



BEYOND THE INDIANS WITH DISABILITIES ACT: A NATIONAL EMPLOYMENT POLICY FOR THE PEOPLE WITH DISABILITY

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Abstract

We are a developing country in India. Ensuring that approximately 1 million Indians live as healthy and independent lives as possible is an important goal for our country. Working is a part of human life. Among employees and employers, disabled people work in all workplaces, but sometimes it is a difficult job for employers who employ disabled people at construction sites and offices. This article examines the law and practice of employment law. Law reform in the country will ensure the creation of some laws that apply to the employment of people with disabilities. This article highlights efforts to improve laws and regulations to support and protect people with disabilities in our society. Examines how states, communities, and institutions can use existing federal laws and regulations to reduce barriers and discrimination in care. It can be used to make progress toward these goals by increasing our understanding of laws and regulations. Its aim is to prevent disability-related discrimination throughout society, from employment to public services and social services.

Keywords: - Employment, discrimination, workplaces, employees, employers.

INTRODUCTION

Disability is an inherent aspect of humanity. Numerous individuals with disabilities are employed across various sectors globally. It is essential for organizations to inform their disabled employees about disability policies and national regulations. This necessity arises from the comprehensive nature of disability, which encompasses medical, social, legal, political, and psychological dimensions. Consequently, disability can be examined from both health and social viewpoints, each employing distinct terminology. However, for legislation to effectively protect individuals with disabilities, it must consider all facets, rights, and responsibilities associated with this group. This includes implementing affirmative action and non-discrimination measures in education and employment, conducting regular disability screenings as a preventive strategy, and establishing organizations at both central and state levels to enforce disability laws.

‘Disability’ means the absence of legal capacity to do certain acts or enjoy certain legal rights.¹ To facilitate legal integration, nations create laws that acknowledge the realities of disability. This article reviews the current legal framework, highlights inconsistencies and challenges, and suggests a national support policy aimed at ensuring the full participation and inclusion of individuals with disabilities in all life areas. Rights serve as a robust foundation for people with disabilities. Article 14 ensures equality before the law, while Article 21 affirms the right to life and personal liberty. Articles 15 and 16 prohibit all forms of discrimination, including those based on disability, and guarantee equality in public employment, marking significant advancements in human rights.

The rights of substances with disabilities are not certainly defined in labour laws; yet, there are provisions addressing their relationship with employers constitute in delegated legislation, including rules, regulations, and standing orders. Usha Bhat notes that in early societies, the Darwinian idea of "survival of the fittest" prevailed, leading primitive tribes to abandon children with physical disabilities. The stereotype of "equalization of opportunities" is a critical focus of the WPA, serving as its foundational gospel to promote full participation of people with disabilities in all areas of social and remunerative life. India has committed to all the claims established by the United Nations. Likewise, India has advocated the "Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region" and the "Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free, and Right-Grounded Society." The PWD Act aims to guard the right to equivalency for realities with disabilities. This legislation was necessary due to the deep-seated stations that foster smirch and demarcation in diurnal life. Accordingly, the PWD Act forbids demarcation grounded on disability to promote the acceptance of individualizes with disabilities and ensure their integration into what's

¹ See Legal Glossary, 7th Edn. 2015, at page 127.



frequently appertained to as 'mainstream' society, including the plant. Fresh challenges to employment, similar as the need for accessible transportation and stable casing, also affect the job prospects of youthful people with disabilities. When they achieve independence and find work, it is frequently limited to low-paying and slavish positions. Their representation in professional places and advanced-income jobs is nearly absent. Societal stations in India have been largely prejudiced and dismissive towards individualizes with disabilities. The lack of timely and acceptable medical care, heightened vulnerability to sexual abuse, limited access to education, poverty, and gender inequalities has all aggravated the struggles faced by impaired individualizes in India.

METHODOLOGY

The main objectives of study provide equal opportunities and safeguard the rights of all working person with disabilities by addressing disparities in employment, and accessibility. Public facilities are mandated to enhance accessibility in their work forces. It is need to implementation in the policy of employment law. Working institutions frequently lack the necessary infrastructure and resources to support working people with disabilities. In the workplace, individuals with disabilities face discrimination, insufficient reasonable accommodations, and limited prospects for career advancement. Main Prevention and rehabilitation models should be introduced to raise awareness among those unfamiliar with disabilities.

OBJECTIVES

- We must put our Disability Laws into action and examine relevant case laws.
- We have developed an employment policy to ensure special accommodations in the workplace.
- We need to eliminate social stigma and discrimination against individuals with disabilities in the work environment.
- Reforms should be made to the provisions, enforcing strict measures for victims of both mental and physical harassment.
- Support should be provided to all individuals working across various sectors in accordance with the RPWD Act.
- Everyone should receive equal treatment and assistance in the workplace.

