

SECURING OCCUPATIONAL RIGHTS OF DISABLED INDIVIDUALS IN INDIA: A PRESSING NECESSITY

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ABSTRACT

Right to work means everyone should be given an opportunity in par with other to work and meet their daily needs. This enabled everyone to earn their livelihood with the skills that they acquire. The principles of fundamental rights and human rights exist to ensure equal and unbiased protection for all individuals. Various international and domestic legislations exist to safeguard and secure the equal rights of individuals with disabilities. Individuals with disabilities are those who lack the ability to carry out work-related duties in the same manner as individuals without disabilities. Individuals with impairments in India are provided with equitable employment options. Individuals in question may have either cognitive deficits or intermittent physical difficulties. Disablement can occur due to work-related accidents as well. These persons usually face a decrease in their ability to earn money; as a result, they receive compensation for overcoming this loss. Despite the fact that all workers are afforded equal opportunity, there is nevertheless a situation in which laws do not adequately protect those with disabilities. In order to protect and enhance the rights of all individuals without any kind of discrimination, the idea of equality before the law has emerged. On the other hand, disabled people frequently have their opportunities for employment denied to them owing to their impairments, despite the fact that they educate themselves academically. The phenomenon of prejudice has been probed in different situations. The objective of this study is to undertake an analysis of the various laws in India that are designed to protect disabled persons, guarantee their rights, and establish working conditions that are advantageous for them. In addition, the purpose of this study is to investigate the function of the judicial system in India with regard to the administration of justice to people who have impairments.

Keywords: *Disabled Person, Employees Rights, Reservation policies, Working Condition, Workplace equality.*

INTRODUCTION

As the number of disabled individuals with the mental and physical capacity to perform productive labour increases, there is an increasing need to protect the human rights of such individuals. Every individual is entitled to the fundamental human right to freedom of labour. In an era of intense global competition, where individuals endeavour to support themselves through personal pursuits, it becomes increasingly vital to protect the right to labour with dignity. Disabled individuals were consistently denied equal employment opportunities for a variety of reasons, including the perception that

they lacked the necessary qualifications for the job. Disability is not only caused by natural occurrences; rather, it is also resulting in the incidents that occur in the course of an employee's employment. Although legislation is in place to safeguard individuals and provide compensation for such disasters, people become unemployed as their capacity to work diminishes. They are compelled to accept employment opportunities with less remuneration. On the other hand, there is a growing recognition of the need to protect the right to work for those with natural disabilities. They often face discrimination in many work environments since they are unable to function at the same level as others. They frequently encounter obstacles when attempting to disclose their disability for fear of being regarded differently. Porter (2019) has stated Franklin Delano Roosevelt is widely recognized for his leadership during the period of World War II and the Great Depression. He was unable to walk independently during his term in office and relied on a wheelchair for private activities. Roosevelt was able to train himself to walk short distances using metal leg restraints with the assistance of one or two individuals standing by his side after years of practice. He rejoined politics after a hiatus of several years, assuming the position of governor of New York in 1928. Notably, he became the first and only disabled man to be elected to the presidency in 1932. However, Roosevelt was adamant about concealing photographs of his wheelchair usage for fear of upsetting public opinion during a time when many, if not all, regarded such a disability as a disqualification from high office (Porter, 2019). Recently also, the manifesto, authored by and for citizens with disabilities, strongly urges political parties to give precedence to and tackle the concerns of disabled individuals during the forthcoming general election (Gupta, 2024). Apart from this, "Sixteen individual and firms have been awarded with 'Helen Keller' for their pivotal roles in fostering an inclusive work environment and championing the integration of disabled individuals into the mainstream workforce (TOI News Desk, 2023)." Many other instances go unnoticed because individuals with impairments are afraid to speak out. Thus, this study specifically examines the effectiveness of laws within the disabled community and the challenges they face in overcoming societal barriers.

