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India Country Profile

Abstract
[From Introduction] This country study for India is part of the ILO project 'Employment of People with Disabilities – the Impact of Legislation' which aims to enhance the capacity of national governments in selected countries of Asia and East Africa to implement effective legislation concerning the employment of people with disabilities. Starting with a systematic examination of laws in place to promote employment and training opportunities for people with disabilities in selected countries of Asia and the Pacific (Australia, Cambodia, China, Fiji, Japan, India, Mongolia, Sri Lanka and Thailand), the project sets out to examine the operation of such legislation, identify the implementation mechanisms in place and suggest improvements Technical assistance is provided to selected national governments in implementing necessary improvements.

The country study outlines the main provisions of the laws in place in India concerning the employment of people with disabilities. A brief review of the implementation of the legislation is also provided, insofar as this was possible, based on a survey of documentary sources, a study by an in-country consultant and feedback from Indian delegates to a Project Consultation held in Bangkok, 17 January 2003. It may be read in conjunction with the regional overview prepared for this Consultation 'Employment of People with Disabilities – the Impact of Legislation (Asia and the Pacific). Project Consultation Report, Bangkok 17 January', ILO 2003.

Keywords
disability, employment, Asia, Pacific, consultation, legislation, impact, disabled, provision, training, law, job, service, opportunities, people, disabilities, discrimination, ILO, India

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March 2003

Employment of People with Disabilities: The Impact of Legislation (Asia and the Pacific)

Prepared by the ILO InFocus Programme on Skills, Knowledge and Employability in the framework of a project funded by Development Cooperation Ireland (DCI)

International Labour Office

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1. INTRODUCTION

Many countries throughout the world have, in recent years, adopted policies aiming to promote the rights of people with disabilities to full and equal participation in society. This has often been in response to the ILO Convention No. 159 concerning Vocational Rehabilitation and Employment of Disabled Persons (1983) policy on employment opportunities for people with disabilities is frequently supported by legislation and implementation strategies as essential tools to promote integration and social inclusion.

Countries in Asia and Pacific have made considerable progress in introducing legislation concerning the equalisation of opportunities for persons with disabilities, particularly during the Asian and Pacific Decade of Disabled Persons 1993-2002. Many of these laws have yet to be effectively implemented, however. The Biwako Millenium Framework for Action toward an Inclusive, Barrier-Free and Rights-Based Society for Persons with Disabilities in Asia and the Pacific refers to this in identifying critical issues to be tackled in the second decade which will span the period 2003 – 2012:

> 'The challenge of integrating and including persons with disabilities in the economic mainstream has not been met. Despite international standards and the implementation of exemplary training and employment legislation, policies and practices in some countries, persons with disabilities, and especially women, youth and those in rural areas, remain disproportionately undereducated, untrained, unemployed, underemployed and poor.'

The question of the effectiveness of laws in improving employment opportunities for disabled persons – whether they are vocational rehabilitation laws, quota legislation anti-discrimination or employment equity legislation - is central, not only in terms of the economic rights of disabled people, but also to their broader social and political rights, which are closely linked to economic empowerment.

This country study for India is part of the ILO project 'Employment of People with Disabilities – the Impact of Legislation' which aims to enhance the capacity of national governments in selected countries of Asia and East Africa to implement effective legislation concerning the employment of people with disabilities. Starting with a systematic examination of laws in place to promote employment and training opportunities for people with disabilities in selected countries of Asia and the Pacific (Australia, Cambodia, China, Fiji, Japan, India, Mongolia, Sri Lanka and Thailand), the project sets out to examine the operation of such legislation, identify the implementation mechanisms in place and suggest improvements Technical assistance is provided to selected national governments in implementing necessary improvements.

The country study outlines the main provisions of the laws in place in India concerning the employment of people with disabilities. A brief review of the implementation of the legislation is also provided, insofar as this was possible, based on a survey of documentary sources, a study by an in-country consultant and feedback from Indian delegates to a Project Consultation held in Bangkok, 17 January 2003. It may be read in conjunction with the regional overview prepared for this Consultation '*Employment of People with Disabilities – the Impact of Legislation (Asia and the Pacific). Project Consultation Report, Bangkok 17 January*', ILO 2003.

2. CONTEXT

India is one of the oldest civilizations on earth, with kaleidoscopic variety and a rich cultural heritage. It has achieved multifaceted socio-economic progress during the last 54 years of its independence. India has become self-sufficient in agricultural production and is now the tenth industrialized country in the world and the sixth nation to have gone into outer space to conquer nature for the benefit of the people. With a population of 1 029 991 145[1], India is ranked 124 out of 173 on the Human Development Index (HDI), according to the UNDP Human Development Report of 2002. Four key indicators used to calculate the HDI, longevity, educational attainment and standard of living show the following:

- Longevity, measured as life expectancy at birth, was 62.8 years for men and 63.8 years for women;
- Educational Attainment, measured as the gross enrolment ratio, was 62 per cent among boys and 49 per cent among girls; and
- Standard of living, measured as annual per capita GDP, was US$ 2 358 in 2000
- Adult literacy rate was estimated to be 57 per cent with a higher rate (68.4 per cent) recorded for men than for women (45.4 per cent).

