

EMPLOYMENT OF PERSONS WITH DISABILITIES IN THE PRIVATE SECTOR

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Abstract

This study examines the difficulties that impede society, particularly the private sector, from considering individuals with disabilities as problem solvers instead of rights holders. It investigates whether it is feasible to require the commercial sector to set aside a particular proportion of jobs for people with disabilities and whether doing so would mean moving away from the existing Human rights model and back toward the charity model. It also attempts to expand the scope of discussion about the rights of the PwDs to connect to a larger debate about their place in society. It identifies gaps that have prevented the private sector from realizing the same. It further maps the progress in International Jurisdiction to understand what India needs to better realize all human rights by people with disabilities. Additionally, it also attempts to understand the contemporary international perspective of some countries regarding the issue to draw upon what kind of politics and initiatives create and reflect a positive change to the situation regarding employment rates of persons with disabilities. This analysis has then helped to develop a few solutions on how the situation can be better using schemes from other countries in the Indian context.

INTRODUCTION - The right to work is the concept that people possess an inherent right to work or participate in different employment opportunities and that the state cannot hinder them from doing so. Since its inclusion in Article 6 of the International Covenant on Economic, Social, and Cultural Rights, the right to work is recognized under international human rights law. The right to work is protected under Article 23 of the Universal Declaration of Human Rights. The 'right to work' is, therefore the most essential feature of existence. One must work hard to gain anything more than the basic

needs of life, such as food, water, and shelter. Since, India has ratified both instruments, which acknowledge the right to work, in Article 23 and Article 6 respectively, in the occupation of one's choosing and the state's commitment to defend this right." However, the Indian Constitution does not specifically recognise the "right to work" or "right to employment" as a basic right. In accordance with Article 41 of Part IV of the Constitution, it is declared to be one of the Directive Principles of State Policy and is therefore not subject to legal enforcement. Although the 'right to labour' is not specifically specified in Part III (Fundamental Rights) of the Constitution, it has been recognised a 'Fundamental right' through judicial interpretation.

Anyone who has or has had experience living with a disability is well aware that society fails to recognize disability discrimination. Over the last four decades, there has been an extraordinary acceleration in the integration, social identity, and identification of individual rights of people with disabilities, and a critical aspect of this significant development has been the re-conceptualization of disability as an expression of social relations rather than an individual attribute. With almost a century of fighting for civil rights, there hasn't been a proportionate change in social attitudes with regard to the development of public policies and perception of Persons with Disabilities. The process, though slow, haven't percolated to each economic and social system.

In recent years, the government has tried to implementing a number of beneficial and special initiatives to help Persons with Disabilities (PwD) assimilate into society. Numerous tax exemptions, lower-interest bank loans, professional course scholarships, and other benefits are available for PwDs (Viswanathan, 2014). However, when it comes to employment, there is still a significant gap between disabled and non-disabled people even in the public sector let alone the private sector. (Times of India, 2019).

This research study is doctrinal and analytical. This study is divided into two Parts. Part-I examines the difficulties that impede society, particularly the private sector, from considering individuals with disabilities as problem solvers instead of rights holders. It traces the history of different models of disabilities and their impact on the employment of PwDs. It particularly determines whether the current legislative framework is sufficient to ensure their meaningful participation, whether a few adjustments are needed, and, if yes, what kinds of. It also studies the feasibility of affirmative action in the private sector and explores other alternatives for realizing the rights of PwDs in the Private Sector. It highlights various incentive schemes initiated by Governments from time to time and maps their effectiveness in the present times. Furthermore, it discusses different laudable initiatives undertaken by individual private organizations in upholding the rights of PwDs in the Employment sector., Part II of the article proceeds to

understand the same for other countries. It analyses the legislative framework and the line of development of five countries to gather an international aspect and various developments in the following: Canada, the United States of America, Germany, Sweden, and the United Kingdom

PART I: EMPLOYMENT OPPORTUNITIES FOR PWDs IN INDIA

HISTORICAL OVERVIEW OF TREATMENT OF PERSONS WITH DISABILITIES

Perhaps the earliest model of disability is the religious model of disability, often referred to as the moral model of disability (Bennett & Volpe, 2019). The idea may be found in a variety of religious systems. It might have been the first attempt by humans to comprehend or characterize disability. Hinduism, for example, believes in numerous births. Furthermore, a handicap is explained as the outcome of some former birth's poor karma or ethical infraction. Persons with Disabilities were not on par with other members of society and were aloof from general rights, including education and employment.

With advancements in medical knowledge, the medical model of disability came into the limelight. This concept, also known as the biomedical model, considers disability a sickness or medical condition affecting an individual. This paradigm of disability is also known as the personal-tragedy model. In this approach, disability is basically a pejorative term. As a result, the focus is on resolving the problem. The medical paradigm of disability gives rise to terms like "invalid," "incapacitated," "cripple," "handicapped," "retarded," and so on (Disability Nottinghamshire, n.d.). People with disabilities are considered victims who must be treated or rehabilitated by qualified specialists. During this period, the government took steps to enhance medical facilities and alleviate the suffering of these individuals by providing medical care, technical assistance, and medical equipment. To cope with the supervision and treatment of mentally ill and disabled people, the government formed RCI (Rehabilitation Council of India) in 1986 and enacted the Mental Health Act (Raveesh et al., 2019). However, these services were only available to the well-educated and wealthy. Because of the above two models and their predisposition to PwDs, the employment of PwDs in any kind of work stood no chance.

As a backlash to the shortcomings of the medical model of disability, the social model of disability emerged. This approach asserts that persons with disabilities are disabled by society (majorities of society). It has been suggested that disability is a social construct, and a person with a specific limitation is not considered disabled until the cultural and societal norm places them at it (United Nations, 2002). The community restricts and hampers persons with disabilities from continuing to engage in social or economic activities. With the notion that the majority of society labels itself as ordinary and uses that normality as a metric to assess each person, the social model is referred to as the minority model.

It was during the existence of this model that the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1996 was enacted, which provided numerous benefits to PwDs including reservation of 3% for PwDs in government Jobs, unemployment allowance for the disabled, etc. It was during this time that the public and private sector for the first time was involved in engaging PwDs in different kinds of services, commencing their active participation in the industry. Additionally, at the global level, too many reforms and measures were undertaken for the upliftment of PwDs in society. In 1976 the UN General Assembly declared 1981 the International Year of Disabled Persons. Subsequently, 1983-1992 was also marked as the UN Decade of Disabled Persons. Another landmark move was the passage of the National Policy on Disability (2006) which extensively covered crucial subjects like education, social security, employment, etc, thus giving a significant boost to the movement. Simultaneously, on October 1, 2007, India adopted the United Nations Convention on Rights of Persons with Disabilities (**UNCRPD.**), demonstrating the country's resolve to move away from "charity and welfare" for people with disabilities and toward their rights and entitlements. Article 27 outlines a progression of the right to work of PwDs in order to achieve inclusive employment. Article 27(1)(h) clearly mandates the state parties to "promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives, and other measures;" thus, UNCRPD realizes the proactive steps that must be implemented to minimize structural impediments.

