

A REVIEW OF DISABILITY EMPLOYMENT PROTECTION POLICIES

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Abstract

The paper examines the institutional structure in India, the UK, and the USA concerning disability and employment. This study aims to study the impact of significant legislation in India and other countries. *The Bureau of Labor Statistics reports that one-third of the disabled population works in the United States. Employers are responsible for providing all reasonable accommodations for disabled employees to perform their duties at work. In the United Kingdom, the Disability Discrimination Act of 1995 mandates that all inner-city areas, colleges, and other institutions provide services to disabled individuals. On January 1, 1990, the Americans with Disabilities Act (ADA) became law. In 2009, the statute was revised, and the changes took effect the following year. Employers can only inquire about an applicant's disability if they attempt to assist them or in the national interest. The Prime Minister oversees a National Disability Policy developed by the Ministry of Social Justice and Empowerment in India. The Convention on the Rehabilitation and Employment of Disabled Persons (Disabled Persons Convention) became effective on June 20, 1985. Despite the official website, it became effective on May 3, 2008, available for signing since March 2007. India believes that individuals with disabilities are invaluable for human resource development. Rehabilitative treatments and equal opportunities will enable them to live a higher quality of life. The National Policy for Persons with Disabilities, developed by the government, protects their rights while ensuring integration into society.*

INTRODUCTION

Generally, the employees with disabilities are unemployed or underemployed compared to the regular employees. Every sixth employee is suffered from some disability. Only one-third of the total disabled population is employed United States in the United States. The United States and the United Kingdom have passed a law to protect the employment rights of disabled people. The United States passed the Americans

With Disabilities Act in 1990 (ADA), and the United States passed the disability discrimination act in 1995.

Both laws protect individuals who are suffering from some disabilities. The United States law guarantees disabled individuals equal opportunities in different sectors, including government, private or non-profit organizations. Employers need to provide all necessary arrangements to the disabled person to perform his job reasonably. Likewise, the law of the United Kingdom protects all the rights in the area of employment, including obtaining all the goods and services or trading the property and land. The act of 1995 of the United Kingdom requires all the inner cities or colleges, or other institutions to provide disabled people to the National Disability Council so that the government can make necessary arrangements for them.

LEGAL FRAMEWORK IN THE UNITED KINGDOM AGAINST DISCRIMINATION

The disability discrimination act 1995 is not prevalent now, and it has been replaced by the new act equality act 2010. The new act is applied exactly seems like the equal treatment directive of the European Union is used. There are several provisions in the front if any employers commit discrimination or harassment or try to victimize persons with disabilities.

Employers must make necessary arrangements so that people with disabilities can work smoothly. The employer needs to arrange critical employment training programs for those with physical or learning disabilities.

According to the equality act 2010, the employer needs to set application forms for disabled people and the necessary arrangements for the interview. A disabled person cannot be deprived of aptitude or proficiency tests. The employer will give such people reasonable job offers, including clear terms of employment and payment provisions (Bell & Heitmueller, 2009). There will be no discrimination in promotion, transfer, and training opportunities for disabled people. The employer will follow the prescribed procedure for dismissal or any disciplinary action against them. The most pertinent part of the act is putting restrictions on asking health or disability questions if they had not affected the task, which is an essential part of the job. Disability-related questions can only be asked if the employer is trying to help the candidate or necessary in the nation's interest (*Disability Rights*, n.d.).

ENFORCEMENT OF LAW IN THE UNITED STATES AGAINST DISABLED DISCRIMINATION

The Americans with disabilities act were enforced in 1990. The act protects the civil rights of disabled people and ensures equal opportunity for them in open facilities, business, transportation, state, and nearby taxpayer-driven organizations, and broadcast communications. The act was amended in 2009, and the

amendments were implemented in 2010 (*What Is the Americans with Disabilities Act (ADA)? | ADA National Network*, n.d.). There were significant changes in the provisions of the previous act took place. The definition of disability is expanded. The provisions of the show and applicable to private employers if they have appointed more than 15 employees. The entire act is divided into five titles. The first title talks about equal opportunity for every disabled individual in employment. The employer is responsible for providing reasonable accommodation for disabled people in the selection process and necessary modifications and adjustments to perform their employment duties. The second title imposes discrimination against a qualified individual with disabilities in the state and local government services. The third title talks about providing public accommodations and all commercial facilities at private and public places. The fourth title requires telecommunications service providers to facilitate and make equipment is available for people with disabilities of hearing and speech. The last part of the act talks about different miscellaneous provisions about implementing laws and other institutions to provide favorable conditions to disabled persons (Acemoglu & Angrist, 2001).

INTERNATIONAL CORPORATE EMPLOYMENT POLICY

There are several international instruments to protect the rights of disabled employees depending on the agreement between states or organizations of the states through treaties or other soft laws. As per the provisions of UDHR 1948, each individual is born free and should be given equal dignity and rights. An International Labour conference was held and received by the International labor organization on equal compensation in 1951, subsequently, Convention 111 on discrimination in employment and occupation in 1958. The principles are demonstrated and accepted in the Convention on giving equal remuneration and against discrimination in employment and work. All the ILO member states are bound to follow those principles. These address discrimination based on race, color, national extraction, ethnicity, indigenous and tribal peoples, sex, religion, political opinion, and social origin (*International Labour Standards on Employment Policy*, n.d.). Discrimination occurs when any distinction, exclusion, or preference is made, hurting the enjoyment of equal opportunity or treatment in employment and occupation. Convention on Vocational Rehabilitation and Employment (Disabled Persons) came into effect on June 20, 1985; as per national conditions, practice, and conceivable outcomes, every part will detail, execute, and occasionally survey a state policy on vocational rehabilitation and employment of disabled persons. The first crucial international instrument concerning the rights of disabled people is the Convention on the Rights of Persons

with Disabilities (CRPD), 2006, and its Optional Protocol. In December, the Convention was adopted in 2006 at the United Nations Headquarters in New York. It was opened for signature in March 2007 and came into force on May 3, 2008, after the twentieth state had ratified the Convention. The following essential principles were adopted (Dowling, 2014).

