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Review Article

# The Moral Significance of the Right to Employment in Human Rights and the Protection of the Right to Employment and Decent Work for Persons with Disabilities (A Comparative Study of Iraqi and Iranian Legislation)

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## Abstract

**Introduction:** The Universal Declaration of Human Rights, a pivotal document in the history of global ethics and the evolution of human rights, enumerates the fundamental rights of all human beings. Several of its articles directly address labor rights, among which is the right to employment and decent work, also reflected as the seventeenth provision of Iran's Charter of Citizens' Rights. This study examines the comparative legal, executive, and supportive frameworks of Iran and Iraq regarding the right to employment and decent work for persons with disabilities.

**Material and Methods:** This research is a descriptive review study. By consulting published sources related to the study's keywords, the concept of the worker and employee with disabilities in Iranian and Iraqi law is first defined, and their legal and social classification is analyzed. Subsequently, international foundations of the right to work are examined as core normative bases.

**Conclusion:** Comparative findings indicate that although both Iran and Iraq recognize the right to work for all, including persons with disabilities, in their constitutions, significant shortcomings exist in practical implementation. Iraq's 2013 Law on the Care of Persons with Disabilities and Iran's 2004 Law on the Protection of the Rights of Persons with Disabilities provide quota systems for employing persons with disabilities as well as financial and educational facilities. Nevertheless, challenges such as weak oversight, lack of financial incentives for employers, insufficient physical and educational infrastructures, and limited public awareness hinder the effective realization of these rights. The study emphasizes that the employment of persons with disabilities is not only an economic issue, but also an ethical, human, and social matter whose realization requires reform of legal, cultural, and institutional structures in accordance with human rights ethics.

**Keywords:** *Ethics, Human Rights, Right to Employment and Decent Work, Disability*

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## INTRODUCTION

The Universal Declaration of Human Rights, a pivotal document in the history of global ethics and human rights, enumerates the fundamental rights of all human beings. Several of its articles are directly related to labor rights, among which is the right to employment and decent work. The right to work is one of the most fundamental

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human rights, playing a key role in securing livelihood, economic independence, and human dignity. Employment fosters social participation and a sense of belonging, and ensuring it for all - especially persons with disabilities - demonstrates social justice and the effectiveness of a country's legal system. Today, support for the employment rights of persons with disabilities has moved beyond the realm of ethical recommendation and has become a binding legal obligation for states under international instruments (1).

Persons with disabilities constitute part of the society's human capital and, if provided with appropriate conditions, can play an effective role in economic and social development. However, they continue to face legal, cultural, and economic barriers in accessing employment opportunities. Since the mid-twentieth century, the international community - through documents such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the Convention on the Rights of Persons with Disabilities (2006) - has obligated states to support the employment of this group. Inspired by Sharia and ethical values, Islamic countries have also sought to structure their laws on principles of justice and equality. In this context, Iraq and Iran have recognized the employment rights of persons with disabilities in their constitutional and statutory laws; however, a significant gap persists between law and practice. Weak oversight, lack of effective policies, and cultural barriers are among the main challenges hindering the fulfillment of this right (2).

This study, adopting a comparative approach, examines the extent of legal protection for the right to decent work for persons with disabilities in Iraq and Iran, evaluates the alignment of their laws with international standards, and aims to identify strengths and weaknesses in the two legal systems while offering policy recommendations. The importance of this study lies in the fact that the employment of persons with disabilities is not merely a legal or economic issue but a moral, human, and civilizational matter closely tied to social justice and sustainable development.

## MATERIAL AND METHODS

This research is a descriptive review study. By consulting published sources related to the study's keywords, the concept of the worker and employee with disabilities in Iranian and Iraqi law is first defined, and their legal and social classification is analyzed. Subsequently, international foundations of the right to work are examined as core normative bases.

## DISCUSSION

### The Moral Significance of the Right to Employment in Human Rights

The United Nations, established in 1945 after the Second World War with the aim of maintaining international peace and security, fostering friendly relations among nations, and promoting international cooperation in addressing economic, social, cultural, and humanitarian issues, has played a crucial role in developing human rights frameworks and issuing the Universal Declaration of Human Rights - a document central to global ethical history in which labor rights form an integral part (3-5).

In the Universal Declaration of Human Rights (UDHR, 1948) - a foundational human rights instrument - several articles directly pertain to labor rights:

Article 23: The right to work, free choice of employment, just and favorable working conditions, protection against unemployment, equal pay for equal work, the right to remuneration ensuring a dignified life for oneself and one's family, and the right to form and join trade unions.

