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Comparative Analysis of Employment Policies for People with Disabilities: A Human Rights Perspective

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ABSTRACT

This study offers a thorough comparative examination, from the perspective of human rights, of employment laws designed to promote the inclusion of people with disabilities in the workforce. Disability rights are becoming more widely acknowledged, and as a result, there is a growing emphasis on creating and enforcing regulations that provide equal chances for all people, including those with disabilities, to get and retain employment. This research examines the legislative frameworks, policy initiatives, and pragmatic measures put in place in different nations to encourage the employment of individuals with disabilities and evaluates how well they comply with the ideals of human rights. The first part of the analysis clarifies the theoretical foundation for disability employment from a human rights standpoint. The paper examines how disability employment policies intersect with broader human rights norms and standards, drawing on the principles of equality, non-discrimination, and inclusion enshrined in international human rights instruments, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD). This paper then performs a comparative analysis of disability employment policies in several nations, including the United States, Australia and India. The strategies used by each nation are examined in detail, emphasising the most important laws, programmes, and assistance systems designed to make it easier for those with disabilities to enter the workforce. Furthermore, the research highlights enduring obstacles and domains for enhancement in disability employment policy. These domains encompass insufficient legal safeguards, restricted entry to education and training, and psychological impediments in the workplace. This study concludes by emphasising how important it is to develop disability employment policies and practices from a human rights viewpoint. These policies improve the rights of persons with disabilities and help create more inclusive and sustainable societies by fostering equality, dignity, and participation. Policymakers and stakeholders can work towards maximising the potential of people with disabilities in the labour market by conducting more research, advocating for them, and collaborating to make sure that no one is left behind in the pursuit of respectable and fulfilling employment prospects.

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I. INTRODUCTION

(A) Overview:

Policies regarding employment for those with disabilities are crucial for guaranteeing social inclusion and equitable possibilities. Notwithstanding advancements in the acknowledgement of the rights of persons with disabilities, obstacles to employment continue to exist, resulting in elevated rates of underemployment and unemployment among this population. Access to fulfilling work promotes a sense of dignity and belonging for people with disabilities in addition to improving their financial independence and general well-being. Consequently, it is critical to assess how well employment regulations support the inclusion of individuals with disabilities in the workforce.

(B) Research Objectives:

Examining and contrasting employment practices for disabled individuals from a human rights standpoint is the main goal of this study. In particular, the goals consist of: evaluating how well employment practices adhere to international human rights norms, especially those set forth in the UN Convention on the Rights of Persons with Disabilities (CRPD).

investigating the policies and legal frameworks put in place in various nations to encourage the employment of people with disabilities.

Recognising effective tactics and best practices that support the inclusion of disabled individuals in the workforce. .

examining how employment regulations affect people with disabilities' rights, dignity, and socioeconomic results.

(C) Extent and Approach:

This research uses a comparative analysis methodology to look at employment laws in a few different nations, such as the US, Australia, and India. The analysis includes an examination of pertinent laws, policy manuals, and academic works pertaining to employment with disabilities. In order to provide light on the actual application and results of these policies, case studies are also used

Methods for gathering data include qualitative study of case studies, document analysis, and systematic research of the literature. A variety of factors, including geographic representation,

policy approach diversity, and the availability of empirical data, are taken into consideration when choosing case studies. This research attempts to provide insights on the efficacy of employment policies for individuals with disabilities and their compliance with human rights principles through a thorough examination of policy frameworks and empirical data.

