

# The road to reciprocal integration

A manual for public institutions and civil society organisations that meet migrants with non-normative abilities and work with reception, establishment, integration and social support.



Independent  
Living Institute  
[independentliving.org](http://independentliving.org)





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**Independent Living Institute's webpage:** [www.independentliving.org](http://www.independentliving.org)

**Disabled Refugees Welcome's webpage:** [www.disabledrefugeeswelcome.se](http://www.disabledrefugeeswelcome.se)



## Preface

The aim for this manual is to provide authorities and organisations with tools to better achieve an accessible reception and a reciprocal integration. Access to human rights is not provided automatically. Government, authorities and municipalities have obligations towards individuals, and individuals often need support and coordination in different ways for their rights to be met in practice. Disabled Refugees Welcome, DRW has met individuals whose stories show how inadequate coordination between authorities sometimes is and how rights are not met. Accessible reception of migrants with non-normative abilities on equal terms and based on individual conditions is one of the most important factors for successful establishment and integration in Sweden. This applies to both infrastructure and individual support and service.

### ***What is an accessible and reciprocal integration?***

For us working in DRW, it is a stance on how migrants with non-normative abilities should be met, approached and treated, before, during and after the asylum process and integration, enabling them to become part of the community with the rights and obligations this entail. It also means that individuals that are exposed to different hazards and discrimination due to, for example, war, persecution or stigma, should be able to find sanctuary in Sweden. A sanctuary where they are met and approached with respect and sensitivity based on a deep understanding that human rights should be applied to and guaranteed for all. This provides conditions for society to be able to set reasonable demands on the individuals and by doing so, creating inclusive equality. The manual will provide support to officials in authorities and organisations meeting migrants with non-normative abilities. Authorities and municipalities are subjected to obligations and demands under international conventions for human rights. Therefore, these rights need to be implemented within many activities.

**DRW would like to thank all the wonderful individuals that have contributed to this manual and the project!**

*Stockholm July 2019*



## Introduction

The starting point for this manual is that all human beings are equal in dignity and rights irrespective of abilities, sex, gender identity, sexual orientation, ethnicity, age, economic status, migration status or religion. DRW's fundamental pillar of work is the intersectional perspective, which acknowledges that power structures interact and affect individuals' access to power and resources. This applies especially to the right to living independently and being included in the community <sup>1</sup>.

The manual consists of three main chapters which can be read separately or consecutively. The introduction contains a background to the issues and perspectives of norm critique and power structures that can be used within different activities for inclusive equality. The second chapter of the manual contains different societal processes, and how authorities are supposed to work regarding human rights for individuals with non-normative abilities that have migrated to Sweden. The third and last chapter contains a critical analysis of how the practise might look. How does the division of responsibility between authorities in Sweden affect individuals' access to human rights? What impact does the intersection of migration and (dis)ability have on the chances of a successful establishment for the individual and the priorities for a reciprocal integration on society?

Recommendations for better coordination in politics and administration are provided at the end of the third chapter — the manual deals with issues of rights for migrants with non-normative abilities except for EU-migrants. The situation of EU-migrants is partly influenced by other practical and legal issues than those met by individuals seeking asylum or residence permit on other grounds.

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<sup>1</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>



## 1. Independent Living, power structures and critical perspectives on society

In general, authorities and organisations are lacking in knowledge and awareness of how human rights for migrants with non-normative abilities should be implemented. The intersection of migration and (dis)ability generate little attention. DRW has received questions from several authorities and stakeholders on how the rights should be met and where the responsibilities lie. This proves the need for this manual.

This introductory chapter describes Independent Living as a movement, an ideology and a right. The chapter also contains a brief account of the origin and approach of the DRW-project. An explanation of some concepts used in the text such as intersectionality, empowerment and perspectives of norm and power critique. DRW's definition of equally inclusive integration is thereafter explained as a background for a better understanding of the system regulating migration and social law in Sweden, which is closer described in the next chapter.

### The Independent Living- Movement and ILI

The Independent Living Movement began in the USA during the 1950s in the wake of the polio epidemic as a reaction against society's lack of support and infrastructure for individuals with non-normative abilities. Institutional living and other forms of segregated housing constitute a severe form of discrimination, one of many wrongs the movement struggle against. The movement has spread over the world and inspired the development of ideas on human rights, especially concerning **the right to a self-determined life and full participation in the community for individuals with non-normative abilities**. Independent Living is today more than a movement, it is also a right and an ideology which is shown by article 19 of the CRPD<sup>2</sup> and the general comment number 5<sup>3</sup>.

### The ideology of Independent Living

The foundation of the Independent Living ideology is that everyone has a right to self-determination, being included in the community, with choices of their own and empowerment. **Self-determination, equal rights and equal opportunities to make life choices are core aspects of the Independent Living ideology.**

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<sup>2</sup> <https://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>

<sup>3</sup> <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhnsbHatvuFkZ%2bt93Y3D%2baa2q6qfzOy0vc9Qie3KjjeH3GA0srJgyP8IRbCjW%2fiSqmYQHwGkfikC7stLHM9Yx54L8veT5tSKEU6ZD3ZYxFwEgh>



Accessibility, individually adapted support as personal assistance and supported decision-making, as well as effective measures against discrimination such as universal design as a base for buildings, are the actual areas where society has to guarantee the implementation of the right to self-determination. All this act towards one goal – that individuals with non-normative abilities will have equal opportunities to choose and control in their lives as others.

Discrimination on the ground of disability (the terminology of the Discrimination Act of 2008), segregation, institutionalisation and medicalisation are the opposite of Independent Living. In essence, institutionalisation and institutional living mean that individuals' loose choice and control over their own life and instead are subjected to the decision of others irrespective of whether they live by themselves or collectively.

### Independent Living Institute

The Independent Living Institute (ILI) is a thinktank and project platform for the civil rights movement consisting of individuals with non-normative abilities. The foundation of ILI was set up in 1993 to extend the pursuit of issues founded in Independent Living ideology beyond those the assistance cooperative STIL<sup>4</sup> was directly involved with.

ILI's underlying principles are self-determination, self-respect and empowerment. ILI is striving for a society that will respect individuals with non-normative abilities' integrity, capacity and (dis)ability, and demands participation in the community on equal opportunities as others.

### Disabled Refugees Welcome

Disabled Refugees Welcome is a three-year project directed at asylum seekers and other migrants with non-normative abilities. DRW is funded by the Swedish Inheritance Fund for the years 2017-2020. The project Disabled Refugees Welcome has its origin and foundation in Julius Ntobuah's personal experiences as a migrant with non-normative abilities of the reception in Sweden.

During long conversations with Julius Ntobuah on the experience of living as an asylum-seeker with non-normative physical abilities, Adolf Ratzka, founder of the Independent Living Institute developed the project idea of DRW and wrote the application for its funding.

Julius is one of Disabled Refugees Welcome's field workers. DRW is actively working to prevent the ramifications of an absence of a rights-based disability perspective within

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<sup>4</sup> <https://www.stil.se/en>





authorities, NGO:s and the community as a whole concerning migration and establishment policies as well as decisions.

The project is strengthened by the people that support DRW's fundamental value of a reciprocal integration and an accessible establishment of migrants with non-normative abilities in the Swedish community. Everyone is welcome – family members, friends, individuals working with integration and disability issues within authorities or civil society.

**The foremost aim of DRW** is to create new and effective methods that increase the possibility for a reciprocal integration and an accessible reception of migrants with non-normative abilities.

DRW works with **empowerment**, which means that individuals must be guaranteed resources and mandate to take control over their own lives. The Independent Living movement uses peer-support to exchange experiences and learn strategies from each other on how to navigate in the community. One strategy can be collective action for change in conditions, policies and structures to further social relations.<sup>5</sup> According to WHO, empowerment is a process where individuals learn, act and take control over decisions affecting their health<sup>6</sup>. DRW wants to be a platform to gather and raise voices that together create a force against discrimination and preconceptions on migrants with non-normative abilities, a pursuit which strengthens the Swedish democracy.

From **the intersectional perspective**, which makes visible interaction between different social categories of power and its consequences, DRW has identified adverse structural inequalities and discrimination based on (dis)ability, ethnicity and migration.

Within the frame of **the rights-based disability perspective**, DRW works mainly with increased participation and empowerment of migrants with non-normative abilities through, providing a space for personal stories, awareness-raising measures directed both at the target group and public agents, as well as proposals on how to improve the reception.

**The human rights perspective** informs DRW's work. Access to human rights and community adherence to its obligations interact and affect individuals' living conditions. In spite of a good self-image regarding the implementation of human rights, a lack of prioritising these rights exist on different levels in Sweden. Parliamentary committees, norm giving processes and individual decisions do not generally contain an analysis of the effect on the implementation of human rights.

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<sup>5</sup> Health Literacy - teori och praktik i hälsofrämjande arbete: av Karin C. Ringsberg, s.28.

<sup>6</sup> <https://www.who.int/healthpromotion/about/HPR%20Glossary%201998.pdf?ua=1> , s.6.



The aim behind DRW's use of the rights-based disability perspective is to increase access to fundamental rights for everybody and challenge mindsets based on other values than human dignity and progressive implementation of the rights. From a health-enhancing perspective, health is a question of power. It is important to recognise dimensions of power and factors from socio-economic and cultural aspects, that are decisive for an individual's health. Health is of vital importance for individuals' possibilities to participate in the community, succeed at education, work and live an independent life. According to WHO, health is created by the everyday environment.<sup>7</sup> DRW emphasises the health-enhancing perspective since deficits in the implementation of human rights has adverse effects on health, which obstructs a functioning establishment and equally inclusive integration.

DRW's approach is that health is not static; it is present in different individuals in differing degrees and is affected by social, physical and mental factors. Through the health-enhancing perspective, DRW wants to increase the awareness and understanding of the target group about their rights, societal structures, the possibilities within the environment, and their potential, actions and decisions that enhance the individual health. This is done with the ambition that collectively expands our capacity for action and improves the path to different measures in the community.

### Julius Ntobuah's experience of asylum seeker reception in Sweden

The dream to finally reach Sweden, a country that respects the rights of individuals with non-normative abilities, was the driving force through my long journey here. When I arrived, I was met by ignorance, inflexible and harsh demands created with no accessibility perspective, and a flood of obstacles that I never imagined would be the reality here.

Since I was young, I have lived with the effects of polio as my life partner and companion. It has caused one of my legs to function differently. When encountering an environment not designed for individuals whose mobility differ from that of the majority society, my movement becomes restricted. After being registered at the Migration Agency, I got to go to my allocated accommodation. My joy could not have been greater; it was just heart-warming in spite of minus degrees and the life-threatening steep and icy hill leading up to my lodgings. My heart was still full of gratitude and joy the moment I reached the entrance door because, in spite of moments of smaller catastrophes on the slippery road there, I had managed well. I take a deep breath and proudly open the door as I start to wonder if this walk will be doable on a daily basis.

I got especially worried when I saw the steep stairs leading to a bed and roof over my head in front of me." How do I get up there" I wondered and looked for a non-existing elevator?

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<sup>7</sup> Health Literacy - teori och praktik i hälsofrämjande arbete: av Karin C. Ringsberg.



Slowly my body lost the warmth that in spite of everything had been so strong and stubbornly stayed with me. In my thoughts, I tried to tell myself that in spite of everything I had always been fortunate to have somebody reach out to me and give me a hand.

The world is full of people who even when they are in dire straits themselves possess a driving force illuminating the empathetic side of human beings. In this case, my roommate, who had to help me every time I had to go up or down the stairs. One Sunday morning on my way to church, I lost my footing and broke my right leg brace. Oh! That was a tough time, especially as I realised, I was not able to walk at all.

After some time, I was informed that I would be moved to another apartment closer to the city. Happy times! My face was beaming wherever I went. After a long trip with no support carrying my bags, I was finally at my new lodgings. I could not believe my eyes, a bunk bed. And I was given the upper bunk only accessed by a ladder." Here we go again", it echoed in my head.

My brain whispered" In this world, it is only those who fight that will reach their goal", but my body was exhausted. These two always create small tsunamis within me, but it is usually the brain that controls my will." Maybe the people responsible for this accommodation did not know that my leg works differently than others, better make them aware of this", I thought immediately. The staff was not accommodating at all but told me to see a doctor and ask for a medical certificate to prove that I am unable to climb the ladder to the top bunk bed in spite of my physical situation clearly being visible for them.

These are just some examples of the current lack of accessibility and poor reception that individuals with non-normative abilities can experience under the Migration Agency. Anyway, the effects of polio have not only been a difficult companion, but they have also made me better at realising the enormous potential that exists in society.

Progress towards a world where everybody will be able to participate on equal opportunities and individual ability is possible. My experiences triggered the idea of a project, but someone in isolation creates nothing in this world, so I contacted Adolf Ratzka at the Independent Living Institute. I shared my thoughts and ideas, and together, we developed the project DRW. Through the DRW project, people like me have come together to build a better foundation and infrastructure, paving the way to an accessible and equally inclusive integration for migrants with non-normative abilities.

### Norm- and power-critical positions

DRW's approach and work is based on an intersectional perspective as analytical tool and power-critical vantage point. This implies the acknowledgment of several dimensions and



hierarchies of power as factors that highly affects individuals' access to resources, which decide people's abilities to have influence over their own lives. This perspective contributes to illustrate and understand the asymmetric power structures which according to DRW are the base of indirect and structural discrimination. Through this tool, sources of inequality can be made visible and easier to counter.

DRW develops action within disability politics to also include issues concerning migration policy. This is a way to further migrants with non-normative abilities' participation. The aim is to identify the preconditions that enable an equally inclusive and accessible integration at structural as well as individual level.

### Power

Everybody has power; but everybody does not have the same amount of power. You are not born with power. It is something given, taken or acquired. It is a phenomenon that changes due to factors such as time and context. Power can vary from situation to situation and be shaped by the encounter of other individuals of a group or a community.

An individual's capacity for action is influenced by the socio-economic and cultural situation they are located within pertaining to context and environment. That is, it is the preconditions that determine if an individual risk finding themselves dependent on others; for example, children in dependency of adults.

Access to societal resources such as education, employment and health care is the reason some individuals have more power than others. These are mechanisms and structures enabling some individuals to gain more power than others. Health, security and connections are important factors for an individual's wellbeing and in the end dependent on access to power, information and resources.

### Systems of power

Systems of power is a concept that is used to explain a hierarchical order of power allocated to social categories or groups. It implies the presence of an order in society where certain groups are provided less power and opportunities to control their lives than others, and that this order is decided, by for example, class, sex, (dis)ability, sexuality, ethnicity etc. The gender system and ableism system are examples of such systems of power.

Access to power and resources determines what opportunities individuals will have in society. Against this backdrop, it becomes extremely important to examine and prevent discrimination that causes some individuals to be denied or provided less access to power and resources within the existing societal structures.



### Power structures

Power structures is a concept used to recognise the societal structures that maintain and perpetuate systemic inequality and disadvantage people on a structural level. This means that irrespective of an individual's characteristics and will, it is just harder for some people to get access to education, employment and a roof over their heads due to various interacting structures such as racism, sexism and ableism. It has been noted that in Sweden that "the better the living conditions and the higher the social position in the community in relation to others, the better the health and the longer the life. And vice versa, groups with lower educational level have poorer health and shorter lives. One explanation is that, these individuals have poorer working environment and conditions, less economic resources and power over their living conditions. The social and economic situation of individuals are, thus, reflected by their health."<sup>8</sup>

### Structural discrimination restricts rights and integration

Structural discrimination can be described as an oppressive system and acts of power at a structural level, i.e. systems of power that are embedded within a societal structure, and that disregards individuals' varying abilities and possibilities of self-determination. Denying certain individuals with non-normative abilities family reunification is an example of structural discrimination. In the current situation, people are denied the opportunity for family reunification under a general rule that especially disadvantage migrants with non-normative abilities. It consists of housing and sustenance requirements that have been produced and are implemented without a disability perspective. It is difficult to access to the labour and housing market, even more difficult if you are a migrant with non-normative abilities. This is a consequence of the inability of the Swedish society to create an infrastructure that are useable for everybody irrespective of abilities. Furthermore, individually adapted support and service are lacking. The sustenance requirement – both physically and mentally – is unreasonable and very hard to match as it is based on a normative view of ability. Therefore, those who lack full access to the labour and housing market are directly deprived from the right to family reunification. Ultimately, family separation causes mental suffering and poorer conditions for a constructive establishment and functioning integration.

The inadequate access to accessible accommodation, transport and support and service is another example of indirectly discriminating structures. Laws applicable to everybody can

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<sup>8</sup> Länsstyrelsen i Skåne (2018), Nyanländas hälsa: Sammanställning utifrån ett urval av rapporter, p.8 Literary review of newcomers' health  
<https://www.lansstyrelsen.se/download/18.26f506e0167c605d569534ce/1552465001957/Sammanst%C3%A4llning%20h%C3%A4lsa%20n%C3%A4r%20n%C3%A4r%20n%C3%A4r%20n%C3%A4r.pdf>



result in special consequences. Asylum seekers are not legally counted as residents which denies them access to many municipal services.