Poverty remains a significant problem in India. Over a quarter of the population was living in poverty in 1999/2000 according to the Economic Survey 2001/2 carried out by the Ministry of Finance.

The majority of the labour force in 1995 was employed in agriculture (67 per cent).[2] The remaining labour force was divided between services (18 per cent) and industry (15 per cent). Unemployment is widespread, although accurate figures are not available.

2.1 People with disabilities

According to the National Survey of 1991, there were approximately 16 million people with visual impairment, hearing impairment and locomotor disabilities in India in that year, constituting about 1.9 per cent of the population.[3] In a separate survey of children below the age of 14 years with delayed mental development, it was found that 29 out of 1,000 children in the urban areas (2.9 per cent) and 30 out of 1,000 children (3 per cent) in the rural areas had developmental delays associated with mental disability.

The estimated number of persons with disabilities who were working in 1991 constituted 4.52 million leaving 0.08 million (1.7 per cent) unemployed. The distribution of disabled people by employment status is given in Table 1.

[1] World Fact Book, Country India, (figures from July 2001)
[2] Op.Cit.
[3] India Country Report in Developing an Effective Placement Service for People with Disabilities, Report of a Technical Consultation, Singapore, 1999, p.57

Table 1. Employment status of people with disabilities at work in 1991 (millions)

Status	Rural	Urban	Total
Self Employment Agriculture	1.65	0.07	1.72
Self Employment Non Agriculture	0.52	0.37	0.89
Regular Employee	0.25	0.28	0.53
Casual Labour	1.18	0.20	1.38
Total	3.60	0.92	4.52

Of the 16 million disabled people identified in 1991, as many as 11.4 million did not participate in the labour force. Table 2 indicates their activity status.

Table 2. Activity status of unemployed disabled people (millions) 1991.

Status	Rural	Urban	Total
Attending education	1.37	0.64	2.01
Attending domestic work	1.68	0.55	2.23
Beggars	0.09	0.03	0.12
Other	5.59	1.43	7.02
Total	8.73	2.65	11.38

3. LEGISLATIVE FRAMEWORK

3.1 Constitution

The Constitution of India refers to disabled persons in two places. Article 41 of the Constitution of India calls upon the Governments at all levels to "make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."[4] Another relevant provision of the Constitution is entry 9 of State List[5] relating to: "Relief of the disabled and unemployable." [6]

3.2 The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 is the main legal instrument in this area.

It is a combination of service-oriented and rights-based legislation. The scheme of this Act is based on the following approaches:

- prohibition of discrimination on the ground of disability in different spheres of life;
- positive discrimination in favour of people with disabilities;
- grant of relaxation in their favour to overcome respective disabilities;
- their inclusion in mainstream programmes.

3.2.1 Definition of disability

Within the Act[7], "Person with disability" is defined as a person suffering from not less than forty per cent of any disability as certified by a medical authority. In addition, the definition of disability is divided into seven groups; blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness. With the exception of blindness, each of these has a specific definition in the Act.

3.2.1.1 Persons with low vision

A person with low vision is defined as a person with an impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device.

3.2.1.2 Leprosy-cured person

A leprosy-cured person is defined as any person who has been cured of leprosy but is suffering from:

(a) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

---

[4] Constitution of India

[5] The State List reserves the right to provide laws pertaining to a particular area to the state authorities. (See section 1.4)

[6] Constitution of India, Seventh Schedule, List II – State List, Entry 9

[7] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Preliminary Chapter I Section 2 (i)

(b) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(c) extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation, and the expression "leprosy cured" shall be construed accordingly.

3.2.1.3 Hearing impairment

A hearing impairment is defined as the loss of sixty decibels or more in the better ear in the conversational range of frequencies.

3.2.1.4 Locomotor disability

A locomotor disability is defined as a disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy.

3.2.1.5 Mental retardation

Mental retardation is defined as a condition of arrested or incomplete development of mind of a person which is specially characterised by sub-normality of intelligence.

3.2.1.6 Mental illness

Mental illness is defined as any mental disorder other than mental retardation.

