

A CONCEPTUAL EVALUATION ON THE WORKING LIFE OF DISABLED PEOPLE*

Engellilerin Çalışma Yaşamı Üzerine Kavramsal Bir Değerlendirme

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ABSTRACT

The concept of work, which is one of the needs such as nutrition and shelter, continues to exist today with the meanings of earning income and gaining status. In developing countries with the modernization process, *employment of the disabled* has been accepted as one of the important social policy strategies because it offers important opportunities for the disabled to participate in socio-cultural life. Although these strategies focus on supporting the disabled people economically, it is a reality that the disabled people experience many discriminations at stages such as 'getting a job, promotion, wage determination/increase, contract processes and termination of the job'. The recent acceptance of 'positive discrimination' as a principle in the employment of disabled people has made the issues of discrimination and social exclusion more visible for disabled people. In this context, as long as all discrimination, which is universally accepted, is not prevented in the labor markets, the corrosive effects will continue in the socio-cultural and economic life of the disabled person trying to gain a place in social life. The introduction of new policies in line with equality of opportunity by making forward-looking plans for the disabled in the economic sense will support the integration of the disabled with the society and their self-realization. In this sense, providing some measures to ensure the employment of disabled people in workplaces and to support the sustainability of this employment will make social benefit and welfare policies possible. In this sense, the study focuses on the policies carried out in the employment of the disabled and focuses on solutions that will enable the disabled to *have equal opportunities to produce, to realize themselves independently* and thus to have a voice in social life.

Keywords: Disabled, Disability, Disability Rights, Employment of Disabled, Working Life of Disabled

ÖZ

Beslenme, barınma gibi gereksinimlerden biri olan çalışma kavramı, günümüzde gelir elde etme ve statü kazanma anlamlarıyla da varlığını sürdürmektedir. Modernleşme süreciyle birlikte gelişmekte olan ülkelerde, engellinin sosyo-kültürel yaşama katılımında önemli fırsatlar sunması nedeniyle *engelli istihdamı*, önemli sosyal politika stratejilerinden biri olarak kabul edilmiştir. Bu stratejiler engelliye ekonomik yönden desteklemeye odaklansa da, istihdam piyasalarındaki uygulamaların 'işe girme, terfi alma, ücret tespiti/artışı, sözleşme süreçleri ve işin sonlaması' gibi aşamalarda, engelli bireyin pek çok ayrımcılığı tecrübe ettiği de bir realitedir. Son dönemde engelli istihdamında 'pozitif ayrımcılığın' bir ilke olarak kabul edilmesi, engelli açısından ayrımcılık ve sosyal dışlanma konularını daha görünür kılmıştır. Bu bağlamda evrensel ölçüleriyle kabul edilen tüm ayrımcılıklar iş piyasalarında önlenmedikçe, toplumsal yaşamda yer edinmeye çalışan engellinin sosyo-kültürel ve ekonomik yaşamında yıpratıcı etkiler sürececektir. Ekonomik anlamda engelliler için ileriye yönelik planlamalar yapılarak fırsat eşitliği doğrultusunda yeni politikaların yürürlüğe girmesi, engellilerin toplumla kaynaştırılmasına ve kendini gerçekleştirmesine destek sunacaktır. Bu anlamda işyerlerinde engelli istihdamını sağlamak ve bu istihdamın sürdürülebilirliğini desteklemek üzere bazı tedbirlerin sağlanması sosyal fayda ve refah politikalarını da mümkün kılacaktır. Çalışma bu anlamda engelli istihdamında yürütülen politikalara odaklanarak, istihdamda engelliye "fırsat eşitliği ile üretme imkânı tanımayı, kendini bağımsız olarak gerçekleştirmeyi" ve böylece toplumsal yaşam içinde söz sahibi olmayı mümkün kılacak çözümlere odaklanmaktadır.

Anahtar Kelimeler: Engelli, Engellilik, Engelli Hakları, Engelli İstihdamı, Engelli Çalışma Yaşamı