### Intersectional analysis show disadvantages

The concept of intersectionality originates in the English word “intersection”, meaning crossing. Intersectionality is a concept that illustrates how combinations of varying systems of power affects individuals’ opportunities to equal distribution or access to power and resources. Intersectionality as an idea was originally born out of criticism from the American anti-racist movement condemning the struggle of white feminists for lacking power analysis based on social categories of power such as race/ethnicity, gender identity, sexuality, age, (dis)ability and class. The theoretical framework of intersectionality produces higher understanding of the power imbalance that can affect individuals in a variety of ways in different situations. It also shows how relations between social categories of power are produced and reproduced.

The concept of intersectionality is used to indicate that relations of power are essential to identify invisible power dimensions that can act directly or indirectly discriminatory and impede people from being treated equally, equal opportunity to participate in the community, and making decisions that will influence their own lives. The intersectional perspective complements the norm-critical perspective which exclusively look at normative representations while the intersectional perspective show how systems of power are designed, interact and affect individuals contextually and situationally. A common narrative for migrants with non-normative abilities is the difficulty of finding a job. Unemployment can have long-reaching consequences that particularly affect migrants with non-normative abilities. One project participant recount:

***“I cannot be reunited with my children as they are in a refugee camp in another country and the Migration Agency denies them resident permit due to the sustenance requirement. How will I fulfil that when I cannot find a job adapted to my (dis)abilities? Then I have had difficulties participating in the establishment program due to depressions and periods of illness because I am unable to be with my children.”***

According to a report on integration policy from a perspective of gender integration by the Swedish National Audit Office<sup>9</sup> the disparity shown between migrant men and women mostly disfavours women, for example, weaker connection to the labour market, lower participation in integration policy measures and poorer results from these measures.

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<sup>9</sup> RiR 2018:33, *Jämställdhetsintegrering av integrationspolitiken – ett outnyttjat verktyg*, p. 5  
[https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR\\_2018\\_33\\_ANP\\_ASSAD.pdf](https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR_2018_33_ANP_ASSAD.pdf)



Statistic Sweden's report on the employment situation of persons with disabilities (terminology used in report title) 2017 shows that the unemployment figures are higher for individuals with non-normative abilities than for the population as a whole.<sup>10</sup> 2017, unemployment among individuals with non-normative abilities was 9 percent and for the population as a whole it was 7 percent. Unemployment among individuals with reduced work capacity was 10 percent.

The intersections of the power categories of sex, ethnicity or migration, and (dis)ability is, thus, illustrated in the example of the project participant above. It is important from an intersectional perspective that these categories of power are not treated separately but in interplay with each other. The individual is located at the centre of the crossing and affected by several types of discrimination at the same time, where the combination results in her not being able to reunite with her children. In comparison, a Swedish parent with non-normative abilities would not have to prove to the government that they work and have a suitably big accommodation to have the right to be together with their children.

The intersectional perspective is an efficient tool, which can provide new insights uncovering hidden systems of power that can cause new dimensions of discrimination, with the aim of furthering democracy, justice and equality.

### The aim: reciprocal and accessible integration

"The integration policy's aim is equal rights, obligations and opportunities for all irrespective of ethnic or cultural background."<sup>11</sup> This quote gives a good idea on the direction integration politics should be going and it could be of wider use.

From a norm-critical and intersectional perspective, DRW has chosen the semantic definition of the word integration. Integration means a process which aim is to join differing parts into a whole without any of these parts owning hierarchical superiority. To the contrary, the parts will create a larger whole.

Based on this definition, Sweden represents the larger whole with its traditions and its culture, which has been influenced by a multitude of other cultures and traditions through history. The integration of varying parts has shaped Sweden of today. Sweden as a whole is

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<sup>10</sup> SCB, Information om utbildning och arbetsmarknad 2018:2, *Situationen på arbetsmarknaden för personer med funktionsnedsättning 2017*, p. 8  
[https://www.scb.se/contentassets/5bcb7c34ad63424b918a79d8f59c641f/am0503\\_2017a01\\_br\\_am78br1802.pdf](https://www.scb.se/contentassets/5bcb7c34ad63424b918a79d8f59c641f/am0503_2017a01_br_am78br1802.pdf)

<sup>11</sup> RiR 2018:33, *Jämställdhetsintegrering av integrationspolitiken – ett outnyttjat verktyg*,  
[https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR\\_2018\\_33\\_ANP\\_ASSAD.pdf](https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR_2018_33_ANP_ASSAD.pdf)



permeated by external influences and this is why a hierarchical order should not form the basis for the what integration between different parts should be.

From a democratic perspective, integration should be a combination of different parts which are changing and in constant movement. As social beings, humans are dependent of their context and history as factors deciding the values that will shape the socio-cultural awareness of the community which they live in.

For integration to be equally inclusive sand understanding is demanded of how migrants with non-normative abilities should be met, approached and treated, before, during and after the asylum process and integration, enabling them to become part of the community with the rights and obligations this entail. Individuals need to be met and treated with respect and sensitivity stemming from a deep understanding that human rights should apply and be guaranteed for all. If fundamental rights are put in place better conditions are provided for society to make reasonable demands on individuals, thus, creating an equally inclusive community.

A solution-driven approach would be to make an analysis on the structural level. This is done by looking at how the consequences of a market-oriented politics and lack of sustainable social measures have affected migrants and their families. Sustainable social, rights-based and health-enhancing measures provide better conditions for equally inclusive integration. This means dignified treatment, high-quality Swedish for immigrants (SFI), and individually adapted measures within the framework of the establishment program,<sup>12</sup> equal access to health care, better working conditions, education and support, to promote real democracy, equality and respect for the dignity of all human beings.

A reciprocal integration lays claim that society should create conditions so that everybody can live a self-determined life included in the community with the rights and obligations this involves. To achieve this, policies to increase the participation of migrants in the community are needed. When society meets migrants with non-normative abilities with focus on human rights it can place demands on the individual as it does on citizens. Accessible reception is a precondition for integration and an equally inclusive relationship.

DRW requests an equally inclusive responsibility and a pursuit for a higher and joint awareness of our different cultures. It is important to find strategies and, as different as we are, to meet with respect and find the will to acknowledge and welcome diversity as part of the Swedish community.

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<sup>12</sup> RiR 2018:33, *Jämställdhetsintegrering av integrationspolitiken – ett outnyttjat verktyg*, [https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR\\_2018\\_33\\_ANP\\_ASSAD.pdf](https://www.riksrevisionen.se/download/18.3e7cbd461677d8d7b5c8b6ff/1545038567479/RiR_2018_33_ANP_ASSAD.pdf)





## 2. The systems of migration and social law in Sweden

Chapter two focuses on practical-legal questions within migration and social law in relation to human rights. The chapter starts off describing a variety of terminology and concepts within migration, disability policy and movement. Then, a review of how the Swedish system of migration and social law are constructed follows especially focused on the situation for migrants with non-normative abilities. The chapter ends with descriptions of the roles of various authorities and other agents in connection to migrants with non-normative abilities.

This chapter will provide basic knowledge so chapter three can critically reflect on how the system works and find better solutions to the many problems that migrants with non-normative abilities encounter in Sweden.

### Some terminology used within the disability movement and migration politics.

There have been many terms used to describe individuals with non-normative abilities, for example, retarded, imbeciles, cripples, handicapped etcetera. These contain an obsolete and inhuman view of human beings and are no longer used.

Nowadays, “persons with disability” (or impairment) and “disabled people” are frequently used in public contexts and regulations. The Swedish translation of the Convention of Rights of Persons with Disabilities, CRPD uses “persons with disabilities”. Sweden, like many other communities, has evolved towards a position where politics of identity have become increasingly prominent with the ambition to include individuals from several categories of power.

“Persons with diverse abilities” are more and more frequently used in the public debate. The disability movement is divided on which concept to use, which results in weaker joint efforts. The interpretive prerogative of the meaning of “abilities” is not always owned by those affected by the issue. Therefore, it is important that more opinions and perspectives from the target group themselves are allowed the space to define the issues.

DRW’s work draws attention to the importance that individuals themselves should be able to define their reality and express this according to what best suits their experiences and situation. DRW uses the concept “non-normative abilities” to shift the focus from individuals to societal norms and structures. This will be explained in further detail later in this chapter.

### Migrant

A migrant is an individual who has crossed a national border to resettle. The concept includes everybody irrespective of reasons for the migration. DRW uses the concept of “migrant” because migration involves movement across a national border with the purpose of resettling without defining the reason for this migration. Meanwhile, asylum seeker is an



individual that has migrated due to a well-founded fear of persecution which is an international legal norm that does not include everybody in DRW's target group.

### The establishment of newcomers

Establishment involves the long-term process after a residence permit is granted and a new life in Sweden can begin. To create conditions that enables newcomers to become part of society, there is an establishment program during the two first years after a resident permit has been granted. According to the government, the task of the establishment program is to create better conditions enabling newcomers and others born abroad to enter the labour market, get an education and establish themselves as part of the community.<sup>13</sup> The policy, also, includes compensation to municipalities and county councils for reception of refugees, as well as some measures for establishment.

### Participation

The right to participation involves individuals right to self-determination and that their views and needs will be counted; i.e. to participate and influence decisions connected to situations and factors affecting your life. Participation, also, involves individuals' opportunity to for civic participation and to take part in different areas of the community on equal opportunities, as all other individuals in a democratic society. The United Nations Convention on the Right of the Child, CRC emphasises that every child should have the right to express their views and that the environment should take the child's views into consideration. Participation is not the same as accessibility, since accessibility is a prerequisite for individual participation. If something is inaccessible, it obstructs effective and full participation. Full participation cannot be achieved if there is discrimination. Full participation can, in other words, be said to be the actual participation of individuals in activities and community actions, for example, work, school, leisure activities and politics after their own choices and on equal opportunities with others. One definition of genuine participation is a process where an individual within their context develop meaningful knowledge.<sup>14</sup>

### The rights-based disability perspective.

The rights-based disability perspective establishes that society excludes individuals with non-normative abilities from accessing their rights. The perspective places demands on society to rectify disabling barriers, including the physical environment, information and the lack of individual support. Since non-normative abilities cannot and should not be fully defined, disability and the right to accessibility should be given a wide interpretation. Individuals can

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<sup>13</sup> <https://www.regeringen.se/regeringens-politik/nyanlandas-etablering/>

<sup>14</sup> Health Literacy - teori och praktik i hälsofrämjande arbete: av Karin C. Ringsberg, s. 29.



have varying sets of non-normative abilities connected to, for example, mobility, cognition, neuro-psychiatric and intellectual abilities.

The Swedish discourse uses the terms “funktionsnedsättning” and “funktionshinder”. “Funktionsnedsättning” is a concept that deals with the personal or sometimes medical dimension. The word “impairment” is the closest translation of the Swedish “funktionsnedsättning”. “Funktionshinder” describes the obstacles society places in front of an individual which in combination with “funktionsnedsättning” produces a disadvantageous situation,

The difference between “funktionsnedsättning” (impairment) and “funktionshinder” (disablement) is vital for the understanding of human rights. The English word “disability” catches the social relational and communal dimension which places the responsibility to create environments that do not obstruct individuals from taking part of the community and be participating in different processes.

The Discrimination Act (2008:567) defines “funktionsnedsättning” as a “permanent physical, mental or intellectual limitation of a person’s functional capacity that as a consequence of injury or illness existed at birth, has arisen since then or can be expected to arise”<sup>15</sup> There is no exhaustive list of what is classed as a limitation of a person’s functional capacity but the important part of the concept is the permanence of that limitation.

The heuristic model, which is used in connection to human rights today, is captured by the CRPD.<sup>16</sup> Its articles make it clear that disablement emerges when an individual with non-normative abilities encounters obstacles interacting with the environment. Therefore, human rights and the rights-based disability perspective imply that disablement is caused by a society produced without any consideration for the differing abilities of individuals.

With the application of a rights-based disability perspective many obstacles can be prevented, and society made to function better through not excluding some individuals from activities purely due to lack of aforethought and planning. At the same time, it is important to remember that the convention also includes the right to health care as well as rehabilitation which differs from more strict relational explanations.

Over time, the right-based disability perspective has been strengthened within the law. The reasons are many and connected to technical development, development of ideas within

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<sup>15</sup> Discrimination Act 2008:567, Sec.5 p. 4

[https://www.government.se/4a788f/contentassets/6732121a2cb54ee3b21da9c628b6bdc7/oversattning-diskrimineringslagen\\_eng.pdfngs](https://www.government.se/4a788f/contentassets/6732121a2cb54ee3b21da9c628b6bdc7/oversattning-diskrimineringslagen_eng.pdfngs)

<sup>16</sup> Convention of the Rights of Persons with Disabilities , CRPD

<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>



human rights and politics. Work done by the disability movement has strengthened the perspective in society, for example, the characteristic requirements concerning accessibility and usability “for people with limited mobility or orientation capacity” (terminology in law and legal ordinance) included in the planning and building legislation. The legal protection against discrimination was strengthened 2015 when lack of reasonable accommodation was prohibited by legal reform of the Discrimination Act.

### Persons with diverse abilities.

Everybody has a set of abilities. We are diversified in the manner our bodies function, but we are all measured in relation to a socially constructed view on what normative abilities are. When people use the expression “persons with diverse abilities” they mean non-normative abilities or impairments/disability, but the concept is wider than that. Diverse abilities are any individual’s set of abilities irrespective if they are non-normative or not.

### Non-normative abilities.

Abilities are something that can vary from individual to individual and context to context. The definition of what normative abilities are is based on the opinion of the majority, but only in relation to themselves and their environment. Also, the environment is often shaped to fit the demands of the majority which repeated over time becomes what is considered normal. It does not mean that this is correct or the only way it could be.

In this world, we tend to view ability as something secure and concrete when, in fact, everybody has different sets of abilities. When someone deviates from the majority that individual breaches a norm, but this does not mean that there is something wrong with that individual just that the environment does not view them as normal.

The term "Non-normative abilities" is, thus, a break with the norm that dictates what is considered to be the set of abilities of a normally functioning human being.

### DRW’s approach to the concept non-normative abilities.

Within the framework of the norm-critical perspective, focus is shifted away from the individual and responsibility placed on the environment and the societal structure. The structure deciding how a society is designed is shaped by the individuals of the society. If the society is shaped from the vantage point of the majority, as usual, anything deviating from this will not get as much space.

Therefore, DRW wants to focus on the norms that exclude certain people or restrict their capacity for action, using a norm-critical perspective. DRW notes that the accepted view of ability in our society is based on a normative perspective, which we want to change.



### Accessibility

Accessibility is both a principle and a right. In the context of disability policy, this means that accessibility should be taken into account in all activities as well as be possible to demand in particular situation. “Reasonable accommodations” is a concept closely linked to “accessibility”.

Demands for accessibility mean that the environment should be universally designed from the start, as well as inadequate access be systematically addressed on all societal levels such as national, regional and municipal. This applies, for example, to the built environment, information available in different formats, and individual support in various situations.

Reasonable accommodations aim to achieve accessibility, but unlike universal design and removal of obstacles a duty to provide reasonable accommodations involves measures needed for an individual to participate in the activity on equal opportunities as others. Both universal design and reasonable accommodations are covered by the provision that inaccessibility is a form of discrimination under the Swedish Discrimination Act and the CRPD. The rights-based disability perspective covers both concepts and acknowledge that no matter how society is constructed individual support will likely be needed to some extent.

The debate on accessibility for individuals with non-normative abilities has often comprised the design of physical environment and information presented on varying formats. Much of this is regulated under different laws and standards. The concept “access” and “accessibility”, however, is something wider. Its main principle is to not exclude anybody. If somebody is excluded that individual does not have access to the activity.

The concept of “access” is used in a context of equal right to access to public positions and services provided to the public as early as under the United Nation’s Convention on the Elimination of All Forms of Racial Discrimination, CERD. Reasonable accommodations of working conditions to religious and other beliefs in certain situations are demanded under European law. Therefore, it is evident that accessibility and reasonable accommodations are not only applied to situations involving individuals with non-normative abilities, but also in connection to other grounds for discrimination.

### Human rights – the states responsibility and system for implementation

Human rights are universal and applies to everybody. They establish that all human beings irrespective of nationality, culture or any other status are born free and equal in dignity and rights. Authorities have a special responsibility to use human rights in all activities that affect individuals. This chapter provides a review of the vital aspects of the implementation of human rights for migrants with non-normative abilities. Special emphasis is put on how authorities can and should use the rights-based disability perspective and implement the rights.



### Sweden's basic legal organisation and relation to international law and human rights

The constitutional laws are the foundation of our state and community. The relation between state and individual is regulated and the scope determines what the government is allowed to do and not. Sweden's Instrument of Government is the constitutional law that provides individuals with rights against public authorities. However, rights are more concrete, and in some cases possible for the individual to claim, when regulated in other laws. Decisions by authorities should be made in line with current legislation and other regulations.