3.2.2 Summary of employment-related provisions

A) Organized public sector

(1) Reservation of not less than 3 per cent of posts in every establishment belonging to both central, state and local Governments to be shared equally to the extent of 1 per cent each by persons suffering from: i) blindness or low vision; ii) hearing impairment; iii) locomotor disability or cerebral palsy.[8]

(2) In order to implement the reservation policy in government and public sector, the respective governments are required to: i) identify posts in the establishments which can be reserved for persons with disability, and ii) at periodical intervals not exceeding three years, review the lists of posts identified and update the list taking into consideration the development in technology. [9]

(3) No employee who acquires disability during his service shall be removed from service or reduced in rank and he shall continue in the service in the same pay scale and service benefit.[10]

(4) No promotion shall be denied to a person merely on the ground of disability.[11]

(5) Special employment exchanges to act as monitoring mechanism for ensuring implementation of scheme of 3 per cent reservation in government and public sector by requiring every establishment to furnish prescribed information or

[8] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Chapter VI, Section 33
[9] Ibid. Section 24
[10] Ibid: Chapter VII, Section 47 (i)
[11] Ibid: Chapter VII, Section 47(2)

return with regard to vacancies earmarked for person with disabilities [12] or by inspection of the records of the establishment.[13]

B) Organized private sector

The Government at different levels within the limits of their economic capacity and development, shall provide incentives to employers both in public and private sectors to ensure that at least 5 per cent of their work force is composed of persons with disabilities.[14]

C) Unorganized sector

Since poverty is the greatest challenge before the planners in India and also since incidence of disability is very high in rural and poor families, the Act has mandated the Government to include the people with disabilities in all its mainstream poverty alleviation programmes. However, the Persons with Disabilities Act, 1995 does not have any provision empowering any authority or court to impose fines or levies in the case of breach of the provisions relating to training and employment.

D) Self-employment ventures

With the emerging trend of declining job opportunities both in organized and in unorganized sectors, self-employment is a potential alternative for economic rehabilitation of people with disabilities. However, keeping in view the competitive market, people with disabilities require adequate support from the Government. The Act, therefore, provides for the preferential allotment of land at concessional rates to persons with disabilities for setting up business and factories by entrepreneurs with disabilities. [15]

E) Enabling provisions

The Act also contains various provisions for skill development, barrier - free environment and availability of assistive device and aids and appliances which promote both vocational training and employment for people with disabilities. Some of these provisions include:

(a) Provision of free education in appropriate environment to every child with disability till the age of 18

(b) Governments at different levels to take steps to equip special schools for children with *disabilities with vocational-training facilities.* [16]

(c) in order to enhance mobility of person with disabilities and to make road, transport and public facility accessible to them, all necessary steps to remove barriers in the built environment. [17]

(d) governments at all levels are required to formulate schemes for promotion of employment of people with disabilities providing for i) *the training and welfare of persons with disabilities; ii) health and safety measures and creation of a non handicapping environment in places where persons with disabilities are employed.*[18]

[12] Ibid: Chapter VI, Section 34
[13] Ibid: Chapter VI, Section 35
[14] Ibid: Chapter VI, Section 41
[15] Ibid: Chapter VII, Section 43
[16] Ibid: Chapter V, Section 26 (d)
[17] Ibid: Chapter VIII, Section 44, 45 and 46
[18] Ibid: Chapter VI, Section 38 (1)(a) and (c)

(e) Government at all levels is required to *frame an insurance scheme or any alternative scheme for the benefit of their employees with disabilities.*[19]

(f) As an interim rehabilitation measure, *government at all levels within the limits of their economic capacity and development are required to formulate scheme for the payment of an unemployment allowance to persons with disabilities registered with Special Employment Exchanges for more than two years and who could not be placed in any gainful occupation.* [20]

Another piece of important legislation which deals with rehabilitation and empowerment of certain categories of disability is 'The National Trust For Welfare of Persons With Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999'. It provides for the creation of a National Trust for achieving the following objectives:

a) to enable and empower persons with disability to live as independently and as fully as possible within as close to the community to which they belong;

b) to strengthen facilities to provide support to persons with disability to live within their own families;

c) to extend support to registered organizations to provide need based services during the period of crisis in the family of persons with disability;

d) to deal with problems of persons with disability who do not have family support;

e) to promote measures for the care and protection of persons with disability in the event of death of their parent or guardian;

f) to evolve procedure for the appointment of guardians and trustees for persons with disability requiring such protection; and

g) to facilitate the realization of equal opportunities, protection of rights and full participation of persons with disability. [63]

3.2.3 Discriminatory provisions

There is no legislation that discriminates against disabled persons in the area of employment. However, the recruitment rules contain medical standards to be met by a successful candidate in selection for a given post that impedes the employment of disabled persons on various occasions. Apart from this, visually disabled candidates also some times face discrimination due to inflexibility of rules with regard to conduct of selection test for various posts. One such example is that of a rule relating to conduct of selection test for Indian Administrative Service Cadre, which required all candidates to write the test in their own hand. Taking advantage of this rule visually disabled persons were disqualified to hold post falling in Indian Administrative Service Cadre until the aforesaid rule was struck down by the Honorable Supreme Court of India on a petition filed by National Federation of the Blind in the year 1993.