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GENİŞLETİLMİŞ ÖZET

Toplumsal bütünleşme için sosyo-kültürel hayata katılım, gündelik yaşam düzlemlerinde yer alma gibi önemli fırsatlar, tüm bireyler gibi engellilerin de yaşamını desteklemektedir. Fiziksel veya zihinsel bozukluğa sahip kişi sahip olduğu kısıtlılıklar nedeniyle, gündelik yaşama etkin şekilde uyum sağlayamama durumu “engellilik” olarak açıklanmaktadır. Ancak kavram, günümüzde yeni yaklaşımlarla evrilmiş “engellinin maruz kaldığı olumsuz tecrübelerin ve engelliliğin fiziksel/ruhsal sınırlılıklarının toplumdaki kısıtlılıklarla ilişkili olduğu” anlaşılmıştır. Avrupa Birliği son 30 yıldır engellilerin, yardıma muhtaç bireyler değil toplumdaki diğer bireylerle eşit haklara sahip olduğunu gerçeğini kabul etmiş ve “toplumla bütünleşme” mücadelesine de destek sunmuştur. Bu anlamda 1975 yılında Birleşmiş Milletler Genel Kurulu’nun İnsan Hakları Evrensel Beyannameğine ek olarak yayımlanan “Engelli Hakları Bildirgesi”, engellilerin diğer insanlarla eşit hak ve sorumluluklara sahip olduğu gerçeğini özellikle vurgulamıştır. Avrupa Birliği toplumsal ve ekonomik süreçlerde engellilerin de *kendilerine özgü farklılıklarının kuşatılması, fırsat eşitliğinin sağlanması, “hak” temelinde engelli haklarının tanınması ve korumasını* da desteklemiştir. Buradan hareketle ele alınan *engelliler için fırsat eşitliği kavramı*, son yıllarda uluslararası düzeyde Birleşmiş Milletler ve ona bağlı örgütlerin gündeminde de değer görmektedir. Toplumsal yaşamın içinde bir şey üretmek, bedensel veya zihinsel olarak çaba sarf etmek anlamına gelen *çalışma yaşamı*, bireyin içinde yaşadığı toplumla bütünleşmesinde önemli anlamlar ifade etmektedir. Öncelikle bireyin güven içinde var olması, toplumsal aidiyeti hissetmesi, kendini gerçekleştirebilmesi ve yardımsız bir biçimde varlığını sürdürebilmesi *çalışma yaşamında kendine bir yer edinmesiyle yakından ilişkilidir*. Ancak dezavantajlı gruplardan olan engellilerin maruz kaldıkları ayrımcılık ve fırsat eşitsizliği, onların işgücü piyasalarında var olmalarının dolayısıyla ekonomik anlamda özgürlüklerinin önündeki önemli bir engeldir. Oysaki engellilerin istihdamına ilişkin yasal düzenlemelerden olan 5378 sayılı Engelliler Kanunu’nun 14. maddesi “*işe başvuru, alım, önerilen çalışma süreleri ve şartlarıyla istihdamın sürekliliği, kariyer gelişimi, sağlıklı ve güvenli çalışma koşulları dâhil olmak üzere istihdama ilişkin hiçbir hususta engelliliğe dayalı ayrımcı uygulamalarda bulunulamayacağını*” hükme bağlamıştır. Buradan hareketle engelliler, toplumla bütünleşerek gündelik hayatta kendilerine yer bulmayı, sağlıklı insanlarla aynı ortamda çalışabilmeyi, onlarla eşit haklara sahip olmayı talep etmektedirler. Ülkemizde engellilerin mesleki eğitimlerinin istihdam odaklı olmayışı, onların yetersiz veya vasıfsız bir niteliklerle anılmasına sebep olmaktadır. Engelli bireylerin eğitim imkânına kavuşturulması, meslek ve beceri eğitimi verilmesinden sonra işgücü piyasasına ve dolayısıyla sosyal hayata hazırlanması mümkündür. Ancak tarihsel anlamda bakıldığında engellilerin, tüm dünyada en büyük mücadeleyi hem eğitim hem de istihdam alanında vermek zorunda kaldığı görülmektedir. Engellilerin çoğunluğu eğitimde fırsat eşitliğinden yararlanamamaktan dolayı, istihdam sürecinde uzmanlık gerektirmeyen, sıradan veya düşük ücretli işlerde çalışmak durumunda kalmıştır. Özel eğitimle desteklenmesi gereken engellilerin kaynaştırma yoluyla eğitim alma hakkının yaygınlaştırılması ve ihtisaslaştırılması gerekmektedir. Bu doğrultuda engellinin ne tür bir iş koluna veya mesleğe yatkın oluşunun analizinin yanında *engel durumuna göre uygun başarının hedeflenmesi* de engellinin kariyer planlanmasını mümkün kılacaktır. Ülkemizde işverenlerin engelli işgücü talebi, engelli bireyin kişisel özelliklerinden çok, işgücü piyasasının yapısal özellikleri ve yasal düzenlemeler tarafından şekillenmektedir. Bu işgücü talebinin karşılanması yasal mevzuatla belirlenen kota sisteminde belirlendiğinden işverenler engelli kontenjan açığının kapatılması için personele göre iş bulmayı yeğlemektedir. Oysaki eğitim politikalarının düzenlenerek engelli iş gücünün verimli hale getirilmesi ve niteliğine uygun istihdamın sağlanması toplum refahı için de katkı sağlayacaktır. Bu anlamda engelli bireyin sosyal ve ekonomik yaşam düzlemlerine katılımının sağlanması ve toplumla bütünleşmenin sağlanması için farkındalık ve bilinçlendirme çalışmalarının yanında yasal düzenlemelerle de çabaların aktif biçimde sürdürülmesi gerekmektedir. Eğitim, ulaşım, sağlık ve sosyal güvenlik gibi alanlarda yaşanan *fırsat eşitsizliği ve ayrımcı uygulamaların yanında çalışma hayatında engelliler için rahat hareket edecekleri fiziksel çevrenin planlanmaması da engellilerin çalışma yaşamında varolmalarını güçleştirmektedir*. İşyerlerinde engelli istihdamını sağlamak ve bu istihdamın sürdürülebilirliğini desteklemek üzere bazı tedbirlerin sağlanması sosyal fayda ve refah politikaları için özel önem arz etmektedir. Engelli bireylerin toplumsal yaşamda aktif hale getirilmesi için eğitim ve ekonomi konularında desteklenerek istihdama entegre edilmesi en önemli sosyal politika stratejilerindedir.