EU law contains comprehensive legislation; particularly relevant in this context is the Asylum Qualification Directive, the Asylum Procedures Directive and the Family Reunification Directive. These should be read together with the EU treaties and charter. EU law has direct applicability in Sweden unlike international law in general, see especially European Court of Justice's finding in the case of *Costa vs E.N.E.L.* (case 6/64). The reason for this is that Sweden has a dualist justice system which means that international covenants do not automatically become part of national law. Therefore, treaties and conventions that Sweden has signed must be made into Swedish law to become directly applicable under Swedish courts and authorities. EU law, by its nature, take precedence over national law.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, ECHR is a good example of how the dualist principle work well in Sweden. ECHR has a special status as incorporated into Swedish law (SFS 1994:1219), and because the Parliament is not allowed to make laws in conflict with its articles, see the Instrument of Governance chapter 2, §19.

### The Swedish welfare state.

During the 20th century up till today, Sweden has built a society with a comprehensive welfare system. The society will provide measures and service to guarantee social security. The system is based on taxation and created to provide individuals with life-long conditions for a dignified life.

The labour unions and employers have substantial influence over the labour market, and authorities have less power than in other countries. In other areas, such as social service, education and infrastructure the government, often through the municipalities and the regions, has a lot of power and resources. How the different levels relate to each other is regulated through laws and other statues, as well as in agreements. Health insurance is, also, a central part of the social insurance system and the welfare state.

Disability policy is largely a part of the Swedish welfare system. Measures, such as personal assistance and other special support, are provided mainly by the national Social Insurance Agency, municipalities and regions. In parts, the measures must be identified as included in



the social insurance system and, therefore, of such importance that everybody has a right to receive them from a national authority. Other measures belong to the local social services and are included in the municipal responsibility for residents' access to public service. As a final social security net, the municipalities have to guarantee residents reasonable living conditions (the Social Services Act chapter 4, §1). Individuals with rights under the Act concerning Support and Service for Persons with Certain Functional Impairments, LSS should be guaranteed good living conditions (LSS §7, p.2).

Other measures connected to the disability policy are paratransit and housing adaption. It is common that many of the economic, social and cultural rights, for example, the right to health, housing, work and education are affected by public budgetary decisions. These decisions can have different purposes than guaranteeing the progressive implementation of human rights; see above on this principle and the duties of states under it.

An important part of disability policy deals with accessibility to the physical environment, which unlike the individual type of support, involves society as a whole and should be implemented systematically without reference to a specific individual with certain needs.

The social insurance system is based on a regulatory framework and payments from citizens and others, who contribute to the social security systems especially through earnings connected to work; and with possible pay-outs to citizens that fulfil the terms of the insurance. Therefore, everybody residing in Sweden are not covered and everybody is not automatically insurance. The Social Insurance Agency determines whether somebody is covered by the social insurance system. This illustrates the difference in protection and rights that exist within Swedish law, which is divorced from how the rights are constructed in the UN-system of human rights.

The Swedish constitution, the Instrument of Governance, chapter 1, §2 states that in "particular, the public institutions shall secure the right to employment, housing and education ..." The municipalities, also, have a large responsibility for the implementation of various issues, which is made clear in the Social Service Act, chapter 3, §2 among others: "[I]n the course of its activities the social welfare committee shall promote the right of the individual to employment, housing and education."

### The justice system as a path to accountability and human rights

Issues of anti-discrimination and the concept of effective rights have not been fully established as a structural part of the welfare system. However, the Discrimination Act clearly prohibits discrimination in several areas of society, also, parts of the welfare system such as health care, social services, paratransit, housing adaption grants, social insurance system (the services of the Social Insurance Agency), unemployment insurance and national study allowance; see the Discrimination Act chapter 1 and 2.



Courts in Sweden have independent status. They are organised in general administrative courts, the general courts and the special courts. The general courts, foremost, deals with criminal cases and civil law disputes. During recent decades, the general administrative courts have received a more important role as independent courts separated from the authorities that traditionally have had a very powerful status due to the inability to get their decision appealed in court. When it concerns migration and special support, the general administrative courts are the place to appeal an authority's decision. The special courts are experts on special issues, for example, the Labour Court that only deals with labour law disputes.

Authority decisions on issues of residence permits, declaration of protection status and individual support etcetera are possible to appeal to the general administrative courts. This provides a possibility to legal redress and individuals can initiate a legal process without paying the state. However, individuals might need legal representation and the government only provides public counsel in exceptional cases. There is inequality between the status of authorities and individuals processing for economic, social and cultural rights that are regulated within the welfare state, irrespective that they often deal with fundamental human rights.

When compatibility is in doubt, between one norm and another of higher standing, courts as well as public agencies have to carry out standards reviews. This means that, for example, authorities' mandatory provisions in conflict with legislation or constitutional law are not admissible in the activities of the authority. Through the use of the European Convention, ECHR, standards reviews have been carried out against international law, and in cases where different interpretations of the law have been possible guided the courts either in line with, for example, the Convention of the Child, CRC or along the demands of the ECHR.

### Sweden, the European Union the Council of Europe and the United Nations.

Sweden is a member of the United Nations, UN and has ratified many of UN's international conventions such as the International Covenant on Civil and Political Rights, CCPR, the International Covenant on Economic, Social and Cultural Rights, CESCR, International Convention on the Elimination of All Forms of Racial Discrimination, CERD, the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, the Convention of the Child, CRC, the Convention on Rights for People with Disabilities, CRPD, and the Refugee Convention. This mean that Sweden has obligations under international law to guarantee residents the rights provided in these conventions. Sweden is, also, a member of the European Union and the Council of Europe which involves duties of human rights and other issues towards individuals and other countries.

Civil and political rights should be implemented directly, and economic, social and cultural rights should be implemented progressively and only in very extreme circumstances be





withdrawn. It is of particular importance that, authorities implement and guarantee rights under the Convention on Rights for People with Disabilities, CRPD, the Refugee Convention and the European Convention, ECHR when it concerns the circumstances of migrants with non-normative abilities. There might be grounds to examine activities from the perspective of human rights to detect deficits and flaws as a lot of the work municipalities, regions and authorities already are doing concern implementation of human rights, without being classified as such.

There are no international monitoring mechanisms auditing the activities of the government, municipalities and authorities to see if Sweden complies with our obligations.

One method of compliance is to use conventions and other treaty documents in connection with individual cases to guarantee that the individual human rights are in practise. It is not self-evident that Swedish law and national guidelines correspond with demands under human rights, especially concerning the principle of progressive realisation of economic, social and cultural rights. This should be done as far as possible within the letter of the law in Sweden, i.e. using treaty-conform interpretation. According to its strategy for human rights, 2017, the government assumes that authorities do this.

### UN's Convention on the Rights for People with Disabilities, CRPD and the authorities

Sweden has ratified the Convention on the Rights of People with Disabilities, CRPD which involves an obligation towards other states and individuals to implement the rights under the convention. How Sweden does this is of less importance, and the fact that there is a large element of local self-governance does not change the fact that government, regions and municipalities have equal obligations to implement the rights for their residents and on various levels of decisions.

The CRPD is the latest of the UN conventions on human rights. Its purpose is not to create new rights but to operationalise human rights in the context of disability and impairment. The convention and key documents, such as general comments, recommendations to the state parties and communication on individual complaints from the Committee on the Rights of Persons with disabilities, are useful information to find out what it takes to implement human right for individuals with non-normative abilities. The documents are available at the webpage of the committee.<sup>17</sup> The convention has to be implemented in numerous activities as authorities and municipalities are subject to its articles.

Sweden was criticised by the committee 2014 for not fulfilling its obligations involving the responsibilities of large part of authorities, municipalities, regions and government. The criticism concerned several of the rights of the convention and obligations on national,

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<sup>17</sup> <https://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>



regional and municipal levels. Some of the more important recommendations were to guarantee the funding of personal assistance so individuals can live self-determined lives included in the community, guarantee effective and uniform efforts to provide accessibility nation-wide and reasonable accommodations where access is inadequate so individuals with non-normative abilities will not be discriminated against.

### The European Convention and the authorities

Sweden ratified the European Convention, ECHR 1952. The convention has the status of national law since 1995 as it was incorporated in Swedish law through SFS 1994:1219. Laws that are in conflict with the convention are not allowed to be enacted in Sweden, according to the second chapter of the Swedish instruction of Governance.

The principle of non-refoulement under the ECHR, article 3 is at the core of migration. The principle prohibits states to expel individuals to a country where they risk persecution or inhuman or degrading treatment. ECHR article 8 on the right to private and family life is applicable to more aspects of migration and establishment than most people believe. It applies to the conditions needed for individuals to enjoy a family life, a right developing through the ongoing praxis of the European Court. The article, also, provides a right for some family members to reunification of the family has become divided due to persecution or war situations. In these circumstances, the state is obliged to enable the family members to reunify.

There is a clear connection between the European Convention, ECHR and other international conventions such as the Convention on the Rights of Persons with Disabilities, CRPD. The case *Cam vs Turkey* established that the CRPD should be used in European praxis when applying the European Convention. However, it is not clear how far-reaching this obligation is as it is under continuous development within praxis of the European Court.

### Different types of residence permits, and the system of asylum reception – an overview.

This part contains a short overview of the system of asylum reception and the different types of residence permits, with the aim of facilitating an understanding for the regulations within social law and their relation to human rights. The changes in migration policy can be fast-paced and regulations on residence permits and social rights are affected by this. Therefore, always check current legislation and information before making any decision.

### Migration status and residence permit.

The migration status indicates whether individuals have the right of residence or not as well as access to certain rights that depend on it. Migration status can, also, provide an indication of where an individual migration case is in the asylum process. Individuals applying for asylum in Sweden are registered as asylum seekers. Asylum seekers, who are granted



residence permit in Sweden will receive a refugee status if they are granted asylum under the Refugee Convention.

A family member to an individual with a protection status declaration can apply for residence permit on the grounds of family reunification. They will be part of the system for newcomers when they have received a residence permit and arrived in Sweden. A tourist visa will enable individuals to visit family or friends for a period of maximum 90 days. An individual can, also, apply for residence permit on the grounds of employment, special health condition and education, regulated mainly under the Aliens Act (SFS 2005:716).

A Swedish residence permit is granted in several situations. These are regulated under the Aliens Act and the Act on temporary restrictions of the possibility to receive residence permit in Sweden (SFS 2016: 752) enacted 20<sup>th</sup> July 2016, often called the temporary law. If an individual has grounds for asylum under the laws, they will be granted a residence permit. A consequence of the temporary law is that temporary residence permits are the current norm, unlike under the Aliens Act where permanent residence permits were the norm. Residence permits on the grounds of family reunification, employment and educations are, also regulated under the Aliens Act.

### *Asylum seekers*

Individuals who have applied for asylum in Sweden are called asylum seekers. Asylum seekers can remain in the country while they wait for a decision and have the right to accommodation and support under the Law on Reception of Asylum Seekers and Others (SFS 1994:13).

### *Refugee status and residence permits*

Being a refugee in the legal sense is connected to the definition in the Refugee Convention. To receive a refugee status declaration, individuals need to make probable that they have a well-founded fear of persecution. This should be based on individual grounds unlike situations where people flee from war and falling bombs. Under the temporary law individuals with refugee status are granted a temporary residence permit of three years, which can be lengthened when the period is up.

Before the temporary law was enacted, it was of lesser importance whether an individual was granted asylum on the grounds of refugee status or subsidiary protection status.

### *Subsidiary protection status and residence permits.*

To have a subsidiary protection status means that individuals have grounds for asylum connected to, for example, fleeing wars, risking threats of violence and conflicts, torture or death. This protection status is regulated under the EU Qualification Directive. If an individual receives a subsidiary protection status declaration, they have a right to residence permit in Sweden. Under the temporary law individuals with subsidiary protection status are



granted a temporary residence permit of thirteen months, which can be lengthened if there is still need for protection. The individual must apply for an extension.

Before the temporary law was enacted, it was of lesser importance whether an individual was granted asylum on the grounds of refugee status or subsidiary protection status.

### *Extraordinary circumstances, medical grounds and residence permits.*

A specific ground for residence permit is extraordinary personal circumstances. Before the temporary law this ground was more comprehensive. Today, residence permits on the ground of extraordinary circumstances are basically only granted if it would be in breach with Sweden's obligations under international law to deny a right of residence. Residence permits can be granted on medical grounds if these are life-threatening and, therefore, prevents travelling.

### *Newcomers.*

Newcomers is a concept used by the Swedish Public Employment Service in connection with their establishment program. It usually refers to individuals during the first two years after a refugee or protection status has been declared and residence permit granted. However, outside the activities of the Public Employment Service, the word has taken on a different meaning.<sup>18</sup> The Swedish Academy Glossary, SAOL lists the adjective newcomer [nyanländ] that is said to be used – especially about individuals who recently have been granted asylum in Sweden. From a purely semantic point of view, any individual recently arrived in Sweden with or without residence permit is a newcomer.

### *Undocumented.*

Individuals without a legal right of residence in Sweden are often viewed as undocumented. Undocumented individuals are often former asylum seekers who, for different reasons, are unable or unwilling to go back to their country of return.

### *Residence permits on the grounds of employment or education.*

Individuals can apply for residence permit on the ground of employment or education. As a rule, this application should be made from a country where the individual has right of residence, i.e. from outside of Sweden. Individuals who have applied for asylum can under certain circumstances, also, apply for residence permit on the ground of employment in Sweden, sometimes referred to as "change of tracks". Certain asylum seekers, also, have a possibility to apply for residence permit while in upper secondary education, under complex legislation from 2017 and 2018 with difficult applicability. The legislation was written in hast

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<sup>18</sup> <https://spraktidningen.se/blogg/veckans-nyord-nyanland>



and not preceded by an adequate inquiry which partly explains the difficulty for authorities and municipalities with its application.

### *Residence permits on the grounds of affiliation – family reunification.*

Individuals have a right to family life with members of their family. If a family is divided, for example, due to persecution or war and at least one family member has received residence permit in Sweden, some family members have a right to apply for residence permits in the ground of affiliation. See more on this at the webpage of the Migration Agency.

It is DRW's experience that, norms for sustenance requirements are applied strict by the authorities for individuals with non-normative abilities, without consideration for the rights-based disability perspective and in conflict with human rights. This is a consequence of a legal framework written without consideration of the rights-based disability perspective, especially the temporary law.

### *Return.*

Individuals, who are not granted asylum or on other grounds no longer have legal right of residence, can be expelled from the country. Individuals can, also, under certain circumstances be issued a re-entry ban for a certain period. The Swedish Police border control and the Migration Agency can only, as a last resort and in exceptional cases, detain individuals who have been denied asylum while they are waiting on expulsion.

Individuals who have applied for asylum in another EU-country cannot apply for asylum in Sweden within certain timeframes from when the application is done or right of residence expired in that EU-country. This is regulated in the Dublin Regulation, a European Union law regulating which country has the responsibility to administer asylum cases in various situations.

There is comparatively little known about what happens to individuals with non-normative abilities who have not been granted residence permit at their return.

### *The influence of migration status on social rights in Sweden.*

Equality before the law is the fundamental principle. However, there is disparity between being a citizen of and a temporary visitor to a country. This affects which rights individuals have in various situations and different countries. This, also, applies to situations where individuals, for example, are asylum seekers, holders of temporary residence permit, permanent residence permit, work permit, tourist or student visa.

Everybody in Sweden resides in a municipality, however, migration status is the deciding factor for the rights they will have. Migration status affects the rights under legislations on social assistance, housing, education, support and service, as well as establishment program etcetera. Laws regulating these rights are the Act on the reception on asylum seekers, LMA,



the Social Service Act, SoL, the Support and Service for persons with certain functional impairments act, LSS, among others. Some laws are only applicable if you are an asylum-seeker, others when you are a permanent resident in Sweden.

Whether, you have a municipality placement or not will have a substantial impact on your right to apply for municipal support, as well as the municipality's responsibility to satisfy certain needs. The interplay between migration status and rights are discussed at greater length further on in the manual, after a closer description of social legislation.

### Reception of asylum seekers and establishment of newcomers.

The reception of asylum seekers is relatively well regulated in comparison to other groups arriving in Sweden, for example, students, workers and adult family members of individuals without protection status. There are rights, for example, assistance under the Act on the reception on asylum seekers which is administered by the Migration Agency.

Individuals' access to social rights will be affected by receiving a residence permit in Sweden. This is the point where a discussion on access to the social insurance system and establishment in the community becomes relevant. At the same time, there are individuals with temporary residence permits taking part in the establishment program despite not knowing whether they will be allowed to stay beyond the validity of that permit, 13 months for individuals with subsidiary protection status.

An important distinction is that individuals, who are granted residence permit on the ground of protection status or reunification with an individual with protection status, have a right to participate in the establishment program through the Public Employment Service for a fixed period after being granted residence permit.

The establishment program has gone through extensive changes during the last couple of years and has as its primary aim to promptly provide newcomers with employment or education. The program is administered by the Public Employment Service and regulated under the Law about the responsibility for the integration actions for certain newly arrivals migrants (SFS 2017:584). The program is normally run as a full-time activity and involves activities such as language teaching for individuals lacking basic knowledge of the Swedish language, Swedish for immigrants (SFI), civic orientation, skills development, work experience, jobseeker support as well as support and advice with starting a business activity.

Authorities have an important responsibility providing information to all migrants irrespective of migration status. Information on which rights an individual have must be provided in a manner and format accessible to that individual, for example, translations of written information and documents or information provided through an interpreter. Information on the subject or non-normative abilities and forms of support can be found within health and social care activities.