The human rights model of disability is another paradigm that overlaps to a certain extent with the social model of disability. Even though some academicians interpret the social and human rights models as almost interchangeable, Degener (2016) points out a few key distinctions. To begin with, though the social model assists society in comprehending the existing societal forces that influence our perceptions and dogmas of disability, the human rights model takes a step further to such justification, giving an analytical foundation for policies pertaining to disability rights underscoring the fundamental human rights of people with disabilities (Degener, 2016). Secondly, the human rights model encompasses both the "first and second-generation human rights", since it "includes both sets of human rights, civil and political as well as economic, social, and cultural rights" (Degener, 2016). Third, whereas the social model frequently overlooks the truth of the matter of misery and anguish in the daily life of some PwDs, the human rights model admits the same and asserts that such aspects should be taken into account in the adoption of necessary social justice theories (Degener, 2016). Finally, although the social model can assist in understanding the poverty of the majority of PwDs, the human rights model recommends practical measures for improving PwDs' living conditions (Degener, 2016). It was during the subsistence of this model that inspired the Indian Govt to

enact The Rights of Persons with Disabilities Act, 2016 and Rights of Persons with Disabilities Rules, 2017 to augment the Act's obligations, thereby bringing the prime focus on the livelihood of PwDs and ensuring the means to achieve the same, extending its scope even to the Private corporations.

“RIGHT TO EMPLOYMENT” OF PWD- Article 14 of the Indian Constitution, in its many interpretations, guarantees equal opportunity to anyone and everyone wishing to secure a living standard or a means of subsistence via employment. Persons with disabilities are also guaranteed the same entitlement. But being a fundamental right, the same isn't applicable to private entities, thus requiring the need of legislation to impose similar, or slightly less, standards of responsibilities on the private sector too. Thus, the need for implementing the RPwD Act was felt and the same came into force in 2016 (Gowda, 2021).

Article 39(a) of the Constitution, which is a Directive Principle of State Policy, provides that “the State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood”. Article 41, which is another Directive Principle, provides, inter alia, that “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work in cases of unemployment and of undeserved want”. Article 37 provides that the Directive Principles, “though not enforceable by any court, are nevertheless fundamental in the governance of the country”. Consequently, the essential concepts embodied in Articles 39 (a) and 41 have to be regarded as equally foundational and crucial in understanding the meaning and content of fundamental rights. Accordingly, The Rights of Persons with Disabilities Act, 2016, and Rights of Persons with Disabilities Rules, 2017 were enacted.

On June 15, 2017, the Rights of Persons with Disabilities Rules, 2017 (Rules) were notified to augment the Act's obligations. The Act is founded on the principal of the United Nations Convention on the Rights of Persons with Disabilities and attempts to encourage businesses to have an inclusive workplace for PwD. Discrimination against people with disabilities is illegal under the Act unless it can be demonstrated that it is a proportional way of accomplishing a legitimate goal. Previously, the 1995 legislation only applied to government-controlled or assisted institutions, but the Act has recently expanded to include private enterprises. Despite the fact that the Act and the Rules do not mandate private establishments to recruit PwD, the Act does place some duties on them. Section 2(v) of the 2016 act expands the definition of “private establishment” and includes “a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify.”

Because the term "Company" is inserted in the category of "Private Establishment" established in Section 2(v) of the Act, the requirements of the aforementioned Act and Rules apply to Private Limited Companies. As a

result, every private business incorporated under the Companies Act must abide by the terms with the above Act and Rules (Gowda, 2021). Likewise, the term “firm”, “Trust”, “Organization” etc, enlarges the scope of the legislation to Partnership firms, Private organizations, private trusts, etc as there nothing in the definition or the act to convey otherwise. While the majority of the Act's requirements continue to apply to government and/or local governments, there are a few essential duties imposed on private entities which are as follows:

A. Every corporation engages in policymaking in order to carry out various activities in the course of business operations, and the legislation requires that one such policy be developed for people with disabilities on their facilities. Section 21 of Rights of Persons with Disabilities Act, 2016 read with Rule 8 of Rights of Persons with Disabilities Rules, 2017 prescribes that an equal opportunity policy for disabled people must be published by a privately owned corporation, and the same, as per Rule 8(2) of 2017 Rules, must be published on the official website of the company or in a prominent location where all employees may see it. Section 21(2) of the Act read with Rule 8(1) of 2017 Rules, also stipulates that a copy of the stated Policy must also be filed with the Chief Commissioner or the State Commissioner for PwD. Furthermore, as per Rule 8(3) of 2017 Rules, a private corporation with 20 or more workers must have an Equal Opportunity Policy that includes the following;

1. “Facilities provided to disabled persons to enable them effectively work in the company;
2. List of posts identified suitable for disabled persons, in their establishment;
3. Manner of selection of disabled persons for various posts, post-recruitment and pre-promotion training, preference in transfer, preference in allotment of residential accommodation (if any) and other facilities;
4. Provisions for assistive devices, barrier-free accessibility and other provisions for disabled persons; and
5. Appointment of a liaison officer to look after the recruitment of disabled persons.”

If a firm, as per Rule 8(4), has less than 20 workers, the policy must include details on the services and infrastructure that will be offered to disabled employees for them to adequately carry out their jobs at the institution.

B. Section 22 of 2016 Act read with Rule 9 of 2017 Rules also mandates the Companies to keep records containing information including;

1. The number of PwD employed and when they were hired;
2. Name, gender, and residence of those employed;
3. The kind of disability of these people;
4. Type of work being performed by such employed people; and

5. The nature of accessibilities being provided to them.
- C. As per Rule 15(1)(a) of Rights of Persons with Disabilities Rules, 2017, maintaining compliance with prescribed accessibility standards as specified in the **Harmonised Guidelines and Space Standards for Barrier-Free Built Environment for Persons with Disabilities and Elderly Persons** issued by the Ministry of Urban Development, Government of India in March, 2016 is imperative, corresponding to the external surroundings, transportation, and communications technology. These include things like providing that the property includes elevators/ramps for people in wheelchairs, conforming to a minimum path width, and so on.

Rule 15(1)(c) states a few examples of information and communication technology standards, which are: "Website standard as mentioned in the guidelines for websites of Indian Government, as confirmed by Department of Administrative Reforms and Public Grievances, Government of India; All papers to be posted on websites should be in Electronic Publication (ePUB) or Optical Character Reader (OCR) based pdf file format."

Additionally, Section 46 of the act prescribes that within two years of the Rules' publication, all private corporations must begin delivering services in accordance with the accessibility requirements set forth in the Rules, i.e., on or before July 15, 2019. The Act further stipulates that no company shall be granted a completion certificate unless it complies with the government's standards and requirements and existing structures must comply with these criteria within 5 years after being notified of the Rules (Mondaq, 2017).

CONSEQUENCES OF CONTRAVENING THE PROVISIONS OF THE SAID ACT AND RULES

According to Section 89 of the 2016 Act, the first breach of the aforementioned Act and Rules will result in a punishment of Rs. 10,000, and consecutive contraventions will result in a fine of not less than Rs. 50,000 but not more than Rs. 5,00,000. Furthermore, Section 90(1) notes that if a corporation commits an offence under this Act, any individual who was in control of and accountable for the company's administration of business during the period the offence occurred is considered to be guilty of the offence and is subject to be prosecuted and punished appropriately. As per Section 90(2), if an offence committed by such a corporation is proven to have been done with the permission or in cooperation of, or is ascribable to any due to the negligence of, any director, manager, secretary, or other officer of the company, that individual is deemed guilty of that offence and subject to prosecution and punishment as a result.