LITERATURE REVIEW

The Centre for the Rights of Disabled Persons in Hyderabad did a study titled "*An Analytical Study on the Accessibility for Persons with Disabilities in India.*" The survey has revealed that India has a disability population exceeding 80 million individuals (The Centre for the Rights of Differently Abled Person (CRDA), 2021). The causes of such incapacity are accidents, advancing age, medical conditions, and congenital factors. The study recommends that the Indian government provide special care for disabled individuals and take various measures to empower them. These measures include establishing easy access to library facilities, separate sports rooms and activities, washroom facilities and lift facilities. The study also indicates that greater attention is needed on those with disabilities, and legislation should be efficiently enforced.

Gautam (2022) In his paper titled "*A Socio-Legal Critique of Disability Rights in India*" argues that the Rights of Person with Disabilities Act, 2016 has not fully fulfilled its intended goals, while being implemented with a broad intent and

understanding. The Act has expanded the definition of the term disability to encompass a broader scope. The technical vagueness and complexities in comprehending the concept have led to challenges for the judiciary in implementing it (Gautam, 2022). The study has identified several other areas where impaired individuals encounter greater challenges in navigating their daily lives. Hence, the study proposes the necessity of scrutinizing the legislation in accordance with the constitution (Gautam, 2022).

Pattnaik et al. (n.d.) conducted a study named “*Prevalence, Pattern and Determinants of disability in India: Insights from NFHS-5 (2019-2021)*” to examine the prevalence, pattern, and factors influencing disability in India. The study has elucidated the disabilities that exist in India and their impact on socio-economic results, poverty, and physiological stress that individuals with disabilities experience. The report also addresses the disparity in disabled individuals’ access to fundamental necessities, including education, healthcare services, work, and social engagement (Pattnaik et al., n.d.). The report highlights that the Rights of Persons with Disability Act is a comprehensive government program, and Community Based Rehabilitation is a crucial component of the government’s agenda. However, discrimination, inequality, and social challenges continue to dominate in society (Pattnaik et al., n.d.).

In a study conducted by Maroto and Pettinicchio (2014) on “*Disability, structural inequality, and work: The influence of occupational segregation on earnings for people with different disabilities*” The author has analyzed the earnings and representation of individuals with various categories of disabilities in multiple industries and professions. It has come to light that occupational segregation, which serves as a root cause of labour market inequality, has adverse consequences that extend to individuals with various disabilities. Because individuals with disabilities are disproportionately represented in low-skilled, low-paying occupations that prioritize physical labour over cognitive and psychomotor abilities, they frequently possess excessively advanced skills for their respective employment. Occupational segregation constrains the earning potential of employed individuals with various disabilities, with cognitively impaired individuals experiencing the greatest earnings disparities. Structural elements, including occupational requirements and characteristics, significantly impact the economic welfare of individuals with disabilities.

Srivastava and Kumar (2015), in “*Disability, Its Issues and Challenges: Psychosocial and Legal Aspects in Indian Scenario*” has mentioned that the number of disabled individuals in India is enormous. Their problems are intricate, resources are finite, social stigma persists, and attitudes of the general public are extremely detrimental. It is necessary to alter the ingrained attitudes towards disability in India that date back to the country’s historical response by utilizing education initiatives targeting both educators and the general public. Key national and state education stakeholders must make a financial and collaborative investment in these programs, and universities must form partnerships with them to support initiatives founded on research. In the end, legislation alone can implement a significant and consistent transformation. While legislation may not transform the social fabric overnight, it can improve disabled individuals’ access to employment and education, public spaces and retail malls, modes of transportation, and communication. Therefore, mainstreaming these individuals in a

country such as India is a difficult issue. It is critical to alter public sentiments, eliminate societal disapproval, establish an environment devoid of obstacles, and implement policy and institutional reforms to accomplish this objective.