The establishment program is not all-inclusive but excludes some, for example, migrants with non-normative abilities who lack protection status or individuals immigrating to Sweden as partners to Swedish citizens. These individuals can experience gaps in the support with navigating the Swedish system.

### Sweden's reception of resettlement refugees

A special system exists for the reception of resettled refugees. A resettled refugee (sometimes referred to as quota refugee) is an individual deemed in great need of resettlement by the UNHCR (United Nations High Commissioner for Refugees). That is, an individual, who cannot return to their home country but due to, for example, a lack of protection or a perilous situation in their asylum country, needs to be resettled to a third country where they can become a permanent resident.

Through resettlement, the UNHCR wants to provide sustainable solutions, new opportunities and better conditions for refugees who are in a vulnerable position in their country of asylum. The idea is for individuals to be able to rebuild their lives in a secure and safe environment. Resettled refugees are individuals, who already have received protection status under the Refugee Convention or under UNCHR's mandate to determine refugee status in certain situations, for example, armed conflicts.

It is up to each country to decide whether to offer resettlement and, if so, to how many resettled refugees; this is why the term quota refugee sometimes is used.

Sweden has had a resettlement program since 1950 with the aim of providing protection to those at most risk. The number of refugees, who will be allowed to resettle in Sweden is decided by the Government and the Parliament. In October 2016, it was decided that Sweden by the year 2018 should have increased the reception of resettled refugees to 5.000 per year. According to the Migration Agency's report "Sweden's Resettlement Programme-2018", Sweden received 3.400 resettled refugees 2017 where 600 were individuals with emergency or prioritised cases.

### The Swedish resettlement system

The program resettling refugees is a cooperation between the Swedish Migration Agency, UNHCR, the International Organisation for Migration (IOM) and assigned municipalities. It is called the resettlement deployment scheme. UNCHR appraises which countries or groups should be prioritised within the yearly quota and submits cases for resettlement to the Migration Agency for consideration. They, also, identify which refugees are in greatest need of resettlement to another country. Proposals and assessments are presented to the Migration Agency, which examines each case by the deployment of resettlement experts to conduct interviews at location and make a "decision by delegation". The Migration Agency can, also, examine a case at distance and make a "decision by dossier". In this case, the



UNCHR sends documents and interviews for assessment to the Migration Agency in Sweden, which then determines the need for protection according to Swedish law. Sweden only provided individuals with refugee or subsidiary protection status residence permits through the resettlement program.

### Social rights for migrants with non-normative abilities in Sweden – an overview.

Migration laws regulate the issues of asylum and residence permits described in more detail above, and the Migration Agency is primarily responsible for assessment of asylum and residence permit applications. Decisions can be appealed to the migrations courts and the migration process can take several years. Issues connected with social rights are often urgent for migrants with non-normative abilities in Sweden.

The Swedish constitution – the Instrument of Government 1 chapter 2§ - states that “In particular, the public institutions shall secure the right to employment, housing and education ...”

Different laws regulate various rights for individuals and obligations for authorities. Legal systems of rights are mainly activated through residence or stays in Sweden. If an individual resides in Sweden, the national social insurance system is generally applicable. Residence should be registered in a municipality as soon as asylum seekers have been granted residence permit. Social protection at the municipal level, foremost through the social services, is activated when an individual stay within the municipality, for example, when the last daily rest period was spent within the municipality. Many migrant groups, such as asylum seekers and undocumented individuals are not considered as residents and legal reform beyond the area of the Social Service Act have produced special laws for migrants with differing protection statuses. This part of the manual contains a brief description of the rights migrants with non-normative abilities have under Swedish law and how the situation differs due to the protection status of the individual.

The establishment program is regulated by the Law about the responsibility for the integration actions for certain newly arrivals migrants (SFS 2017:584) and connected ordinances, with the Public Employment Service responsible for coordination and implementation. Measures are available to newcomers during a fixed period from receiving a residence permit and should promote a speedy establishment on the labour-market and within the community; the aim is employment or education. Individuals participating in the establishment program are entitled to establishment contribution such as introduction benefit from the Social Insurance Agency.

The Social Service Act, SoL, the Support and Service Act, LSS, the Act on the reception and housing for the certain newly arrival migrants and the Act on Reception of asylum seekers and others, LMA all regulate rights to certain types of accommodation or allowance to such.





Other types of benefits, where an individual is unable to support themselves, are regulated mainly under the Act on Reception of asylum seekers and others and the Social Service Act.

Rights to support and service are regulated under the Support and Service Act, LSS, the Social Insurance Code and the Social Service Act, SoL. Some forms of support promote self-determination more than others, for example, personal assistance provided under LSS. However, the general problem with LSS is that it does not cover asylum seekers which means there are fewer paths to a self-determined life during an asylum process that can take several years.

The Health and Medical Services Act (2017:30), HSL is the general regulation of rights to medical services. Health care for asylum seekers is provided under the special Law on health care for asylum seekers (2008:344). There is, also, The Act (2013:407) on healthcare for certain foreigners residing in Sweden without the required permit which states that health care that cannot be deferred must be provided irrespective of protection status.

Paratransit, public transport and car allowance are systems to increase freedom of movement where access is affected by protection status. Public transport is provided to all, but paratransit and the right to car allowance are not guaranteed to individuals without right of residence. In theory, a more expansive application of the systems is possible.

### **Laws for a self-determined life in the community.**

Everybody has the right to live included in the community and have self-determination. Everybody has the right to freedom from segregation and isolation. To achieve this, several laws have been enacted as a result of civil society and politics cooperating in the pursuit to end institutionalisation. Below is a description of some important laws with the aim to increase individuals' possibilities to self-determination and participation in the community, including laws regulating the rights to basic social security, housing, transportation, support and service.

### ***The Social Service Act, SoL.***

The Social Service Act provides measures for economic and social security such as maintenance benefit as well as home care and support. It has statutes on the obligation for society to support everybody in need of support that resides in or visits the municipality and who does not have anybody that can provide support. The municipal social services should work to create opportunities to take part in the community and live as others for individuals who for physical, psychological or other reasons encounter significant hardship. The municipality should contribute so the individual gain meaningful employment and accommodations adapted to their special needs. The municipality is obliged to organise housing with services if the target group needs this.



The municipal councils decide how the social services are organised which means that this varies from municipality to municipality. A social welfare committee, a social care committee or a borough committee can be responsible for the social services and for individuals with non-normative abilities, the elderly, children and youths. In some municipalities a committee for children and youths is responsible for social services to children and young individuals.

Individuals in need of social services should contact the office of the social services/the social service administration in the municipality they are residing/staying. The municipal social worker accepts the application and assesses needs connected to economic support, addiction and other social issues within a family. Concerning treatment for addiction/dependency and provisions through community psychiatry, individuals in contact with the psychiatry can receive support through the municipality.

A case worker will accept the application and assess needs for individuals with non-normative abilities or those older than 65 years and in need of daily practical support.

### *The Support and Service for persons with certain functional impairments act, LSS.*

Individuals with substantial support needs due to non-normative abilities have a right to apply for support to live as good and self-determined a life as possible, according to the aim of LSS. Included in the right to a good and self-determined life is, for example, that individuals with non-normative abilities should have a possibility to work, study or engage in some other meaningful occupation. It also includes participating on equal opportunity within the social sphere through, for example, culture and leisure activities. Provisions under the LSS can be applied for by individuals who have permanent residence/are registered in that municipality and belong to one of the law's three target groups of individuals with non-normative abilities.

The target groups refer to individuals who have:

1. Non-normative intellectual abilities, autism or neurodiversity of autistic kind. The legal terminology is "who are mentally retarded, is autistic or have a condition resembling autism".
2. Non-normative cognitive abilities due to brain damage when adult. The legal terminology for this group is "intellectual functional impairment".
3. Other substantial lasting physical or mental non-normative abilities that lead to difficulties in daily life. The legal terminology for the group is "physical or mental functional impairments".

Provisions under LSS are mainly the responsibility for municipalities. The municipality should monitor who has a right to support services, assess needs for support and service, and provide what is needed to accommodate the needs of the individual. Municipal support provisions should all consider individual needs which can vary during a person's lifetime. The



individual should have a direct influence over how the provision is organised and carried out. It is important that a child in need of support receives information that they understand. It should be possible for the child to participate and express their thoughts and wishes. The child's best should carry weight when deciding which support will be provided.

### About public transport, paratransit and car allowance

Everybody has the right to use regional public transport in exchange for paying the ticket price. Those, who for different reasons cannot use the ordinary public transport system can apply for special public transport or paratransit. The service is differently organised and not always equal to the ordinary public transport in the region. Residence in one of the region's municipalities is demanded for a right to paratransit in that region.

Car allowance is a benefit provided by the Social Insurance Agency to compensate for additional costs of car adaptations to individuals with limited access to public transport. To receive this, Swedish residence is demanded as to other provisions from the social insurance administration.

In this context, it is important to remember that transport services according to Sweden's international commitments should be provided on equal basis with ordinary public transport enabling individuals with non-normative abilities to participate in the community on equal conditions with others.

### About the right to education

The Education Act regulates the education system which contains the school types preschool, preschool class, comprehensive school, special needs comprehensive school, training school, the Sami school, upper secondary school, special needs upper secondary school, adult education and special needs adult education. The regulation, also, covers leisure time centres complementing education in preschool class, comprehensive school, special needs comprehensive school, training school, the Sami school and certain other school programmes.

### **The right to education for those nationally registered and for asylum seekers:**

Individuals, who are or should be nationally registered under the Population Registration Act, should be regarded as resident. Residency involves a right to all forms of education within the Swedish education system. Individuals, who are not, and neither should be nationally registered, can have right to some forms of education.

Asylum seekers have the right to education in the form of preschool, preschool class, comprehensive school, special needs comprehensive school, training school, the Sami school, upper secondary school and special needs upper secondary school, as long as, they have enrolled before they turn 18.



### **Right to preschool:**

The municipality should provide preschool for all children whom are resident in Sweden and have not started preschool class or comprehensive school. Children should be offered preschool from one years old, as a matter of course. They should be allowed to attend preschool as much as they need depending on parents' employment or studies, or the need of the child themselves due to family situation. Such need can, for example, depend on parents receiving long-term sick allowance or sick benefit.

- Children, whose parents are unemployed or on parental leave with another child should be provided preschool from the age of one during at least three hours per day or 15 hours per week.
- Children should, also, be provided preschool when they need special support in the form of preschool on the ground of physical, mental or other considerations.
- From the fall semester of the year when the child turns three, the municipality should provide at least 525 hours per year.
- Undocumented children and young adults have the right to preschool class, comprehensive school, special needs comprehensive school, the Sami school, upper secondary school, special needs upper secondary school if they enrol before they turn 18.

### **Right to Swedish for Immigrants, SFI:**

The municipality is responsible for providing Swedish for immigrants, SFI. The education provides basic knowledge in Swedish, including speaking, reading and writing in Swedish. The education is focused on the language of everyday and work activities.

### **Right to upper secondary education:**

Asylum seekers and young newcomers have a right to study at the level of upper secondary school. If they do not have educational eligibility, they should be offered an introductory program focusing on language and eligibility to national upper secondary school programs. A student who has enrolled in an introductory program or a national upper secondary school program has the right to complete their education in that municipality, even after they have turned 18.

There is, also, regulations involving a right to residence permit on the grounds of upper secondary education when an application for asylum is not granted yet or rejected. The rules are complex and changing. More and updated information can be found at the Swedish Migration Agency, the National Agency for Education and the Swedish Network of Refugee Support Groups, FARR.

### **Right to education at university or college:**



Newcomers can encounter difficulties getting admitted to universities and colleges due to the need for recognition of foreign qualifications to access all higher education programs. Other methods can be used to measure and individual's competence, than through formal credentials. The premise is that every resident has a right to higher level education if they have the right qualification from upper secondary education.

### About the right to housing

The right to housing is an economic and social human right. Irrespective of migration status, or whether an individual never has migrated, the right to housing should be progressively implemented by the state. However, homelessness is a rising problem in Sweden, and politics has not been capable of managing the issue from a perspective of welfare or human rights, so everybody is guaranteed accommodation. Issues around progressive implementation are particularly difficult in connection with the right to housing.

The Swedish state places a lot of the practical responsibility for implementing the right to housing on the municipalities. They have a large responsibility for effecting a supply of accommodations under, among others, the Social Service Act, chapter 3, §2: "In the course of its activities, the social welfare committee shall promote the right of the individual to employment, housing and education." The municipal obligations are evolved in legislation (2000:138) on municipal responsibility for housing provision. Municipalities are, also, responsible for providing housing to the elderly and individuals with rights under LSS.

The Settlement law from 2016 provides newcomers, i.e. resettled refugees or former asylum seekers granted residence permit, a right to a residence municipality. The objective of the law is to create a good and proportional establishment over all the municipalities in Sweden. As a rule, municipalities should provide permanent accommodations. The right to housing for individuals covered by the Settlement law came up before the Administrative Court of Appeal in Stockholm the 25<sup>th</sup> February 2019. The background was the decision by Lidingö city (municipality) to terminate all housing contracts that newcomers allocated to the city had since settling there from 1<sup>st</sup> March 2016. The court stated that the Settlement Law does not demand that municipalities guarantee housing beyond the establishment period. After this, individuals rely on the Social Service Act when in need or without accommodation. In spite of the court decision, the Settlement law gives a strong signal to the municipalities to implement lasting housing solutions as far as it is possible.,

### About the right to leisure activities and culture

Access to meaningful leisure time and good exercise habits affect wellbeing and health. Municipalities, county councils and regions are responsible for large parts of everyday culture and leisure. It is about enabling inhabitants to create a meaningful leisure time, to be able to pursue sport and partake of culture.



Regions and county councils, also, make large investments to provide culture throughout the country. Municipalities have a big responsibility for access to facilities for culture, sport and leisure.

Many municipalities, associations and civil society organisations organise activities directed at individuals in risk of social exclusion, for example, migrants and individuals with non-normative abilities.

In cases of lack of accessibility to cultural and leisure activities, social support services, such as accompanying services and a personal contact/facilitator, can be justified by a need to break isolation.

### About the right to health

The right to health is a human right and includes according to the United Nations not only the right to health care but, also, a reasonable standard of living, food, housing and clothes. A lack of implementation of other rights often affects health negatively. Health is, also, affected by other external factors such as environment, social factors, living conditions, access to family life and participation in the community. Health, as a right, should be viewed as a basic for all individuals in a community which in turn affects development and growth.

### *Health and Medical Services Act, HSL*

HSL contains objectives and guidelines for all health and medical services. It states what care the region, municipality or other care providers are obliged to provide. HSL, also, regulates what provisions should medically prevent, examine and treat illnesses and injuries. Furthermore, HSL, also, regulates rehabilitation and access to technical aids.

According to HSL, health and medical services should be provided to all residents in the region. In addition to Swedish citizens, individuals granted residence permit, irrespective of on what grounds, have access to adequate Swedish health and medical services.

Children, i.e. individuals under the age of 18, who are asylum seekers, undocumented or hidden have the right to health and medical services and dental care on equal conditions as other children in the region.

Asylum seekers who do not understand Swedish have the right to an interpreter during medical appointments.<sup>19</sup>

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<sup>19</sup> KomHIT - a national web resource. A digital platform with information on health and dental care on 10-11 different languages with image support and other material. <https://kom-hit.se/>



### *Other laws regulating health and medical services.*

Individuals seeking asylum in Sweden have a right to Swedish health and medical services to some extent, under the Health and Medical Care for Asylum Seekers and Others Act. Individuals living hidden and undocumented individuals have right to some health and medical services under the Act Concerning Healthcare for People Residing in Sweden without Permission. “Health care that cannot be postponed” must be provided to everybody irrespective of migration status. Different readings of the legal rights and terminology are common. The implementation, therefore, varies across the country and it can be difficult to know whether a specific treatment will be provided in a certain situation.

Asylum seekers are offered a free health examination on arrival to Sweden. It is important to integrate a disability rights perspective at this stage to identify support needs in connection to non-normative abilities.

Even though, the Patient Act (2014:821) is not a rights law, it is important to apply it since it aims to strengthen and clarify the status of the patient and promote the patient’s integrity, self-determination and participation.

### *Especially about the Reception of Asylum Seekers Act (LMA)*

The law (1994:137) on the reception of asylum seekers provides asylum seekers with certain rights to housing and support. It substitutes the Social Service Act as far as the parts concerning housing and support. The authorities and the Swedish Association of Local Authorities and Regions, SKL have sometimes had different opinions on whom is responsible for certain things, which can put the individual in a difficult situation and case the implementation of rights to fail.

SKL and the Migration Agency have discussed the regional responsibility in relation to the target group, especially when it concerns payment for support such as home care and other services for individuals under LMA. SKL and the Migration Agency do not always share viewpoint which means that individuals can get caught between regulations when agents try to push responsibility onto each other.

LMA can be described as a legislation providing basic security and levelling out of the municipal responsibility for costs. The Social Services Act and other laws cover areas where LMA does not apply.