Article 24: The right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

In the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) - one of the core human rights treaties that elaborates economic, social, and cultural rights and is binding on state parties - the articles relevant to labor rights include:

Article 6: The right to work, including the right of everyone to the opportunity to gain a living through freely chosen or accepted work.

Article 7: The right to just and favorable working conditions, including fair and equal remuneration for work of equal value, safe and healthy working conditions, equal opportunities for promotion, and rest, leisure, reasonable limitation of working hours, and paid holidays.

Article 8: The right to form and join trade unions and the right to strike.

Accordingly, based on these human rights instruments, the right to employment and decent work constitutes one of the most important rights of citizens in any society and is regarded as a moral, human, and civilizational issue intrinsically connected to social justice and sustainable development.

## The Importance of Employment for Persons with Disabilities

The right to employment is guaranteed for all citizens of society, and this right also extends to persons with disabilities. In Iranian and Iraqi law, there are differences in the definition of persons with disabilities:

The Iraqi legislature distinguishes between persons with disabilities and persons with special needs on the one hand, and individuals who are completely incapable of working on the other. Under Iraqi law, a person with a disability is someone who suffers from long-term impairments - whether physical, intellectual, psychological, or sensory - in a way that prevents full and effective participation in society on an equal basis with others. However, a person with special needs is someone whose ability to perform roles and responsibilities compared to peers in the same social, economic, and medical environment is diminished; this impairment may cover areas such as education, sports, vocational training, family relations, and more. Additionally, individuals of short stature are also classified as persons with special needs. The Iraqi legislature defines an incapacitated person as "someone who is permanently unable to work to provide for their livelihood." Moreover, by operation of law, men who reach the age of 60 and women who reach the age of 55 are considered incapacitated (6).

By contrast, the Iranian legislature defines disability as follows: A person with a disability is an individual who, upon confirmation by the Medical-Rehabilitation Commission responsible for determining the type and severity of disability within the State Welfare Organization, faces significant and permanent limitations in daily activities and social participation due to physical, sensory (visual, auditory), intellectual, psychological, or combined impairments (7). Therefore, under Iranian law, disability must be confirmed by the designated medical commission of the State Welfare Organization.

Regarding workers with disabilities, it should be noted that Iraq's Labor Law No. 37 of 2015 does not provide a clear, explicit definition of a worker with a disability; rather, it limits itself to defining a worker in general terms under Article 1. According to this article, a worker is: any natural person, male or female, who works under the guidance and supervision of an employer and within the employer's management - whether under a written or verbal, explicit or implicit contract, or through training or a probation period - performing intellectual or physical work in exchange for any type of remuneration under this law (8).

Similarly, the Iranian legislature, like its Iraqi counterpart, does not offer a comprehensive definition of a disabled worker; instead, it merely defines a worker as any person who, in return for remuneration - including wages, salary, profit share, or other benefits - performs work at the employer's request (9). Workers with disabilities are those whose work capacity is affected due to physical or intellectual disabilities. Such individuals may be employed in all fields and must be afforded legal protections.

### *A) The Moral Importance of the Right to Employment in Human Rights for Persons with Disabilities*

For centuries, persons with disabilities received little attention; however, societies gradually evolved, and governments began to change their views regarding persons with special needs - adopting more positive and humane attitudes, especially after the Second World War, which left many individuals with disabilities. With the establishment of the League of Nations and the issuance of the Universal Declaration of Human Rights, this humanistic approach was strengthened, and its influence became evident in the constitutions and domestic laws of many countries.

The earliest signs of international concern for persons with disabilities - particularly regarding their employment and rehabilitation - appeared after the First World War. During this period, the International Labour Office took the initiative and published a report emphasizing the importance of utilizing the abilities of persons with disabilities after rehabilitation, enabling them to return as productive and active members of society and avoid marginalization. These international efforts continued in subsequent years and eventually materialized into treaties and conventions obligating member states to respect and protect the rights of persons with disabilities (10).

International conventions and covenants generally constitute the most comprehensive legal texts at the global level - texts whose influence is undoubtedly reflected later in constitutions and domestic laws of states. Among these, employment in the private sector and workers' rights occupy a significant place.

The matter is not limited to international treaties, but also extends to specialized organizations such as the International Labour Organization (ILO), which plays a key role in this domain. Among the most important international documents referring to the right to work is the 1948 Universal Declaration of Human Rights. Although this declaration recognizes the right to work for all individuals, it undoubtedly includes persons with disabilities (11). The 1966 International Covenant on Economic, Social and Cultural Rights further elaborates labor-related rights, including the right to work, the right to fair working conditions, the right to receive equitable remuneration, the right to satisfactory and appropriate working conditions, and equal employment opportunities. Additionally, the Covenant underscores the right of workers at all levels and in all groups - including individuals with disabilities - to engage in collective bargaining, form labor unions, and join them (10).

