

Ensuring Equal Work Rights for Employees with Disabilities: A Case Study of Dismissal of an Employee with Down's Syndrome by Company Y

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Abstract: This article explores how to ensure equal employment rights for people with disabilities by analyzing the case of Marlo Speth, a female employee with Down syndrome who was fired by company Y. The article first introduces the background of the case, Speth worked in company Y for 16 years due to the company's adjustment of the work schedule and difficult to adapt to frequent late absenteeism, and eventually was fired by the company. Speth then filed a complaint with the United States Equal Employment Opportunity Commission (EEOC), and the court ruled that company Y violated the Americans with Disabilities Act and was required to pay Speth substantial damages. This paper analyzes the main ethical issue of the case is labor discrimination, analyzes the stakeholders of the case, and makes moral reasoning on company Y's behavior from two angles of utilitarianism and rightalism. Finally, the article concludes that what company Y has done violates corporate ethics, and puts forward several suggestions, including improving the employment awareness of the disabled, providing personalized employment support, and establishing a benign employment mechanism for the disabled.

1. Introduction

In July 18 2021, company Y, the world's largest employer, was sentenced to a massive \$800 million fine for firing a disabled employee. According to CNBC news, the employee in question, Marlo Speth, had been working at company Y since 1999, working from 12:00 p.m. to 4:00 p.m. Her main tasks were simple, such as putting away towels, sweeping the aisles, managing returns, and greeting customers. She was praised for the quality of her work and received several commendations and pay raises for her performance evaluations. However, Speth's working hours were adjusted due to establishing a computerised staff scheduling system at company Y. However, Speth, who has Down's syndrome, is significantly behind the average person in terms of intelligence and growth, which makes it difficult for her to adjust to the new working hours. As a result, she complained to her supervisor and asked to be moved back to her old hours, but her manager denied her request, which caused her to be late and frequently miner. In 2015, company Y fired Speth for excessive absenteeism. Her family tried to find a resolution of the conflict, but company Y keeps their decision to decline her application of re-employment with the help of her

family(CNBC,2021).[1]

Subsequently, Speth filed a complaint with the U.S. Equal Employment Opportunity Commission (EEOC), and after a trial, a jury awarded company Y \$125 million in damages against Speth. (Reuters, 2021). Company Y argued that the number of injuries was unreasonable and should be reduced to \$300,000, the maximum amount of compensatory and punitive damages under federal law. The judge adjusted the fine to \$300,000 (CNBC, 2021).

Company Y's move violates the Americans With Disabilities Act and will be severely punished by the law. On the other hand, company Y has shaken the very foundation of its business and departed from its original intent. An excellent and compliant company should hold itself to a double standard of legal and ethical standards. [2]

2. Major ethical issue

Work means much more to a person with Down's syndrome than an ordinary person with a disability. Whereas a normal disabled person may work to increase their income, a child with Down's syndrome needs interaction with society more for self-confidence and mental satisfaction. Again, her family would instead she had this job than receive the same extra income on welfare. This is because, for the person with Down's syndrome, money has significantly less additional meaning after their survival has been met than for the average person. Work can make them feel that their lives still have meaning and value. It is an opportunity to communicate with normal people on an equal footing.

Company Y employs people with disabilities with government subsidies, so it is an entirely free workforce, and the overhead costs are not too much of the total costs. Trying to fire disabled employees because it is too much trouble is a clear issue of labour discrimination. Even if company Y had reasons for its dismissal, on a legal and moral level as a large corporation, it has not fulfilled the sense of responsibility that a company should have in treating people with disabilities, not to mention that its employee was a person with Down's syndrome. The development of every society is written by workers from all walks of life, and labour discrimination is unethical.[3]

3. Stakeholder analysis

Stakeholders are people or organizations that have a say in how the organization behaves and how its goals are met, or who are impacted by the accomplishment of the goals and procedures of the organization (Sternberg, 2019). The following stakeholders were involved in this incident.

Company Y: company Y is the largest recipient of benefits, and the hiring party, is the beneficiary of the largest share of the common benefits. It is the main factor that can determine whether an employee stays or goes.[4]

Marlo Spaeth (person with Down's syndrome, former company Y employee): Employees mainly seek high personal income and career stability, and for Spaeth, in this case, in addition to income and stability, she was eager to have a job to reflect her life values.

The family members of Marlo Spaeth: As Spaeth's family, they hope that this dismissal will not harm Spaeth's willingness to seek employment in society in the future and that company Y will have a reasonable explanation and be reprimanded accordingly. In addition to the family's concern and care for Spaeth, they are also a community member and, as a public, expect company Y to take on a variety of social obligations, including as supporting charitable endeavors and promoting employment opportunities for individuals with disabilities.