### *Who does what?*

This part will guide non-government organisations and authorities to find the right agents. The missions of the public agents are made clear in legal frameworks.



### The mission of the Swedish Migration Agency

The Migration Agency is responsible for examining applications for residence permits, work permits, visas, citizenship and return decisions. The Migration Agency offers support in the form of accommodation, food, daily expenses compensation as well as some other support to asylum seekers while they wait for a decision. The Migration Agency, also, allocates unaccompanied minors to the municipalities that will arrange accommodation for them under the Reception of Asylum Seekers Act. The Migration Agency manages the government compensations to municipalities and regions covering certain costs for individuals granted residence permit. The Migration Agency allocated newcomers to the municipalities. The agency has a responsibility to make sure accommodations and information are accessible for individuals with non-normative abilities. The Migration Agency are responsible for providing asylum seekers with LMA-cards. These are proof that an individual has applied for asylum and should generally be renewed every six months. Furthermore, the Migration Agency needs to provide information that technical aids should be provided by the regions. An LMA-card or a residence permit seems to be needed to get access to technical aids.

### The mission of the National Agency for Education

The mission of the National Agency for Education is to support, implement and provide advice in connection with the Education Act, ordinances and regulations as well as publish general recommendations to support the application of the Education Act. The National Agency for Education's general recommendations for the education of newly arrived students describes how the principal and the headmaster should work to fulfil the legal requirements. The school principal and the headmaster are responsible for routines around reception, placement and planning of the continued education. The basis is the long-term planning, the follow-up of the work with reception and the continued education of newly arrived students.

### The mission of the Swedish Public Employment Service

The Public Employment Service is responsible for matching employers with job seekers so more can enter the labour market. To fulfil their mission, the authority has responsibility for a number of labour market policy programs and measures. For newcomers, the Public Employment Service has a special responsibility in cooperation with other agencies, to implement the establishment program that aims to get newcomers employed or enrolled in education.

### The mission of the Swedish Social Insurance Agency

The Social Insurance Code (2010:110) is a coherent and comprehensive social insurance legislation that regulates most of the Social Insurance Agency's allowances for residents in Sweden who meet the requirements to them.





The Social Insurance Agency's mission is to decide about and pay out a large part of the entitlements in the social insurance. The Social Insurance Agency handles benefits and allowances to families with children, to individuals who are sick or of non-normative abilities.

To be covered by social insurance, you have to be resident or employed in Sweden. In general, you cannot receive allowance from the Social Insurance Agency if you get daily expenses compensation from the Migration Agency during the asylum process. An individual who has moved to or from Sweden or worked abroad can be insured for some of the Social Insurance Agency's allowance, but not for all. Introduction benefit to newcomers who take part in the establishment program is paid out by the Social Insurance Agency.

### The mission of the municipalities and regions

There are 290 municipalities in Sweden. Municipalities have a responsibility to govern the local community and make sure that everybody in that community has a reasonable standard of living. They do so through political decision-making and the collection of taxes that are used to provide different services such as school, leisure activities and social services.

There are 21 regions in Sweden. The mission of the regions is to be responsible for, for example, health care and medical services, public transport and regional development within their geographical area. The municipalities are characterised by self-governing activities and an obligation to realise the laws enacted by Parliament, for example, the Social Service Act, LSS and the Education Act.

The municipalities have a particular responsibility to be available for individuals with non-normative abilities. It is within the local community that people reside and live. Furthermore, the municipalities are the foundation of the social security net in the welfare state.

### The mission of the County Administrative Board

There are 21 counties in Sweden. Every county is controlled by an administrative board, i.e. the County Administrative Board is the authority responsible for governmental administration in each county. Each county administrative board has a head, the county governor that is appointed by the Government. The main, overriding areas of responsibility for the County Administrative Board consist of social care issues, regional planning, cooperation between authorities on several levels, among other things. The County Administrative Board functions as a link between activities on the national and local levels.

The County Administrative Board pursues and participates in planning, organising and implementing of activities for newcomers. This takes place on national, regional as well as local levels in cooperation with municipalities, national authorities, businesses, organisations



and associations. The County Administrative Board should contribute to municipal preparedness to receive newcomers and unaccompanied minors.

The County Administrative Board is tasked with supporting municipalities coordinating local activities such as Swedish for immigrants, SFI and social orientation. Furthermore, the County Administrative Board distributes government subsidies to the municipalities to facilitate housing, raising preparedness and capacity for reception and to develop activities like refugee guides and family contacts. The County Administrative Board should, also, follow up organisation and implementation of activities for newcomers and unaccompanied minors, both on regional and local level. In a report from 2017, the County Administrative Boards state that there are a lot left to do on different levels of society before the human rights are fully implemented.

### The mission of the Swedish Association of Local Authorities and Regions, SKL

The Swedish Association of Local Authorities and Regions, SKL is an interest organisation that assembles Swedish municipalities and regions. The purpose with SKL is to protect the interests of its members. An important role for SKL is to implement government mandates given to the organisation. SKL works in a variety of ways and, also, with disability issues. They strengthen municipalities' and regions' knowledge and administration concerning issues connected to, among others, individuals with non-normative abilities.

### Government subsidies to the municipalities

The municipalities have a right to compensation from the government for some of their costs for asylum seekers. The municipalities, also, have a right to compensation for certain costs connected to individuals who have applied for or been granted residence permit. Some of the government subsidies are paid out automatically, others on application from the municipalities.

A municipality can, in some cases, get compensation for benefits paid to an individual with time limited residence permit, on the grounds of medical reasons. A municipality can get compensation for costs in connection to maintenance support paid out under the Social Service Act, chapter 4, §1.

Policies often deal with issues of division of responsibility for costs which frequently place issues of human rights and a progressive perspective out of focus.



### The role of civil society and non-government organisations

Civil society is a concept including associationism, interest organisations and other forms of non-profit activities. The organisations' mission is often to be a democratic platform to protect the interests of individuals, for example, disability organisations.

According to CTPD article 4.3, cooperation between decision-makers and civil society should take place. Today, different forms of collaborations take place between, for example, municipalities and civil society to organise activities for the local residents. Individuals can receive support and information from different organisations to facilitate integration into the Swedish community. A formalised collaboration between civil and public society carry both risks and great possibilities. A nowadays common form of collaboration is idea-based public partnership. Civil society should not have to take on the state's responsibility for implementing the human rights, but they are often closer to the individuals involved than the public sector. Economic resources are often smaller within the civil society than the public sector.

DRW has worked together with organisations such as, for example, Hjärnkoll, BOSSE – råd, stöd och kunskapscenter, LaSse Brukarstödscenter, Hörselskadades Riksförbund Stockholm, the Swedish Association of the Visually Impaired's branch organisations for newcomers and RG Aktiv Rehabilitering that all in different ways work with migrants with non-normative abilities for empowerment and strengthening of rights.

Many of DRW's participants say that they have managed thanks to civil society organisations. The Red Cross has contributed with understanding of mental ill health and been crucial to the provision of early support for many asylum-seekers. The Swedish church has made sure that many individuals have received support by volunteers writing applications for social support including money for important medicines. DHR has channelled several individuals into integration with the help of volunteers with a specific disability rights perspective. Organisations connected to FARR have been important to support with understanding the process of reunification. Language cafés through Caritas, the Swedish church, IM and others have provided opportunities to learn Swedish before allowed into the system, which in recent years has taken longer than usual. Volunteers from the Swedish church have helped unaccompanied minors to get a roof over their heads when they fall out of the system.

Hjärnkoll, and their ambassador program, has strengthened and provided empowerment to many with PTSD. Hörselskadades Riksförbund has supported individuals that have hearing impairment or are deaf, especially young people to cope with the bullying many are subjected to.



DRW has been able to refer individuals to BOSSE – råd, stöd & kunskapscenter and LaSSE Brukarstödcenter that are established support centres since many years. DRW, BOSSE and LaSSE share the experience that many individuals have such extensive support needs that they are unable to participate in, for example, language courses, study circles on empowerment or even get to our support activities. DRW go home to people when resources allow. DRW has, also received queries from municipalities about meeting individuals in-site as they are unable to get out without support.

***“I am active in an NGO, an Asylum-committee, member of FARR. Through the years, I have met many asylum-seekers with different physical and psychological handicaps. My experience is that as long as they are asylum-seekers nobody really wants to take responsibility and they are tossed around between municipalities, county councils and the Migration Agency. Here are some situations where I do not know how to go about getting support for them, and why I turn to you:***

- A mother to a girl with multiple impairments got your address from a doctor to ask you for help. Her question is if you provide economic subsidies when needed. What are they entitled to in connection to nursing and care? She gets diapers but not wash wipes, creams and intimate soap. The mother means that their daily expense compensation does not suffice. Her application for new winter clothes was denied on the grounds that she had received a minor extra benefit two years ago. The girl has grown a lot under these two years, she needs clothes that are easy to put on and take off as she has spasms and cramps. The girl has cramps, is psychologically disabled and operated for scoliosis several times. They receive help at home three times a day. She goes to school and have recently been given short term accommodation. But it was very hard before this was granted, when she did not have residence permit.
- Another mother has two sons, one is autistic and psychologically disabled, the other son has hard-to-control diabetes. She is a single parent and have a tough time keeping up with and manage the boys’ extensive needs.
- A young woman with cerebral palsy has been in Sweden approximately four years. It is hard to expel her when she does not have ID-documents. It is hard for her to manage and she needs to get out now and again. Us volunteers have tried to reach out to persons and build a network around her. I have known about her approximately one moth. Is there extra help and support available? What rights do they have as asylum-seekers?”

### The role of legal practitioners

Authorities have a huge responsibility to accommodate rights. Many issues and processes are complicated and there is a need for legal representatives and legal counselling. Many municipalities and authorities have their own legal practitioners in their internal work and in court cases. According to the rule of law support can be needed in judicial proceedings if power relations favour the authority.

The starting point in Sweden is that a person represents themselves and take the initiative to apply for different supports from municipalities and authorities. The support concerning migration law varies. The Government provides public counsels in most proceedings



concerning application for asylum. But this is not provided in cases concerning family reunification, or generally in social law. Public counsels are provided in situations where the government subjects somebody to compulsory treatment but not if you apply for different support or benefit. The municipal social services have a varied degree of counselling and support to individuals who want to apply for something from the municipality.

It is common knowledge that there is a greater need for legal support to individuals than the government guarantees under the laws. In addition, there are explicit statistics showing that individuals with legal counsel to a larger degree receive a favourable judgment on their appeal, than those without. You can turn to lawyers or legal representatives but for obvious reasons their services are not free, instead they are sometimes very expensive for the individual. On the contrary, the existing systems to level out risks and liability are hard to gain access to and they generally become reality when a process is completed, which creates insecurity regarding the protection available from the systems at the start.

Civil society has realised the need to employ their own legal representatives that can assist members or supplicants. But the capacity is far from the size needed to meet the needs. Individuals often turn to the organisations but do not always get the support they need. Amnesty International, Swedish Red Cross, Asylrättsbyrå, Stadsmissionen, -Caritas, IM and Swedish Network of Refugee Support Groups, FARR are some good examples of organisations that can provide some free counselling or assist with cases in connection with migration law. Within the area of social law and disability there are organisations such as BOSSE – råd, stöd & kunskapscenter, LaSse Brukarstödcenter and Barnrättsbyrå.

### 3. A critical analysis of the system and recommendations for a better equally inclusive and sustainable integration.

This chapter problematises the different actors' division of responsibilities, taking of responsibility and application of law in practise. This is done against a backdrop of stories migrants with non-normative abilities have told DRW and from which a selection is presented to illustrate the problems. Good examples are provided, and towards the end, recommendations of better solutions and coordination for how individuals could get their rights met and live a life based on equally inclusive integration.

#### DRW's observations of the actual reception of migrants with non-normative abilities.

From the beginning of autumn 2017 to spring 2019, the DRW team has worked strategically to map the needs of migrants with non-normative abilities in relation to reception and establishment.

A participant recount:



***” What I learned is that you have to know your rights to get support. I was depressed and isolated in my home ...”***

DRW has been able to identify several aspects of the current reception system’s influence on migrants with non-normative abilities and their opportunities to get established in the Swedish society.

DRW has noted that the reception system plays a crucial role among the factors influencing how effective the establishment activities become for the target group. Among the stories DRW get told, there are those that show how an inaccessible reception system carries with it a number of different consequences for the establishment activities and its suitability amongst migrants with non-normative abilities.

For example, we could see that even though health is a right, not everybody in the target group avail themselves of the free health examination offered to all asylum-seekers. The reason for this is partly down to inadequate information of the purpose of the health examination and partly because a fear that non-normative abilities will affect an application for asylum negatively if they are found out.

On top of this, health examinations are not done with the purpose of identifying non-normative abilities, which hampers the possibilities to provide support at an early stage before and under the establishment period. Rather, the health examinations are done with the purpose of identifying potential illnesses. Thus, it is harder to identify needs of different entitlements that can create good preconditions and increase the chance of a successful integration, such as technical aids and support and services.

***A woman from Syria is blind. She spends the first six months enrolled in SFI. She had no access to Braille or technical aids. She listened but her progress was limited. She could only ask people about what she had understood. An observant doctor sent her to Syncentralen. They directed her to an SFI-unit for individuals with visual impairment where she got access to Braille, speech-CDs and other aids that enabled her to now swiftly learn good Swedish.***

The reception unfortunately in many situations lack a disability rights perspective. At the same time the area has a lot of good knowledge. Especially valuable is SIOS work with disability within the establishment, and the Agency for Participation’s report on “Persons with disabilities in the asylum and establishment process” from 2017.

DRW can therefore conclude that the existing knowledge unfortunately has not been used by important actors or implemented within the authorities over the country. Several authorities cooperate, but many of the problems known at government level are reflected in the stories told by DRW’s participants and reported by authorities.

A participant recount:



***"I have impairments due to polio and thought I would have better access to treatment for my leg. Time has passed and I have neither received rehabilitation nor treatment."***

DRW has collated some observations on the situation for migrants with non-normative abilities based on the stories DRW's project participants have submitted<sup>20</sup>. At the end of 2018, the project had met with 62 migrants with non-normative abilities, 11 women and 51 men.

The majority of these participants have non-normative physical abilities and most of them come from Africa or the Middle East, 47 of them have taken part in more in-depth interviews. The in-depth interviews showed that: 19 informants need accommodations; 24 informants need accommodations that are accessible for them; 27 informants need employment; 15 informants need access to good health care; 26 informants need access to education; and 21 informants need access to better modes of transport.

For example, the Swedish Public Employment Service has been provided with a tight framework by the new politics based on the perspective that "it is reasonable to demand the same from all unemployed"<sup>21</sup>. Loss of income due to stricter obligatory registration where information on the rules regarding individuals with non-normative abilities is inadequate, for example:

A participant recount:

***"It is harder to meet the requirements of credit points per semester at SFI so not to have to pay back study grants"***

This quote shows the activity's lack of a disability rights perspective."

Through a Quota-project, the Stockholm City works to better the situation for the reception of resettled refugees, who are directly included in the establishment program. We know that the cooperation between the Migration Agency, UNHCR and the municipalities does not function adequately for early identification of non-normative abilities. UNHCR's Resettlement Assessment Tool: Refugees with Disabilities<sup>22</sup> and SIOS' tools are useful to not unnecessarily miss opportunities to organise activities for resettled refugees with non-normative abilities. Unfortunately, the tools do not seem to be used. When they are not

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<sup>20</sup> <https://disabledrefugeeswelcome.se/2019/03/english-drws-observations-on-the-situation-of-disabled-asylum-seekers-in-sweden/>

<sup>21</sup> <https://www.regeringen.se/artiklar/2017/11/fragor-och-svar-om-inforandet-av-det-nya-regelverket-for-etableringsinatser-for-vissa-nyanlanda-invandrare/>

<sup>22</sup> <https://www.unhcr.org/protection/resettlement/51de6e7a9/refugees-disabilities-unhcr-resettlement-assessment-tool.html>



used, it gets hard to identify non-normative abilities during the establishment period, which delays or rules out necessary activities.

A participant recount:

***“I have been at the accommodation centre three days since I arrived in Sweden and have not been provided with a wheelchair or a shower chair. I cannot stand up and shower. Can you help me to get my chairs?”***

In their report describing the situation for persons with disabilities under the asylum and establishment process, the Agency for Participation 2017 wrote on the negative effects expected from the Temporary Law. There are many indicators that present day politics seems take a more long-term approach than what has been the case during the last three years. The Government has not taken the disability rights perspective into consideration for this issue. You can question how the authorities work to strengthen the effect of the disability rights perspective on policy development and implementation?

It is common knowledge that entitlements under the social insurance system, for example personal assistance, are not accessible for migrants with non-normative abilities during the asylum period, despite the fact, that they are in the country legally. The same is true for LSS as a whole. This makes access to support for a self-determined life significantly harder for asylum-seekers with non-normative abilities, and sometimes impossible.