Furthermore, the 1979 Convention on the Elimination of All Forms of Discrimination against Women affirms the right of women - whether with disabilities or not - to employment on an equal footing with men. This right includes equal pay for work of equal value, the right to promotion, and the right to access education and vocational training (12). The 2006 Convention on the Rights of Persons with Disabilities explicitly and extensively addresses the right to work for persons with disabilities and establishes the basis for equal opportunities in securing livelihoods. It obligates state parties to prevent discrimination against persons with disabilities in all aspects of

employment - including hiring, promotion, and the provision of reasonable accommodation - to ensure their integration into the labor market. In addition, the Convention encourages the provision of vocational training and rehabilitation programs to help individuals with disabilities attain economic independence (13).

### *B) The Legal Basis of Employment for Persons with Disabilities in Iran and Iraq*

The Constitution stands at the apex of the legal hierarchy and reflects the will of the people. The Iraqi Constitution of 2005 addresses the issue of employment for all citizens, including persons with disabilities. It recognizes work as a right of all and a national duty, emphasizing its significance in both the public and private sectors. It also guarantees workers' rights to fair wages and to form or join labor unions. Moreover, the state is obligated to support persons with disabilities and provide education and empowerment opportunities to facilitate their integration into society (2). We believe that, by explicitly stating "empowerment and integration into society," the Iraqi Constitution underscores the necessity of providing appropriate employment for persons with disabilities.

Similarly, the Constitution of Iran recognizes the right to employment for all individuals. The preamble states that the Islamic economy must provide the means for human creativity to flourish, and that the government is obligated to provide equal opportunities, employment prospects, and basic needs for the people. The Constitution also emphasizes that, to achieve economic independence and eliminate poverty and deprivation, the economy of the Islamic Republic must be based on freedom of choice of occupation, prohibition of forced labor, and prevention of exploitation of others' work (2). Thus, the legislature has affirmed that individuals are free to choose their profession in accordance with their interests.

The Iranian legislature also stipulates that every person has the right to choose any occupation they desire, provided it is not contrary to Islam, public interest, or the rights of others. The government is obliged to create opportunities for employment and equal conditions for all individuals, taking into account the needs of society for various professions (3). Therefore, it may be said that, under Iranian law, every individual has the right to access suitable employment, and the state is responsible for ensuring equal and fair opportunities for all.

Since constitutions provide the guiding principles of legislation in democratic countries - including Iran and Iraq - and since both constitutions guarantee the right to work for persons with disabilities and related rights, these principles are reflected in ordinary laws in both states.

In Iraq, Labor Law No. 37 of 2015 forms the foundation of labor regulation in the private sector and includes provisions specifying the rights of workers, whether with disabilities or without. These provisions include:

- Basic rights to benefit from the right to work,
- Determination of minimum wage,
- Regulation of working hours, including rest periods and holidays,
- The right to form and join labor unions,
- Special provisions for protecting workers from arbitrary dismissal.

These regulations apply to all workers, whether disabled or not. Additionally, the Iraqi legislature has given special attention to regulating work for persons with disabilities. Accordingly, employers in mixed sectors must employ at least one worker with a disability or special needs - provided they meet the minimum required qualifications - if the number of employed workers is:

- Between 30 and 60 workers; and
- If the number exceeds 60, at least 3% of all workers must be persons with disabilities or special needs (14).

If the employer fails to comply with this obligation, they shall be fined 500,000 dinars (15). As noted earlier, these legal provisions are aligned with international standards approved by the International Labour Organization, demonstrating Iraq's commitment to workers' rights. However, in practice, most of these provisions remain only on paper (15).

In Iran, the Labor Law of the Islamic Republic of Iran, adopted on 20 November 1990, serves as the primary legal basis for employment in the private sector. This law sets the foundation for employment for all members of society and includes the following principles:

- Equality and non-discrimination in work,
- Freedom to choose one's occupation,
- Respect for workers' human dignity,
- Obligation of both employer and worker to comply with the law,
- Government support for workers' professional and social rights

Regarding the legal basis for employment of persons with disabilities, the legislature, in the Law on the Protection of Persons with Disabilities, stipulates that the Ministry of Cooperatives, Labour and Social Welfare is obliged, within allocated credits, to establish a Fund for Supporting Employment Opportunities for Persons with Disabilities under its supervision and prepare its statute within three months of the law's promulgation for approval by the Cabinet (14). Therefore, the Ministry is obligated to provide public-sector employment opportunities for persons with disabilities.