All paths lead to decision makers' discretionary judgement when stakeholders confront challenges and uncertainty throughout the implementation process. Stakeholderism strongly relies on the discretion of company leaders. Hence evaluating stakeholders necessitates evaluating how

they ought to utilise their discretion. However, it is clear that company Y, as a business, has failed to use discretion wisely, as will continue to be illustrated in the department of utilitarianism and authoritarianism.[5]

4. Moral Reasoning Process

4.1. Moral reasoning with moral standards:

Moral reasoning can be divided into three steps: moral criteria to factual information and moral judgement (Reynolds & Ceranic, 2007), as utilitarianism and rights theory, will be explained in detail in the second part, which focuses on deontology. When it comes to deontology, the representative Immanuel Kant is mentioned, whose core ideas are firstly to respect the dignity of every human being, secondly to act according to rules that are accepted by the general public, and thirdly not to see others as tools to achieve one's ends (Kant, 2006). In this case, company Y failed in its ethical standards to fulfil its corporate duties by laying off an employee with Down's syndrome. The factual information, at the very least, does not respect the disabled employee's reasonable explanation and job status, does not fulfil the company's obligations in accordance with the relevant US employment regulations for people with disabilities, and similarly treats the disabled employee's change of work schedule as a nuisance. Therefore, in an ethical judgment, company Y's actions were unethical.[6]

4.2. Moral reasoning with major ethical approaches:

4.2.1. Utilitarian approach

We can use the utility calculus to illustrate utilitarianism (Roncaglia, 1999). In ethical standard, an ethical act is valid when it has greater total utility made, rather than other alternatives. (Sen, 1979). In this case, Option A is to continue to employ the Down syndrome employee, and based on company Y 's average employee salary and benefits/hour in 2021, combined with Spaeth's position, company Y is expected to spend an additional $17 \times 4 \times 365 = \$24,820$ (USD) a year, with her total annual salary estimated at $12 \times 24820 = \$297,840$ (USD) for 12 years, based on her years of service (company Y,2021); Option B is to continue to terminate Spaeth, then company Y would have to compensate Spaeth \$125 million under the employment discrimination issue for violating the EEOC Although under U.S. federal law, for businesses having 500 or more workers, the combined total amount of compensatory and punitive damages is restricted at \$300,000, and the jury's \$125 million award was actually made knowing that it was not possible to do so, and by issuing an astronomical fine it was intended to draw widespread attention to the issue in the community, then the actual award of \$300,000 is used here. The termination award exceeded the amount she had worked for for 12 years, and it appears that company Y simply laid off employees as requested and that this decision and fulfilment of the award was ethical.

However, utilitarianism has many limitations, such as the fact that well-being is difficult to quantify and measure and ignores the impact of decisions on other stakeholders (Lyons& Lyons, 1965). So, again, the rights approach is analysed.[7]

4.2.2. Rights approach

Rights are a qualification a person has for something and are usually expressed as a legal right, moral right, or human right (Xia,2004). This case focuses on moral rights. Moral rights are closely linked to duties, granting individuals the free and equal pursuit of their interests, and are the basis on which one can justify one's actions and protect to help others (Feinberg & Wellman, 1970). Each

of these is described, in turn, according to the stakeholders.

First of all, Spaeth got penalized twice by company Y for tardiness and absence, and there was no problem with the procedure when they fired her. However, company Y also has the right to treat people with disabilities equally in employment and to fulfil its social responsibility.

Then there is Spaeth's right to request the enforcement of her previous working hours as a person with Down's syndrome is a simple request, and the employer's refusal would be very shocking and life-changing for her as it is difficult for a person with Down's syndrome to adjust to such changes. She has the right to express her needs. Accordingly, companies treating people with disabilities should have a reasonably adjusted approach to address their needs. She also has the right to appeal when she is treated unfairly and to fight for her right to equal work.[8]

Finally, it was Spaeth's family, whose family and community had invested all these years in getting her to work successfully and integrate into society, worth much more than the \$300,000 in compensation. When dismissed, Spaeth's sister Amy Jo Stevenson said she immediately "retreated into a shell." Dr. David Smith, founder of the Milwaukee Wisconsin Down Syndrome Clinic, testified in court that Speth's reaction mirrored the difficulties many people with Down syndrome have in their daily lives (happy mag. tv, 2021). However, her family has every right to support her and protect her.

According to the three different perspectives of rights above, it is unethical that company Y should fire Speth. Everyone can assert their rights, and there is nothing wrong with that, but when company Y does something that infringes on the rights of an employee with Down syndrome, it is unethical.