A participant recount:

***“We are so tired. We have been moved 17 times during our time under the Migration Agency. We got no help with our daughter. She is laid up and cannot do anything for herself. At home, we had the whole extended family contributing help. But we had to flee from the war. The factory that produced the vital medicines she needs, was bombed. Now we are waiting for personal assistance, which we hope we will receive. It is a long time since we applied. We are so tired.”***

There, also exists perceived, but occasionally mistaken, incitement to not disclose non-normative abilities. Migrants have voiced their belief that they think they will risk losing the daily expense compensation if this come out. At the same time, we know that the systems for entitlement are not always sufficiently adapted to different capabilities, even if this is not directly connected to the authority’s knowledge on the non- normative ability.

According to the stories DRW has received, mental health within the target group is very negatively affected by deficits in the asylum process, reception and establishment. This is confirmed in a report from the Public Health Agency of Sweden where it is made clear that even the wellbeing of healthy migrants gets worse a couple of years after arriving in Sweden.





Here follow some examples of the deficiencies in the reception and establishment that are clearly connected to lack of accessibility:

- A blind man is allocated a flat on the fourth floor in a building with no lift. Due to minimal support he has to go out unaccompanied despite the risks. He has fallen several times on the stairs and received permanent injuries.
- A mother with two children lives on the second floor without lift. She has severe impairments from polio and difficulties walking up and down stairs. She still has to go with her children and her body is injured from over-exertion, which could have been prevented by the existence of a lift and support and service.

In addition, DRW has observed that denial of family reunification causes severe mental illness and huge obstacles for sustainable and equally inclusive establishment and integration. The humanitarian consequences of the Temporary Law have been well documented by the Red Cross and FARR. Changes in the Alien Act, especially through the Temporary Law, have consistently lacked a disability rights perspective, which probably have had much larger effects than DRW has managed to map.

*“I need help. I have applied for my sister to come to Sweden but got a denial. She helped me a lot at home. We got separated during the time we were fleeing. She was left behind in Turkey.”*

Uncertainty of the asylum process, if temporary residence permits will be extended as well as other social justice issues during assessment or after residence permit has been granted, create negative effects on wellbeing, health and opportunities to develop in the community. Access to legal counselling can sometimes be a very important provision so that individuals can make well-grounded decisions about their lives. It is common knowledge that information is not always accurately provided by authorities, which DRW has experienced. Even if it is not sure that the rights will be implemented with the support of a legal counsel, statistics show that the outcome of cases where a legal counsel for the applicant has been present more often favours the applicant. It is important with an independent source providing neutral information, especially when the counterpart is an authority.

A lot could have been solved for the target group if there was better awareness and implementation of human rights as well as infrastructure in the society. How come the authorities continue to lack in cooperation despite the insights gained from the SIOS project Disability in Establishment where many central authorities participated? Why has the situation not changed for the better?

### In-depth on the situation of asylum-seekers

As reviewed in chapter 2, Sweden has laws and ordinances that aim to guarantee asylum-seekers a legally secure asylum assessment. Everybody should get their case thoroughly examined by the responsible authorities. From this perspective, Sweden can be viewed as a



good example in comparison with other EU-countries. However, experiences that asylum-seekers with non-normative abilities have shared with DRW reveal that the system fails.

The system has huge gaps when a disability rights perspective is concerned, which impedes the legal security for asylum-seekers with non-normative abilities.

Firstly, the Migration Agency does not discover non-normative abilities at an early stage of the asylum process. The consequences of this neglect cause several problems such as:

- Misunderstandings during the asylum process of an individual with hearing impairment can cause the individual's reasons for applying for asylum to not be presented, which affects the possibility to be granted asylum.
- Provided information is inaccessible for individuals with visual impairment, neuropsychiatric diagnose and non-normative cognitive abilities, which means that asylum-seekers do not get necessary information on rights, process and access to support and services.
- Lack of accessible information can mean that individuals are not aware of their rights to, for example, chose case worker during the asylum process.

Another structural limitation is that the health examinations are not designed to assess asylum-seekers with non-normative abilities that are not visible. Therefore, these individuals risk coming across health hazards and suffering, as well as other problems such as decreased motivation and life quality and missed support.

Asylum-seekers with non-normative abilities are also at a disadvantage in connection with the new politics of family reunification. Lack of accessible information have caused individuals to miss the deadline of three months from being granted asylum to bring family members to Sweden. Missing the 3-month deadline forces individuals to apply for family reunification. Requirements for family reunification then consist of income demands covering all family members, employment and accommodation large enough for all family members. These are impossible requirements to fulfil for individuals who do not even have access to accessible Swedish language courses, accessible employment programs or accessible societal orientation. This could even constitute discrimination since other asylum-seekers have had access to and participated in the establishment programs available on Sweden.

Asylum-seekers have very limited rights during the asylum process, for example, they do not have rights under LSS or to personal assistance. Lack of accessible transport causes consequences that affect the individual's asylum case, such as missed doctor's appointments or meetings with case workers. Asylum-seekers with non-normative abilities often get allocated accommodations far from cities and access to service, as well as inaccessible flats isolating them and making their lives miserable.



Asylum-seekers bear witness about not being taken seriously and being discredited for no reason when they apply for support or more information about their cases. Some case workers have been unable to understand the existing problems because the interpreter is not capable to interpret to sign language or the language of the asylum-seeker.

DRW's observations demonstrate a need for change of the system to guarantee migrants with non-normative abilities right to legal certainty and non-discrimination:

### *Summary of the obstacles that asylum-seekers undergoing asylum process have drawn DRW's attention to:*

- Lack of a coherent cooperation based on a disability rights perspective between the Migration Agency, the Public Employment Services, the Social Insurance Agency, the social services, the municipalities and the health and medical services, which causes unnecessary suffering and negative consequences for equally inclusive integration.
- Lack of accessible and coherent information and instructions on health examinations, summons to meetings and decisions on, for example, asylum and support for asylum-seekers with non-normative abilities during the whole asylum process.
- Asylum-seekers with non-normative abilities have no right to personal support and service during the asylum process and the possibility of repatriation.
- Lack of accessible SFI-training and vocational training of high quality for asylum-seekers with non-normative abilities.
- Lack of competence and skills development on the disability rights perspective, reception and personal treatment from staff at the Migration Agency. Many employees, from case workers to accommodation coordinators, have little or no training on the disability rights perspective.
- The lack of actual access to secure and accessible accommodations for asylum-seekers with non-normative abilities.
- Lack of accessible transport for asylum-seekers with non-normative abilities.
- Lack of competent interpreters. Interpretation via telephone is often used despite that it worsens the quality and it is all too common for interpretation to be done through an interpreter that does not totally master the asylum-seeker's language. Misunderstandings are common and sometimes the case workers are not capable to intervene when there are clear signs of misinterpretation.

### **Psycho-social consequences of the system in practise.**

Migration represents a huge process of change and a stress inducing factor according to the County Council of Stockholm – Transcultural Centre's Handbook "Culture, context and psychiatric diagnostics". Regular social activities and closeness to family members have shown a positive influence on the degree of trauma symptoms. Long-term social defeats and stress can increase the risk of psychosis, which also are described in other parts of this manual.



Isolation during the asylum process is a known factor for migrants applying for asylum. Regarding migrants with non-normative abilities the isolation is intensified when there is a lack of accessible transport for wheelchair users, accessible SFI-training and access to social venues and leisure activities.

The situation of asylum-seekers with non-normative abilities needs to be highlighted from a critical perspective. Sweden as a country is coloured by the idea of the welfare state at the same time as there are great disagreements on which politics should impact the governing laws. Sweden as a state based on the rule of law has to treat individuals as equals and on the ground of human rights. The social entitlements that asylum-seekers have a right to are often at a minimum level and organised from functionally normative perspective. This is especially evident in the swift changes in migration law that have taken place during the last years. Obstacles emerging for migrants with non-normative abilities exist both within the asylum and the establishment process. Due to these conditions, migrants with non-normative abilities are exposed to long-term insecurity, isolation, lack of social protection and networks, which leads to negative humanitarian consequences that could have been prevented by a better migration laws and reception policy.

### Stories of negative consequences for individuals' human rights.

Through the project, DRW has daily met individuals that have encountered obstacles from the start of their new life in Sweden. First, it is the insecurity if they are allowed to stay and during this period individuals often struggle without sufficient support. Those who do not develop a social network often experience the situation as hopeless and sometimes unbearable. If individuals do not get allocated an accessible accommodation their bodies take a beating, for example, climbing up and down stairs or having to struggle coping with everyday needs. When transports are lacking it is hard to get to SFI. When you finally get to a store and buy what is necessary it is backbreaking to carry the bags, if it even possible. The threat of suddenly getting thrown out of your accommodation causes fear, which often leads to problem sleeping and to more and more psychological ill health.

Insecurity in whether or not asylum will be granted or not, lack of accessible and long-term accommodations, lack of SFI-training, not be taken seriously, not getting sufficient support – all this contributes to stress, worsening and worsening ill health, and impede the integration.

Below are some stories on the situation of people in Sweden. The concern contacts with authorities and decisions within the systems for migration and disability.

The stories come from DRW's participants. They illustrate inadequacies from an intersectional perspective, the right to health and other human rights.

### **Denied personal assistance – obstructed family life**



The situation concerns a man with permanent residence permit that is denied personal support and service. He has extensive needs due to a spinal cord injury that causes chronic pain and problems with transfers/ physical mobility impairment. The man is isolated at home due to denied assistance and para-transport. The authorities justify the decision with *“The need for help is not of the extension and character required for the right to personal assistance”*.

Denial of support and services is a problem for individuals with non-normative abilities in general and involves extra disadvantage for migrants with non-normative abilities. To be able to develop and take part of family life and leisure activities on equal conditions is a right and should be part of the health enhancing work in Sweden.

Denying the man assistance leads to a breach of the right to self-determination since no other service forms guarantee self-determination. Furthermore, it violates his right to effectively be able to be a part of his family as an active parent to his children. It also involves painful consequences for his mental health, which in turn prevent an equally inclusive establishment.

### *Denied family reunification – obstructed family life and worsening of health*

A newly arrived woman with refugee status and non-normative abilities is denied family reunification. The mother has applied for residence permit for her two children, whom are seven and nine years old. The application was rejected on the grounds that she does not have an income from employment and an accommodation of a certain size. The authorities justify the decision with the fact that the sustenance requirements demanded under the Temporary Law are not fulfilled.

During the asylum process and the establishment period there were no conditions provided enabling her to access the labour market or enrol in education. Some of the reasons behind the family not being able to reunify are, the inadequate information provided to the mother on how the system works and lack of adaptations under the establishment program, which has put her in a very disadvantaged situation in Sweden.

Unemployment is high among both individuals with non-normative abilities and newcomers. Furthermore, the jobs available for newcomers are often physically demanding and not adapted. In this way, the chance of the family reunifying is very slim, which affects the mental health in a very negative way, which in its turn could be considered discriminatory and a violation of the right to family life. The family has been separated for five years.

### *Inaccessible SFI-training – isolation and lowered self-confidence*



A blind man has not received any support with accessible SFI-training. He is, therefore, dependent on help to communicate which he does not always have access to. The result is, apart from inadequate knowledge of Swedish, loneliness and isolation in the home. He has due to the isolation developed a depression, problems sleeping, loss of self-confidence and drastically impaired self-image.

SFI-training as an establishment activity lacks a disability rights perspective. This means that non-normative abilities are not taken into consideration when organising courses, for example, the access to transport, adapted educational material or support/accompanying services.

The situation shows that knowledge of the target group's living conditions is inadequate. The disability rights perspective is lacking within cooperation between responsible authorities for reception of newcomers.

### **No suitable accommodation -isolation and psychological stress**

A woman who is impaired by polio was allocated accommodation in Stockholm together with her two small children. Despite that the period of her 2-year contract had not expired they were moved to an inaccessible accommodation in the forest in Västernorrland. There, it is hard to get to stores, schools, doctors and other community services without a car. The result becomes isolation and lack of SFI-training for the woman and children. Problems sleeping, worsening health and increased symptoms and difficulties from the effects of polio follow as a consequence of the isolation.

Short-term housing contracts and remote areas with poor transportation are commonplace for newcomers during the establishment period. This leads to difficulties in establishing a social network and accordingly to lacking employment opportunities and language development, especially when the accommodations are secluded.

### **Obstacles for reciprocal integration**

The self-image of a Swedish society as welcoming, equal, democratic and open can gain new dimensions and become a more real and self-critical image. This is an important scrutiny for long-term community development and coming from an ideological and political vantage point where democracy and justice will build the foundation of the Swedish society.

Integration in Sweden, as a social phenomenon means that individuals who are new to the Swedish society in practice receive poorer preconditions for good living conditions. Many experience that they have to adapt to a very large extent to the existing context. Often, harsh demands on various types of achievements and merits are made as a condition for individuals who are new to Sweden to establish themselves in a good way, especially if they



will be allowed to do so together with their families. Migrants with non-normative abilities are subjected to two power structures disadvantaging them.

In reality, many establishment and integration activities are not adapted to migrants with non-normative abilities and lack a disability rights perspective. This risk leading to marginalisation, isolation and segregation, which is the opposite to what integration means.

A reflection worth noting is the decisive role played by the environment when it concerns creating access or obstruction to community participation for migrants with non-normative abilities. DRW has been able to identify difficulties experienced by the target group before and during the asylum process as well as after residence permit has been granted, i.e. during the establishment period. These are summarised below.

### *Poor reception*

Preconceived notions about migrants with non-normative abilities form the basis for the reception from, for example, staff from the Migration Agency who call into question individuals' need for accessible transport or para-transport. Knowledge on how to meet individuals with non-normative mental abilities is lacking. This is, also true for knowledge on the infrastructure to identify non-normative abilities amongst migrants under the asylum process.

***“– If you have managed to get all the way to Sweden, you can manage to get to the hospital!”***

### *Inadequate information*

Migrants with non-normative abilities are, especially during the asylum process, going through a number of hard circumstances to achieve basic living conditions. Migrants with non-normative abilities do not get access to accessible information on the what rights they have.

Even individuals who have been granted residence permit do not have access to medical treatment on equal terms as others, partly because they cannot absorb the information provided to them as it is not accessible, partly because many individuals who are new to Sweden do not have the necessary knowledge to apply for support and services.

### *Inaccessible environments*

Migrants with non-normative abilities are excluded from many settings on account of language barriers and inaccessible environments. Both special settings for migrants such as centres and receptions for resettled refugees as well as other community service are frequently not universally designed and so not accessible for migrants with non-normative abilities.



### *Inadequacies of legal certainty in the asylum process affect integration*

The legal certainty of asylum assessments is an important factor to individuals being granted residence permit. The insecurity surrounding the issue of asylum affects individuals' health especially during the asylum process. Therefore, it is important that other factors around employment and community services do not add to the burden.

The Inquiry on the reception and housing of applicants for asylum and newly arrived immigrants<sup>23</sup> focused on the increase of early measures for asylum-seekers. The inquiry well describes certain problems that arise when there are deficiencies in the system for asylum reception, including issues on employment, education and housing. Furthermore, there is a need to clarify information on migration law such as family reunification and sustenance requirement, the right to personal support for individuals with non-normative abilities and the role of municipal social services. These entitlements can in the long run produce positive effects on integration and create trust in society among the target group.

### *Inadequate policies and standards*

The reception system is not designed with a disability rights perspective. The establishment program is generally not designed so everybody can participate regardless of abilities either, for example, SFI-training that is not accessible for migrants with non-normative abilities.

### *The need for protection against violence*

Individuals with non-normative abilities can, also need additional protection as they live with an increased risk for violence, including sexual violence and violence in close relationships, discrimination and denied access to assistance, education, sustenance, health care etcetera. Women, the elderly, children and HBTQ-individuals with non-normative abilities risk exposure to increased levels of risk, therefore, it is important to implement an intersectional working method to make sure that these groups are included and receive the support they need.

### *Certain movements in general politics*

The opposite of integration is segregation. The segregation in Sweden is now at a high which partly is caused by changes in housing policy, which facilitate buying and selling in the housing market. The continued selling off of tenement buildings and free setting of rentals. Furthermore, flats with reasonable monthly rents are not built in the extension needed.

Many non-governmental organisations have long raised the alarm for rising child poverty. According to Save the Children Sweden's report on child poverty 2018:

***"... children living in single parent households or have non-Swedish background run considerably higher risk being affected by economic vulnerability than other children in***

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<sup>23</sup> SOU 2018:22





***Sweden. The gap between children belonging to these groups and children with a better living standard have increased [...] Children growing up in poverty have a less active leisure time, risk of poorer school performances and risk of poorer health in adulthood.”<sup>24</sup>***

In the public debate on migration and integration immigration is frequently connected to criminality and suburban drug dealing. The responsibility is placed on a group of individuals purely based on their non-European ethnic background, through generalisation, stereotyping and hatred. To place guilt shame and responsibility on a group of individuals that in fact are heterogenic, is to promote cultural racism and populist rhetoric<sup>25</sup> that only generate polarisation and risk creating distrust of authorities as well as increasing discrimination.

Within political contexts it is expressed that immigrants must adapt and learn about the fair and democratic Swedish society. To demand and place responsibilities on individuals who are new to Sweden to become part of the community through learning the language and participating in the labour market is a positive factor that increases motivation, the feeling of belonging, continuity and sustainability. Demands that are made should be placed within the socio-economic and cultural reality people live in.