INTRODUCTION

Since the second half of the 20th century, disability has been one of the main topics of policy debates all over the world. The concept of disability, which used to be seen as a personal defect, has changed today and started to be recognised as “*a form of discrimination arising from the limitations of defects in societies*”. In traditional policy approaches, disability is seen as an individual problem resulting from physical, sensory and cognitive impairments.

In this approach, the proposed solution is considered to be individual-oriented and is considered as compensating or treating the disabilities and limitations of the person (Alcock et al. 2011:521).

The concept of disability in our country has gained a different dimension especially in the European Union harmonisation process. The European Union, which has defined disability with a new approach in recent years, has made an effort to *'integrate with society'* by ensuring that disabled people have equal rights with other individuals without assistance (Akyıldız, 2017b:49). The issue of equal opportunity, which has gained more meaning in this respect, has been on the agenda of international organisations for the last 25-30 years. In the Universal Declaration of Human Rights of the United Nations General Assembly, the idea that people with disabilities *"have equal rights and responsibilities"* with other people was emphasised (Akyıldız and Olgun, 2020:35). In the last quarter century, the European Union's different view of disability has recognised that disabled people are not individuals in need of help, but individuals who have equal rights with other individuals in society, but who struggle to integrate into society. In this sense, with the "Declaration on the Rights of Persons with Disabilities" published by the United Nations General Assembly in 1975 as an annex to the Universal Declaration of Human Rights, it was emphasised that persons with disabilities have equal rights and responsibilities with other people (UN, 1975). The European Union has made it possible to encompass the specific differences of disabled people in social and economic processes, *to ensure equality of opportunity*, as well as to recognise and protect the rights of disabled people on the basis of "rights". In this sense, the concept of equal opportunities for disabled people has been an important issue on the agenda of the United Nations and its affiliated organisations at the international level for the last 30 years.

According to the World Health Organisation, disability, which is accepted as a global public health issue today, has been accepted as both a human rights issue and a sustainable development priority (WHO, 2022). People with disabilities have had more negative health outcomes than other people due to the fact that they face common obstacles or limitations in accessing health, rehabilitation and other basic services throughout their lives (Arca & Saka, 2019: 70). These conditions have caused disabled individuals to be in the disadvantaged group. OECD considers disability benefit, which is one of the measures taken, as a "one-way street" and states that *"people will never give up disability benefits for work, and if they have to give up disability benefits before retirement, they will immediately turn to another benefit"*. In this respect, for OECD, *"underemployment of disabled people also means high costs"* (OECD, 2003:234). Therefore, *"re-inclusion of the person with disability in employment provided that he/she wants and is able to do so"*, which is the best way to combat the exclusion of the person with disability as well as aid dependency, is suggested as the most reasonable solution by OECD (ASPB, 2015:22). OECD evaluated Turkey as *"a country with a limited level of income support policy approach together with the weakness of the policy approach towards employment"* in its report titled "transforming disability into capability" (OECD, 2003:234). With the Decree Law No. 572, which came into force in 1997, and the employment of disabled civil servants, which was put into practice with the amendment made to the DMK No. 657, public institutions and organisations were obliged to employ disabled civil servants in the positions of the personnel they employ, and steps were started to be taken on the subject (ASPB, 2023:21). The present study aims to analyse the issue by focusing on the economic dimension of disability policies and identifying problems by focusing on the recruitment and working life of the disabled in employment.

1. Disability and Employment of Disabled People

Disability is defined as the inability of an individual to participate effectively in social life due to *"difficulty or disorder"* in body functions as well as psychological or physical mobility limitations (ICF, 2013). According to Article 3 of the Law No. 5378 on Persons with Disabilities, *"individuals who are affected by attitudes and environmental conditions that restrict their full and effective participation in society on equal terms with other individuals due to various levels of loss of physical, mental, spiritual and sensory abilities"* are considered disabled (Law No. 5378 on Persons with Disabilities, 2005).

In the literature review, the meaning of disability is related to the reactions of other people living in the society rather than the limitations of the person. The formation and shaping of these reactions are undoubtedly related to the socio-cultural characteristics of that society as well as the measures not taken regarding unforeseen problems. For example, the barrier to participation in life of a paralysed individual is reflected in his/her life as a social disability beyond the restriction of movement. This is a social disability caused by not taking spatial measures (such as ramps, lifts, pavement arrangements, tactile surface applications) rather than the physical deficiencies/limitations of the individual

(Güneri, 2014:6). In this sense, it is clear that the physical characteristic of the individual is not an obstacle for him/her to be a part of the society in which he/she lives, but the meaning that society attributes to disability and therefore a labelling situation (Burcu, 2011:39).