STATUS OF PWD EMPLOYMENT IN PRIVATE SECTOR IN INDIA

In the year 2019, on an analysis of disclosures made by 68 listed companies of the S&P BSE 100 over a period of three years, it was found that PWDs forms only a 0.46% of their workforce in India. But according to the census of 2011, PWDs constitute 2.21% of the total population in India and if we

see the global data PWDs constitute 10 to 15 percent of the population. 2011 census also revealed that in most of the States PWD were not employed except few small states like Nagaland where their employment rate is above 50%. Major reason of unemployment was lack of skills (Persons with Disabilities Form Less than 0.5% of Staff in India's Top Firms | Business Standard News, n.d.). Data from Department of Labor, United States of America, shows that in the year 2020, 17.9 percent PWDs were employed in comparison to previous year wherein 19.3 percent PWDs were employed. Data also revealed that the PWDs are less likely to have completed their graduation and post-graduation in comparison to abled persons and that part-time employment is more common among PWDs. It was also seen that the Workers without disabilities generally preferred in all forms of employment (US Department of Labour, 2021).

PWDs are very disadvantaged in the labour market in general. There are many barriers to their entry in the labour market or in the workforce. These barriers are in the form of lack of educational opportunities, vocational or professional training, and financial means. Further misconception about in the PWDs that they may not be able to perform job is one of the major barriers and it results in discrimination with PWDs in securing employment. Labour regulations in some parts of eastern Europe are over protective for PWDs by reducing working hours, more paid leaves etc. However, it results in employer considering them as less productive (Rachael, 2011).

A study conducted by "National Centre for Promotion of Employment for Disabled People" with the objective of finding out the practices followed by Indian industries for employing PWDs after 3 years of implementation of the 1995 Act. Survey was conducted on top 70 corporate houses. It was revealed that the PWDs form only 0.4% of the total workforce at the corporate houses. It was even revealed that many public companies were not employing PWDs even when it was compulsory to have 3% workforce with PWDs. The PWDs who were employed were majorly with locomotor disability (current status of employment of disabled people in indian industries.). A base line Report prepared by National Centre for Promotion of Employment for Disabled People (NCPEDP) on Employment of Disabled People in India in February, 2009, revealed that there was no data available regarding PWDs employment. The initiatives related with employment undertaken by different ministries like Ministry of Labour and Employment, Ministry of Housing and Urban Poverty Alleviation, Ministry of Medium and Small-Scale Industry and Ministry of Industry did not have any specific provision for PWDs. Even 11th Five Year plan did not have any specific provisions related with PWDs. However, few industrial associations like "Confederation of Indian Industry", "Federation of Indian Chambers of Commerce and Industry", "National Association of Softwares and Services Companies" have taken initiatives to promote employment of PWDs. The report notes down challenges and issues with regard to employment of PWDs which are mainly disability discrimination, Lack of educational

facilities for PWDs, Lack of skilled manpower, and Lack of Assistive devices. (Deoc, 2009). The research conducted by NCPEDP in 2015 again showed the similar situation. The skills, talent of PWDs remain underutilized with reference to their employment (Jindal & Chari, 2015). Thus, with the above data it is pretty clear that the Disability Rights movement hasn't reached its peak in terms of employment in the private sector. As for the 2016 act, there are major concerns with regards to the same, that are as follows:

(a) Ineffective Implementation- While the RPwD Act has been extensively hailed as an important step in realising the rights of PwDs, sadly, its execution has been stagnated in the years after its enactment. As of 2019, almost three years after its enactment, only 12 states had begun to implement the RPwD legislation (Indian Express, 2019). Many states have yet to name Disability Commissioners, and only a handful have disclosed how many equal opportunity policies they have received (DEOC, 2018). Arman Ali, Executive Director of the National Centre for Promotion of Employment for Disabled People (NCPEDP) describes three fundamental areas which need further improvements: education, accessibility, and healthcare (Tibrewal, 2020). Educational Institutions are ill-equipped to accommodate PwD kids in the classroom. In terms of accessibility, public infrastructure remains inaccessible to people with disabilities since webpages, buildings, transportation, and restrooms have not been designed keeping PwDs in mind. PwDs are frequently deprived from medical insurance and may suffer prejudice from healthcare professionals, who are supposed to be supporting them (Tibrewal, 2020).

(b) Ambiguities on particular obligations - Although the Act and Rules necessitate private organisations to stipulate the kinds of facilities, special leave entitlement, special equipment, and other benefits provided to PwD as part of their equal opportunity policy, they do not set or specify the quantity, or any threshold benefit, that PwD can demand as a right under the Act. For instance, if a private organization has to install separate elevators for swift movements for persons who are physically challenged in its building, how will the benchmark of requirement of number of elevators be decided? Will it be proportionate to the number of disabled persons working there, i.e., 1 elevator for every 20 persons, or just one elevator for one building irrespective of number of PwDs employed there. In these cases, the benchmark or the minimal standard will always be ambiguous and thus will lead to ineffective implementation of provisions of 2016 act.

(c) Collecting data from employees with disabilities- At the moment, many companies do not maintain records pertaining to their employees with disabilities. As a result, it's critical to establish procedures for gathering such data, both for current personnel and prospective hires. The data gleaned under the Rules (such as the type of the disability) would fall in 'sensitive personal information' under Information Technology (Reasonable security practises and procedures and sensitive personal data or information) Rules, 2011 (Data Protection Rules). As a result, before compiling such

information, it would be required to get the individual's consent. The Data Protection Rules will have to be followed to the effect that such information is compiled and kept in an electronic format (Mondaq, 2017).

INCENTIVE SCHEMES FOR PRIVATE CORPORATIONS

Section 35 of the Rights of Persons with Disabilities Act of 2016 mandates that the appropriate government and local authorities offer incentives to private-sector employers to guarantee that at least 5% of their personnel is made up of people with benchmark disabilities. This is in Pari- Materia to section 41 of the 1996 act, which also mandated the same.

Despite the following regulations and guidelines, India has fallen short in finding work for people with disabilities who have received adequate training and education to meet their professional role, thus perpetuating discrimination. As highlighted above, as per Unearth insight, India has about 3 crore persons with disabilities (PwD), of which 1.3 crore are available for employment, and yet only 34 laks have been engaged throughout the organized, unorganized, government-led programs, and self-employed sectors (Indian Express, 2021). There are 3.4 lakh non-tech graduates, polytechnic, and diploma holders in India who may be trained and integrated into the dominant industries and knowledge sector to boost per capita income (Times of India, 2019).

Consequently, in order to encourage firms in the private sector to hire people with disabilities, the then-Finance Minister introduced a plan of incentives to private-sector employers in his Budget address for the fiscal year 2007-08 (Shah, 2021). In response to this official statement, the Ministry of Social Justice and Empowerment introduced a Program for Private Sector Employers, which entails the government paying employers' contributions to the Employers Provident Fund (**EPF**) and Employees State Insurance (**ESI**) for the very first 3 years for hiring PwDs with monthly salary up to Rs. 25,000/- (Department of Empowerment of Persons with Disabilities, n.d.).

