriers in society and prevents new ones
The EOA: Accommodation

- Equal Treatment

- The stipulated Accommodation

The EOA: The KNPD’s Role

- Provides advice and information
- Supports disabled persons in securing their rights under the EOA
- Works to change policy, practice and awareness so that disabled persons get a fairer deal
- Registers and investigates alleged acts of discrimination on the basis of impairment, negotiates an equitable solution and, only as a last resort, seeks redress through the Courts.
Complaint Procedure

- The EOA Compliance Unit considers the complaint.
- If *prima facie* discrimination has occurred, the defendant is informed and asked for further comments.
- Unit uses mediation procedures to negotiate a speedy and equitable solution.
- If all this fails, Commission obliged to proceed legally.
- Commission strives for an amicable solution.

Annual Report

<table>
<thead>
<tr>
<th>Table 1: Complaints Over the Years</th>
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<tbody>
<tr>
<td>Year</td>
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<tr>
<td>00/01</td>
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<td>04/05</td>
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<td>05/06</td>
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<tr>
<td>Total</td>
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</tbody>
</table>
### Table 2: Complaints Handled by KNPD in 2005-2006

<table>
<thead>
<tr>
<th>From previous years</th>
<th>Emp</th>
<th>Educ</th>
<th>Acc</th>
<th>Serv</th>
<th>Hse</th>
<th>Ins</th>
<th>Total</th>
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<td></td>
<td>N</td>
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<tr>
<td>New</td>
<td>6</td>
<td>7</td>
<td>24</td>
<td>20</td>
<td>18</td>
<td>45</td>
<td>92</td>
</tr>
<tr>
<td>Total</td>
<td>6</td>
<td>4</td>
<td>98</td>
<td>84</td>
<td>54</td>
<td>26</td>
<td>157</td>
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</table>

### Court/Arbitration Cases (00-06)

<table>
<thead>
<tr>
<th>Qorti</th>
<th>Protest Gudizzjarju</th>
<th>Arbitragg</th>
<th>Tribunal Ind.</th>
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<tbody>
<tr>
<td>Michele Peresso (02)</td>
<td>Latini Restaurant (05)</td>
<td>St James Cavalier (02)</td>
<td>Edible Oil (05)</td>
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<tr>
<td>Invicta (02)</td>
<td>Knisja Gharb (05)</td>
<td>Casa Leone (02)</td>
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<td>SBT (02)</td>
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<tr>
<td>Gzira Health Centre /St Luke's Hospital (03)</td>
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<td>Universita (04)</td>
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<tr>
<td>Calypso Hotel (05)</td>
<td></td>
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</tbody>
</table>
Effects of the EOA

- Elimination of barriers
- Accessible schools
- Accessible ECDL exam papers
- Hands free telephone at work
- Accessible bill statements
- Accessible parish churches

EOA: Raising awareness

- Conferences and Seminars
- KNPD publications
- Lectures
- Website www.knpd.org
The EOA a tool for change

This legislation is a force, for positive and meaningful change. It has started a momentum based on action, pushing away from the care, cure and charity models of assistance, to a model of empowerment, dignity, self-respect and self-determination.

A changing society

- The need to integrate disability measures in mainstream activities.
- MEPA Policies CIR 3/99, CIR 4/01 u CIR 2/02
- Exam arrangements - MoE/University
- MPO Cir. 6/04 – emp. within the Public Srv.
- OPM Cir. 25/06 – providing accessible srvs
- Budget 2006 - Disability pension - marriage
The way forward

Further eradication of discrimination requires:
- Enforced Guidelines/standards
- Continuous awareness raising programmes,
- Continuous monitoring of the discrimination situation,
- Research to identify and analyse discriminatory patterns in various areas of life, ex. The right to a family; the right to life

All of these core antidiscrimination activities have one thing in common: they require the supply of data on discrimination based on the Social Model.

The adoption of positive action measures based on sound statistics to improve the situation of those who suffer from disadvantages arising out of discrimination.
The way forward

Associations for disabled persons
- Training of disabled persons in self advocacy

Media portrayal of disabled persons
- Should show positive images of disabled persons
- Not make us look pathetic, strange-looking, different, 'unfortunate', etc. All this so that more money can be collected ...

Human Rights: the concept of equality

- As a concept, “equality” has a more diverse nature than simply antidiscrimination.
- Across Europe and in international law equality is recognised as a concept having a deeper meaning than the mere resolution of an individual wrong.
Conclusion

Equality is a group issue too.
- It includes not just equal access to justice, equality before the law, and equality of opportunity,
- but also
- a fair distribution of social goods, and where necessary a remedial or compensatory action to take account of past or present disadvantage or lack of equal opportunity.

Human Rights and Disability

“Reaffirming the universality, indivisibility and interdependence of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination” (UN Convention 2006)

University of Malta
15th February 2007