The inability of a person with physical or mental impairment to effectively adapt to daily life due to his/her limitations is "*delay in measures and regulations*" rather than disability. It is known that the regulations on '*social state*', '*right to social security*' and '*those who need special protection in terms of social security*' in the Constitution of the Republic of Turkey constitute the constitutional basis of all rights of persons with disabilities, including the assurance of care (Akyıldız, 2017a:7). In this sense, with the Turkey Disability Survey conducted in 2002, the number of disabled people in our country, the ratio of the disabled population to the total population, the problems they face in socio-economic life, their expectations, the type of disability, the cause of the disability, as well as regional differences and the rates of having chronic diseases were also measured. People who cannot comply with the requirements of normal life due to losses in physical, mental, spiritual, sensory and social abilities as a result of any disease/accident, either congenital or acquired, are defined as "*disabled*" (TUIK, 2002). Types of disability are also explained within the scope of the research:

- "*Visual impairment*" is a complete/partial loss/impairment of vision in one or both eyes (including the use of eye prostheses, colour blindness, night blindness),
- Individuals with complete or partial hearing loss in one or both ears are "*hearing impaired*" (those who have to use hearing aids are also included in this group),
- A person who cannot speak for any reason, or who has a disorder in speech rate, fluency or voice disorder is "*speech and language disabled*" (people who cannot speak despite hearing, those who use devices to speak, stuttering, aphasia, disorder in tongue/lip/palate/jaw structure, those who have had their larynx removed are also included in this group),
- Inadequacy, deficiency and loss of function in the musculoskeletal system "*orthopaedic disability*" (shortness, deficiency, excess, limitation of movement, deformity, muscle weakness, bone disease, paralysis, cerebral palsy, cerebral palsy, spastics, spina bifida in body limbs - hand, arm, foot, leg, finger, spine - are also in this disability group),
- A person with varying degrees of intellectual disability is "*mentally retarded*" (this includes individuals with Down syndrome, mental retardation or phenylketonuria if it has led to mental retardation),
- People who have difficulty in maintaining interpersonal relationships and completing daily life activities due to abnormal patterns in emotions, thoughts and behaviours are "*mentally and emotionally disabled*" (diseases such as schizophrenia and depression are included in this group),
- "*Persons with disabilities with chronic diseases*" are those diseases that require continuous care and treatment and cause disability of functions as well as working capacity of the person (blood, cardiovascular, respiratory system, digestive system, urinary tract, reproductive organs, skin/skin diseases, cancer, endocrine, metabolic diseases, mental behavioural disorders, nervous system diseases, HIV carriers are also included in this group),
- Groups of people with more than one type of disability are also called "*multiple group or other disabled group*" (TUIK, 2002).

According to the data of the Ministry of ASP, Table 1 shows the disabled groups, number of people and their percentages according to disability types. This table does not include persons with disabilities who have not applied to authorised hospitals to obtain a Disability Health Board Report and have not contacted the state to receive the service.

Table 1: Distribution of disabled people registered in the data system and alive according to disability groups

Disability Group	Number of People	Rate (%)
Visualisation	215,076	9,53
Hearing	179,867	7,97

Language and Speech	33,686	1,49
Orthopaedic	311,131	13,78
Mental	385,313	17,07
Spiritual and Emotional	170,927	7,57
Chronic Disease	917,259	40,63
Other	44,248	1,96

Source: Prepared by utilising data from the National Disability Data System and ASPB (2023).

Article 26 of the Declaration of Fundamental Rights of the European Union for the integration of persons with disabilities into society emphasises the importance of ensuring improvements to *'their independence, integration into social and professional life and their right to participate in social life'* and the recognition of the right to benefit from all opportunities. In addition, the value of ensuring that people with disabilities are respected without being subjected to discrimination is also stated (Delegation of the European Union to Turkey, 2018). In addition, the World Health Organisation (WHO) has provided a new definition of disability, which previously represented the immutable limitations of a special group, for the first time *'in the context of the relationship between performance and ability'* through the "International Classification of Functioning, Disability and Health ICF 2001". This has enabled everyone to be considered as variable values in which they can 'experience partial disabilities' with the limitations/losses that may arise in their health/capabilities in some part of their lives (WHO, 2001:4,8; Akyıldız and Olgun, 2020:36).

74. According to the resolution adopted by the World Health Assembly *"the highest attainable standard of health for persons with disabilities"*, it is proposed to make the health sector more inclusive based on the significant barriers faced by persons with disabilities when trying to access health services. In this direction, supporting a global research agenda on disability health; adopting a disability-inclusive approach in the health sector of the United Nations Member States, developing the necessary technical knowledge/capacity (ICF, 2021) made it possible to support not only the social life but also the *"business life and employment"* of the disabled person. In this context, Article 27 of the United Nations Convention on the Rights of Persons with Disabilities envisages a detailed regulation, taking into account all the problems that people with disabilities may experience regarding *the right to work*. States Parties to the Convention, recognising that persons with disabilities have the right to work under equal conditions with other individuals, have supported the employment of persons with disabilities in an open, integrative and accessible labour market/employment and in a job of their free choice. For the disabled labour force, which is among the groups with weak employability in the labour market, it is emphasised that *'the nature and intensity of disability'* determines the employability of the disabled. In this context, in the international arena, *"the degree of limitation of the disabled"* is taken as a basis for their employment (ILO, 1984a:110) and supports their employment in labour market conditions (ILO, 1984b:74). In terms of employability, disabled groups are grouped as severely disabled, disabled people who can work with low wages and disabled people who can be skilled (Doeringer, 1969:247; Kayhan Kuzgun, 2008:59). Individuals with disabilities who have physical, mental, psychological or emotional disorders/limitations while performing their vital activities are also accepted to be in a more disadvantaged position than other employees in working life (Young and Kleiner, 1992:25; Demir, 2011:770).