II. COMPARATIVE ANALYSIS OF DISABILITY EMPLOYMENT POLICIES

(A) United States:

Three significant federal statutes shield people with impairments from discrimination in the workplace and throughout the application process:

- Americans with Disabilities Act
- Rehabilitation Act
- Workforce Innovation and Opportunity Act

The Americans with Disabilities Act (ADA)

ADA ensures equal opportunities for people with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. It also forbids discrimination against people with disabilities. The ADA has two provisions that deal with employment:

Title I: Employment prohibits covered employers from discriminating against people with disabilities in all employment-related activities, including hiring, pay, benefits, firing and promotions. Covered employers include private businesses, educational institutions, employment agencies, labor organizations, and state and local government entities with 15 or more employees.²

Title II: State and Local Governments protects people with disabilities from discrimination in state and local government services, programs and activities. It prohibits all state and local government entities, regardless of how many people they employ or whether they receive federal financial assistance, from discriminating against qualified individuals with disabilities in employment.³

Rehabilitation Act

Funding for a range of disability-related initiatives is authorised by the Rehabilitation Act, including independent living initiatives, state vocational rehabilitation (VR) programmes,

² <https://www.dol.gov/agencies> - An official website of the United States government.

³ <https://www.dol.gov/agencies> - An official website of the United States government.

training and research initiatives, and the National Council on Disability's operations. Additionally, it has three parts that forbid discrimination against people with disabilities by particular categories of employers: federal agencies, companies that contract with the federal government, and programmes that receive funding from the federal government.

Section 501 of the Rehabilitation Act mandates that government employers take affirmative action to hire and promote qualified individuals with disabilities, and forbids them from discriminating against such individuals.

The Workforce Innovation and Opportunity Act (WIOA)

Discrimination against people with disabilities who apply for, participate in, or work for any programme or organisation that receives federal financial assistance under the Workforce Innovation and Opportunity Act (WIOA) or that offers programs/activities as part of the One-Stop system is prohibited by Section 188 of WIOA.

(B) Australia

A total of 2,307 complaints were received by the Australian Human Rights Commission (the Commission) year 2019–2020. As in previous years, employment and access to the supply of products, services, and facilities were the primary public life issues brought up by complainants. The Disability Discrimination Act of 1992 was the basis for nearly half (44%) of these complaints, and employment accounted for nearly one-third (30%) of these complaints.⁴

Convention of the Rights of Persons with Disabilities (CRPD).

The main international agreement that upholds the human rights of those with disabilities is the CRPD. Australia is legally obliged by CRPD that acknowledge the human rights of individuals with disabilities in the context of employment since it has ratified it in 2008.

Australia's acceptance of the Convention on the Rights of Persons with Disabilities (CRPD) in July 2008, as well as the Optional Protocol to the CRPD in 2009, are particularly significant.

The Disability Discrimination Act 1992 –

The Disability Discrimination Act of 1992 prohibits discrimination against individuals with disabilities and advocates for their equal access, rights, and opportunities in all spheres of life, including the workplace. Other antidiscrimination legislation that are in effect at the federal, state, and territory levels are strengthened by the Disability Discrimination Act.

⁴ <https://includeability.gov.au/resources-people-disability/disability-and-employment-australia> - Australian Human Rights Commission

Both direct and indirect discrimination are forbidden by the Disability Discrimination Act.

Fair Work Act 2009 –

Australia's main source of rights and obligations for companies and employees has been the Fair Work Act 2009 since 2009. It establishes fair working practices, prohibits discrimination against employees, regulates the relationship between the employer and employee, and provides for minimum entitlements through the National Employment Standards.

All workers, including those with disabilities, are protected from wrongful termination and unfair dismissal under the Fair Work Act. Individuals with disabilities are covered by these safeguards.

National Disability Strategy

The National Disability Strategy 2010-2020 (NDS), a national strategic plan to implement the CRPD, was launched in 2011 by the Commonwealth, state, and territory governments of Australia after the country ratified the agreement.

The National disabilities Strategy (NDS) seeks to guarantee that the CRPD's guiding principles are "incorporated into policies and programmes affecting people with disability, their families, and carers." There are six core policy areas in the NDS. The following three are the most pertinent to this submission:

- Economic security: jobs, business opportunities, financial independence, adequate income support for those who are unable to work, and housing;
- Inclusive and accessible communities: the physical environment, including parks, buildings, and housing; digital information and communications technologies; civic life, including social, sporting, recreational, and cultural life
- Education and skill development: childcare, schools, postsecondary education, vocational training, education transitions from school to the workplace, and lifelong learning.