CHALLENGES WORKING PEOPLE WITH DISABILITIES UNDER RPWD ACT

- **Demarcation and Inequality**, they face several types of demarcation e.g., frequently there's disinclination to hire PWDs for employment;
- **Loss of Social Status** Lack of openings results in lack of employment, plutocrat etc.;
- **Inhuman Treatment** People suffering from internal illness or internal deceleration are subject to social rejection;
- **Loss of Identity**, the identity of PWDs becomes linked with their disability and come a subject of pity.
- **Lack of Information** The first problem is the lack of information about government programs and benefits for people with disabilities.

This issue is reported in pastoral areas where broadcasting is delicate. This limits their mobility, education, healthcare, and social and communal participation. Critical measure. Implicit Rejection from development plans Some developments may not include impaired people, which may beget impaired people to be barred from master plans. And persons with disabilities who bear communication similar as ramps, subscribe practitioners, or Braille accoutrements. Understanding can increase the difficulties they face by leading to social isolation, demarcation, and rejection from the decision-making process. People are particularly vulnerable to the goods of climate change. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) was ratified in 2007 and the Rights of Persons with Disabilities (RPWD) was published in 2016, furnishing a legal frame for the protection, forestalled, and support of people with disabilities. There are gaps and problems in perpetration and operation, and numerous impaired people are still ignorant of their rights and remedies.

Since impaired people are not getting access to education or skill development, they are unfit to get independence in terms of livelihood. Mindfulness and perception of the employers pose challenges. Lack of availability and rigidity in the workspace is an interference to impaired people. The severance rate of PWD in the working age group is doubly that of those without a disability in developed countries. In developing countries, 80-90 of PWD are jobless, whereas in industrialized countries the figures are between 50-70. In India, 36 of all PWD are employed 23 and 47 among ladies and males independently.



THE CONSTITUTION OF INDIA

Constitution of India, religion, race, gender, religion etc. It applies equally to all citizens of India, whether healthy, normal, or disabled (physical or mental).

"Disability" is not defined in the Constitution. However, what is being said is that no citizen can be deprived of access to public spaces, shops, and use of public spaces because of their religion, sex, race, ethnicity, gender, place of birth or any of these." defines the following groups as those who have special rights that can be developed without discrimination against other people in India. These are women, children and people belonging to social classes and backward education. The framers did not see the need to identify other social groups, such as the elderly or the disabled, to whom separate laws would be given.

The Constitution states that people with disabilities have the following rights:

Article 14 provides that the State shall not deny justice before the law or equal protection of rights to any person in India. **Article 15(1)** enjoins the government not to discriminate against other citizens of India (including persons with disabilities) based on religion, race, caste, sex, place of birth or any of these grounds. **Article 15(2)** provides that no citizen (including disabled persons) shall be subject to disability, obligations, restrictions, or conditions for any of the above reasons when entering or using all or part of shops, public restaurants, hotels, and public entertainment facilities. A portion of it by the State Exchequer for the maintenance or private use of wells, ponds, showers, roads, and public toilets.² Women, children, and persons in a socially and educationally backward class or in schools and groups will particularly benefit from special rules or regulations of the State. All citizens, including persons with disabilities, should have equal opportunities in employment or appointment to any Government office. No one, including the disabled, can be considered unaffected by this regulation, regardless of their property. It is considered a crime according to **Article 17** of the Constitution and will be punished according to the law. The life and freedom of everyone, including the disabled, are guaranteed by **Article 21** of the Constitution. All children between the ages of six and fourteen have the right to free and compulsory education from the state. (**Section 21A**). Doing business with people (including disabled people), begging, and other activities are prohibited and will be punished according to the law (**Article 23**). **Article 24** It is prohibited to employ children under the age of 14 (including the disabled) in factories, mines or engage in other hazardous activities. Even private sector employees working on behalf of the state cannot employ children under the age of 14 in these jobs. **Article 25** guarantees the right of all citizens (including persons with disabilities) to freedom of religion. Every disabled person has the freedom of conscience to practice and preach his religion in accordance with the law, morality, and health. People with disabilities should not be forced to pay taxes for the support and maintenance of any religion or church. No person with a disability may be deprived of any language, literature, or cultural rights that he or she possesses or belongs to. Every person with disability can approach the Supreme Court of India for enforcement of his/her fundamental rights and the right to approach the Supreme Court is also guaranteed under **Article 32**. Although the right to property is not a fundamental right, the disabled person who owns it (if he is not disabled) cannot give away his property unless there is a law. Unauthorized removal of property may be subject to legal action and damages. Any disabled person (including non-disabled people) who is 18 years of age or over is eligible to have their name included in the general election for their constituency. It is not legal but provides good advice for the government to create laws, including laws for disabled people.