In our country, employment policies for disabled people date back to the 1970s and have been largely based on the quota and penalty system until today, and thus, *employment policies for disabled people* have brought some obligations to public and private sector employers (ASPB, 2023:21). In this sense, employment of disabled workers was regulated by the Labour Law No. 1475, which entered into force in 1971, and public and private sector employers were obliged to employ 2% disabled workers. This rate was increased to 3% with the Decree Law No. 572 that entered into force in 1997, and this rate was increased to 4% for public workplaces with a new legislative regulation made in the following period. Persons who have a *"medical board report"* from authorised health institutions certifying that they are deprived of at least 40% of their *"total body function loss"* according to their disability can be

registered as "disabled". With this report, persons with disabilities can be registered as "*disabled*" according to the "rate of loss of ability to work in occupation" The disabled are employed on the basis of the *whole body function loss rate* without taking into account the "whole body function loss rate". In this respect, employment of disabled people in Turkey is provided by the quota system stipulated in Article 30 of the Labour Law No. 4857. Within the scope of this quota system, in the context of "Employment and Vocational Rehabilitation Rights of Persons with Disabilities in the Public and Private Sectors", the employers who employ 50 or more workers (51 or more in agricultural and forestry enterprises);

- 3% disabled in private sector workplaces,
- In public workplaces, they are obliged to employ 4% disabled people in jobs suitable for their occupational, physical and mental/psychological conditions (URL-1).

The ratio of the active population in employment to the non-institutional working age population is defined as the labour force participation rate. A high labour force participation rate indicates the willingness of men and women of working age to participate in working life. A high labour force participation rate in a country is also accepted as an indicator of whether human resources are used effectively in that country. However, when the general outlook in developed and developing countries is considered, it is noteworthy that the female labour force participation rate is lower than the male labour force participation rate (ASPB, 2023). Simultaneously with the European Union member countries, a '*comprehensive sample survey based on administrative records*' was conducted by the Turkish Statistical Institute in 2011. According to the Population and Housing Survey conducted in this direction, *labour force participation rate of the population with at least one disability* 35.4% for men, 12.5% for women and 22.1% in total (Table 2). According to the May 2023 data of the Turkish Statistical Institute, it was determined that the rates were 71.5% for men, 36.1% for women and 53.6% in total (ASPB, 2023:22).

Table 2. Labour force participation rate of disabled and general population

Labour Force Participation Rate	Man	Woman	Total
Disabled Population	35,4	12,5	22,1
General Population (May, 2023)	71,5	36,1	53,6

Source: Prepared by using data from TÜİK and ASPB (2023).

Workplaces where work environments are technically and financially supported for individuals with mental or intellectual disabilities who have limited opportunities to work in the labour market are classified as '*sheltered workplaces*'. This type of initiative, although it has the labour force qualification, instead of keeping the disabled person alive with in-kind and cash aids, through protected workplaces, which are one of the "*disability-friendly active employment policies*", the disabled person can bring himself/herself to a position where he/she can earn a living and rise in the workplace, thus contributing to both social benefit and social integration (Seyyar, 2008:83). The sheltered workplace project promoted by the General Directorate of Family and Community Services of the ASPB offers an important support in the employment of disabled adults who have completed the age of 15 and are registered with the Turkish Employment Agency. In order to encourage this project, opportunities such as 'income and corporate tax reduction' and exemption from 'environmental and cleaning tax' are offered. A certain proportion of the salaries of the mentally or mentally disabled people who will work in these workplaces (2,392.05 TL for each disabled person every month in the second six-month period of 2023) is covered by the relevant ministry, and unemployment insurance and employer share premiums are paid by the Treasury. At least five disabled people are required to work in the sheltered workplace, and the ratio of the number of disabled people working in the workplace to the total number of workers should not be less than 50% (ASPB, 2023). Municipalities and local administrations, which do not have the mission of directly opening workplaces in line with the legal provisions, should be given the opportunity to support employment not only through vocational and skill acquisition courses, but also by opening sheltered workplaces for disabled employment.

2. Challenges Faced by Persons with Disabilities in the Labour Market

In social life, people with disabilities face social exclusion in access to daily life levels and communication. The concept of *social exclusion*, which is a physical, mental and social disability, is also referred to with meanings such as being deprived of citizenship rights in political/civil/economic issues, being deprived of the opportunity to integrate with society, being prevented from accessing basic needs and breaking ties with society (Genç and Çat, 2013:369; Sapançalı, 2005:53). Along with the problems they experience in social life, disabled people also have to cope with many difficulties in the labour market. Disabled people, who may be subjected to direct and indirect discrimination in business life, sometimes experience problems in terms of being accepted and being adequate in the workplace due to their short height, weight and physical appearance.

Working life, which means producing something, making physical or mental effort, has important meanings in the integration of the individual with the society in which he/she lives. First of all, the individual's ability to exist in security, to feel belonging, to realise himself/herself and to survive without assistance is closely related to gaining a place in working life. In historical terms, it is seen that disabled people all over the world have to struggle the most in the fields of education and employment. It has been determined that since the majority of disabled people cannot benefit from equal opportunities in education, they have to work in ordinary, non-specialised or low-paid jobs in the employment process (Koç, 2018:13). In our country, the fact that the vocational training of disabled people is not employment-oriented causes them to be referred to as inadequate or unqualified. It is possible to prepare disabled individuals for the labour market and thus for social life after providing them with education, vocational and skills training.