Legal Framework on the Rights to work of Disabled person

Taking care of oneself implies the capacity to lead a life of dignity. There is now an inherent right to work to meet their livelihood for all individuals. A wide range of national and international instruments safeguard the rights of individuals with disabilities. In numerous ways, the Convention on the Rights of Persons with Disabilities safeguards the rights of disabled individuals (Russo & Wooley, 2020). It defines person with disability under Article 1 as “Person with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (UNTC, n.d.). The convention has safeguard their right to work with dignity under various spears. The convention mandates that state parties must provide and promote universal human rights and basic freedoms, including those of persons with disabilities, without any kind of discrimination based on disability (Waldschmidt, 2017). Furthermore, under Art 8 (2)(iii) it ensures to “promote recognition of the skills, merits and abilities of person with disabilities, and of their contributions to their workplace and the labour market” (UNTC, n.d.). It mandates the member states to take active measures to encourage recognising and appreciating the abilities, expertise, and valuable input of those with disabilities in both the job market and the workplace. The state must take decisive measures to provide equitable employment opportunities and the freedom for persons with disabilities to decide on their careers. Moreover, the convention under Art 27(1)(a) to 27(1)(k) confers on the state parties the power to implement appropriate measures that provide equitable employment opportunities for those with disabilities working and earning income. Disabled persons must be granted equal rights and advantages as non-disabled individuals in all aspects of employment, including hiring, retention, and maintaining a safe and healthy workplace. It mandates that all workers in both the private and governmental sectors should be treated without any bias or prejudice and that equal opportunities should be provided to all persons. Disabled individuals should be given protection from harassment, as well as reasonable and favourable working conditions, equal compensation, and a safer and healthier work environment (Rosenthal, 2021). The convention under Article 28(2) mandates that the states should also ensure adequate standard of living with facilities such as adequate drinking water, restroom facilities to both men and worn separately, social protection and access to financial assistance. (UNTC, n.d.).

The International Labour Organisations(ILO) under section 1.4 defines Disabled Person as “an individual whose prospects of securing, returning to, retaining and advancing in suitable employment are substantially reduced as a result of duly recognised physical, sensory, intellectual or mental impairment” (*Vocational Rehabilitation and Employment of Disabled Persons, n.d.*). The International Labour Organisations has framed Code of Practice in Managing Disability in Workplace in the 2002, it aimed to guide the employers a positive strategy in managing disability related issues in the

workplace. The document specifically stated that it should be read in par with the national laws (*Vocational Rehabilitation and Employment of Disabled Persons, n.d.*). The ILO has framed various conventions to protect the disabled persons employment opportunity. The Employment Service Convention stipulates that special provisions must be made when employing individuals with disabilities at the place of employment (*Convention C088 - Employment Service Convention, 1948 (No. 88), n.d.*). Article 7 (b) of the convention states that “Measures shall be taken to meet adequately the need of particular categories of applicants for employment, such as disabled person” (B Haydee, 1944-1983). The Discrimination (Employment and Occupation) Convention mandates that signatory states, in consultation with workers’ and employers’ representatives, must implement suitable measures that facilitate the employment of individuals with disabilities free from discrimination (Brkovic & Vucinic, 2020). Article 5 of the convention mentions that “any Member may, after consultation with representative employers and workers organisations, where such exist, determine that other special measures designed to meet the particular requirement of persons who, for reason such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination”. Article 3 of the 1975 Human Resources Development Convention No. 142 of the International Labour Organization (ILO) mandates that “Each Member shall gradually extend its system of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children, young persons and adults, including appropriate programmes for all handicapped and disabled person.” Therefore, the states should enact measures to enhance their vocational guidance systems. The objective is to guarantee that all children, adolescents, and adults can obtain vocational guidance, encompassing employment prospects. This expansion should incorporate appropriate initiatives for individuals with disabilities or impairments (*Convention C142 - Human Resources Development Convention, 1975 (No. 142), n.d.*).

The European Union under Article (2)(1) mentions that there shall not be any direct or indirect discrimination or differences (*Directive - 2000/78 - EN - EUR-LEX, n.d.*). Article 4 of the convention states that “ Notwithstanding Article 2 (1) and (2), Member states may provide that a difference which is based on a characteristic related to any of the ground referred to in Article 1 shall not constitute discrimination where, by reason of nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitute a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate” Article 4 provides an exemption to the discrimination by stating a conduct which constitute a genuine and determining occupational requirement, provided that the objective is legitimate, and the requirement is proportionate (*Directive - 2000/78 - EN - EUR-LEX, n.d.*). This issue was also discussed in the *Tartu Vangala case (Case C-795/19)*, which has stated that the prisoner’s hearing ability did not meet the basic requirements set by Estonian regulations. The Court of Justice has determined that a regulation will not be considered discriminatory if its genuine intention is to safeguard the well-being of the employee. The Universal Declaration of Human Rights was