UNITED NATION CRPD

UNCRPD, in **Article 27**, spells out the contemplation of rights in employment for persons with disabilities.³

➤ Article 27- Work and employment

States Parties recognize the right of persons with disabilities to work, on an equal foundation with others; this includes the right to the occasion to gain a living by work freely chosen or accepted in a labour request and work terrain that is open, inclusive, and accessible to persons with disabilities. States Parties shall guard and promote the consummation of the right to work, including for those who acquire a disability during employment, by taking applicable way, including through legislation, to, inter alia

(a) enjoin demarcation grounded on disability about all matters concerning all forms of employment, including conditions of reclamation, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

² <https://indiankanoon.org/doc/609295>

³ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-27-work-and-employment.html>

(b) cover the rights of persons with disabilities, on an equal base with others, to just and favourable conditions of work, including equal openings and equal remuneration for work of equal value, safe and healthy working conditions, including protection from importunity, and the requital of grievances;

(c) ensure that persons with disabilities are suitable to exercise their labor and trade union rights on an equal base with others;

➤ **The Rights of Persons with Disabilities Act, 2016**

Rights of Persons with Disabilities Act, 2016(the Act) and consequent announcement of the Rights of Persons with Disabilities Rules, 2017(the Rules) is intended to bring Indian legislation in line with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

RIGHTS PROTECTION AND GRIEVANCES RESOLUTIONS

➤ **Legal Safeguards**

- Strengthened legal framework with clear penalties for non-compliance
- Mandatory workplace accommodations and accessibility requirements
- Protection against wrongful termination and workplace discrimination
- Enhanced monitoring mechanisms for policy implementation

➤ **Complaint Resolution System**

The grievance resolution framework operates on three tiers:

Level	Timeline	Authority	Scope
Workplace	15 days	Internal Committee	First point of contact
District	30 days	District Disability Commissioner	Appeals and serious violations
National	60 days	Central Disability Rights Court	Final arbitration

➤ **Anti-discrimination Measures**

- Mandatory sensitization programs for employers and employees
- Clear guidelines on workplace harassment and discrimination
- Protected disclosure mechanisms for reporting violations
- Regular workplace audits for compliance verification

➤ **The system emphasizes:**

1. Quick resolution of complaints
2. Confidentiality protection
3. Prevention of retaliatory actions
4. Accessibility of grievance mechanisms
5. Regular monitoring and reporting

Companies must maintain detailed records of all disability-related complaints and their resolutions. The policy mandates quarterly reports to district authorities regarding workplace inclusivity measures and grievance handling. Employers failing to address discrimination face substantial penalties, including financial sanctions and potential license suspension.

With robust rights protection mechanisms in place, the focus shifts to developing comprehensive support systems and infrastructure to enable successful implementation of these policies.

➤ **Government Support Mechanisms**

The government can incentivize private sector participation through:

Support Type	Description	Impact
Tax Benefits	Deductions for workplace modifications	Reduces adaptation costs
Wage Subsidies	Partial salary support for PWD hires	Encourages employment
Training Grants	Funding for skill development	Builds qualified workforce
Infrastructure Support	Assistance for accessibility upgrades	Creates inclusive spaces

PUBLIC-PRIVATE PARTNERSHIP FRAMEWORK

➤ **Corporate Responsibility Initiatives:**

Companies must go beyond mandatory compliance to create truly inclusive workplaces.⁴ Leading corporations are implementing innovative programs:

- Skill development centres specifically for PWDs

⁴ <https://diversio.com/beyond-compliance-the-importance-of-diversity-and-inclusion-in-the-workplace>

- Workplace adaptation funds
- Mentorship programs pairing disabled employees with seniors
- Flexible work arrangements and accommodations
- Disability sensitivity training for all employees

➤ **NGO Collaboration Models:**

NGOs serve as pivotal middle people in this system by:

- Giving work status preparing and arrangement services
- Conducting working environment openness assessments
- Advertising post-placement bolster and counselling
- Encouraging communication between stakeholders
- Observing program adequacy and compliance

Successful implementation requires clear roles and responsibilities for each partner. Corporations provide employment opportunities and inclusive workplaces, the government creates enabling policies and incentives, while NGOs bridge gaps through support services and advocacy. With these partnership structures in place, we can now examine the specific steps needed for effective implementation of this national employment policy.

➤ **Support Systems and Infrastructure:**

1. **Training Centres-** Specialized training centres form the backbone of disability employment support.

These centres must offer:

- Skill development programs aligned with market demands⁵
- Soft skills and workplace readiness training
- Digital literacy courses
- Job-specific technical training

1. **Assistive Technology Access-** Modern assistive technology is crucial for workplace integration.