## Challenges Faced by Persons with Disabilities in the Field of Employment

The employment of persons with disabilities confronts global challenges stemming from societal attitudes and the governing laws of employment. Many employers, focusing solely on productivity, consider persons with disabilities an additional burden and are unwilling to adapt the work environment for them (16). The most significant obstacles to their employment in the private sector can be summarized in several key areas:

### *A) Legislative and Legal Challenges*

The employment of persons with disabilities in the private sector faces a range of legal obstacles, including (17, 18):

1. Weak enforcement and oversight mechanisms: Many laws remain merely written provisions because there is insufficient monitoring of the private sector's compliance with mandated employment quotas for persons with disabilities.
2. Incomplete legal coverage: In most cases, existing laws do not encompass all types of disabilities and focus only on hiring, without guaranteeing continued employment or the provision of reasonable accommodations in the workplace.
3. Lack of effective incentives: Many laws lack attractive financial or technical incentives capable of encouraging employers to hire persons with disabilities.
4. Poor coordination among various laws: Gaps among labor laws, occupational health and safety regulations, and social security laws hinder the effective implementation of support measures (20).
5. Lack of awareness among human resources departments in private companies and institutions regarding disability-related laws: Such unawareness leads to the neglect of the rights of persons with disabilities.

### *B) Barriers Related to the Work Environment*

1. Unsuitable work environments for persons with disabilities: Most institutions are neither physically nor technically prepared for the employment of persons with disabilities. Appropriate tools and equipment tailored to different types of disabilities are not available, and necessary assistive devices are not provided in the workplace (20).

2. Lack of employer confidence in the abilities of persons with disabilities: Many employers believe that persons with disabilities cannot fulfill job responsibilities and will become a burden to the institution. However, this assumption is incorrect; most persons with disabilities demonstrate perseverance and dedication in their work to prove that disability is not an obstacle to productivity or success alongside their non-disabled peers (20).

There are additional barriers that cannot be addressed here due to space limitations, including lack of training and rehabilitation, weak media support, and low public and societal awareness regarding the issues and rights of persons with disabilities (19, 20).

## Judicial Guarantees for Workers with Disabilities

It is clear that there are several types of guarantees that allow workers with disabilities to access their rights and prevent violations of their human dignity in the workplace. These guarantees fall into two categories (21, 22):

1. Political guarantees: Applied through parliamentary oversight, the activities of political parties, and public protests or demonstrations.
2. Administrative oversight: This type of oversight is exercised by internal and external monitoring bodies within the institution, whether automatically and continuously, or following a complaint filed by an aggrieved individual.

Among these, the strongest form of guarantee is judicial oversight, which this section of the study seeks to examine. Administrative jurisprudence has defined judicial oversight using various expressions and terms, yet all share the same meaning and implication. One of the most important definitions is that judicial oversight consists of examining and verifying the legality of administrative or institutional actions by the judiciary, in terms of their conformity or non-conformity with the law in its general sense (21).

Judicial oversight serves two primary aims: first, to protect the rights of workers - particularly persons with disabilities - by enabling them to challenge and annul unjust employer decisions or obtain compensation; second, to correct the behavior of employers and institutions and compel them to comply with the law through the annulment of unlawful decisions (21).

Judicial oversight typically prevents the weaknesses that may arise in administrative or political oversight due to the influence of political parties, lack of neutrality, or the absence of enforceable measures. The judiciary is a free and independent institution, neither compromising nor conciliatory; its rulings are binding and must be executed. The most important features distinguishing judicial oversight over institutional practices from other types of oversight include (2, 3, 21):

1. Judicial oversight is activated only when an aggrieved person files a complaint against the employer or the institution. This principle is based on the rule that adjudication is requested, not imposed.
2. The primary focus of judicial oversight is the legality of an employer's decision. The court merely examines whether the decision conforms to the law, without intervening in its "appropriateness" or the "circumstances and reasons" behind it - though in some cases, courts have also examined proportionality.
3. The powers of the court over institutions are limited to annulling unlawful decisions and compensating for resulting damages. The court cannot directly compel an institution to perform or refrain from performing a certain action.
4. Judicial rulings possess final legal authority; once a ruling is issued according to legal procedures, it attains the status of a "legal

truth," and it cannot be contested again or ignored. If necessary, enforcement may occur by force.