established in order to protect the human rights (*United Nations, n.d.*). Article 23 (1) of the convention states that “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.” It explicitly affirms that every individual has the right to freely choose their employment under fair and favourable conditions without facing any form of discrimination. Further, Article 23 (2) “Everyone, without any discrimination, has the right to equal pay for equal work.” and it asserts that every individual must be granted the right to receive fair and equitable compensation for performing the same job. And also, Article 25 of the said convention states that “Everyone has the right to standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social service, and the right to security in the event of unemployment, disability, widowhood, old age or other lack of livelihood in circumstance beyond his control”. Therefore, the right to live with adequate standard of living with health and wellbeing and the right to security in cases of unemployment, disability is also discussed to protect the wellbeing of the disability (*United Nations, n.d.*). The International Covenant on Economic, Social and Cultural Rights was established to acknowledge the fundamental worth of all individuals and ensure that they are granted equal and non-negotiable rights (*Refworld - UNHCR’s Global Law and Policy Database, 2024*). According to Article 7(a) of the convention the “State parties to the present covenant recognise the right of everyone to the enjoyment of Just and favourable condition of work which ensure in particular, Remuneration which provides as workers, minimum”. It stipulates that the state parties have to ensure that the men and women should get equal salaries and that their work should be treated equally. Under Article 7 (a)(c) it states that “equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no consideration other than those of the seniority and competence” (*Refworld - UNHCR’s Global Law and Policy Database, 2024*). It specifically mentions that everyone has to be given equal opportunity to promote everyone to higher level. In 2002, the Economic and Social Commission of Asia and Pacific was proclaimed as the Asia and Pacific Decade for the Disabled Person (*UN Enable - Implementation of the WPA (5/6), n.d.*). The proclamation aimed at promoting human rights of the disable person by providing accessible environment, social security, safety nets in employment and sustainable livelihoods, premised on equality and non-discrimination (*UN Enable - Implementation of the WPA (5/6), n.d.*).

India has a plethora of legislation in place to protect and advance the welfare of those with disabilities. As per the stipulations of the Indian Constitution, every person is entitled to fair and unbiased treatment without any discrimination. According to Article 14 of the Indian Constitution “14. The state shall not deny to any person equality before the law or equal protection of the laws within the territory of India”. It guarantees equal rights to every individual. It is the state’s responsibility to ensure equitable treatment for every citizen, and the legal system should safeguard them just and impartially, without prejudice (Dubey, 2022). In *Vikas Kumar’s Case*, it was held that a person with disability should also be treated equally under the equality provision. Based on this a person with disability should be reasonably accommodated within their

individual capacity (*Vikas Kumar v. Union Public Service Commission*, MANU/SC/0067/2021). In *Jeeja Ghosh's Case*, the petitioner, who had cerebral palsy, was abruptly expelled from the SpiceJet aircraft by the flight crew due to his condition. The petitioner claimed that the act of the airlines was discriminatory and infringed upon the rights to life, equality, freedom of movement throughout the territory of India, and the freedom to hold the profession of their own choice. The court awarded compensation, declaring that the airlines actions violated fundamental rights (*Jeeja Ghosh v. Union of India*, MANU/SC/0574/2016). The constitution of India under Article 15(1) states that “the state shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them” (*Sharma, 2021*). The word discrimination clearly states that everyone should be treated equally without any distinction or differences. It is explicitly stated in Article 21 of the Indian constitution that “No one shall be deprived of his life or personal liberty except according to the procedure established by law”. Hence, no individual shall be deprived of his life or personal liberty (*Sunny, 2021*). The same was discussed in *Deaf employees Welfare Association Case*, where the court has mentioned that “the person with deaf and dumb person has an inherent dignity and the right to have dignity respected and protected is the obligation on the State. human dignity is harmed when he is marginalised, ignored or devalued on the ground that the disability he suffers is less than a visually impaired person which in our view clearly violates Article 21 of the constitution of India for Comparison of disability among the person” (*Deaf employees Welfare Association v. Union of India*, MANU/SC/1286/2013). Under Article 41 “The State shall within the limits of its economic capacity and development make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in any other cases of undeserved want.” it directs the state to provide education, work and public assistance to person with disability (*Singh & Kumar, 2022*). Article 46 states that “Promotion of education and economic interests of Schedule Caste, Schedule Tribes and other weaker sections- The State shall promote with special care the educational and economic interest of the weaker section of the people, and, in particular, of the Schedule Caste and Schedule Tribes, and shall protect them from social injustice and all forms of exploitation”. Through this it mandates the state to promote the educational and economic interest of the weaker section.