Persons with intellectual disabilities could not access various employment opportunities in open market as they are not considered a party competent to enter into a contract as per Indian Contract Act. Apprenticeship Act 1961, by implication, debars persons with disabilities from availing of training opportunities as apprentice. Section 3 of the said Act lays down that *a person shall not be qualified for being engaged as an apprentice to undergo apprenticeship*

[19] Ibid: Chapter VIII, Section 47
[20] Ibid: Chapter XIII, Section 68

training in any designated trade, unless he – a) is not less than 14 years of age and b) satisfies such standards of education and physical fitness as may be prescribed.[21]

Thus, it precludes persons with disabilities from their inclusion in apprenticeship training opportunities on the ground of their not meeting their set medical standards.

3.3 International commitments

India signed the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region on 1 September 2001, it has not yet ratified ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159).

[21] Apprenticeship Act, Section 3

4. IMPLEMENTATION

4.1 Institutional framework

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 provides for the appointment of a Chief Commissioner and Commissioners for Persons with Disabilities. Both the Chief Commissioner (centrally) and the Commissioners (by state) are vested with the power to safeguard the rights and facilities made available to persons with disabilities and investigate complaints with respect to the deprivation of the rights of persons with disabilities as well as non-implementation of laws and rules.[22]

Government ministries that have an impact in this area include the Ministry of Labour, Ministry of Social Justice and Empowerment and the Ministry of Rural areas and Employment.

4.1.1 Ministry of Social Justice and Empowerment

The Ministry of Social Justice and Empowerment has many roles. The Central and State Coordination Committees were constituted by The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and are under its remit. In addition, the Rehabilitation Council of India, the National Handicapped Finance and Development Corporation and the Composite Regional Centres for Persons with Disabilities are also under its responsibility.

4.1.1.1 Central Coordination Committee

The main function of the Central Coordination Committee[23] is to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.

The Committee reviews and coordinates the activities of all the Departments of Government and other Governmental and non-Governmental Organisations that deal with matters relating to persons with disabilities. It is also involved in the development of a national policy to address issues faced by persons with disabilities and as a necessary corollary advises the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability. It has the authority to take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies. In this respect it consults with donor agencies to review their funding policies from the perspective of their impact on persons with disabilities.

Other tasks include ensuring steps are taken to ensure barrier free environment in public places, work places, public utilities, schools and other institutions as well as monitoring and evaluating the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities and to perform such other functions as may be prescribed by the Central Government.

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[22] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 The Chief Commissioner and Commissioners for Persons with Disabilities Chapter XII Section 57, Section 60

[23] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Central Coordination Committee Chapter II Section 3

The Committee includes twelve representatives from twelve different sections of the Department of Welfare including Urban, Affairs and Employment, the Director General of Labour, Employment and Training, the Director of the National Council for Educational Research and Training, the Directors of National Institute for the Visually Handicapped, Dehradun; National Institute for the Mentally Handicapped, Secundrabad; National Institute for the Orthopaedically Handicapped, Calcutta; and the Ali Yavar Jung National Institute for the Hearing Handicapped, Bombay, as well as representatives of NGOs being persons with disabilities as far as possible.

4.1.1.2 State Coordination Committee

The main difference between the Central and State Coordination Committees is that the latter functions at state level only.[24] Otherwise, their functions are essentially the same.

It consists of the same State Level representatives of the bodies represented in the Central Committee but also including the Chairman Bureau of Public Enterprises as well as persons to represent agriculture, industry or trade.

4.1.1.3 Central and Executive Committees

Central and Executive Committees are constituted under the Act to carry out the decisions of their partner State and Central Coordination Committees.

4.1.1.4 Rehabilitation Council of India

The Rehabilitation Council of India regulates policies and programmes in the field of rehabilitation of people with disabilities, prescribes minimum standards of education and training of various categories of professionals dealing with disabilities and regulates standards in training institutions throughout the country.

4.1.1.5 National Handicapped Finance and Development Corporation

The National Handicapped Finance and Development Corporation offers loans at concessional rates for persons with disabilities as well as income tax deductions to persons with disabilities.

4.1.1.6 Composite Regional Centres for Persons with Disabilities

Composite Regional Centres for Persons with Disabilities were established to create the infrastructure required for training and manpower development, research and providing services to persons with disabilities. A further objective is to undertake services of education and skill development leading to the enhancement of opportunities for employment.

4.1.2 Ministry of Labour

The Ministry of Labour of India has responsibility for vocational training and economic rehabilitation of people with disabilities. Within the Ministry this responsibility is delegated to the Directorate General of Employment and Training.

Both the National Council of Vocational Training (NCVT) and the Apprenticeship Training Scheme (ATS) reserve an unspecified number of places for people with disabilities. In addition, two thousand Industrial Training Institutes have set apart 3 per cent of their

[24] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 State Coordination Committee Chapter III Section 13

vacancies for persons with disabilities. The Ministry of Rural Areas and Employment runs the Training of Rural Youth for Self Employment Trysem (Scheme), which also guarantees to reserve 3 per cent of places for persons with disabilities.