5. In Iraq, the legislature has sought to grant special attention to the working class, particularly persons with disabilities, due to their large and influential presence in society. Accordingly, the law provides special privileges to this group to prevent any exploitation or arbitrary use of power by some employers.
6. In this regard, Iraqi law has established special courts in each governorate, known as "Labor Courts," which are competent to hear civil and criminal cases related to the Labor Law and the Retirement and Social Security Law for Iraqi workers.
7. The law also states that a complaining worker or their trade union is exempt from court fees at all stages of litigation. Furthermore, labor disputes are classified as urgent cases requiring expedited handling. All fines imposed on employers by these courts are transferred to the Workers' Pension Fund.
8. Additionally, the law provides that decisions issued by the Labor Court may be challenged through all legal avenues, including objection to in absentia judgments, petitions for retrial, and appeals. An aggrieved party may file an appeal within thirty days of notification, and the appeal is reviewed by a three-judge panel within the Federal Supreme Court in Baghdad. For in absentia judgments, objections may be filed within ten days, also reviewed by the same panel.
9. Finally, rulings issued by the appellate panel are final and not subject to further appeal.

From the above, it becomes clear that the Iraqi legislature has guaranteed the rights of workers in general and persons with disabilities in particular through the establishment of these special courts. With this measure, the legislature has imbued the law with a human dimension, as evident in the exemption of complaining workers and their unions from litigation costs, the designation of labor cases as urgent matters, and the transfer of court-imposed fines to the Workers' Pension and Social Security Fund.

In Iranian labor law, special judicial protections are also provided for workers, including persons with disabilities. If a worker is detained due to a complaint filed by an employer but is not convicted, the period of detention is counted toward their years of service, and the employer is obligated to pay the worker's wages, benefits, and damages in accordance with the court ruling (23). Thus, priority is given to the worker's rights; if the worker is not found guilty, the employer must fully compensate them.

Moreover, the same law states that if an employer's failure to fulfill legal obligations leads to an incident resulting in disability or death of a worker, the court is obligated to address the matter in accordance with the law in addition to imposing penalties stipulated in the relevant chapter (21). Thus, while the worker is required to perform the tasks assigned under the employment contract, the employer is legally punishable if they compel the worker to perform unsafe tasks that result in injury.

However, the Iranian legislature has shown limited attention to judicial support specifically for persons with disabilities, which has caused concern among them. According to the law, the Welfare Organization may, at the request of a person with a disability or their guardian, represent them in court in cases where their rights have been violated or a claim has been filed and confirmed by the organization.

## CONCLUSION

The findings of this comparative study of Iraqi and Iranian legislation regarding the protection of the right to decent work for persons with disabilities indicate that both countries, at the level of theoretical and legal foundations, have

moved in alignment with international standards. Nevertheless, in practice, a significant gap exists between legislation and implementation.

Both legal systems guarantee equal employment opportunities in their constitutions and obligate the state to create fair employment conditions and empower persons with disabilities. Iraq's 2013 Law on the Care of Persons with Disabilities and Iran's 2004 Law on the Protection of the Rights of Persons with Disabilities establish quota systems for employing persons with disabilities in the public and private sectors. For example, Iraq mandates that 3–5% of public sector jobs be allocated to persons with disabilities, and Iran has enacted similar quota mechanisms.

However, practical assessments show that the absence of effective oversight and the lack of employer accountability have rendered much of this legislation largely symbolic. Institutionally, poor coordination among relevant ministries in both countries, the absence of comprehensive databases for assessing disability employment, and the lack of vocational training aligned with labor market needs remain major challenges. Additionally, negative social attitudes and cultural stereotypes about the capabilities of persons with disabilities continue to impede the realization of employment justice.

In Iraq, political instability and weak economic infrastructure further limit employment opportunities. In Iran, despite broader supportive legislation, budgetary shortages and institutional fragmentation have kept the actual employment rate of persons with disabilities low.

This study concludes that realizing the right to decent work for persons with disabilities requires a comprehensive, multidimensional approach: legal reforms alone are insufficient and must be accompanied by the institutionalization of ethical principles, social awareness, employer training, and the improvement of workplace environments. Establishing transparent oversight systems, defining performance indicators for disability employment, and offering financial or tax incentives to employers who actively hire persons with disabilities constitute essential reforms.

Finally, the comparison indicates that Iran's legal framework is more comprehensive, whereas Iraq has made significant strides in aligning with international treaties and explicitly defining employment quotas. Overall, effective implementation of these laws requires cooperation among government institutions, the private sector, and civil society so that persons with disabilities may transition from a dependent position to one of active participation in social and economic development.

## ETHICAL CONSIDERATIONS

Ethical issues (such as plagiarism, conscious satisfaction, misleading, making and or forging data, publishing or sending to two places, redundancy and etc.) have been fully considered by the writers.

## CONFLICT OF INTEREST

The authors declare that there is no conflict of interests.

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