Essential provisions include:

Technology Type	Purpose	Impact
Screen readers	Digital accessibility	Enhanced computer usage
Speech-to-text	Communication aid	Improved documentation
Mobility devices	Physical assistance	Better workplace navigation
Adaptive hardware	Workstation modification	Increased productivity

2. **Transportation Solutions-** Accessible transportation systems should feature:

- Door-to-door pickup services
- Modified vehicles with wheelchair accessibility
- Subsidized transport allowances
- GPS-enabled tracking systems

3. **Healthcare Integration-** A comprehensive healthcare system must include:

- Crisis reaction protocols
- Working environment harm anticipation programs
- Recovery administrations
- Mental wellbeing support
- Customary wellbeing assessments

JUDICIAL BACKGROUND REGARDING EMPLOYMENT AREA

✓ **Rajeev Kumar Gupta & Ors. v. Union of India & Ors., (2016) 13 SCC 153:**

In this case, multiple petitioners who were employed with Prasar Bharti Corporation of India assailed two office memoranda issued by the Department of Personnel and Training. The Petitioners were 'persons with disability' within the meaning of Section 2 (t) of PwD Act, 1995 who contended that the relevant office memorandums deprived them of the statutory benefit of reservation under the PwD Act, 1995. The memorandum stipulated that for posts identified for persons with disabilities in Group A and B, only direct recruitment will be done. This would tantamount to denial of the benefit of reservation in appointment to these posts. The Respondents argued that Group A and B are posts that are obtained via promotion, and as per the dictum in the case of Indra Sawhney, there is no provision for reservation in promotion. However, the Court disagreed with this argument and reasoned

⁵ <https://www.cxcglobal.com/blog/industry-resources-and-trends/impact-technological-change-employment-asian-workforce>



that Article 16(4) does not disable the state from providing reservations to other classes of citizens under Article 16(1). The Court also observed that Sections 32 and 33 of the PwD Act, 1995 reflect the purpose to strike a fine balance between the requirements of the administration and the need to provide adequate opportunities to persons with disabilities. Accordingly, SC declared the impugned memoranda as illegal and violative of the PwD Act, 1995.⁶

✓ ***Union of India & Ors. v. Angad Singh Titaria (2015) 12 SCC 257:***

The background of the case is that the Respondent was employed in the Indian Air Force (IAF) and over the years acquired multiple ailments including coronary artery disease, diabetes, etc. The Respondent was superannuated from service and applied for a disability pension. The Medical Board declared the composite disability of the Respondent at 60% but held that the disabilities were constitutional in nature and not attributable to nor aggravated by the respondent's service in the IAF (Regulation 153 of the Pension Regulations for IAF, 1961). Accordingly, the Respondent's application for a disability pension was denied by the competent authority and his appeals to the first and second Appellate Committee rejected.

The Armed Forces Tribunal (AFT) on appeal granted him disability pension with arrears. In appeal, the Court upheld the order of the AFT. SC held that the Respondent was deemed to be fit when enrolled in the service. It was over the course of the years while being in service, that the Respondent acquired the disabilities. SC held that in absence of any proof that the Respondent was affected by either of these disabilities prior to his joining the service, it would be deemed that the Respondent acquired these disabilities during his service. Additionally, the Court held that it was the burden of the Medical Board while ruling that the disability was not attributable to the service, to apply its mind and substantiate it with reasons. The Court observed that the order of the Medical Board being unreasoned could not be endorsed, as held by the Tribunal.⁷

CONCLUSION

To ensure effectiveness, these support systems require regular maintenance and updates. The infrastructure must be scalable to accommodate growing needs and technological advancements. Collaboration between healthcare providers, transportation agencies, and training institutions is essential for seamless service delivery.

The path to inclusive employment for people with disabilities in India requires a comprehensive transformation beyond the existing legal framework. While the Indians with Disabilities Act laid important groundwork, a robust national employment policy that addresses infrastructure gaps, strengthens public-private partnerships, and establishes effective support systems is crucial for creating meaningful change. The proposed policy framework aims to break down barriers and create sustainable employment opportunities through coordinated action across stakeholders. Moving forward, success depends on unwavering commitment from government bodies, private sector engagement, and active participation from disability advocacy groups. By implementing strong rights protection mechanisms, grievance resolution systems, and targeted support infrastructure, India can build an inclusive workforce where people with disabilities can fully participate and thrive in their chosen careers. The time has come to transform policy into action and create a more equitable employment landscape for all.

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Case Study

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7. Union of India & Ors. v. Angad Singh Titaria (2015) 12 SCC 257

⁶ Rajeep Kumar Gupta & Ors. v. Union of India & Ors., (2016) 13 SCC 15

⁷ Union of India & Ors. v. Angad Singh Titaria (2015) 12 SCC 257