The Ministry also runs 17 Vocational Rehabilitation Centres that evaluate the physical, mental and vocational capacities of disabled persons, identify a suitable trade and aid people with disabilities in procuring admission to training, job or self employment.

The Government launched the District Rehabilitation Centre Scheme in early 1995. Training for acquiring Vocational Training, Job Placement etc are some of the services provided in the scheme, which is operational in eleven different districts. Four Regional Rehabilitation Training Centres have been established to support the DRCs through training and manpower development as well as conducting training programmes for communities, parents and persons with disabilities.

The National Employment Service through 23 Special Employment Exchanges assists people with disabilities (specifically) in obtaining gainful employment and another 914 exchanges (Employment Exchanges) that cater to people with disabilities as well as people without such special needs. Financial assistance is provided in the case of the Special Employment Exchanges and the Employment Exchanges.

4.1.3 Non-Governmental Organizations (NGOs)

NGOs play an important role in promoting employment opportunities for people with disabilities in India. The largest of these is the National Centre for the Promotion of Employment of Disabled People (NCPEDP). The mission of the NCPEDP is to advocate and promote equality for persons with disabilities in all spheres of life, through education, communication, appropriate training and a barrier-free environment for gainful employment.

The key objective of this organisation is the promotion of employment in organised and unorganised sectors. The generation of employment opportunities with particular regard for persons with disabilities in rural areas, women with disabilities and people with severe disabilities are also deemed important. The facilitation of employment through the promotion of new and relevant techniques in training including pre-vocational skills training for persons with disabilities is seen as a necessary corollary of the fore going. The NCPEDP also has a coordinating role (see 4.3).

Other NGOs that specifically target the employment of people with disabilities include the Association of People with Disabilities, Action on Disability and Development and Narajeevana.

4.2 Policy

In the approach paper of the Tenth Five-Year Plan, a general development plan for all of India, the inclusion of people with disabilities in all spheres of life including vocational training and employment has been incorporated. The following two main focus areas have been identified for action in Tenth Five-Year Plan for the empowerment of persons with disabilities:

1. Effective implementation of the Persons with Disabilities Act, 1995 to ensure social justice to disabled with equitable terms.

2. Strengthening and consolidation of the outreach and extension programmes through National Programme for Rehabilitation of Persons with Disabilities (NPRPD).[25]

The central Government formulated a national policy on disability as well as a national program for action in consonance with the world program for action adopted during the International Decade of disabled persons Proclaimed by the United Nations during the period 1983–1992.

The policy is based on inclusion and integration of people with disabilities in the mainstream programme through a community-based rehabilitation approach. In the process of development of this policy, major NGOs working in the field of disability were involved by giving them representation on committee constituted for the purpose of formulation and finalization of the same. There was no representation by employers or trade unions. National policy on disability as well as national programme for action included actions such as promotion of integration, integrated education programmes for persons with disabilities, improvement of quality assistive device etc.

A Complementary Scheme to the DRC scheme namely – National Programme for Rehabilitation of the Persons with Disabilities has been formulated as a state sector scheme. Through the scheme, rehabilitation services are being provided right from the grass root level up to the state level involving community and the other existing organizations. The Scheme commenced in 1999-2000. A total of 74 districts are expected to be covered in 2000-2001 wherein services will be provided at Gram Panchayat, Block, District and State Level.

In India, a Comprehensive Law on the entitlements and programmes for persons with disabilities in all areas including education, vocational training and employment, rehabilitation, accessibility, institutional care etc. has been included and as such, there are no provisions specific to disability in existing Labour Codes or other legislation relating to education, vocational training and employment.

In order to implement The Persons with Disability Equal Opportunities, Protection of Right and Full Participation Act 1995, the central Government has notified implementing rules titled: The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1997. These rules provide for the following: (a) Procedure for disability certification (b) procedure for working out three percent reservation quota for the disabled in Government and public employment etc.[26] Similar implementing rules are to be formulated and notified by provincial Governments also.

Similarly, for the implementation of the provisions of Rehabilitation Council of India Act 1992, regulations have been notified. These regulations provide for the following: (a) matters relating to the constitution of the Council (b) powers and function of the council and its officers (c) norms for starting a rehabilitation professional course (d) maintenance and publication of central rehabilitation register.

Since The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 includes all the policy thrust areas and embodies a full rehabilitation programme for persons with disabilities and also since other two legislations i.e. Rehabilitation Council of India Act 1992 and National Trust for the Welfare of Persons With Autism, Cerebral Palsy, Mental retardation and Multiple Disability Act 1999, there is no other policy or plan dealing with rehabilitation of persons with disabilities except the annual plans of concerned ministries.

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[25] Approach Paper to the Tenth Five Year Plan, 2002-07, Planning Commission

[26] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1997

4.3 Consultative mechanisms

Both the Central Coordination Committee and the State Coordination Committees have the authority to review and coordinate the activities of all the Departments of Government and other Governmental and non-governmental organisations which are dealing with matters relating to persons with disabilities.[27]

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 compels registration of all institutions for persons with disabilities: "No person shall establish or maintain any institution for persons with disabilities except under and in accordance with a certificate of registration…"[28]. This necessarily ensures at least a minimum of consultation between the government and such institutions.