The Person with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 came into force to protect the concept equal opportunities of disabled person (Sarkar, 2018). In *Government of India through Secretary Case* the Supreme Court has held that “the objective behind the Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is to (i) integrate person with disabilities into social mainstream, (ii) lay down a strategy for comprehensive development and programmes and services and equalization of opportunities for person with disabilities, and for their education, training, employment and rehabilitation amongst other responsibilities, (iii) give effect to proclamation on full participation and equality of people with disabilities in Asian and Pacific regions” (*Government of India through Secretary and another v. Ravi Prakash Gupta*, MANU/SC/0445/2010). The Disabilities Act was enacted for protection of the rights of the disabled in various spheres like

education, training, employment and to remove any discrimination against them in the sharing of development benefits vis-à-vis non-disabled person (*R.K.Sabharwal and Ors v. State of Punjab and Ors*, MANU/SC/0259/1995). Section 32 of the Act speaks about Identification of posts which can be reserved for person with disabilities. The Appropriate Government shall (a) identify posts, in the establishment, which can be reserved for the persons with disability; (b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the development of technology” (Sarkar, 2018). At regular three-year intervals, the Act requires the relevant government to set up a specific position for disabled individuals. Section 33 mandates “every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three percent.” Additionally, *according to Section 34*, “the appropriate Government may, by notification require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or returns as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.” Therefore, the government should notify the Special Employment Exchange of any vacancies in particular occupations that may become available for disabled individuals to be appointed to. The appropriate government is obligated to implement suitable regulations to reserve at least three percent of vacancies for disabled persons. In *R.K.Sabharwal and Ors v. State of Punjab and Ors*, the court held that an employee who acquires disability during his services, should be protected under section 47 of the Act. Section 47 of the Act states that “No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service”. The same was stated in *Kunal Singh v. Union of India*, (MANU/SC/0106/2003). In *Bhagwan Das v. Punjab State Electricity Board*, (MANU/SC/0381/2008), “it was held that in the view of the provision of Section 47 of the Act, the appellant must be deemed to be in service and he would be entitled to all service benefits including annual increments and promotions. The employee acquiring disability in the course of the employment will lose his ability to take due care of himself and also person dependent on him”.

The Rights of Person with Disabilities Act, 2016 is a legislation that came into force to protect the rights of the disabled persons. Section 2(r) of the Act defines “a person with benchmark disability is a person with at least forty percent of the specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability is defined with measurable terms and certified by a certifying authority” (*Balakrishnan et al., 2019*). Person with disability is defined under Section 2(s) as “is a person with long-term physical, mental, intellectual, or sensory impairments which, in interaction with barriers, hinders his full and effective participation in society” In the case of *Anvi Prakash*, the court determined that the Rights of Persons with Disabilities Act, 2016 is a legally binding statute. It is imperative that society recognizes and provides reasonable accommodations for disabled individuals (*Anvi Prakash v. National Testing Agency*, MANU/SC/1121/2021). In *National Federation of the Blind* case the court has recognised that employment

opportunities play an instrumental role in empowering person with disabilities” (Union of India v National Federation of the Blind, MUNU/SC/1025/2012). The legislation once more addressed the notion of non-discrimination in the workplace in Section 20. It states that “no Government establishment shall discriminate against any person with disability in any matter relating to employment”. In addition, Section 34(1) of the Act states that “Every appropriate Government shall appoint in every Government establishment, not less than four per cent, of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent, each shall be reserved for person with benchmark disabilities”. Therefore, the Act mandates that at least forty percent of available positions be reserved for individuals with disabilities.