### **Problematisation and division of responsibilities among the actors**

The welfare state has to distribute responsibilities to be able to create efficient systems guaranteeing that individuals' needs are met. At the same time, the effect of distributing responsibilities is a need for coordination between authorities, a coordination which does not form a strong enough part of the current system. Unfortunately, individuals slip through the cracks and out of the system, sometimes because the authorities decide they no longer qualify for support but other times due to a lack of knowledge and information.

The access to social rights for migrants with non-normative abilities is directly affected by the legislative framework fragmented on the ground of migration status. Furthermore, it is generally harder for migrants to access entitlements due to inadequately accessible information, both to form and language, and insufficient activities of societal orientation that needs to be designed from an individual perspective.

Something not yet clearly mapped out is how the described systems for social rights and migration interact or not interact on the individual level. However, the experiences collected by DRW show that there emerges an aggregated vulnerability for migrants with non-normative abilities in various situations. Comparisons can, for example, be made with non-migrants with normative abilities, migrants with normative abilities, or Swedish citizens with

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<sup>24</sup> <https://resourcecentre.savethechildren.net/library/barnfattigdom-i-sverige-arsrapport-2018>

<sup>25</sup> <http://www.antirasistiskaakademin.se/kulturrasism/>



normative or non-normative abilities. Several of DRW's project participants have described situations from their reality which provide a deepened understanding for the situations described, for example, in the Agency for Participation's report on the situation for persons with disabilities under the asylum and establishment process. Many of these situations involve that individuals are denied human rights and that these are not provided in Sweden.

A too tight and strict distributive system of responsibilities leads to the fragmenting of taking responsibility for and implementation of rights on the side of the authorities. Even when authorities have worked to better their regulations and strategies to create better coordination and effect of the establishment activities, it has not had full effect. Part of the explanation is that the efforts often are made from an approach of normative ability.

DRW has identified difficulties which newcomers with non-normative abilities have experienced before, during and after the asylum process and the establishment program. DRW's observations show a lack of knowledge about the intersection of migration and ability, both among authorities and other actors. This explains, to a large extent, why certain difficulties emerge in meetings between authorities and migrants with non-normative abilities.

An intersectional cooperation between public entities disability organisations and other parts of the civil society can create a more long-term and sustainable process as well as strategies for implementation of migration and disability rights within all policy areas affecting migrants with non-normative abilities in Sweden. It is, also a requirement in article 4.3 of the UNCRPD to cooperate with disability organisations on decisions affecting their interests.

Increased participation of the target group in issues affecting their health, employment, education, family, right to migration and establishment, housing and transport is an important strategy for better establishment. This would make it easier for migrants with non-normative abilities to take part in the Swedish labour market on equal terms. This would facilitate self-sustenance and accordingly the possibilities to reunite with their families under the requirements of the Temporary Law. Access to leisure activities and cultural life, access to well adapted SFI-training and future education lead to better integration informed by opportunities for reciprocity and cooperation.

The Inquiry on the reception and housing of applicants for asylum and newly arrived immigrants was an opportunity to address these issues with more clarity. Unfortunately, the Commission report shows that when the government took an overall approach to the policy of asylum reception the disability rights perspective was conspicuous by its absence.



### Key factors to remember when you work with migrants with non-normative abilities

Within authorities and organisations, it is important to have knowledge and strategies for meeting individuals with different preconditions. The power relation between an individual and an authority is often to the individual's disadvantage, and the target group often have more difficulties to navigate the Swedish system on their own as this is built on self-representation and knowledge on how it works. Below are some crucial factors affecting the situation for individual with non-normative abilities in encounters with authorities. To be aware of these and actively work on them creates better conditions for equally inclusive integration.

#### Self-determination and human rights

A vital factor and target for disability policy is that individuals should live an independent life and be included in the community. It is, also a human right to acquire preconditions to live independently within the community according to article 19 of the UNCRPD.

Migrants with non-normative abilities face bigger challenges than people in general to be able to live independently in the community. Therefore, it is necessary for actors to have an understanding of this in all activities concerning the target group. If an in-depth understanding of the human rights had been a priority in all activities a reciprocal integration would have come further in Sweden.

It is possible to question how compliant the Swedish scheme is with article 19 of the UNCRPD when a right to personal assistance is not available for asylum-seekers, especially considering processing times for asylum can be several years. Therefore, it is important to apply other laws according to international law.

#### Health and health-literacy

Health has a great influence on individuals' possibilities to participate in the community, manage school, work and live an independent life. From as perspective of human rights, health belongs to the fundamental human rights under the UN Declaration of Human Rights from 1948. These rights are legally binding under the UN Convention of the Economic, Social and Cultural Rights, UNESCR from 1966.<sup>26</sup>

Equality to health is also related to other human rights, distribution of resources and other processes between individuals divided socially, economically, demographically and geographically in groups.

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<sup>26</sup> <http://www.manskligarattigheter.se/Media/Get/526/ladda-ner-dokument-pdf>



“Health literacy is the cognitive and social skills that determine individuals’ motivation and opportunity to gain access to, understand and use information in a manner that promote and maintain good health.”<sup>27</sup>

The concept of health literacy is used within two contexts. One is the framework of health and medical services, where focus is on whether the “patient” can understand and use information about illness and medicine as well as navigate the organisation of health and medical care.

Health literacy is, also used within the framework of health enhancement, which involves the health determinant social factors, i.e. factors contributing to unequal health, and understanding for these underlying factors increase and strengthen the individual’s and the population’s health literacy. DRW’s approach to the meaning of health is based on the health enhancing context where the factors of empowerment and genuine participation make up essential aspects of the work with migrants with non-normative abilities.

### Health promoting work

Health promoting work is based on the right to health in practise and makes claims of a positive and inclusive definition where health is viewed as a determining factor for life quality and also includes psychological and spiritual wellbeing. Vital for this perspective is that work follows the seven leading principles of participation, empowerment, a holistic view of health, health equality, intersectionality, sustainability and multi-strategy.

What affects and controls people’s health is complex. Within the framework for health enhancing work, it is social factors such as societal organisation, living conditions, living standard and habits<sup>28</sup> which determine the health of individuals. It is important in this context to highlight factors that are important for how health among migrants with non-normative abilities is affected of, for example, how the situation was in their home country, trauma that they have been subjected to during their flight, as well as the organisation of the reception process in Sweden. These factors are, also mentioned in a compilation made within the delegation for cooperation between the authorities and the Swedish Association of Local Authorities and Regions, under the working group focused on health and newcomers’ establishment<sup>29</sup>.

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<sup>27</sup> Karin C. Ringsberg, Health Literacy - teori och praktik i hälsofrämjande arbete

<sup>28</sup> Whitehead and Dahlgren, 1991, Hälsans bestämningsfaktorer

<sup>29</sup>

<https://www.lansstyrelsen.se/download/18.26f506e0167c605d569534ce/1552465001957/Sammanst%C3%A4llning%20h%C3%A4lsol%C3%A4get%20bland%20nyanl%C3%A4nda.pdf>



Determining factors of health that contribute to better health among migrants with non-normative abilities include well-functioning cooperation between authorities, increased participation for the target group when authorities coordinate activities, functioning infrastructure for concrete individually adapted measures and other living conditions such as living standards and habit.

### **Treatment of migrants with non-normative abilities**

Treatment or reception can be defined as the interplay between individuals and the attitude they have towards each other. This is expressed in communication as tone, actions facial expressions etcetera.

To offer migrants with non-normative abilities a reception based on individual needs, rights and individualised provisions will provide a grounded and secure start in Sweden.

A future- and solution-driven approach with a focus on the individual's abilities should be the basis for all communications with individuals with non-normative abilities.

For example, within the framework of activities aimed at the labour market, public actors should emphasise the potential of an individual and make sure to prioritise rehabilitation focused planning for good prospects through training and practise.

### *Security*

Clear and consistent information and a secure infrastructure for the reception generate security. Authorities, public actors and civil society should create safe meetings with the individual. This should be done by mapping the individual's needs for methods of communication, ensuring accessibility to the physical environment as well as other aspect such as interpreter, interpreter for sign language or sign-supported communication, information in Braille etcetera. Also, in connection to secure and accessible housing, a more long-term and well-grounded contact should be made with the municipality that will receive an individual with non-normative abilities. Make sure that the individual will be allocated an accessible accommodation based on the mapping of their needs. Document the individuals needs so the municipality will be aware of what provisions are needed.

### *Continuity*

Create a continuity of contact through providing feedback to the individual, book several meetings ahead and make sure that the individual is participating.

### *Genuine participation*

Individuals with non-normative abilities is not a homogenous group. They are individuals with varying capacities and needs and who contribute in different manners to their communities. It is important to create preconditions so that migrants with non-normative abilities themselves, without intermediaries or other filters, can express their needs.



Genuine participation involves the target group deciding subjects that are relevant for them based in their experiences, wishes and suggestions.

### *Clarity and structure*

Migrants with non-normative abilities should already during the asylum process get information about how the system works, what they as asylum-seekers can expect from the authorities and what rights they have, which authorities are handling their applications, how long time the process will take, what will happen during the process, which other public actors will be in contact with them, how this contact will be done. It must be guaranteed that the individual is provided an opportunity to say what is clear and what needs to be repeated, in which manner etcetera.

### *(Dis)ability and culture*

If cultural differences are viewed as a possible reason for migrants with non-normative abilities not getting their needs met it should be included that the context of the Swedish culture, also is a possible reason. Are public actors, politicians and authorities aware about their own culturally related behaviours enough to avoid problems of interpretation based on them? That the view on non-normative abilities varies based on culture and context is a fact. It is also a fact that people are also individuals and they should be met as such first.

Sweden is a welfare state where the public sector has the responsibility to provide support to individuals with non-normative abilities. When authorities place the responsibility on the target group to “talk about their own health” it is based on the perception that health literacy from a global perspective is at the same level as in the Nordic countries.

Disability policy in Sweden is based on the environmental relative model of (dis)ability. This means that the focus is placed on obstacles in the environment, i.e. it is the organisation of the society which hampers or enables the individual to be included in the community. The aim of disability policy, and in their turn the authorities, is to remove obstacles for individuals with non-normative abilities to participate in the community.

The belief that the view on non-normative abilities is more open in Sweden than in other contexts is partly true. However, the view of non-normative abilities as something abnormal and negative lives on among the general public in Sweden and is frequently connected to illness and catastrophes. A clear example of this is the use of the word “handicap” in everyday conversations, despite the National Board of Health and Welfare advise against using the word and the disability policy distance itself from the term. Shame exists in all societies however; we should watch out for limiting generalisations.

It is important, in this context, to highlight that the Swedish view of health has not managed to be widened, developed or adapted to provide better treatment when meeting different cultural and socio-economic realities.



The manual, “Culture, context and psychiatric diagnostics” by the Transcultural Centre is intended to create understanding for the importance the cultural context of an individual has when developing their own understanding of their situation and context. Shared responsibility should be highlighted, however, not on the individual level but on the political and structural level.

### **Accessibility to public arenas, organisations and the labour market.**

It is important to involve individuals who have migrated and experienced all aspects of the Swedish society from a perspective of non-normative ability. They are experts on their needs. Participation boost the chances of organising activities so different languages and non-normative abilities are valued equal through a widening of current norms and their limitations. Awareness of the different orders of power based on gender, ethnicity, religion, sexual orientation and gender identity, within workplaces and in the society around us, increase with active measures against discrimination.

### *The need for structural change*

The organisations of the Swedish civil society should always work with an intersectional perspective when they design or structure their work. This means to have at least three of the power structures we know in mind, for example, ethnicity/nationality/language, (dis)ability/gender/gender identity.

### **Ask yourself:**

- In what way does your organisation work with these issues?
- Are there individuals that identify as part of these groups in our organisation?
- Is my organisation accessible and safe for the individuals who come here?

This would increase the understanding for the intersection between the situation for migrants and the situation for individuals with non-normative abilities in Sweden. This would, also generate awareness of the power structures that exist in all areas of society, which in the end is to way for all of us.

### *Implement a disability rights perspective*

To include the disability organisations when drawing up action plans and bylaws, provide a good foundation for issues connected to (dis)ability for civil society organisations. One example could be to increase their participation when planning the physical environment.

### Implement an anti-racist perspective

To include, for example, the Cooperation Group for Ethnic Associations in Sweden (SIOS) when drawing up action plans and bylaws, provide a good foundation for issues connected to migration for civil society organisations.



### Overcoming language barriers

Civil society organisations can break down language barriers through:

- Adopt several languages as working languages during the time migrants are learning Swedish.
- Employ individuals with knowledge of multiple languages, including sign language and, also written communication in Braille. This can lessen some of the obstacles to encourage newcomers.
- Together, the organisations should press the government to make Swedish for immigrants (SFI) more accessible for migrants with non-normative abilities.
- Support needed for migrants with non-normative abilities
- Migrants with non-normative abilities in Sweden, especially asylum-seekers, often have a vulnerable situation due to isolation, uncertainty connected their asylum application, lack of support to meet their personal needs and legal limitations, inadequate access to SFI-training and education etcetera. It would be beneficial for migrants in Sweden to gain insight into the workings of the Swedish labour market which would enable them to be active and participate in the community, thus, provide a sense of achievement and usefulness.
- Civil society organisations should create volunteering schemes focused on migrants with non-normative abilities, especially asylum-seekers. This should be done from a disability rights perspective with empowerment as the aim.
- Civil society organisations should organise accessible leisure activities, cultural events to engage migrants with non-normative abilities.

### Experiences of a working integration

There are good examples of good relations between the individual and the society's support systems. One of DRW's participants arriving to Sweden as a refugee a couple of years ago, is one such good example:

***"I lost one of my legs many years ago. I walked with two crutches but after a couple of years my working leg became exhausted. After I came to Sweden, and now when I have started to become established, I have become much more independent and self-determined in my life. A big reason is that I have gotten a prosthetic leg which makes it easier to walk and because I now use one instead of two crutches, I have a free hand to use. Now it is easier for me to study, do training and work, and soon I hope I will get a full-time job. I really appreciate the coordination between the health and medical services and Skellefteå municipality, which enables the change in my life. I hope others will get the same support that I did."***

Another example concerns the connection between employment and societal services. Even though it should not be necessary to have employment it might be good to emphasise the role of employment in access to rights.





***“I got my application for para-transport denied. Through contacts with DRW’s volunteers a new application was written that focused on the need for transport to work. Then I was granted para-transport.”***

Another example concerns an individual who was granted permanent accommodation through DRW’s persistent communication, in cooperation with civil society, with the municipality. The contract goes beyond the establishment period, so meet the right to housing and the municipalities obligation to work towards permanent housing solutions and social security.

There are many examples of inadequate or functioning processes of integration that have reached DRW through cooperation or exchange with authorities, civil society and volunteers. Our round-table discussions have frequently provided new perspectives, contacts and project participants. This has been a help with bridging the knowledge gaps between issues of migration and social law. One example is DRW’s theme day on PTSD which provided new insights, and several project participants wanted to reach out for support for their psychological ill health.

### **Proposals for cooperation between or within authorities and other actors for an equally inclusive integration.**

It is noted on several places in the manual that better cooperation between authorities and other actors, such as civil society organisations, is needed to create preconditions for an equally inclusive integration. It is important to have wide networks and alliances between different organisations that have knowledge and experience of issues concerning both migration and (dis)ability. Therefore, it is important to include both the movement for asylum rights and different disability rights organisations in the planning of the cooperation because then intersectional power structures can be made visible and inadequate conditions easier be revised. Furthermore, the actors can better make use of documented previous experiences, for example, SIOS work within the project -Disability within establishment<sup>30</sup>.

It can be difficult to keep track of all the systems and the perspectives, but with better cooperation and coordination the knowledge and perspectives will be applicable even in smaller activities.

An open platform or a forum to collect material, exchange experiences and contacts (while following the rules of GDPR) as well as organised follow-ups, could be a system to facilitate cooperation. This could result in a better consensus on the human rights’ objectives, including priorities to guarantee sufficiently resources to meet the rights and fulfil the objectives through implementation of previous experiences. It would be a forum where

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<sup>30</sup> Stödmaterial- Identifiering av funktionsnedsättning/trauma: <https://wp.me/a9IOMJ-yj> :



authorities in different ways actively can stay in contact with representatives for various disability organisations and where they can have their say on the direction certain issues need to go, a direction that is relevant for them. Authorities should have representatives who maintain an active dialogue with the organisations.

Coordination, with the support of individual plans regarding personal situations, regarding planning, division of responsibilities and implementation of activities can clarify relations and gaps. Individuals often know best what works or not for their personal situation and this can be strengthened by cooperation, responsiveness and participation.

The right to an individual plan (IP) is regulated both under HSL and SoL as well as LSS; individual plan (IP) under LSS and coordinated individual plan (SIP) under SoL and HSL. An individual plan can be requested by the individual in need of support or be suggested by the individual's case worker, social secretary, administrative official responsible for support assessments or a counsellor.

Decision makers that participate in meetings together with the individual in need of support and their representative should consider: What is important in the short term and in the long term? Who should do what? Who is responsible for the current provisions? When should it be completed? When should it a follow-up be done?