The National Centre for Promotion of Employment of Disabled People (NCPEDP) works as an interface between the government, industry, non governmental organisations and international agencies to advocate appropriate policies and legislation for employment of persons with disabilities in collaboration with policy and decision makers.

4.4 Enforcement

4.4.1 Evaluation and review of policies

Both in the area of government/public training and employment as well as in poverty alleviation programmes there is a 3 per cent quota for persons with disabilities. As such, the measurable targets in the aforesaid areas with regard to the training and employment of people with disabilities is to measure the extent to which this quota is fulfilled in the implementation of the respective programmes. There is no separate quota out of the aforesaid 3 per cent for women with disabilities. As such, the target of 3 per cent reservation does not have a gender dimension. Four ministries are responsible for monitoring this quota: the Ministry of Social Justice and Empowerment, the Ministry of Labour, the Ministry of Rural Development and Ministry of Urban Area and Employment should monitor the implementation of this target both jointly and individually. As envisaged by The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, the method for reviewing and evaluation of national programmes and plans are concerned,

- the Central Coordination Committee and Central Executive Committee at national level, and
- State Coordination Committee and State Executive Committee at provincial level.

These national plans and programmes are to be in consonance with the Five-year Plan adopted by the Government for the relevant period. Respective ministries formulate and evaluate their plans annually in consultation with NGOs.

4.5 Employment promotion measures

4.5.1 Mainstream employment services

The Director-General of Employment and Training under the Ministry of Labour administers this service through employment exchanges within the framework of Compulsory

[27] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Central Coordination Committee Chapter II Section 3; State Coordination Committee Chapter III Section 13

[28] The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Recognition of Institutions for People with Disabilities, Chapter X, Section 51

Notification of Vacancies Act, 1959 that has a network of 938 Employment Exchanges.[29] Important functions of these employment exchanges include:

(a) registration of job seekers;

(b) collection of data regarding available vacancies both in public and private non–agricultural sector;

(c) placements through its placement services; and

(d) providing guidance for self-employment ventures, etc.

There are some private placement agencies, but these cater primarily to placement of educated and professional persons such as labour welfare officers, sales executives and consultants. There is not data on such services.

4.5.2 Mainstream employment services opportunities for people with disabilities

Persons with disabilities have also been covered under this scheme. Although, Employment Exchanges under the National Employment Services are generally responsible for the placement of persons with disabilities as well, Special Employment Exchanges were also setup over three decades ago for their selective placement. These exchanges attempt to secure for the disabled the most satisfying form of employment suitable to their residual physical and mental potentialities. At present, 42 Special Exchanges are functioning. In addition to this, 41 Special Cells for disabled persons with a Special Placement Officer attached to the normal Employment Exchanges and funded by the Central Government have so far been set up by the Ministry of Social Justice and Empowerment. [30]

Table 3. Performance of the Special Employment Exchange for Persons with Disabilities in 1999[31]

Registration	Placement	Active register
62.7	4.2	455,900

Note: Persons with disabilities must register once every 3 years or their registration will expire.

4.5.3 Special employment and employment support services for people with disabilities

In addition to this, NGOs also run their placement services for specific category of disability. Under this scheme, Placement officers follow up with the training institutions for people with disabilities and also with the employers to identify vacancies. These Placement Officers also match the skills of disabled persons with the available job and try to secure actual placement. The Ministry of Social Justice and Empowerment supports these services financially. These programmes/ services are related to open employment and not to sheltered employment. There is no outcome data available for persons with disabilities placed through NGO-sponsored placement agencies.

4.5.4 Mainstream support and self-employment and income generation

Any self-employment venture requires the following support: a) credit support; b) marketing support; c) support in the form of raw material and land. Banking and financial institutions

[29] Annual Report 2001-2002 Ministry of Labour, Government of India: p. 230
[30] Ibid: p. 242
[31] Ibid

have implemented various credit facilities. All Nationalized Banks and State financial Corporation run these programmes. Besides this, District Industrial Centers also give technical advice to entrepreneur wishing to undertake self-employment ventures. These programmes are available to all persons irrespective of age and sex. Provincial Governments also provide marketing support to self-employed persons both by providing space in their *Hats* (markets organizes by government agencies.) and by purchasing their products through their respective outlets.

4.5.5 Mainstream support for self-employment and income generation for people with disabilities

Persons with disabilities have access to all the aforesaid mainstream programmes. However, due to lack of marketing skills and confidence, people with disabilities have not utilized these opportunities in formal self-employment ventures.

There is no data kept on their participation rate or on the achievement of 3 per cent target. The only statistical information available with regard to the self-employed persons with disabilities is in the table given in table 4.

