

Ableism Embraced in Law

By Sarah Mehta

Congress established a minimum wage to create a basic standard of living for all employees. It was meant to protect the health and wellbeing of any hardworking individual. But people with disabilities fall outside of this protection; Section 14(c) of the Fair Labor Standards Act states they can legally be paid below minimum wage.

We live in an age where constant emphasis is placed on productivity, efficiency and work. While this has created enormous growth in industry and innovation, it has also provided a place for ableism to thrive. People who don't fit perfectly into this neoliberal mold are not only excluded from jobs, but from the essence of civics and society in the US. The subminimum wage law deters people with disabilities from entering the workforce; combined with the Supplemental Security Income benefits that can only be attained by working few or no hours, people with disabilities are blatantly being excluded from work and, therefore, civic participation. One disability rights researcher calls this an outstanding example of cognitive ableism, weeding out those who don't meet society's "productivity" quota while protecting the autonomy of individual businesses to choose if they can pay subminimum wage.

Section 14(c) of the Fair Labor Standards Act says that people with disabilities can be paid subminimum wage "... if the worker's disability reduces his or her ability to do the job." But this ability is being evaluated given a subset of tools used to complete a task according to the norm, or the "average" way of doing something. That is often how workplaces are equipped. But this does not account for the diverse ways there are to complete a task, ways that may be more effective for someone with a disability.

This law also targets a specific group of people (people with disabilities) and makes a vast generalization about them (that they perform inadequately in the workforce). In the past, there have been laws making assumptions about various minorities, all of which were later repealed because they were based on prejudice and preconceived notions. So why should things be different for the disabled population? Why are laws still in existence that are openly ableist? Minimum wage was decided upon so that people don't fall into excessive poverty, and so they can maintain a minimal standard of living. By excluding people with disabilities from minimum wage, we are excluding them from being considered as people; people deserving of the same living standards as anyone else. I am not arguing that minimum wage should be raised, or that people with disabilities should earn above-average compensation; I am simply arguing that they get treated as equals, and are given fair salaries to support a minimal standard of living.

Some argue that this subminimum wage law is a good thing; they claim it entices employers to hire people with disabilities for better cost effectiveness. But this perceived "benefit" of Section 14(c) does not outweigh its setbacks. The idea that people with disabilities are not "worth as much" as other members of society still stands, and this law only empowers this viewpoint. While short term, it does persuade employers to hire people with disabilities, it contributes to a long term and fundamentally ableist society.

Although minimum wage is meant to uplift minorities and prevent poverty, the disabled population is explicitly left out with Section 14(c) of the Fair Labor Standards Act. Multiple instances of ableism are encompassed into a singular law: Exclusion from the workforce, and therefore society; open assumptions made about people with disabilities; implications that people with disabilities are “worth less.” Some states are phasing out this law and replacing it with CIE, or Competitive Integrated Employment (requiring equal pay to people with disabilities in a non-segregated setting). But the state of New York is behind the times, continuing to support a law grounded in ableism and inequality. October’s National Disability Employment Month (NDEAM) serves as a reminder that we must eliminate subminimum wage in New York and adopt CIE — people with disabilities are people too, deserving of the same standard of life as anyone else. Who are we to say differently?

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