The incentive program had been mostly optional. The Ministry, the Employees' Provident Fund Organisation (**EPFO**), and the Employees' State Insurance Corporation (**ESIC**), both statutory bodies under the Government of India's Ministry of Labour and Employment, made extensive publicity concerning the plan. From 2008-09 onwards, a sum of Rs. 3.00 crores was granted to EPFO and ESIC for the purpose of publicizing the plan. Further, a Task Force led by the Ministry of Labour's Additional Secretary was formed to investigate the reasons for the poor response and recommend methods to make it more appealing to private companies and other related concerns. In August 2012, the Task Force released its report, suggesting numerous reforms, leading to the scheme revision in 2017. In 2017, vide Notification No 36-01/2013-DD.III, dated 6th Feb 2017, the plan was overhauled with the purpose of making it more accessible to all capitals. Incentives are now considerably more attractive, and working with the EPFO

office is easier. To encourage participation, it was expanded to cover all employees with disabilities, regardless of wage level. Employers are not at stake in recruiting people with disabilities since apprenticeships are regained. The following were the modifications made:

1. "The policy will apply to all people with disabilities who work in the private sector, regardless of their pay or wage cap.
2. The DEPwD is responsible for the administrative costs associated with EPF/ESI contributions (at the current rates).
3. For a period of ten years, the government would pay the employers' payment to EPFO and ESIC.
4. The DEPwD will bear one-third of the gratuity sum due and payable to PwD workers that must be delivered by employers under the relevant provisions of the Gratuity Act.
5. If a private employer hires PwDs as apprentices in a specific profession and then employs them after the apprenticeship term is completed, the DEPwD is responsible for the PwD's stipend during the apprenticeship period."

The changes are significant and praiseworthy, but the expected results haven't been achieved yet. On a general note, private organizations have shown limited interest in engaging with the scheme, resulting in dissatisfaction and protests from different quarters. In February 2021, a group of 94 people with disabilities associated with the Tamil Nadu Association for the Rights of All Types of Differently Abled and Caregivers (TARATDAC) gathered near the District Collectorate in Thanjavur, Tamil Nadu, for a wait-in agitation to raise their demands for monthly aid of 3,000 rupees and 5,000 rupees for those with severe disabilities, as well as a separate law guaranteeing at least 5% reservation for their employment in the private sector (The Hindu, 2021).

Similarly, just last year in Rajasthan, the state's court for specially-abled persons ordered labour and employment departments to develop a strategy and plan for providing 5% reservation to persons with disability in private occupations. The court had also recommended that the authorities to ensure reservation to the PwDs in private factories and small industries at the initial level (Times of India, 2021).

AFFIRMATIVE ACTION IN THE PRIVATE SECTOR: FEASIBILITY AND CONSTITUTIONALITY

The RPwD Act, 2016 is heavily criticized time and again for failing to secure means of employment for Persons with Disabilities in the Private sector. Unlike Section 34 of the Act, which mandates at least 4% of posts reserved for PwDs in Govt establishments, Section 35 deals with "Incentives to employers in the private sector" and doesn't mandate the private establishments to reserve a separate quota for PwDs. It only asks the appropriate state government "to provide incentives to employers in the private sector to ensure that at least percent. of their workforce is composed of persons with benchmark disability". With that being said, it is also true that the incentives haven't been attractive enough for private

employers to engage with the provision. And thus, the question of reservation of posts for PwDs in the Private sector arises.

“There have been demands from certain quarters to reserve at least a 5% quota in private jobs for the disabled” (Times of India, 2021). In fact, something similar came up last year when Haryana Govt passed ‘The Haryana State Employment of Local Candidates Act, 2021’ (**Haryana Act, 2021**) to reserve 75% of jobs in the private sector for people “domiciled in the State of Haryana.” The act's constitutionality is challenged in both the Supreme Court and the Punjab & Haryana High Court, and the matter is sub-judice. On the same lines, if jobs in the private sector have to be reserved for PwDs, passing down a few tests is imperative.

The constitution of India has no provision allowing the Union or the States to impose reservations in private-sector jobs. The Supreme Court categorically rejected the justifications for enforcing government regulations and making reservations in private educational institutions in the TMA Pai Foundation case (2002) and then later in the PA Inamdar case (2005). To overrule the above judgments, the central government, in 2005, came up with the 93rd Constitutional Amendment Act, incorporating clause (5) under Article 15 of the Constitution, which provided for reservation in private educational institutions, “whether aided or unaided by the State.” Though the amendment was declared constitutional by the apex court in Ashok Kumar Thakur v Union of India (2008), the same did not empower the state to make such provisions for employment in private institutions, and therefore, any law in this regard lacks constitutional support (Anand, 2021). Second, under Article 19(1)(g), all citizens have a fundamental right “to practice any profession, or to carry on any occupation, trade or business.” If private organizations are mandated to enforce reservation in jobs, it will come in the way of realizing their rights to carry on their occupation freely, thereby violating the employers’ rights (Sindhu, 2021). With the above discussion, it can be said that it is legally untenable for the government to impose mandatory reservations for PwDs in private organizations. Thus, this particular line of amendment to the 2016 act wouldn’t be passed, or if passed, wouldn’t stand a chance in the art of law.

VOCATIONAL TRAINING SCHEMES - Under the Scheme for Implementation of Rights of Persons with Disabilities Act (**SIPDA**), the Central Government has come up with a National Action Plan wherein vocational courses and skill training would be provided by a network of institutions and organizations, called Empanelled Training Partners (ETPs) having established track records with high employability ratio (Scheme for Implementation of Rights of Persons with Disabilities Act, n.d.). Outcome-based financial assistance would be provided to these organizations by the Central Government, and as of 31st January 2022, there are 265 ETPs and 43 Government ETPs recognized by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment (List of Empanelled Training Partners, 2022). One of the major setbacks this scheme suffers

from is its lack of publicity. With a lack of publicity, not many people know about these programs and thus aren't able to register even though they want to.

Different NGOs have come forward to help PwDs achieve the milestone. One such organization is Blind People's Association (BPA). They have been providing skill training programs to PwDs since 1984 to make them self-sufficient and financially independent. So far, have helped 900 individuals in earning a regular livelihood from their self-employment programmers (Blind People Association, n.d.). Another NGO is Narayan Seva Sansthan, based in Udaipur, Rajasthan, it provides free surgeries for disabled people, who need it and gives them skill training in different courses for better accessing employment opportunities (Singh, 2021). The above names are only a tipoff the iceberg, and there are numerous different organizations working towards the fulfilment of the common goal: uplifting the lives of PwDs by making them self-sufficient.

CORPORATES' INITIATIVES- It's worth mentioning some of the private-sector initiatives, that they have taken on their own without there being a statutory obligation placed on them, that have helped to boost employment in their respective fields. ITC has been supporting PwD's employment in the hospitality and associated industries as in a period of 18 months, it employed 120 Persons with Disabilities (ITC). In its hotels, ITC employs people with disabilities in fundamental activities such as finance and human resources (ITC Portal, 2009). What started as a Corporate Social Responsibility (CSR) initiative, became a regular HR Process. They have also claimed to design all future properties on the principles of Universal Design, with an inclusive and barrier-free environment for PwDs. They have started charting the expertise of all the job profiles accessible within the corporation, which will allow them to recognize work roles that can perform by PwDs and highlight the sorts of disabilities that are appropriate for specific job profiles (ITC). They are disseminating their stories and encouraging others to hire disabled persons.