4.5.6 Self-employment and income generation support services for people with disabilities

The Ministry of Social Justice and Empowerment has established National Handicapped Finance and Development Corporation [32] in the year 1997 with an objective of promoting economic rehabilitation of persons with disabilities by giving loans at very low rates of interest to disabled individuals and NGOs for self-employment ventures and skill development. This Corporation works both as special credit facility for self-employment ventures for persons with disabilities and also can act as a catalyst to build confidence among people with disabilities. Besides this, government departments and municipal corporations also provide sites at public places for putting stalls to persons with disabilities on priority basis. In fact, this scheme of allotting stalls has started to attract persons with disabilities towards self-employment ventures.

4.5.7 Poverty alleviation

As a part of poverty alleviation programmes both Ministries of Rural Development and Urban Affairs and Employment are running umbrella schemes for promoting wage employment among urban and rural poor respectively. These include:

Sampoorna Grammeen Rozgar Yojana (Rural wage employment scheme) administered by Ministry of Rural Development. This scheme is linked with the infrastructure development in the village and providing wage employment to rural poor e.g. Employing rural poor of the same village for construction of roads.

Swarnjayanti Gram Swarozgar Yojana (Rural Self–employment Scheme) run by Ministry of Rural Development. This scheme has a definite aim of improving the family incomes of the rural poor and, at the same time, providing for a flexibility of design at the grassroots level to suit the local needs and resources. It aims at establishing a large number of micro-enterprises in the rural areas. The 'beneficiaries' families (known as *Swarozgaris* or self-employed) may be individuals or groups (Self-Help Groups). The objective is to bring every assisted family above the poverty line in three years subject to availability of funds. In establishing the micro-enterprises, the emphasis under SGSY is on the cluster approach. For this, four to five key

[32] Annual Report 2000-2001, Ministry of Social Justice and Empowerment, Government of India, p. 57

activities are to be identified in each block based on the resources, occupational skills of the people and availability of markets. The key activities are to be selected with the approval of the Panchayat Samitis at the block level and the District Rural Development Agency (DRDA)/ Zila parishad (ZP) at the District Level. The major share of SGSY assistance is in activity clusters. SGSY adopts a project approach for each key activity. Project reports are prepared in respect of identified key activities. The existing infrastructure for the cluster of activities is reviewed and gaps identified. A fund known as 'SGSY – 'Infrastructure Fund' is maintained by the DRDAs and can also be utilized to generate additional funding from other sources. The effort under SGSY is to cover 30 percent of the poor in each block in next five years. Care is taken to ensure that the maximum number of Panchayats is covered without jeopardizing the quality of the programme. SGSY focuses on group approach. This would involve organization of the poor into self-help groups and their capacity building. Efforts are made to involve women members in each self-help group. At block level, at least half of the groups are exclusively of women.[33]

The Swarna Jayanti Shahari Rojgar Yojana (SJSRY) (Urban Employment Scheme) It seeks to provide gainful employment to the urban unemployed or underemployed through encouraging the setting up of self-employment ventures or provision of wage employment. [34]

Although 3 per cent allocation in all the above noted mainstream poverty alleviation programmes are to be made available for disabled persons as per the provisions of 'The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, there are no proper mechanisms or procedures established to ensure its compliance.

There is no data kept in these programs on participation rates of people with disabilities.

[33] India 2002: pp 434-435
[34] Annual Report 2001-2002, Ministry of Urban Development and Poverty Alleviation, Government of India

5. OUTCOMES AND IMPACT

5.1 Open employment opportunities for people with disabilities

As per the findings of the National Sample Survey 1991, the following table reflects the status of disabled persons with regard to the number of placements in different modes of employment.

Table 4. Distribution of disabled persons (age 5 years and above) by usual activity status[35]

In labour force						**Out of labour force**		
Self-employed in agriculture	Self-employed non-agri-culture	Regular employee	Casual labour	Unemployed	Attending educational institution	Attending domestic	Begging	Others
133	42	20	95	7	110	135	7	450

Note: Numbers given per 1,000

While the Disability Act has adopted a scheme of 3 per cent reservation for disabled persons in government public sector open employment, it has adopted a strategy of giving incentive to private employers for promoting employment of disabled persons in private sector. The Government has identified various jobs at different levels for implementing the aforesaid quota scheme. Some of the identified jobs notified by Ministry of Social Justice and Empowerment disability wise are given below. The identified jobs are used for filling up the reservation quota for the respective disability group. Each category of disability is placed against the jobs identified for them to fill up their respective quota in accordance with the scheme of reservation under Section 33 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Identified jobs for persons with locomotor disability and cerebral palsy

(a) Group A jobs - finance manager, chief accountant, finance advisor, agriculture scientists, director, asst. director, economic analyst, editors of publications etc.;

(b) Group B jobs - section officer, audit officer, foreman, asst. engineer, hostel manager etc;

(c) Group C jobs- Laboratory assistant physical, agriculture engineer, draughtsman, train examiner, textile designer, cloth examiner, filter man, leather cutter and;

(d) Group D jobs - wood turner, carpenter, etc.