The purpose of the implementation of the Mental Health Care Act of 2017 was to advance the status of individuals with mental illness (Malhotra, 2021). In Section 32 “the appropriate government shall take all measures to ensure effective co-ordination between services provided by the concerned Ministries and Departments such as those dealing with health, law, home affairs, human resources, social justice, employment, education, women and child development, medical education to address issues of mental health care”. The governmental body shall facilitate the advancement of an individual with a mental illness through efficient coordination with relevant ministries and departments regarding employment-related matters. In *Nandkumar’s case* the court has to deal with aspirant of agriculture officer and was identified with colour blindness (Nandkumar Narayanrao Ghodmare v. State of Maharashtra, MANU/SC/0838/1995). “The court has directed that the disorder or defects should not constitute a bar to appointment and that he should be provided employment, commensurate with the employments other requirements.” In *Pranay Kumar Poder v. State of Tripura*, (MANU/SC/0306/2017), the court has highlighted that “colour vision deficiency is neither impairment of vision and in that sense falling within the disability spectrum calling for the treatment under the Right of Person with Disability Act, 2016 nor is it for such condition as to bar sufficiently qualified person entitlement to be employed in an organisation that can accommodate her educational attainments and talents”.

The Employees Compensation Act, 1923 is an additional notable piece of legislation designed to protect the disabled individual from accidents ‘arising out of and in the course of employment.’ The legislation places emphasis on either compensating the individual for their incapacity to perform the work or offering them appropriate employment that they are capable of performing. Furthermore, according to 3(1) “If personal injury is caused to a employee by accident arising out of and in the course of the employment, his employer shall be held liable to pay compensation....”. Therefore, in the event that an employee sustains a personal injury as a result of an accident that happens during the course of employment and injury leads to death, partial disablement, or total disablement, the employee shall be entitled to compensation commensurate with the extent of their disability. *Dhareppa Koli case*, it was stated that mental stress cannot be included in “Occupational diseases” and the compensation cannot be provided under the Act (Maharashtra State Road Transport Corporation v. Meenaxi Dhareppa Koli, MANU/KA/0225/2006). In *Aysh v. Reliance General Manager case* the court fixed the

notional income as the wages payable to the skilled employee (MANU/SC/0375/2022). The same was taken note in *Kajal v. Jagdish Chand*, ((2020)4 SCC 413). In addition, the Act mandates that the schedule attached to the statute be considered when determining the amount of disability. But in *S. Suresh's* case it was stated that “the functional disability on account of permanent disability caused to a workman in employment related accident is also a determining factor and Courts cannot entirely go by the Schedules prescribed in the Act for determining the loss of earning capacity” (*S.Suresh v. Oriental Insurance Company Limited and Another*, 2010 AIR SCW 437).

CONCLUSION

Legislation has demonstrated commendable efforts to safeguard individuals with disabilities across various domains. It has been unequivocally declared that all forms of discrimination ought to be eradicated, and all individuals ought to be treated equally. Assuring disabled individuals of their right to work promotes self-sufficiency and safeguards against their becoming reliant on others. The legislation makes it plain that the capacity to perform a task should be considered. Throughout their entire lifespan, individuals with disabilities are afforded protection and advancement. Education provision is not the only factor considered; reservation in the workplace for disabled individuals also holds significant importance. Despite being promoted and protected in numerous ways; these individuals continue to face obstacles due to the fact that these laws define disability in detail. The Employees Compensation Act of 1923 explicitly specifies occupational diseases and disability as mentioned in the schedule to claim compensation. It constitutes discrimination against individuals with disabilities who are not entitled to seek compensation as mandated by the law. Additionally, numerous diseases and disabilities are listed in the Rights of Persons with Disabilities Act of 2016, which contributes to confusion. Although numerous laws safeguard these individuals, they are oblivious to the protections afforded to them by these laws and their potential for improved living conditions. The government ought to implement suitable strategies to surmount the obstacles encountered by individuals with disabilities. Furthermore, a majority of parents lack literacy skills and are uninformed regarding the educational resources accessible to their disabled child; thus, proactive measures ought to be taken to address this concern. Based on this the following suggestion are being drawn:

1. In the workplace, having access to education is of the utmost importance. Although the right to education is prevalent, awareness regarding the free and mandatory education provided to all is minimal. Disabled individuals are entitled to numerous reservations; their right to employment may be infringed upon due to a lack of education. In light of this, the government should implement measures to raise public awareness regarding the right to education for all, and children with disabilities should receive appropriate care.
2. As discrimination in the workplace and violations of the right to work are the most significant obstacles they face, the government should take steps to ensure that they can work without encountering such prejudice.
3. A multitude of employment prospects are available to individuals with disabilities, but a variety of factors frequently hinder access to these opportunities. Despite

efforts by the government to increase awareness, a significant number of individuals remain uninformed regarding the employment prospects that are accessible to them. Consequently, suitable measures ought to ensure its accessibility to a broad spectrum of individuals with disability.

4. The Employees Compensation Act of 1923 safeguards employees sustaining disablement in the workplace. It compensates employees for impairments suffered as a result of accidents arising out of and in the course of their employment. The determination of compensation by the nature of employment and the specifics of the disability. However, many cases need more protection because they must meet the extensive requirements outlined in the legislation for seeking compensation. Additionally, these conditions ought to be loosened in order to safeguard the individual with a disability.
5. Employees Compensation Act of 1923 states that if a person becomes disabled as a result of accidents that occur out of and in the course of employment, and if they are unable to carry out the work that they were able to do before the injury due to disablement, then they are eligible to be employed in other employments that have a lower earning capacity. this violates the employees' right to earn. Therefore, the authorities should take measures to employ employee with similar work and salary compared to the earnings of their past employment.

REFERENCES

- [1] B Haydee, Y. (n.d.). Convention (No. 88) concerning the organisation of the Employment Service. *Philippine Treaty Series: A Collection of the Texts of Treaties and Other International Agreements to Which the Philippines Is a Party*, 2, 23–30.
- [2] Balakrishnan, A., Kulkarni, K., Moirangthem, S., Kumar, C. N., Math, S. B., & Murthy, P. (2019). The Rights of Persons with Disabilities Act 2016: Mental Health Implications. *Indian Journal of Psychological Medicine*, 41(2), 119–125.
- [3] Brkovic, R., & Vucinic, D. (2020). Equal opportunities and treatment in employment and occupation. *Collection of Papers, Faculty of Law, Nis*, 87, 165–178.
- [4] *Convention C088 - Employment Service Convention, 1948 (No. 88)*. (n.d.). https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C088
- [5] *Convention C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*. (n.d.). https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312256
- [6] *Convention C142 - Human Resources Development Convention, 1975 (No. 142)*. (n.d.). https://normlex.ilo.org/dyn/normlex/de/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:312287,en:NO
- [7] *Directive - 2000/78 - EN - EUR-LEX*. (n.d.). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