According to the results of some studies on employers' hiring processes of disabled people, it has been stated that employers find disabled people overly emotional, disturb other employees in their working environment, slow down the pace of work and cause unforeseen work accidents. In addition, it is stated that the fact that the disabled people are not at the expected level of education ensures that both the disabled people cannot have a job and the enterprises see the employment of disabled people as a burden (Uzun, 2018:35). Disabled people may be exposed to discriminatory attitudes and behaviours in employment, working life, salary and promotion (Özbucak Albar, 2019:129). In this respect, *discrimination*, which disrupts social equality and leads to social exclusion, also causes the disabled to be ignored or underestimated. Disabled people experience exclusion or discrimination in the working environments where they are employed due to the inappropriate physical conditions of the place. Especially in working life, it is one of the important issues to provide physical facilities where disabled people can move comfortably.

Individual characteristics such as lack of professional knowledge and experience, which are among the variables determining the employment of disabled people, have an important place in the recruitment and application phase. Problems experienced in this sense, the employer's belief that some jobs are not suitable for disabled employees, the employer's negative attitudes and prejudices are accepted as discrimination for the employment of disabled people (Burchardt, 2001:4; Kayhan Kuzgun, 2008:59). Disabled people may face many difficulties in recruitment, business life, promotion in the workplace and leaving the job (Öztürk, 2014:76);

- The physical space features of the workplace environment in working life are not suitable for the characteristics of the disabled individual,
- Failure to plan the tools and equipment already in use in the workplace and disabled access to them in accordance with the requirements,
- Prejudiced perspectives and negative attitudes of disabled people by their colleagues or supervisors create great handicaps in the working life of disabled people.

Employers have stereotypical prejudices against disabled people who are considered as one of the disadvantaged groups of the society. Within the framework of these prejudices, quotas for disabled people are perceived as '*low status positions*' by employers, making it impossible for even an educated disabled person to '*find a job suitable for his/her education*'. For this reason, disabled people are employed by their employers in 'unqualified or low position' jobs instead of jobs suitable for them (Kayacı, 2007:80). Emotional reactions of disabled people that are not suitable for working life, their incompatibility with rotation, their lack of skills, their tendency to take compassionate leave

and their inefficiency in work tempo, as well as the costly physical arrangements to be made for them in the workplaces are among the hesitations of employers (Kayacı, 2007:78). However, Article 14 of the Law on Disabled Persons No. 5378, which is one of the legal regulations on the employment of disabled people, stipulates that *"discriminatory practices based on disability cannot be made in any aspect of employment, including job application, recruitment, proposed working hours and conditions, continuity of employment, career development, healthy and safe working conditions"* (Law on Disabled Persons No. 5378, 2005).

Disabled people are subjected to many discrimination at stages such as employment, promotion, wage determination or increase, contract processes, termination of the job. In fact, since *'positive discrimination'* is accepted as a principle in the employment of disabled people, discrimination and social exclusion are also realised for the disabled (Kuzgun, 2009:2453). The elimination of this discrimination will make it possible to ensure equality of opportunity, to remove them from being individuals who are seen in need of help and subjected to *positive discrimination*, as well as to give them the opportunity to create their own family environment, to give them the opportunity to produce and to have a say in social terms (Genç and Çat, 2013:368; Aslan and Karaalp Orhan, 2021:25).

3. Legislative Studies on Employment of Disabled Persons

The working life and employment process was shaped with the industrial revolution, important steps were taken to regulate the economic life of the period, and the work-illness relationship was also focused on (Bilir and Yıldız, 2012:64). Today, working life, which is also addressed with occupational health and safety issues, provides the *'well-being'* of employees in terms of body, psychology and social aspects and becomes an approach that supports their development (Çevik and Özkul, 2022:612). In this sense, in addition to the improvements aimed at ensuring full participation in social life for disabled people, supporting them to be working, earning and even self-sufficient individuals should be accepted as a requirement of social life (Yıldırım et al. 2011:155).

One of the most important steps was the replacement of the word *"disabled"* in the amended Article 25 of the Labor Law No. 1475 with the concept of *"handicapped"* in line with the provisions of Article 13 of the Decree Law No. 572 dated 30.05.1998. Article 30 of the new Labor Law No. 4857, which was put into force in 2003, has also abandoned the use of the word 'disabled' due to the negativity it expresses (Altan, 2004:211; Özbucak Albar, 2019:127). After the aforementioned date, the concept has been replaced by the word 'disabled' with the consensus in the legal regulations and legislative texts on the subject made in our country and universal acceptance all over the world. The rights and freedoms of persons with disabilities are guaranteed by international regulations. Articles 1, 8, 13, 55 and 76 of the United Nations Charter emphasize the principle of equal treatment with the prohibition of discrimination as *"...in solving international problems of an economic, social, cultural and humanitarian nature and in promoting and strengthening respect for human rights and fundamental freedoms of everyone, without distinction as to race, sex, language or religion..."*.