5. Make an overall conclusion

Different conclusions are based on two approaches, the utilitarian approach and the principle of the right approach, as well as a moralistic analysis. In summary, company Y should not have dismissed Spaeth. We cannot apply a single criterion to assess whether practices are ethical or not; each has its limitations (Greenwood, 2002). So it is a good direction to consider corporate ethics in a holistic way, for example, whether we achieve the greatest good with the least harm according to utility, whether we meet the rights of each stakeholder according to rights again, and whether we meet the moral theory (Yang & Zhou, 1997). Suppose it is challenging to satisfy both, in this case for vulnerable groups of people with disabilities. In that case, we should first judge it by moralism, which is clearly stated in Article 27 of the Convention on the Rights of Persons with Disabilities: Make ensuring that people with disabilities have access to reasonable accommodations at work (ohchr. org, 2006). What is a reasonable accommodation? The UN Convention CRPD mentions reasonable accommodation as a critical concept. For the capacity of individuals with disabilities to fully enjoy and exercise their basic liberties and human rights, necessary and suitable modifications and adjustments must be made based on their unique needs and at the same time without placing an excessive or unreasonable burden on others.[9]

The UN Convention CRPD mentions reasonable accommodation as a critical concept.

As instructed by CRPD, it is also a manifestation of discrimination if reasonable accommodations are intentionally denied to persons with disabilities. For a large supermarket chain that is open 24 hours a day and has many employees, adjusting the hours of work for a person with Down's syndrome does not affect the shop's operations, so this is a reasonable claim in itself. The norm of corporate ethics is to put people first, respect them, care for them, and to give back to society, thus promoting their free and comprehensive development. The employment of people with disabilities may be less productive than the average person, but the business will gain in other ways. As mentioned above, company Y receives a certain amount of government subsidy for each

disabled person employed. In terms of building up its corporate image, demonstrating its social responsibility, and building up its corporate culture, company Y will gain much more than the so-called loss. Nevertheless, unfortunately, company Y has failed to do so.[10]

6. Conclusions

The issue of employment and equality for people with disabilities has always been one of the hot topics in society. The reason why it is a hot topic is that there are still many issues that need to be addressed urgently. company Y, in addition to discriminating against employees with Down syndrome, it had been accused of failing to comply with the Americans with Disabilities Act (ADA) by the EEOC in August 2019, when the Beloit, Wisconsin-based company Y was accused by the EEOC of refusing to accommodate two deaf employees working in Washington, D.C. The EEOC said that the company Y paid \$100,000 to reach a settlement (extbrand.com,2019).

Take Down's syndrome, for example, for people with mental disabilities, they need work more than anything else to maintain interaction with the outside world, to maintain confidence and mental satisfaction. [11]

The need for ongoing improvement in the effective employment rate of persons with mental disorders like autism and Down syndrome is a critical issue that society need to prioritize. Dr. Ashleigh Hillier, Assistant Professor in the Department of Psychology at the University of Massachusetts Lowell, has found that in addition to learning professional job skills, people with mental disabilities need to understand the purpose of employment and develop a positive attitude towards work. 2. In addition to empowering people with mental disabilities, they also need to seek support for them (Hillier & Beversdorf, 2007).

For example, we can guide them to think about why work is essential in the context of their schedule life, guide them to make a life plan, and show them that work can be a part of life. Parents and educators should also help individuals with disabilities understand the variety of jobs available in society and the nature of these jobs. They should guide them to observe and discuss the types of work people around them perform in their daily lives, and accompany them to discuss work with relatives and friends. Finally, parents and educators should assist in teaching them basic job requirements such as responsibility, punctuality, basic communication skills, and adherence to workplace rules.[12]

When a person with a mental disability is at work, their family or other social security agency can prepare a personal letter or send an email briefly describing Down's syndrome and their unique behaviour and personal preferences. This will help them integrate more quickly into the workplace and gain the understanding and support of their colleagues and supervisors.

What else can companies do? Through a comprehensive survey and data report on the disabled themselves, supplemented by business training and guidance, and through communication with enterprises, the disabled can participate in the development of enterprises in a realistic way by setting up jobs according to the person, avoiding the hidden dangers brought about by unhealthy forms of employment, so that both sides can cooperate in the long term with a benign employment mechanism and ultimately achieve a win-win situation. For example, Apple, an internet giant with around 150,000 employees, also takes a physical approach to employing disabled employees, who can often be seen in many Apple retail shops, including the Beijing Sanlitun shop. They are no different from normal employees, sticking to their positions and serving customers. At a Jollibee fried chicken shop in Hong Kong, disabled employees can also be seen serving with a smile.

The founder of company Y, Sam Walton, established the core value of "Our people are more than just employees," and the phrase "Our people make a difference" is emblazoned on every company Y employee's work badge (company Y, nd). Clearly, company Y has gone against the

grain and sacrificed the right of its employees to work equally for the sake of profit. May company Y not repeat similar cases in the future, and may various companies in society show more equality and care for people with Down's syndrome and the employment of people with disabilities.

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