The existing coordination systems can be used considerably more and in a different way to create conditions for a more rights-based and health-enhancing focus. The coordination can be better with an integrated human rights perspective that includes (dis)ability, migration and intersectionality as well as a respectful reception adapted to the individual's needs.

The non-profit sector should put resources into creating sustainable and accessible environments and infra-structures for migrants with non-normative abilities, to which others will be connected to create a knowledge-base and network of individuals that together ensure that security and participation on equal terms is the basis for the work.

### The UNHCR's toolkit

The UNHCR gives recommendations regarding resettlement and reception for refugees with non-normative abilities, in a handbook<sup>31</sup> produced by their Resettlement Service Division of International Protection. The aim of the handbook is to promote efficiency and harmonisation to the assessment procedure regarding refugees with non-normative abilities.

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<sup>31</sup> <https://www.refworld.org/pdfid/5163f43e4.pdf>



According to UNHCR, refugees with non-normative abilities risk becoming invisible and excluded from support, services and sustainable solutions which, also involves equal opportunities for resettlement as other refugees. UNHCR views it as crucial that a deeper understanding is developed for the conditions of refugees with non-normative abilities. They also want to make sure that refugees with non-normative abilities get fair access to the process of resettlement as well as their needs met in a non-discriminatory manner during the resettlement process.

The handbook consists of two parts. Part one is a user guide that provides information on the phases included in the resettlement process for refugees with non-normative abilities. It, especially, concerns the recognition of individuals in need of resettlement, provisions for a functioning reception and integration in the resettlement country.

Part two, “The Resettlement Assessment Tool: Refugees with Disabilities” provides a step-by-step guide on how to organise assessment of resettlement for refugees with non-normative abilities as a sustainable solution as well as recognise individual needs during the resettlement of refugees with non-normative abilities.

### Recommendations for a reciprocal integration

Below is the result of this manual, a list of recommendations based on the stories and suggestions DRW have received during the project so far. These can increase the chances individuals with non-normative abilities who have migrated to Sweden to get a rights-based, equal, health-enhancing and just establishment process and integration.

- Increased participation for newcomers with non-normative abilities in issues concerning among other things health, employment, education, family, migration and establishment policy, housing and transport.
- Better reception from authorities and decision-makers with an outset of meeting the needs of individuals irrespective of migration status and (dis)ability.
- Commitment and coordination between the Migration Agency and the municipalities to organise a common network according to the UNHCR’s toolkit for assessment and reception of refugees facing resettlement.
- Access to high-quality and accessible SFI-training and professional skills training for newcomers with non-normative abilities.
- Consistent cooperation based on the disability right perspective between the Migration Agency, the Public Employment Service, the Social Insurance Agency, the social services, the municipalities and the health and medical services, within the establishment.
- Implementation of the rights and disability rights perspective in all new regulations, policies and decisions regarding newcomers or migrants.

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- The establishment program should have the health-enhancing and disability rights perspective as the starting point.
- Extend the two-year limit for the establishment program and accommodation contracts should be written until further notice for newcomers with non-normative abilities.
- Secure, accessible accommodations for migrants with non-normative abilities.
- Accessible and correct information and directions regarding among other things family reunification, health examinations and notifications to newcomers with non-normative abilities during the process of asylum.
- Accessible information and directions regarding support and services to newcomers with non-normative abilities in the systems for applying for this. Asylum-seekers with non-normative abilities should have the right to support and service also during the
- asylum process, during an appeal of a decisions and when facing return.
- Guidelines on how coordinators of migration accommodations should prepare, procure and make sure to communicate on accessible migration accommodations.
- Abolish the sustenance requirement for newcomers with non-normative abilities so they can reunify with their families.
- Skills development on the disability rights perspective, treatment and cultural differences for staff at the Migration Agency, from case workers to coordinators of migration accommodation.
- Asylum-seekers with non-normative abilities need to be guaranteed right to individual support and service during the asylum process and in case of return.

### Recommendations for implementation of rights

- Authorities, municipalities and regions should apply and guarantee the rights under the UNCRPD, the Refugee Convention and the ECHR in existing schemes for monitoring whether the activities comply with rights, and to catch potential deficiencies.
- Decisions in individual cases should be made on the basis of the conventions on human rights as far as Swedish law allows, i.e. treaty conform interpretation. The Government in its strategy for human rights from 2017 assumes that the authorities do this.
- Examine the national rules on the basis of international documents on human rights, especially regarding the principle on progressive realisation of economic, social and cultural rights.
- The UN Committee on the Rights of Persons with Disabilities issues general comments, recommendations to the countries and communications regarding individual complaints. These are good to read to understand what it takes to implement the human rights for persons with non-normative abilities. The documents are available at the committee's website. Given that authorities and municipalities are subjected to the requirements of the convention, it needs to be applied in a multitude of activities.



- Implement legal demands of accessibility that make it possible to design the environment in a more accessible way from the beginning, as well as remedy existing inadequate accessibility systematically at all the responsible levels of society: national, regional and municipal.

### Recommendations for the implementation of critical perspectives

- Examine and counter the discrimination that causes some individuals to be denied of get poorer access to power and resources within the current societal structures. People's chances in the society depend on their access to power and resources.
- Intersectionality is a useful analytical tool within the framework of activities for migrants with non-normative abilities, since it produces new knowledge about the complexity and diversity that distinguish the meeting of individuals' conception of themselves and others in today's globalised communities and the relation between them.
- The self-image of a Swedish society as welcoming, equal, democratic and open needs to be problematised. This view can acquire new dimensions towards a more real and self-critical image which is characterised of the opposite. These are important insights that broaden the knowledge production aimed at changing and developing society to the better.
- By implementing the disability rights perspective many obstacles can be prevented and the society function better when it does not exclude certain individuals from various activities purely due to lack of reflection and planning.
- Is a norm critical perspective to focus on which the norms are that causes certain migrants to be excluded or getting limited room for action, as well as no access to establishment provisions.
- The authorities have a crucial responsibility that information on the rights of individuals is presented in a manner that individuals can make use of. Among other things, this means that translations of written information and documents need to be done and that information is provided through different modes such as various language interpreters, sign language interpreters, the use of a Talking Mat or augmentative and alternative communication, that works for the individual who need the information.
- Earlier provisions are needed for asylum-seekers, including information on migration law regarding family reunification and sustenance requirement, right to individualised support for individuals with non-normative abilities and a clarification on the role of the social services in the municipalities.
- An in-depth survey is needed of how the systems of social rights and migration interact or do not interact int eh individual level, especially concerning the right to support and service for individuals with non-normative abilities.
- Reciprocal integration requires that society create conditions for migrants to participate in the community, spend more resources on education, health and awareness raising activities to open the labour market for both migrants and individuals with non-normative abilities from an individual perspective.



- Create conditions for redistribution of resources through governance for the priority of the disability rights perspective, reception and individualised treatment within the framework of the Migration Agency's activities as well implementation of rights.

### Recommendations for participation and coordination

- More intersectional cooperation and co-creation between public actors, disability organisations and other parts of civil society, are needed. Preconditions, including budget, need to be guaranteed to prevent inequality and pretend-participation.
- Better coordination between authorities is needed for the division of responsibilities to work and so nobody will fall through the cracks. The currently all too tight and strict division of responsibilities leads to fragmenting of taking responsibility and implementing of rights from the side of the authorities. The guidelines and strategies of all authorities should be based on the rights perspective and the disability rights perspective.
- Knowledge and capacity development are needed at the authorities and other actors on the intersection between (dis)ability and migration.
- The concept "full participation" should be understood as effective participation of the individual in various activities and societal arenas, for example, employment, school, leisure activities and politics according to individual preference. Expressed in another way, participation is about an individual being part of the decision-making of various processes.
- A system for facilitating the coordination could be an open platform to collect material and exchange experiences and contact details (in accordance with GDPR). This would generate better consensus over the human rights' objectives, including the priorities to guarantee sufficiently resources to implement the rights and fulfil the objectives by putting earlier experiences in effect.
- In situations concerning individuals and planning, division of responsibility and realisation of provisions, coordination with the support of individual plans clarify connections and gaps.
- The existing coordination systems can be used much more and in a different way to create conditions for a more rights-based and health-enhancing focus. Coordination can improve with a more integrated human rights perspective involving (dis)ability, migration and intersectionality as well as a respectful reception based on the needs of the individual. The individual often knows what works or not in personal situations and this can be strengthened with coordination and responsiveness. Austerity, a medicalised and paternalistic approach, narrow decisions by the political administration and discrimination.
- The actors can become better at making use of documented earlier experiences, for example, SIOS activities within the project Disability in Establishment.
- A more coherent coordination is needed from a rights-based disability perspective between the Migration Agency, the Public Employment Services, the Social Insurance Agency, social services, municipalities and health and medical services, to avoid unnecessary suffering and negative consequences for an equally inclusive integration.

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- Skills development on the disability rights perspective, reception and individualised treatment is needed for staff at the Migration Agency, including staff/units responsible for procurement at., for example accommodation centres.
- Accessible and coherent information and directions are needed on health examinations, summons to meetings and decisions regarding, for example, asylum or entitlements for asylum-seekers with non-normative abilities during the whole period of the asylum process.

### Recommendations for reception/treatment

- Knowledge and strategies: knowledge and strategies are needed for meetings between individuals with different preconditions. To be aware of and actively work with individuals with non-normative abilities create better conditions for equally inclusive integration.
- Attitude: a future- and solutions-oriented attitude with focus on the individual's possibilities should be the ground for all communications with individuals with non-normative abilities.
- Security: authorities, public actors and civil society should create safe meetings with individuals. This should be done by mapping the needs for communication methods, physical accessibility as well as other aspects such as interpreters, sign language interpreters, sign-supported communication, written information in Braille etcetera based on the needs of the individual.
- Continuity: contacts should be given continuity by feedback to the individual, book several dates for meetings ahead and make sure the individual is involved in the booking. Go through eventual booked dates together with a contact person.
- Genuine participation: it is important to create conditions for migrants with non-normative abilities to be able to express their needs without intermediaries and other filters.
- Awareness: increased awareness is needed among public actors and organisations about the influence the Swedish cultural context and own culturally related behaviour have on meetings with other individuals, as well as the importance of not using offensive terminology.

### Advice on strategies for a good reception/treatment of migrants with non-normative abilities

- Take personal contact with key figures who have competence in disability issues as well as understanding of how migration can affect people from a psycho-social and economic perspective.
- Make sure the individual is not feeling like a burden or passive receiver of "help".
- Avoid the word "help" and use words such as support instead. Treat the individual as a valuable and important asset for the community.
- Prioritise responsiveness and active listening. Apply a genuinely participatory approach for a better reception. Show consideration in the way you act by recognising the various needs of



the individual. Organise, in consultation with the individual, a solid plan for cooperation between the various key actors working as contacts during the period of establishment.

### Recommendations for integration in the field of employment

- Involve individuals who have migrated to and experienced Sweden from the disability rights perspective at workplaces, especially workplaces targeting migrants with non-normative abilities. Thus, the experiences can be put into practise and prevent mistakes that can be avoided from reappearing.
- Work on active measures against discrimination (under the Discrimination Act) and establish an intersectional perspective in the risk-analysis for discrimination.
- All public actors and non-profit organisations should implement an intersectional rights and disability rights perspective in their action plans etcetera, i.e. actions regarding planning, implementing and follow-up of both external activities and internally at the workplace.
- View linguistic diversity and non-normative abilities as a strength in public actors, civil society organisations and workplaces where a connection is made to active measures against discrimination.

### Recommendations for more specific actions

- The non-profit sector should spend resources on producing sustainable and accessible environments and infrastructure for migrants with non-normative abilities, where more should become involved and form a knowledgebase and network of individuals who together make sure that the outset is security and participation based on the individual's preconditions.
- The disability rights perspective needs to be considered in connection with decisions on family reunification for certain individuals with non-normative abilities, under the European Convention and the right to family reunification.
- When migrants who want to reunify with their families have non-normative abilities, the disability rights perspective should be applied to the sustenance and housing requirements. This is because society offers poorer preconditions and is not adapted for migrants with non-normative abilities, which is a breach against the human rights.
- The establishment program should apply, also to migrants with non-normative abilities arriving to Sweden as partners. It can prevent the appearing of gaps in the support with navigating the Swedish system as well as increasing chances for and equally inclusive integration for more individuals.
- Actual access to safe and accessible accommodations for asylum-seekers with non-normative abilities is needed.
- Access to accessible transport for asylum-seekers with non-normative abilities is needed.
- Functioning interpretation is needed. There is a deficiency of competent interpreters. Interpretation via telephone is often used in spite of poorer quality, and it is all too common that interpretation is made by an interpreter without full command of the language of the



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asylum-seeker. Misunderstandings happen frequently and case workers are sometimes not able to intervene when there are clear signs of mistaken interpretation.

- The health examination on arrival in Sweden should integrate a disability rights perspective to identify needs for support connected to non-normative abilities, including invisible non-normative abilities, at an early stage.
- All support provisions from the municipalities should take individual needs, which can vary over a lifetime, into consideration. Individuals should have a direct influence over how the support is organised and when it is available.
- If it is a child in need of support, it is important that the child receives information in a form that they understand. It should be possible for the child to participate and express their own thoughts and wishes. What is best for the child should form a crucial part of decisions on what support should be provided.
- Paratransit: according to -Sweden's international commitments, special transport services should be organised as comparable as possible to ordinary public transport so individuals with non-normative abilities can be included in the community on equal opportunities as others.
- Leisure activities and culture: when there is inadequate accessibility to culture and leisure activities, social support provisions such as accompanying services and facilitator be granted on the ground of need for support to break isolation and discrimination.
- SFI-training as an establishment activity needs to be organised from a disability rights perspective. Non-normative abilities should, thus, be considered when organising the training, for example, through individual plans that give access to transport, accessible training material, accessible premises etcetera when needed.
- Self-determination: migrants with non-normative abilities face bigger challenges than people in general to be able to live independently included in the community. Therefore, it is necessary that actors have understanding about this in all activities concerning the target group.
- Accommodation: regarding accommodation, a solid and well-grounded contact should be made with the municipality allocated an individual with non-normative abilities. Ensure yourself that the individual will be referred to an accommodation adapted according to charted needs. Document needs so the municipality will be aware of which provisions will be needed.
- Accommodation: the municipality should not place individuals where they risk becoming isolated. Opportunities to participate in SFI-training, accessible transports and cultural and leisure activities as well as social arenas, must be available.
- Information: migrants with non-normative abilities should already during the asylum process get information on how the system works, what will happen during the process, which authorities that are handling their applications etcetera.
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### Summarised conclusions

The situation for migrants with non-normative abilities is best viewed from an intersectional perspective. Then, underlying structures which risk discriminating migrants with non-normative abilities, are identified. Their rights to a self-determined life included in the community, good living conditions and equal rights and opportunities should apply irrespective of migration status and (dis)ability. Even if Sweden has progressed in many respects much remains to be done.

To obtain a position where human rights are available for all, a better coordination is needed both within the area of policy and to individuals' contact with the actors of society. More and long-term investments need to be done in the target group to reach more equal opportunities and possibilities. Putting individuals' preferences and the disability movements' insights at the centre can generate a constructive dialogue.

Authorities and politicians should proceed from the rights for individuals with non-normative abilities when deciding new policies or regulations in general, and migration and social policy in particular. The human rights perspective should be prioritised over economic benefits or tax deductions to be in line with Sweden's international commitments and contribute to human dignity and freedom. This goes for both the political level and when decisions are made by authorities regarding individual cases.

The different actors of society should adopt a constructive, long-term and solidarity-based dialogue with individuals with non-normative abilities who have migrated to Sweden. It will create increased participation and an equally inclusive integration.

### *Useful links (in Swedish)*

<https://www.regeringen.se/contentassets/0b52fa83450445aebbf88827ec3eecb8/fn-s-konvention-om-rattigheter-for-personer-med-funktionsnedsattning-ds-200823>

<http://www.socialstyrelsen.se/vardochomsorgforasylsokandemedflera/halso-ochsjukvardochtandvard/vilkenvardskaerbjudas>

<https://www.migrationsverket.se/Andra-aktorer/Kommuner/Lagar-och-forordningar.html>

<https://www.migrationsverket.se/Om-Migrationsverket/Vart-uppdrag.html>

<https://www.skolverket.se/skolutveckling/leda-och-organisera-skolan/organisera-nyanlanda-elevers-skolgang>

<https://www.migrationsinfo.se/valfard/halsa/tillgang-till-varld/#fn-256-2>

<https://www.studera.nu/>

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[https://skl.se/integrationsocialomsorg/asylochflyktingmottagandeintegration/etabl  
eringsinsatsersfi/svenskaforinvandraresfi.7071.html](https://skl.se/integrationsocialomsorg/asylochflyktingmottagandeintegration/etabl<br/>eringsinsatsersfi/svenskaforinvandraresfi.7071.html)

<http://extra.lansstyrelsen.se/integration/Sv/Pages/startside.aspx>

<https://www.migrationsinfo.se/valfard/halsa/tillgang-till-varld/#fn-256-2>

<https://www.skolverket.se/publikationer?id=3576> (Allmänna råd.)