Four years after the United Nations Charter, the Universal Declaration of Human Rights was signed in 1948 and the Treaty entered into force in Turkey on May 27, 1949. The Universal Declaration of Human Rights also emphasizes equality and Article 1 of the text states that *"the dignity inherent in all members of the human family and the recognition of their equal and inalienable rights shall be the foundation of freedom, justice and world peace..."* and emphasizes that all individuals are equal in freedom, dignity and rights. Article 2 of the text states that *"...without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status..."* and Article 7 states that *"all are equal"* before the law (UN, 1975). According to Article 14 of the European Convention on Human Rights, *"the enjoyment of the rights and freedoms recognized in the convention shall be secured without distinction of any kind, in particular on the grounds of sex, race, color, language, religion, political or other opinion, national or social origin, membership of a national minority, property, birth or any other status"* and *"equality of opportunity"* including disabled people is emphasized (URL-2). These international efforts have been supported by some legal regulations in our country and equal opportunities for disabled people have been tried to be established.

In our country, especially in the second half of the 1990s, we see that the practices for the disabled have increased. Although there is no direct regulation specific to the disabled in the Constitution, it is seen that the generalizations in some articles that embrace the whole society include the disabled. Article 10 of the Constitution:

"Everyone is equal before the law without discrimination on grounds of language, race, color, sex, political opinion, philosophical belief, religion, sect and similar reasons. The State is obliged to ensure that this equality is realized" (Additional paragraph: 7.5.2004-5170-Article 1)

is also included in this article. Moreover, with the additional paragraph adopted in 2010:

"Measures to be taken for children, the elderly, the disabled, widows and orphans of war and duty martyrs, and disabled and veterans shall not be considered contrary to the principle of equality" (Additional paragraph: 7/5/2010-5982- Article 1)

provision has been introduced. Article 50 of the Constitution entitled *"Working Conditions and Right to Rest"*:

"No one shall be required to perform work incompatible with his age, sex or strength. Minors and women and those with physical and mental disabilities shall be specially protected in terms of working conditions."

is included in the provision (Constitution of the Republic of Turkey, 1982). The principle of equality stipulated in Article 10 of the Constitution is specifically regulated in Article 5 of the Labor Law No. 4857. According to Article 5, which is titled "Principle of Equal Treatment":

"No discrimination based on language, race, color, sex, disability, political opinion, philosophical belief, religion, sect and similar reasons can be made in the employment relationship"

provision was adopted (Labor Law No. 4857, 2003). Article 5 of the Labor Law No. 4857 and Article 6 titled "Employment and Self-Employment" of the Law No. 6701 on the Human Rights and Equality Institution of Turkey state that *"there can be no discrimination in employment and the employer's obligation to act equally"*.

On the other hand, Law No. 5378, which entered into force in 2005, aims to solve the problems related to the care and social security of the disabled and envisages an *'employment assurance system'* in economic terms (Akyıldız, 2017a:12). Through Law No. 5378 on Persons with Disabilities, it is aimed for persons with disabilities to benefit from fundamental rights and freedoms and to ensure their full and effective participation in social life. In particular, necessary arrangements have been made to take measures in terms of "sustainable employment" in the labor market and working life of the disabled. According to Article 14 of the Law on Persons with Disabilities, which entered into force in 2005:

"The status of sheltered workplaces where disabled people who are difficult to be integrated into the labor market due to their disability status are employed and the procedures and principles regarding these workplaces are regulated by a regulation issued jointly by the Ministry of Labor and Social Security, the Ministry of Finance and the Ministry of Family and Social Policies"

the provision also imposes some duties on the state (Law No. 5378 on Persons with Disabilities, 2005). Regulations enabling the participation of persons with disabilities in working life, Law No. 5378 on Persons with Disabilities, Labor Law No. 4857 and quota practices in Civil Servants Law No. 657 also support the employment of persons with disabilities. Turkey ratified the International Labour Organization (ILO, 1983) Convention No. 159 on Vocational Rehabilitation and Employment (Disability) in 1999 and authorized the Turkish Employment Agency (İŞKUR) under Article 7 of the Convention. According to Article 15 of the Regulation on Domestic Job Placement Services prepared in 2009; while the public sector makes purchases within the framework of the legal legislation for the employment of workers, in the private sector, the employment of disabled people is carried out by interviewing those with appropriate qualifications among the disabled people who have registered with İŞKUR (URL-3). In this direction, the employment follow-up of mandatory disabled quotas is provided by the Provincial Directorates of Labor and Employment Agency in accordance with Article 30 of the Labor Law No. 4857. In order to encourage the private sector to employ disabled people, employers are fully compensated by the Treasury for the "employer's share of social security premium" for each disabled person employed (at the minimum wage level). Fines collected from employers for not employing disabled workers are also used in projects that provide support for disabled people to start their own businesses, support technologies that will enable them to find a job, job placement, adaptation to work and workplace and similar support. In addition, job and vocational counseling services are provided to disabled people who are registered with İŞKUR and looking for a job (URL-3). These services not only direct disabled people

to courses or on-the-job training programs to increase their vocational qualifications, but also provide support in issues such as placement in jobs appropriate to their situation and encourage disabled people to establish their own businesses. There is also a penal sanction for private sector employers who do not fulfill their obligation to employ disabled people in accordance with the Labor Law. Disabled people who apply to the employer's demand by keeping the conditions and come to the interview are not found suitable by the employer and are not hired or employers who do not fulfill their obligation to notify the demand for disabled quota vacancies are also imposed an administrative fine by the Provincial Directorates of Labor and Employment Agency for each disabled person they cannot employ in accordance with Article 101 of the Labor Law No. 4857.