- [8] Dubey, S. (2022). Equality before Law: Article 14 of the Constitution of India. *International Journal of Law Management & Humanities*, 5(6), 1801.
- [9] Gautam, Y. (2022). A Socio-Legal critique of disability rights in India. *Jus Corpus Law Journal* 240. 240-254 (2022)., 3(2), 240–254.
- [10] Gupta, R. (2024, March 1). ‘Manifesto’ lists what differently abled want. *The Times of India*. <https://timesofindia.indiatimes.com/city/delhi/manifesto-lists-what-differently-abled-want-disability-rights-groups-launch-manifesto-ahead-of-lok-sabha-elections/articleshow/108122425.cms>
- [11] Malhotra, R. (2021). Status of Mental HealthCare Act, 2017. *International Journal of Law Management & Humanities*, 4, 3093–3097.
- [12] Maroto, M., & Pettinicchio, D. (2014). Disability, Structural inequality, and work: The influence of occupational segregation on earnings for people with different disabilities. *Research in Social Stratification and Mobility*, 38, 76–92.
- [13] Pattnaik, S., Murmu, J., Agrawal, R., Rehman, T., Kanungo, S., & Pati, S. (n.d.). Prevalence, pattern and determinants of disabilities in India: Insights from NFHS-5 (2019–21). *Frontiers in Public Health*, 11. <https://doi.org/10.3389/fpubh.2023.1036499>
- [14] Porter, T. P. (2019, May 10). How FDR kept his partial paralysis a secret from the American public - even while he was on the campaign trail. *Business Insider*. <https://www.businessinsider.in/how-fdr-kept-his-partial-paralysis-a-secret-from-the-american-public-even-while-he-was-on-the-campaign-trail/articleshow/69272565.cms>
- [15] Refworld - UNHCR’s Global Law and Policy Database. (2024, February 12). *International Covenant on Economic, Social and Cultural Rights*. Refworld. <https://www.refworld.org/legal/agreements/unga/1966/en/33423>
- [16] Rosenthal. (2021). Residential Care Controversy: The Promise of the UN Convention on the Rights of Persons with Disabilities to Protect All Children. *International Journal of Disability and Social Justice*, 1(1). <https://doi.org/10.13169/intljofdissocjus.1.1.0095>
- [17] Russo, J., & Wooley, S. (2020). The implementation of the Convention on the Rights of Persons with Disabilities. *Health and Human Rights*, 22(1), 151–162.
- [18] Sarkar, A. (2018). RPWD Act, 2016. *Indian Journal of Industrial Relations*, 53(4), 591–603.
- [19] Sharma, P. (2021). Article 15 of Indian Constitution. *International Journal of Law Management & Humanities*, 4(4), 2429.
- [20] Singh, P., & Kumar, K. (2022). Critical analysis of right to work in our Constitution. *Indian Journal of Integrated Research in Law*, 2(4).
- [21] Srivastava, P., & Kumar, P. (2015). Disability, its Issues and Challenges: Psychosocial and legal aspects in Indian scenario. *Delhi Psychiatry Journal*, 18(1), 195–205.
- [22] Sunny, S. (2021). Concept of “Life” under Article 21 of the Indian Constitution. *Indian Journal of Law and Legal Research*, 2(2).

- [23] The Centre for the Rights of Differently Abled Person (CRDA). (2021). An analytical study on the accessibility for person with disability in India. *Lexforti Legal Journal*, 2(3), 96–113.
- [24] TOI News Desk. (2023, December 9). 16 change-makers honoured with Helen Keller awards for strides towards inclusivity. *The Times of India*. <https://timesofindia.indiatimes.com/india/16-change-makers-honoured-with-helen-keller-awards-for-strides-towards-inclusivity/articleshow/105863844.cms>
- [25] *UN enable - implementation of the WPA (5/6)*. (n.d.). <https://www.un.org/esa/socdev/enable/disecne4.htm#:~:text=Asian%20and%20Pacific%20Decade%20of%20Disabled%20Persons,the%20goals%20of%20full%20participation%20and%20equality>.
- [26] United Nations. (n.d.). *Universal Declaration of Human Rights (1948)*. <https://www.ohchr.org/en/resources/educators/human-rights-education-training/universal-declaration-human-rights-1948>
- [27] *UNTC*. (n.d.). https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=iv-15&chapter=4&clang=_en#:~:text=CHAPTER%20XXIX,/RES/61/106.
- [28] *Vocational rehabilitation and employment of disabled persons*. (n.d.). International Labour Organization. [https://webapps.ilo.org/public/english/standards/relm/ilc/ilc86/r-iii1b.htm#:~:text=60.%20According%20to%20Article%201\(1\)%20of%20Convention,a%20duly%20recognized%20physical%20or%20mental%20impairment%22](https://webapps.ilo.org/public/english/standards/relm/ilc/ilc86/r-iii1b.htm#:~:text=60.%20According%20to%20Article%201(1)%20of%20Convention,a%20duly%20recognized%20physical%20or%20mental%20impairment%22).
- [29] Waldschmidt, A. (2017). Disability goes cultural: The cultural model of disability as an analytical tool. In *Culture – Theory – Disability* (pp. 19–28). Transcript Verlag.