Mphasis, an EDS company, has started a "Soft Skills Training Program" for individuals with impairments, through which hundreds of persons with disabilities have been equipped to work in BPOs (Indian Express, 2008). They also ran a Train the Trainer Project to engage a bigger audience. Tata Consultancy Service (TCS) has launched a program to teach visually impaired pupils in order to train them for careers in the IT industry (Fernandes, 2020). The Intel Center for Economic Empowerment of the Intellectually Challenged (CEEIC) has created a customized course depending on the needs and intellectual capacities of persons with lower IQs (Diversity and Equal Opportunity Centre, 2009). Mirakle Couriers is another hopeful story. This Mumbai-based for-profit firm educates and employs solely hearing and speech-disabled people in its messenger services. Mirakle Couriers prepare and coordinate in Indian Sign Language (ISL). Branch managers communicate with their employees via sign language, and conferences are

also held in ISL. SMS texts are used to communicate with the field (Enabled, 2014). Because deaf persons are not allowed to drive in India, field workers rely on public transportation (trains and buses) which in turn saves money. In addition to being more efficient, public transportation is also more ecologically friendly (Enabled, 2014).

In Mumbai, Revive Enterprises, which offers sound, lighting, and karaoke services on a rental basis, hires solely visually challenged people on both the frontline and backend (Sapra, 2014). PwDs have even been hired in senior roles by certain businesses. Project management, coding, consultancy, logistics, quality management, and human resource management are all areas where IBM India hires PwDs (Arora, 2018). Using their influence and connections, industry organizations, particularly the National Association of Software and Services Companies (NASSCOM), are also actually encouraging skills training and professional development of PwDs. The NASSCOM Foundation launched its Accessibility Initiative in 2009, a rights-based strategy to include people with disabilities in information technology firms (Nasscom, n.d.). The Foundation collaborates with state-funded vocational resource centres (VRCs) to give assistance to disabled job seekers. Furthermore, it organizes frequent employment fairs in Bangalore in partnership with Indian government-run vocational training colleges and non-governmental organizations. Lastly, the NASSCOM Foundation has launched a mentorship program to assist IT Firms in hiring competent employees with disabilities (Sapra, 2014).

Part II: International and Comparative Perspective

CANADA- The Canadian Human Rights Act, of 1977 defines disability and provides protection to PwD against discrimination while providing services or employing them. This is applicable to federal actions and private companies that are regulated by the government and first nations. The Canadian Charter of Rights and Freedoms is a part of the Constitution of Canada. Section 15 of the Charter talks about equality and equal rights for all, with specific mention of persons with physical and mental disabilities. Additionally, Section 15(2) of the same charter's 'Affirmative Action Programs' provides special programs and initiatives for the betterment of disadvantaged people. Programs and initiatives for creating special employment opportunities for PwD are also protected under this. (Government of Canada, n/d)

The Employment Equity Act, of 1995 provides for equality in the workplace and covers both public and private employers. Though it provides rights to all persons in relation to employment, it also describes that no person, including a PwD, shall be denied any employment opportunities or benefits due to a reason other than the ability to fulfill the job requirement. The Act talks about equal treatment of equals and therefore provides special adjustments for equitable working conditions for employees with disabilities. This act provides for compliance audits and penalties on

violations as well. (Justice Laws Website, n/d). Canadian law does not talk about reservations in employment for PwD but the government encourages their hiring by the creation of inclusive workspaces, for which the government can also provide financial assistance. (Wecapable.com)

A recent “Statistics Canada” report found that non-disabled people were more than twice as likely to find employment than those with severe disabilities, 80% against 31% respectively. (Tompa, et al., 2020). The Federal government started the Vocational Rehabilitation of Disabled Persons Programme (VRDPP) and Employability Improvement Programme (EIP). The VRDPP program along with the Canada Pension Plan financially aids the persons with disabilities (PwDs) who voluntarily enter the program to resume working after a long illness or treatment. They are also supported by various governments- providing vocational counseling, financial support during training, and job-searching services. This program helped especially those PwD who had been out of work because of their severe and prolonged illness and thought they were out of work permanently. But now with the advent of new assistive technologies, better medical care facilities, and skills training programs, it can be arranged for some people with severe disabilities to return to the workforce. The participants of the VRDPP will continue receiving financial assistance under the regular CPP disability benefit. (Employment and Social Development Canada, 2021)

Additionally, organizations other than government schemes, such as the “Ontario Disability Employment Network” (ODEN), help both private and public sector organizations in improving practices related to recruitment of PwD, their retention, and accessibility, and reducing discrimination from these procedures. ODEN is focusing on linking the rate of unemployment among PwD in Canada, which is about five times higher than that of the statistics in general, with the ongoing labor shortage in the country. (Canada is getting to grips with Disability Inclusion but still has a long way to go | Forbes. 2021)

Jeannette Campbell, the ODEN’s CEO in an interview with Forbes said, “Businesses are starting to understand the contribution, the abilities, the skill sets those employees with disabilities can bring to the table. They see that there’s a talent pool out there that has been traditionally left out of the conversation unless it’s come from a charitable standpoint.” (Canada is getting to grips with Disability Inclusion but still has a long way to go | Forbes. 2021)

The concept of ‘Sheltered Workshops’ in Canada, gained recent traction with the closing down of such workshops. These workshops employed individuals with intellectual/ developmental disabilities. These were run by non-profit organizations with provincial funding, initially aimed at being temporary places for training PwD to help them learn important job skills. These Sheltered Workshops erupted in debate as they were known to pay a meagre amount for an honest day’s work. The Disability Rights advocates raised the issue of such workshops exploiting a population

capable of contributing equally to the community by paying less than minimum wage. They claim that such workshops isolate the persons with disabilities creating a divide based on the abled-disabled community. People able to work for a business with some supervision meet goals and be reliable should be adequately compensated, which the workshops might screen out. (Galer, 2014)

But the persons with disability and their families counter this by claiming they come from a minority that can contribute to the community in varied senses and levels. For persons to visit the workshop and work meant they could be productive and be proud of the work they do, irrespective of being remunerated for it. Those who are able to perform well should without doubt be given the choice to join the mainstream community, but selective violation of the rights of the other half of this minority population should not happen by the act of closing down these workshops. (Lieberman, 2018). Canadian government has come up with various programmes regarding obtaining and retaining employment while giving financial assistance to Persons with disabilities. Not just the government, but allied organizations are also responsible for reaching the 31% employment rates for PwD. Canada still has a long way to go, especially when compared with UK or Sweden.

UNITED STATES OF AMERICA- The USA has passed some federal laws that protect the employment rights of persons with disabilities. The "Americans with Disabilities Act, 1990 (ADA)" prohibits discriminatory practices against persons with disabilities and guarantees equal opportunities in employment activities (such as hiring, pay, perks, termination, and promotions) against private businesses, educational institutions, labour organisations, transportation, public accommodations, state and local government services, and telecommunications.