Identified jobs for the hearing impaired

(a) Group A jobs - director, sr. research officer, scientist (information technology), operation officer, senior designer, mechanical engineer etc.;

(b) Group B jobs - sub editor, artist, dy. manager, joint director, admin. officer etc.;

[35] A Report on Disabled Persons, 47th Round (July-December 1991) NSSO Report No 393, Dept.of Statistics, Government of India, table 2.1.8

(c) Group C jobs - laboratory assistant, physical, lithographic artist, decorators, school inspector etc. and;

(d) Group D jobs - mono operator, photostat camera operator, painter glass, white washer etc.

Identification jobs for the visually impaired

(a) Group A jobs - bank officer grade a, dy. general manager, research officers, officer bank policy and planning, officer public grievances marketing officers, instructors management faculty;

(b) Group B jobs - vice principal, head masters, teacher secondary school, junior analyst, asst. editor Hindi, asst. law officer etc.;

(c) Group C jobs - translator, medical social worker, singer, computer operator, enquiry clerk or information clerk, telephone operator, field officers, stenographer etc.;

(d) Group D jobs - washing machine operator, carpet repair, letter box peon, carpenter, postman, duplicating/cyclostyling, peon, office boy etc.

Teleworking and home-based or non-traditional employment structures in the open market are yet to be created for people with disabilities.

Advances in information technology have no doubt given new fields of employment for persons with disabilities. These employment opportunities can be fully utilize if proper adaptation in software is made. Person with visual impairment have already started taking employment in computer field e.g. in the job of Medical Transcription.

Job opportunities in the open labour market have also been lost by persons with disabilities due to advances in technology. For instance, the jobs of telephone operator and stenography or typist were available to visually impaired but due to change in communication technology and also due to substitution of manual typewriter by computers, these jobs have considerably been reduced. Similarly, since most of the jobs available to persons with disabilities in organized sector were available in government and public sector, globalization has reduced the job opportunities in this sector. The Government has started disinvesting the public sector resulting into reduction of work force in this sector. Unfortunately it has come at a time when private sector was not fully sensitized to the potential of people with disabilities as contributors. In urban areas, the impact of globalization is visible both on general job market and also on job market for people with disabilities. Further, analysis of the trends emerging in the job market after India chose the path of globalization reveal that growth of employment in service sector is much higher than any other sector. However, training programmes do not match with the demand of the service sector leaving persons with disabilities unable to utilize the available jobs in service sector in this transitional phase of Indian economy.

5.2 Employment opportunities for people with disabilities in protected work environments

Severely disabled and intellectually challenged persons mainly depend on protected or sheltered employment. Initially, the Government adopted the approach of sheltered employment for all types of disabilities. It encouraged the NGOs and providential Government to run sheltered workshops for disabled persons. However, with the change of the thrust of policy to include disabled persons in mainstream employment, sheltered employment is encouraged only for intellectually challenged persons and multiply disabled.

The protected employment is mainly through NGOs. There are two approaches for providing protected employment. First approach is to establish residential sheltered work centers and provide jobs to persons with disabilities on either daily rated wages basis or on the basis of wages linked with production. In this type of programme, concerned NGOs take the contract from industries or from Government and are responsible for the discharge of contractual obligations. Another approach is to facilitate obtaining of work on contract for a group of disabled persons and ensure availability of work to them. The Government has earmarked some jobs to be given specifically to organizations of persons with disabilities or to disabled individuals. These include recaning of chairs, procurement of chalks, binding of books and registers etc. Organizations of disabled persons are also given land at concessional rates, for establishment of such work centers by Municipal Co-operations. There is no data available with regard to the type of protected job opportunities and the number of people employed there in, nor is there data available about the number or proportion of people with disabilities who transition from protected to open employment. There are no data available about these sheltered workshops. Nor is there any scheme of registration of the workshops. Strictly speaking, these sheltered workshops fall within the definition of industry and are therefore covered by Minimum Wages Act that assures a minimum wage to a worker.

5.3 Self-employment opportunities for people with disabilities

In the changing job market scenario, self-employment initiatives have become very important for economic rehabilitation of disabled persons. Some of the initiatives have already been stated in preceding sections. Besides this, Department of Communication has also given priority to disabled persons in the allotment of STD/ISD/PCO booths at public places. Available Statistics have already been given above.

5.4 Other segregated or protected employment opportunities for people with disabilities

Co-operatives of persons with disabilities have not been successful in proving to be a good alternative for generating employment. There is no statistics available with regard to the number of persons employed in co-operatives or types of jobs opportunities available in this mode.

6. CONCLUDING COMMENT

People with disabilities comprise two per cent of the population of India. While a legislative framework is in place to promote employment of people with disabilities, it would appear that this framework has not yet had a significant impact on employment opportunities open to disabled job-seekers and that action is required to improve its effectiveness.