(C) INDIA

The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act of 1995.

The Act covers preventive as well as promotional aspects of rehabilitation, including education, employment and vocational training, reservations, research and manpower development, barrier-free environment creation, unemployment, rehabilitation of individuals with disabilities,

and the construction of homes for individuals with severe disabilities, among other things.

The Persons with Disabilities Act, 1995 (PWD Act, 1995) was replaced by new legislation in 2016 to bring India into compliance with the UNCRPD following India's 2007 ratification and acceptance of the treaty. Following a series of meetings for consultation and a writing process, both houses of Parliament passed the Rights of PWD Act, 2016.

The Rights of Persons With Disabilities Act, 2016

The federal government has enacted the Rights of Persons with Disabilities Act, 2016 and the Rules for implementation. The new law guarantees equitable work opportunities, protects disabled people in India from discrimination, and increases their involvement in society.

The Disabilities Act of 2016 amends the prior laws and is in conformity with the values outlined in the United Nations Convention on the Rights of Persons with Disabilities.

Salient aspects of the Disabilities Act, 2016 –

The 2016 Act expands the definition of a "disabled person" to include individuals with disabilities, individuals with benchmark disabilities, and individuals with high support requirements. Twenty-one different forms of disabilities are included in this inclusive definition of "specific disabilities."

Both government and private establishments are subject to the Act. A company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory, or any other establishment designated by the government are all considered private institutions under the law. For those with qualifying disabilities, the Act offers extra benefits like land allocation, education chances, career openings in government establishments, and programmes to reduce poverty, among other things.

Special courts are established in every district to handle matters involving the violation of the rights of people with disabilities in order to provide prompt justice.

III. FINDINGS AND COMPARATIVE ANALYSIS

The ADA has significantly improved access to employment for people with disabilities. However, challenges remain, evidenced by persistently higher unemployment rates among this demographic. While policy initiatives have increased opportunities, there's still a need for ongoing efforts to address attitudinal barriers and ensure full inclusion in the workforce. While Australia has made strides in promoting disability employment, challenges persist, as evidenced by a significant number of complaints related to employment discrimination. However, initiatives like the NDS have contributed to improving access to employment and fostering

inclusive workplaces. The Indian government has implemented policy initiatives to promote disability employment, including reservations in government jobs and programs to provide land allocation, education opportunities, and poverty reduction measures for individuals with disabilities. The legislative and policy frameworks in India aim to ensure equal opportunities and protections for individuals with disabilities. However, challenges remain in fully implementing these measures and addressing systemic barriers to employment and inclusion.

While all three countries have enacted legislation and implemented policy initiatives to promote disability employment, there are variations in the scope, implementation, and outcomes of these measures. The United States has a strong legal framework and extensive policy initiatives, but challenges persist in achieving full inclusion. Australia has made progress in promoting disability employment through comprehensive legislation and initiatives like the NDS, yet employment discrimination remains a concern. In India, legislative efforts have been bolstered by reservations and other policy initiatives, but systemic barriers continue to hinder full participation in the workforce.

Overall, the comparative analysis underscores the importance of robust legislative frameworks, comprehensive policy initiatives, and ongoing efforts to address barriers and promote disability employment and inclusion on a global scale.

IV. SUGGESTION

To enhance the implementation of disability employment policies and improve outcomes for individuals with disabilities, the following suggestions can be considered:

- Provide training for employers and HR professionals on disability awareness.
- Ensure workplaces are physically accessible and equipped with assistive technologies.
- Implement inclusive recruitment strategies and partnerships with disability organizations.
- Offer resources for reasonable accommodations and support services.
- Foster a culture of inclusion and diversity within organizations.
- Monitor and evaluate policy effectiveness and collect relevant data.
- Conduct public awareness campaigns to challenge stereotypes.
- Foster collaboration between government agencies, employers, and disability organizations.

By implementing these suggestions, policymakers, employers, and other stakeholders can work

together to create more inclusive and accessible workplaces that enable individuals with disabilities to fully participate and thrive in the workforce.
