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**People with Intellectual Disabilities and Employment Discrimination Law:  
a US Case Study**

**Mark Bell\***

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Comparative Labour Law and Industrial Relations (2019)*

**Abstract**

This article explores how anti-discrimination law has been applied in relation to employment discrimination faced by people with intellectual disabilities. Although disability discrimination laws are now found in many states, there has been relatively little litigation by those with intellectual disabilities as regards employment discrimination. This article examines experience in the USA in order to identify the potential of anti-discrimination law, as well as its limitations in practice. It considers litigation brought by individual plaintiffs, as well as enforcement actions by public bodies. This concerns employment in the open labour market, but also sheltered employment schemes. The article concludes by reflecting on what lessons may be derived from US experience.

**Keywords**

Intellectual disability, discrimination, USA, sheltered employment, reasonable accommodation.

**Introduction**

People with intellectual disabilities (ID) remain highly marginalised in the labour market. Their rate of employment is low, both in comparison to the general population and amongst people with varying types of disability.<sup>1</sup> Insofar as people with ID have opportunities to engage in work, it remains common for this to take place in a segregated environment. There are multiple forms of 'sheltered' employment, but its fundamental characteristic is that most of the workers are persons with disabilities. It is largely separate from the open labour market where job opportunities are competitive to obtain. The International Labour Organisation (ILO) found that typically the majority of those in sheltered employment are people with ID.<sup>2</sup> Many factors combine to explain why people with ID experience labour market disadvantage. These include education and vocational training systems that do not

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<sup>1</sup> World Health Organisation (WHO) and the World Bank, 'World Report on Disability' (WHO 2011) 237; N. Ditchman, K. Kosyluk, E.-J. Lee and N. Jones, 'How Stigma Affects the Lives of People with Intellectual Disabilities: an Overview' in K. Scior and S. Werner (eds), *Intellectual Disability and Stigma – Stepping Out from the Margins* (Palgrave Macmillan 2016) 31.

<sup>2</sup> International Labour Office, 'Decent Work for Persons with Disabilities: Promoting Rights in the Global Development Agenda' (ILO 2015) 73.

**Unemployed Anti-Discrimination Intake Questionnaire  
Complaint Questionnaire**



The District of Columbia Unemployed Anti-Discrimination Act prohibits employers, employment agencies or entities acting on an employer's behalf from discriminating against an individual applicant because they are unemployed. Individuals who believe an employer, agency or entity failed or refused to consider them for employment, or failed to refuse or hire them, because they were unemployed can file a complaint. More information about the law is available by visiting or calling the Office of Human Rights or at

**Jurisdiction**

To file a complaint, the alleged violation must meet the following criteria (please check the required boxes):

- It occurred in the District of Columbia.  
It occurred on or after the law's effective date of October 1, 2015.  
It occurred 365 days or less from alleged violation date.

**Complainant Information Incident Information**

Complainant Preferred Name Name of Company or Organization

Complainant Address Name and Title of Principle Officer ( )

Complainant Telephone Number Company or Organization Address

Complainant Email Address Telephone Number

Do you need a reasonable accommodation?

Yes No

If yes, please explain

Email Address of Principle Officer

**Unemployed Status**

What language do you prefer to communicate in?

English Chinese Korean Vietnamese  
Amharic French Spanish

Other:

Do you require a language interpreter?

Yes No

If yes, which language?

Language indicated above

Other:

Do you have a preferred gender pronoun (write below)?

If you are filing a complaint because you are alleging discrimination based on unemployment status, please ensure you meet the following three conditions (check each box):

- Unemployed at time of application/interview  
Available to work at time of application/interview  
Seeking employment at time of application/interview

If you are filing a complaint because you are alleging retaliation, please check the box below:

- I am alleging retaliation under the UADA.





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