The "Rehabilitation Act, 1973" approves funding for various disability-oriented programmes, for example, State Vocational Rehabilitation programs, independent sustenance programs, training and research. It prohibits discrimination by federal agencies, employers/ businesses in contract with federal agencies and programs receiving federal finance assistance.

The "Workforce Innovation and Opportunity Act, 2014" provides for federal job trainings to the PwD. The Department of Labor (DOL) also administers various employment programmes targeted for the PwD population. The Department of Education under the act is given the responsibility of imparting adult education, literacy programs and Vocational rehabilitation programmes specifically for the PwD, which can help them secure opportunities for earning.

The "Vietnam Era Veterans' Readjustment Assistance Act, 1974" (VEVRAA), Section 4212 prohibits discrimination against veterans with disabilities in all types of employment activities. This act takes care of rehabilitation of the

persons with disabilities caused due to war. (U. S. Department of Labour, n/d)

The most problematic law in USA towards minimum wage rights of PwDs can be said to be the Fair Labour Standards Act, 1938, which decides the minimum wage, overtime pay and work hours per week for employees. Under section 14(c), a provision for 'subminimum wage' which allows PwD to be paid less than the minimum wage amount. This is problematic as employers under the provision are encouraged to hire more PwD to do a task that a person getting federal minimum wage, for wage way less than that, i.e., less than \$7.25 per hour. The U.S. Department of Labour estimates that over 100,000 PwD are employed in organisations that pay them less than the minimum wage. (The Hill, 2021) This becomes a cause for immense abuse of a well- capable workforce and is detrimental to the rights of PwD. However, the same is sought to be mended by the Build Back Better bill proposed by the current American government, that proposes money packages to states and employers to stop paying subminimum wages to PwD. The U.S. Department of Labour released facts and statistics on 24.02.2021 regarding the conditions of persons with disability in the US. In 2020, about 17.9% of PwD had employment, which was reduced from 19.3% in 2019. They have lesser chances of completing a bachelor's degree or higher. Similarly, in 2020, across all strata of education, PwD were less likely to be employed than their 'abled' counterparts. In 2020, PwD were more commonly seen working in services than those without disability (18%, against 15.4%). Employees with disability were seen to be working in production, transportation, and material moving occupations (14.9%, against 12.2% persons without disability). They were found to be less likely to be working in a job relating to management profile or professional profiles. A relatively smaller section of employments with disability were employed as private wage and salary workers (75.1%) than those without a disability (79.9%). In 2020, the unemployment rate among men with a disability (12%) was found to be lower than that of women with disability (13.2%), showing a gender gap in this regard as well. (U. S. Department of Labor, 2021) Research has shown that 44% of workers with disabilities indulge in part-time employment as compared to the 22% of employed people without disabilities. (Schur, 2003)

The Sheltered workshops in the US employed over 2,30,000 persons with disability (in the year 2020), but they were decided to be closed down by 2020 as well. The disability rights activists opine that it should be the choice of the individual whether they wish to keep working in the shelters or join 'the community'. Thus, a complete ban on these would be detrimental to their conditions, more than it might be beneficial.

The "Employer Assistance and Resource Network on Disability Inclusion" (EARN), a service of the Office of Disability Employment Policy, U.S. Department of Labor, provides strategies to engage employers to encourage PwDs to self-identify themselves in the labour market. This guide

serves as valuable resource to businesses to assess their status towards disability inclusion goals. (Engaging employees to measure success: Innovative approaches to encouraging self-identification of disability | International Labour Organisation, 2020)

GERMANY- Owing to the activities of persecution done to the persons with any kind of disabilities, during the times of Nazi Germany, Germany had come up with stringent laws in order to counter the public perception about PwD. Disability is defined in the Germany Social Code as “a non-temporary diminishing of bodily or psychological abilities that is due to an irregular state, rather than induced by age or temporary illness”. A disability is considered severe if the level is over 50% or between 30-50%. The law in the Germany Social Code is described in twelve books – SGB IX specifically deals with “Rehabilitation and Participation of Persons with Disabilities”. It also includes rules for compensation of disabilities caused due to work-related accidents or out of war. The “General Equal Treatment Act, 2006” protects PwD from discrimination in the workplace. This law provides setting up of Federal ‘Integration Offices’ in each state of Germany. No employer can terminate a qualifying employee with disability without the Integration Officer’s consent. Employees with severe disabilities are allowed tax reductions in various forms, like transport, both public and private. (Disability in Germany: Definition, Laws, Employment, Statistics, Social Status | Wecapable.com, n/d)

Under 2006 General Equal Treatment Act, that gives provisions for Employer Legal requirements, accessibility requirements and cultural norms, for gainful employment of PwD in Germany. Businesses with employee capacity of more than 20 are required to keep a 5% reservation quota for persons with severe disabilities, non-compliance attracts penalty in form of compensation. Workplaces having 5 or more employees with disability should have an Ombudsperson elected by them only to represent their concerns, for which employers can get subsidies from the government. (Disability:in Global Directory, n/d). The laws made by the legislation in Germany approaches the issue from the medical view of disability. For example, deviations from set normal standards are taken to understand the extent of disability. It also takes into account the social view of disability, under which the barriers are perceived as externally imposed and are not limited to bodily functioning. (Baumgärtner, et al., 2014)

The unemployment rate of severely disabled people in 2018 was 11.2%, almost double the percentage of the general unemployment rate of 6.5%. (Disability in Germany: Definition, Laws, Employment, Statistics, Social Status | Wecapable.com, n/d)

On analysis of the paper titled “Workplace inclusion of persons with a disability: Comparison of Indian and German multinationals. Equality, Diversity and Inclusion” which compiled studies from interviewing respondents from multinational corporates from India and Germany, we

understand that the employers in both the countries follow the same 3 broad principles,

1. Harnessing diversity (looking at employees as a crucial resource with varied talents);
2. Multi-stakeholder engagement (involving both the top management team and other employee groups to increase inclusion);
3. Engagement with the external ecosystem (taking help of NGOs for their expertise to build internal human resources).

Germany has the advantage of providing rights to persons with disability since they faced a civil rights movement regarding this issue early in the 1970s. The goals of the German Disability Rights Movement were the de-medicalization of disability, self-determination, securing rights against discrimination and right to life. (Köbsell, 2006) India yet has not faced any such mass movement still has comprehensive legislations in this regard. (Bhambhani, 2004). The Labour Union is robustly active in Germany that takes the formal voices of the affected disabled population forward. (Diversity and Equal Opportunity Centre, 2009). The German legislation also provides for a penalty for non-compliance of employment quota. (Kock, 2004)

Companies in Germany work closely with dedicated organisations and NGOs while incorporating persons with disabilities into their employment. Even in Germany, local non-governmental partners are considered as key external stakeholders that contribute in building an inclusionary workplace, The recruitment helping organisations focus on matching skills of the employee with jobs available in the organization. Some organisations like Social Heroes or 'Sozialhelden', work on 'Disability Mainstreaming' and on a more internal level by creating awareness among the disabled population by advertising success stories of persons who have secured good employment or means of earning. For example, their current ambassadors are, a deaf martial artist, a blind attorney, an actress with Down syndrome, a carpenter and a cook in training, and a wheelchair skater, coming from different walks of life, so more PwDs are encouraged to participate in the employment assistance programmes and schemes. (Sozialheld innen, n/d). In Germany, moral responsibility or organizations to recognise talent of PwD is seen as more crucial than any sort of impositions in forms quota or reservation systems to provide employment to them. (Kulkarni, et al., 2016) It is given much stricter importance owing to the need of change in social perspective of Germans post Nazi period.