- There will be no discrimination and equal opportunity for all.
- Each employee must be recognized equally before the law. The employer must ensure the protection of disabled people. The state should also provide the necessary support
- The state and employer will work on the principle of accessibility. That means ensuring the physical condition, transportation, data, and interchanges, containing data and correspondence advances and frameworks, and different offices and administrations open or given to the general population, both in urban and country regions.
- To ensure the participation and inclusion principle. That means to ensure disabled people's participation at each level and implementation of their development plan.

INDIAN POLICY ON EMPLOYMENT FOR PERSONS WITH DISABILITIES

The Indian government has developed a National Disability Policy under the Ministry of Social Justice and Empowerment. To help disabled individuals find employment, the government must begin discussions with private sector organizations. Provide appropriate home-based revenue-generating opportunities for individuals with disabilities, particularly those with severe and multiple impairments. Individuals with disabilities and their caregivers will also be encouraged to participate in the employment coaching. Facilitate the adaptation of machinery, workstations, and work environments to enable impaired individuals to operate freely in training centers, factories, industries, and offices. Marketing boards, District Rural Development Businesses (DRDAs), commercial agencies, and non-government organizations specializing in marketing goods and services produced by individuals with disabilities can assist. Disability-related poverty reduction initiatives will be expanded so that individuals with disabilities receive their statutory 3 percent share. N recognition that persons with disabilities are a precious human resource for the country. They can live a higher quality of life if they have access to rehabilitation services and equal opportunities.

To create an environment that protects their rights and full participation in society to such individuals, the government developed and implemented the National Policy for Persons with Disabilities. The policy offers concrete actions and methods for protecting the rights of PWDs and ensuring their integration into society

(Department of Empowerment of Persons with Disabilities | MSJE | Government of India, n.d.). Public and private sector establishments with 25 or more employees were required to notify the nearest Employment Exchange of specified types of vacancy under the Employment Exchanges (Compulsory Notification of Vacancies) Act of 1959. India had 947 employment exchanges in December 2004. The state or union territory administrations are responsible for managing employment exchanges daily. Employment exchanges are concentrated in urban areas. The primary function of employment exchanges is to register and place job seekers. Most employment exchanges accept applications from all job seekers and are referred to as 'regular exchanges' below. A certain particular type of exchange caters to job seekers, such as plantation labor exchanges, executive and professional employment exchanges, and exchanges sales for the physically disabled.

People with disabilities can now apply for 42 different work exchanges. A unique placement officer is assigned to each of the 38 PWD cells within the standard job exchanges. PWDs may be registered outside the scope of special sales and special enclosures. In addition, only 27% of registered persons with disabilities are members of special deals or special cells of regular everyday conversations. In addition to the 661,000 PWDs enrolled on the live register for all sales, 109,929 were enrolled as part of memorable exchanges for the physically disabled, and 66,612 as part of regular exchanges' special cells for the physically disabled (Mitra & Sambamoorthi, 2006).

SUPREME COURT OF INDIA ON A DISABLED EMPLOYEES RIGHTS

In the case, Bhagwan Dass v. Punjab State Electricity Board, It was found that the Board's action of terminating the disabled employee's employment was unethical and illegal. The appellant was employed as a Lineman. His vision was completely impaired. He didn't know about any legal protections available to him and feared losing his work, which was his family's primary source of income. The Supreme Court observed that it is easy to imagine he was under a tremendous amount of mental strain right now. In those circumstances, the senior officers' responsibility was to explain the correct legal situation and inform him of his legal rights. Instead, they dismissed him by taking a statement out of context and using it as grounds for dismissal. The Board's concerned officers' actions were, in our opinion, deplorable (Bhagwan Dass v. Punjab State Electricity Board, 2008).

In the case, Kunal Singh v. Union Of India, the Supreme Court of India decided on the applicability of Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation)

Act, 1995 (for short, the Act). However, a specific ground is raised in this appeal based on Section 47 of the Act. Non-discrimination in government employment is addressed by Section 47 of the Civil Rights Act of 1964. If an employee becomes disabled while performing their duties, the establishment may not discharge the employee or demote the employee; provided, however, that if an employee becomes disabled and is no longer suitable for the position they held, the employee may be transferred to another job with the same pay scale and service benefits. A further limitation is placed, which states that if it is not possible to match the employee with an available job, he may be retained on supernumerary status until a suitable position becomes available or until he reaches the age of retirement (whichever occurs first). The section stipulates that no promotion can be denied solely on the basis of based on a person's disability. Regarding the nature of the work carried out at any institution, the competent government may, upon notification and the stipulation of such limitations as may be contained in such information, exclude any institution from the requirements of this section.

According to the Supreme Court, the fact that the appellant received an invalidity pension under Rule 38 of the CCS Pension Rules, 1972 does not justify denying him the protection of Section 47 of the Act. As long as the appellant has acquired a disability over the course of his service, he may be transferred to another post with the same pay scale and service benefits; if he is deemed unsuitable for any position, he may be placed on a supernumerary post until an appropriate position becomes available or until he reaches retirement age. Respondents did not seem to have made any attempt to do so. Upon further investigation, they determined that he was permanently incapable of performing his job duties without considering the other provisions of Section 47 of the Act (Kunal Singh v. Union Of India, 2003).

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