In this sense, it is seen that the compulsory employment obligations imposed by law are insufficient to solve the problem of disabled employment (Özbucak Albar, 2019:132). It is clear that employers' demand for disabled labor is not only related to the equipment or personal characteristics of the disabled person, but also to legal regulations and structural features of the labor market.

CONCLUSION AND EVALUATION

Based on the fact that disabled individuals should have the same rights and freedoms as everyone else in society, all measures to be taken to ensure that they benefit from equal opportunities are one of the human rights obligations of the state. The disabled labor force, which has the opportunity to be employed in working life, experiences many problems in the employment process, from recruitment to retirement, from discrimination in working life to inequality of opportunity. In this sense, it is necessary to list the difficulties faced by the disabled in employment processes:

- The existence of limitations in the job options of the disabled people who turn to job applications in order to find employment opportunities according to their professional equipment, abilities and skills triggers problems such as low motivation and lack of self-confidence in the working life of the disabled people,
- In the job application and recruitment process, the fact that disabled people are met with some prejudices by the employer in terms of competence and competence makes the emotional damage on the disabled more visible,
- Some employers evaluate the employment of persons with disabilities with the 'idea of being a legal obligation', and some prejudices prevail, such as being uncomfortable with the working capacity of the disabled person, the frequency of compassionate leave they take, and their performance below the expected working pace,
- Persons with disabilities are subjected to discrimination by employers or coworkers in matters such as wage assessment, career planning and maintaining peace at work,
- While employers benefit from the quota system applied in the demand for disabled labor force, their "tendency to find jobs according to personnel" in order to close the shortage of disabled quotas is one of the obstacles to specialization and career advancement in disabled employment,
- Job insecurity is widespread for persons with disabilities who take part in business life by benefiting from the employment quota for persons with disabilities during the probationary period due to the lack of adequate protective arrangements,
- The inadequacy of transportation alternatives and the existence of security problems in the distance from the living space of the disabled person who has the opportunity for employment to the workplace is an important problem,
- Inadequacies in lighting and technical infrastructure for the safety of transportation arteries in urban arrangements, hesitation and concerns about taking part in the employment market for the disabled still exist,
- Failures or wrong practices in "accessibility arrangements" such as sidewalks, ramps, elevators, tactile surfaces in accessing public and private workplaces from transportation arteries create significant problems in disabled working life,
- Inadequate spatial arrangements for 'universal design' and 'barrier-free design' in public and private workplaces remain unresolved,

- Motivations for establishing belonging in the process of adaptation of the disabled person to working life are not supported by the workplaces,
- The deficiencies in rehabilitation support and vocational trainings for the disabled, which make an important contribution to increasing the ability of the disabled to cope with the problems they face in working life, are insufficient for the long-term presence of the disabled in employment,
- Disability employment policies are only addressed with their legal aspects and social awareness trainings against inequality of opportunity in employment have not yet been sufficiently disseminated.

It is an undeniable fact that *social policy strategies* that offer important opportunities for the disabled to participate in socio-cultural life planes are important in placing the disabled on employment platforms to support them economically. For social integration, important opportunities such as participation in social life and taking part in daily life also support the socio-cultural life of the disabled. First of all, it is important for the disabled to support and expand the use of medical treatment and rehabilitation services at an early stage. Disabled people who need to be supported with special education need to "expand and specialize the right to receive education through mainstreaming". In this direction, analyzing what kind of business line/profession the disabled person is predisposed to and targeting the appropriate success according to the disability will also make it possible to support the career planning of the disabled person. In this context, all discrimination, which is universally accepted, appears with much more corrosive effects unless it is prevented by labor markets. In this sense, it is important in terms of social benefit and welfare policies to provide some measures to ensure the employment of disabled people in workplaces and to support the sustainability of this employment:

- In the context of employment policies in our country, laws and regulations to prevent discrimination in wages, careers, equal opportunities and other aspects of disability quotas should be implemented simultaneously with international regulations,
- It is important that employers' demand for disabled labor is regulated by the personal characteristics of the disabled person as well as legal regulations and structural features of the labor market,
- Individuals with disabilities should be provided with education, vocational and skills training, and then prepared for the labor market and thus for social life,
- It is important for employment policies to ensure that people with disabilities benefit from equal conditions and rights like all individuals in society in terms of qualified job opportunities and career advancement,
- Initiatives to eliminate the negative perception of people with disabilities in business life will end the grievances in the employment of people with disabilities and enable a work environment worthy of human dignity,
- Strengthening the status and position of persons with disabilities in working life with educational support will support changing prejudice against persons with disabilities,
- In order to contribute directly or indirectly to the employability of persons with disabilities, the planning of "disabled-friendly sheltered workplaces" within the scope of alternative active employment policies should be supported,
- Increasing the employment of persons with disabilities through government policies and some incentives will support equal opportunities for persons with disabilities with the rights granted to other individuals and increase social welfare,
- In planning employment policies for people with disabilities, organizing socio-cultural activities to integrate disabled people from different social segments with other individuals will make important contributions.

Steps to be taken in this sense should be carried out by supporting some social and economic processes. Awareness and awareness-raising activities are required to integrate disabled people with different limitations in social life. In this process, disabled individuals should be supported economically and integrated into employment in order to make them more active. In economic terms, like the European Union countries, forward-looking plans should be made for the disabled in our country and new policies should be developed in line with equality of opportunity, and it will be possible for the disabled to integrate with the society and realize themselves.

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