In Germany, the concept of Sheltered Workshops recently made headlines. These workshops are over 50 years old in Germany, but now the European Union has called for shutting down of these factories, citing reasons that the concept is in contravention to the UN Convention on Rights of Persons with Disabilities, Article 27, which requires signatories to "promote the acquisition by persons with disabilities of work experience in the open labour market."

The report by Langensiepen (the first woman with a visible disability who was elected to the European Parliament) that calls for shutting the workshops in a phased manner, was approved by the majority in Strasbourg. It also demands that EU member states "ensure that sheltered workshops should be limited to an option for a temporary period for people with disabilities in their working life cycle and speed up deinstitutionalization." This report brought attention on creating inclusive work environments consisting of both disabled and non-disabled population. (Douglas, 2021)

SWEDEN- The obligations enshrined in the "Swedish Employment Protection Act No. 80 of 1982" for the Employers can be said to be a crucial factor for achieving the. The legislation though provides rights to general employees, it actually helps the employees with disability in practical aspect. It presents some innovative aspects that have contributed to Sweden's success in this regard. They tell us that with strong legislations for PwDs and presenting equality as the way for both employees and employers, the situation can be improved. These features are:

1. Protection from unjustified dismissal- under economic redundancy or personal circumstances.
2. Employment rights of equal treatment- duty of employer to make reasonable adjustments to provide inclusionary workplace.
3. Fair dismissal- only if the working ability has been deteriorated to the level that no valid contribution can be made on their part.

The "Standard Rules on the Equalization of Opportunities for Persons with Disabilities" by the United Nations, are the cornerstone for Swedish disability policies. (Disability Policy: Full participation in society is the top goal in Sweden's disability policy | Sweden Sverige, 2021) The total responsibility of accessibility in Sweden is divided among the government, Parliament, government agencies, regional councils and municipalities. The Public Employment Service is made responsible by the government to help and find jobs for people with functional impairments. Employers who hire persons with disabilities are also sometimes given wage subsidies as an incentive. The "Support and Service to Persons with Certain Functional Disabilities", introduced in 1994, gave rights of individual assistance to persons with severe disabilities. It was mostly funded by taxes and the help given was proportional to the extent of their disabilities.

In 2009, the Swedish government passed "the Discrimination Act", which protects rights of persons against discrimination on the basis of gender, ethnicity, religion, beliefs, disability, sexual orientation or age. This act also creates a post of Equality Ombudsman to look after the compliance from government agencies, enterprises, individuals and organizations. (European Network of National Human Rights Institutions, n/d)

The law "Prohibition of Discrimination in Working Life on Grounds of Disability Act, 1999", among many other extensive provisions, provides for a Disability Ombudsman. The Disabled Persons' Ombudsman Act also

provided for an Ombudsman to protect the rights of the PwDs. The ombudsman shall through discussions with authorities, enterprises and organizations prevent discrimination and unfair treatment of disabled persons. Such authorities are obligated to provide information as and when asked by the Ombudsman. (Sweden, International Labour Organisation, n/d) Their responsibilities include:

1. Convincing employers to voluntarily follow rules given in the act
2. Employer upon the Ombudsman request needs to furnish information regarding concerning conditions set by the employer
3. If the employer refuses to furnish information, the Ombudsman has the power to levy civil fine as penalty.

The employment contracts become voidable or void if they are found to be discriminatory in nature. Any action of arbitrary termination of employment can be declared void upon the request of the employee. In 2020, the employment rate of PwD was 67 percent. (The Labour market situations for Persons with Disabilities, 2020 | Statistics Sweden, 2021) In 2010, the rate was 62%, the highest among the Organisation of Economic Cooperation and Development (OECD) member countries. (Innovative Policy 2013 on Employment, Sweden's inclusive labour market building | Zero Project, 2021)

Along with the legislations, some bodies also help in attaining the said rate of employment. The Public Employment System (PES) co-operates with the 'Social Insurance Office' and with municipalities. They provide persons with disabilities financial assistance that help them to integrate in society. PwD can ask for PES assistance to find work in the regular economy, with individually adapted accommodations and support while applying for a job. They also conduct vocational rehabilitation in the form of initiatives focusing on guidance, investigation, rehabilitation or preparation and training for work (CRPD Committee). The PES has expert staff with competences in the field of work-oriented rehabilitation, including employment advisors, psychologists, physiotherapists, social consultants, occupational therapists, deafness consultants, etc. (Swedish Public Employment Service, 2021) Furthermore, the state, with the help of PES, also takes care of helping people to retain jobs. Employers can receive financial compensation or incentive through "bidrag för personligt bitrade" (personal assistance at work) to help accommodate persons with disabilities. This personal assistance improves job retention, and facilitates participation. Self-employed persons with disabilities can also obtain a grant for personal assistance. The "Individual Placement and Support" (IPS) is another model of employment support, especially for people with mental health difficulties. The IPS job coach comes from psychiatric institutions (as opposed to in the PES) and their support is not limited in time. (Spjelkavik, 2012) Finally, employers who employ PwD get a wage subsidy of up to 80% of the wage, which they can avail for up to 4 years. (Scharle, & Csillag, 2016)

UNITED KINGDOM- According to the “UK Disability Discrimination Act, 1995” (DDA), PwD employees with disabilities share the same employment rights as any other workers. Under this Act, it is unlawful to discriminate against a disabled person in their terms of employment, promotion opportunities, dismissal or subjecting them to any other detriment. All employers have to conform to the provisions of this act.

The DDA for the purpose of employment defines disability as:

1. Presence of a mental or physical condition which has a substantial and long-term adverse- effect on the employee's ability to carry out normal day-to-day activities.
2. Long-term means that the condition must last, or be likely to last, for more than 12 months. (Disabled World, 2019)

“The Equality Act passed in 2010” gives protection to employees with disability against discrimination by any act by the employers. It includes, application forms, interview arrangements, proficiency tests, job offers, terms of employment; pay, promotion, transfer and training opportunities, dismissal or redundancy, etc.

The above- mentioned act calls for reasonable adjustments in the workplace in which the employer has to make sure that an employee with disability is not put at a disadvantage in the workplace, as compared to non- disabled employees. The employer can make limited enquiries about such employee’s health or disability. They cannot force an employee to retire if they become disabled. (Crime, Justice and the law, Government of United Kingdom | Disability rights, n/d)

The employment for PwD trended positive since 2013. The pandemic initially reversed these trends, showing a decline in the employment rate of PwD. The trend is seen to be improving now with the rate coming back to its pre-pandemic level. There were 4.4 million disabled people in employment in the UK in 2021. The employment rate of PwDs was 52.7% in 2021, compared to 81.0% for non-disabled people. (Department of Works and Pension, Government of United Kingdom, 2021). This increase in number of disabled people in employment can be attributed to 3 main components of change:

- 1) Disability prevalence (50%),
- 2) The disability employment gap (25%) and
- 3) The non-disabled employment rate (20%). (Department of Works and Pension, Government of United Kingdom, 2021)

The disability employment rate was found to be lower for disabled people:

- With a mental health condition
- With five or more health conditions (Department of Works and Pension, Government of United Kingdom, 2021)

It was also found that disabled people are more likely seen to be engaged in the following than non-disabled people:

- 1) Working in lower-skilled occupations
- 2) Self-employed

3) Working part-time (and subsequently less hours)

4) Working in the public sector

5) Temporarily away from work

The statistics also showed disabled women slightly more likely to be in employment than disabled men (53.0% in 2021). The employment rate for disabled men in the same period was 51.8%. (Department of Works and Pension, Government of United Kingdom, 2021)

Disabled workers were seen to be more involved in health, retail and education sectors. They were also not likely to be working in agriculture, forestry and fishing (each less than 1%). Disabled workers (11.3%) are more likely than their non-disabled counterparts (8.7%) to be employed in Elementary occupations. Disabled workers are less likely to working in the private sector than non-disabled workers and consequently more likely to be working in the public sector. (Powell, 2021). Some of the main policies and schemes (but not limited to) that provide employment support for disabled people are explained in brief below:

A. Access to Work- help to meet the needs of disabled people in the workplace. Access to Work grants give practical and financial assistance to employees and to the self-employed both to stay in work. Access to Work provision was approved for 39,000 people in 2019- 2020. This provision included elements such as [Government of United Kingdom, 2021)

1) Communication support for interviews
equipment

2) Special aids and

3) Adaptations to premises and vehicles
costs

4) Help with travel

5) Support workers
support service

6) A mental health

B. Disability Confidence- was designed to help organisations in becoming more ready to employ and accommodate more disabled staff, by offering advice and breaking down the myths regarding their employment. It encourages employers to look forward to the skills that people with disability bring to businesses and to remove obstacles in recruitment and retaining of employees with disabilities. This programme works on the concept of inclusion. These organisations are aware what people with a disability can do, and recognise barriers to employment or promotion for persons with disabilities. (Disabled World, 2014) As of March 2021, almost 20,000 employers had signed up to the Disability Confident scheme. (Government of United Kingdom, 2021)

- C. Intensive Personalised Employment Support programme-** was launched in late 2019, it works to provide personalised support to persons with more complex needs or severe disabilities. This programme aims to benefit 10,000 people. (UK Parliament, 2021) A dedicated support worker will be appointed to people on this programme who will be responsible for providing one-on-one support and training to help them get into work. The duration of this support can be from 6 to 15 months.
- D. The Young Person's Supported Work Experience programme-** provides a "personally tailored supported work experience opportunity" for young people of the age group of 18-24 years. The Local Supported Employment 'place and train' model aims to move disabled people into real jobs, at the ongoing pay rate, with providing support for both the individual and employer. (UK Department of Work and Pensions. 2017)

The legislative framework in UK provides for rights to PwD as employees. The supporting policies provide for an all- round solution to the issues faced by PwD in employment and to those who wish to enter the work force. The Disability Confidence programme works as an assurance that an employer is disabled- sensitised and would make reasonable accommodations to employ PwD. The two- pronged approach of making workplace accessible and use of reasonable adjustments along with financial aid for PwD help people find, secure and retain employment. The positive results are shown in the higher rates of employment of PwD in UK. We also see a different and encouraging trend in case of UK, i.e., higher percentage of women with disability in employment.

ANALYSIS- From the above analysis, we can say that regarding the rates of employment of disabled persons (public and private sector combined), Sweden has been successful, through its active government and NGO participation and innovative concepts of creating a post for Disability and Equality Ombudsman, that provides a manner of checks and balances for the execution of provisions of disability- friendly laws. Germany can be said to be similar but more successful (in terms of workplace access and inclusion of employees with disabilities) than India. It can be seen that Germany considers government as a crucial and effective stakeholder in realisation of rights of persons with disabilities. Both India and Germany work on the basis of issuing certification and providing employment quotas to persons with disabilities.

Although USA is a developed nation, it sparingly uses its one of the major assets, employable persons with disabilities. The percentage of employment, i.e., a mere 19.3%, also the lowest of all the countries compared, is not expected from a developed nation. Irrespective of the presence of some detailed and comprehensive laws, the number is rather unsatisfactory in the recent years. This could indicate a loose

implementation of the said laws or an immense negative attitude of employers and a negative social construct around persons with disabilities. Lack of awareness and knowledge among disabled persons regarding laws protecting their rights might be another reason.

The Canadian government has been robust in introducing laws and programmes for finding and retaining employment for persons with disabilities. We see many organisations like ODEN and other work closely with them and help to attain and retain employment on the individual's abilities and talents. The condition in United Kingdom is much greater from the rest of the countries (second only to Sweden, out of the countries discussed above), the legislative framework supported by allrounder policies and schemes provide a better chance for persons with disabilities to attain employment. Out of all the countries analysed, only UK showed a higher rate of employment of disabled women than their male counterparts.

We discussed the concept of Sheltered Workshops, their state and debates surrounding them in the above countries. We can conclude that while such workshops might violate the human rights of persons with disabilities with regards to wages and might be exclusionary in nature (i.e., screen away such persons from 'the community' life), it is equally important to note that such workshops prove to be a place for millions of persons with disabilities around the world, where they can find and work on something they might be good at. They need to be given a choice to continue to work in a place that makes them proud of their labour, a complete ban might therefore not be a full-proof solution.

CONCLUSION AND THE WAY AHEAD- After understanding how the different countries, namely: India, Canada, USA, Germany, Sweden and UK, we were able to make comparative analysis about how different countries have achieved different rates of employment of persons with disabilities. We see that along with financial aid to the PwDs, various programmes assist the target population. Some reference can be taken from the various ideas that are implemented in the other countries by. India For example, the Public Employment System (PES) in Sweden takes the responsibility of providing assistance in finding employment in the regular economy. They conduct various rehabilitation and training programmes to secure an employment with adapted accommodations. Similarly in India, the Ministry of Social Justice and Empowerment can come up with a portal or an office that provides information about prospective employment opportunities in the private sector. It can include circulars or posting forwarded by various private organisations about recruitments and job openings. This will be beneficial for the PwDs as they would now be able to get employment opportunity information from one place, will also result in creating awareness in them. The Sweden government also provides financial aid out of taxes to individual assistance to private sector employing persons with

severe disabilities. In our country as well, this aid can come out of the National Fund for persons with disabilities or the relevant state funds, this will work well as a positive incentive to the private employers as they are generally uninclined to hire them and consider making the adjustments as wasteful investments. The United Kingdom came up with the Disability Confidence programme that essentially works as a certification that an organisation is disabled friendly and is willing to make reasonable adjustments as are required to make the workplace inclusive. The concerned ministry in India too can invite applications from the various private employers to give such a status after appropriate inspection. This will provide a sense of security to the PwDs who will be looking for employment in the private sector because they would know that the employer and his organisation is disabled sensitised.

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