

**15**

**STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT  
(2014-2015)**

**(SIXTEENTH LOK SABHA)**

**MINISTRY OF SOCIAL JUSTICE AND  
EMPOWERMENT**

**(DEPARTMENT OF EMPOWERMENT OF PERSONS  
WITH DISABILITIES)**

**THE RIGHTS OF PERSONS WITH DISABILITIES  
BILL, 2014**

**FIFTEENTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**May, 2015/Vaisakha, 1937 (Saka)**

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BILL, 2014**

**Presented to Lok Sabha on 7.5.2015**

**Laid in Rajya Sabha on 7.5.2015**



**LOK SABHA SECRETARIAT  
NEW DELHI**

**May, 2015/Vaisakha, 1937 (Saka)**

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\* Will be uploaded lateron

**COMPOSITION OF THE STANDING COMMITTEE ON SOCIAL JUSTICE  
AND EMPOWERMENT (2014-2015)**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Jasvantsinh Sumanbhai Bhabhor
3. Kunwar Bharatendra
4. Shri Dilip Singh Bhuria
5. Shri Santokh Singh Chaudhary
- \*6. Shri Sher Singh Ghubaya
7. Shri Jhina Hikaka
8. Shri Prakash Babanna Hukkeri
9. Shri Bhagwant Khuba
10. Shri Sadashiv Lokhande
11. Smt. Maragatham K.
12. Shri Kariya Munda
13. Prof. A.S.R. Naik
14. Shri Asaduddin Owaisi
15. Sadhvi Savitri Bai Phule
16. Dr. Udit Raj
17. Smt. Satabdi Roy
18. Prof. Sadhu Singh
19. Smt. Neelam Sonkar
- \*\*20. Smt. Mamta Thakur
21. Vacant

**MEMBERS  
RAJYA SABHA**

22. Smt. Jharna Das Baidya
- #23. Dr. Tazeen Fatma
24. Shri Ahamed Hassan
25. Smt. Sarojini Hembram
26. Shri Prabhat Jha
27. Smt. Mohsina Kidwai
28. Shri Praveen Rashtrapal
29. Shri Nand Kumar Sai
30. Smt. Vijila Sathyananth
31. Smt. Wansuk Syiem

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\* Shri Sher Singh Ghubaya nominated w.e.f. 25.3.2015 vice Sadhvi Niranjan Jyoti who has been appointed as Minister.

\*\* Smt. Mamta Thakur nominated w.e.f. 25.3.2015.

# Dr. Tazeen Fatma nominated w.e.f. 29.1.2015.

## **LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Smt. Neena Juneja - Under Secretary

## **PREFACE**

I, the Chairman of the Department-related Parliamentary Standing Committee on Social Justice and Empowerment (2014-15) having been authorized by the Committee to present the Report on its behalf, do present this Fifteenth Report of the Committee on “The Rights of Persons with Disabilities Bill, 2014”.

2. The Bill was introduced in Rajya Sabha on 7.2.2014 and was referred to the Standing Committee on Social Justice and Empowerment on 24.2.2014 for examination and Report. The examination and Report on the Bill could not be completed due to announcement of General Elections, 2014 and subsequently the dissolution of 15<sup>th</sup> Lok Sabha. The Bill was again re-referred to the Committee by the Hon'ble Speaker, Lok Sabha on 16.9.2014 under Rule 331E(b) of the Rules of procedure and Conduct of Business in Lok Sabha for examination and Report.

3. The Committee issued a Press Release inviting memoranda/views from individuals and other stakeholders. In response, a large number of individuals/organizations/stakeholders/NGOs submitted their representations to the Committee. The Committee threadbare considered all these representations/submissions.

4. The Committee held six sittings during the course of examination of the Bill, i.e., on 27.11.2014, 2.12.2014, 3.12.2014, 22.12.2014, 9.4.2015 and 5.5.2015.

5. The Committee considered the draft Report and adopted the same on 5<sup>th</sup> May, 2015.

6. The Committee relied on the following documents in finalizing the Report :-

- (i) The Rights of Persons with Disabilities Bill, 2014 alongwith amendments proposed in Rajya Sabha.
- (ii) Report on United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

- (iii) Background Notes on the Bill received from the Ministry of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities).**
- (iv) Presentation, clarifications, briefing and oral evidence of the Ministry of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities) and State Governments of Gujarat and Andhra Pradesh.**
- (v) Memoranda received on the Bill from various institutes/bodies/associations/organizations/experts and replies of the Ministries on the memoranda selected by the Committee for examination.**
- (vi) NGOs/stakeholders/experts who appeared before the Committee to express their views on the Bill in Delhi were :-**
  - 1. Disability Rights Group, New Delhi**
  - 2. National Federation of the Blind, New Delhi**
  - 3. Rakshak Foundation, New Delhi**
  - 4. PRS Legislative Research, New Delhi**
  - 5. Action for Autism, New Delhi**
  - 6. The Leprosy Mission Trust India, New Delhi**
  - 7. Human Rights Law Network, New Delhi**
  - 8. Tamana, New Delhi**
  - 9. Action for Mental Illness, Bengaluru**
  - 10. Council for Social Development, Hyderabad**
  - 11. National Human Rights Commission, New Delhi**
  - 12. Persons with Disabilities Association, Chandigarh**

- (vii) Replies to the question/queries from the Ministries of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities), Personnel, Public Grievances and Pensions (Department of Personnel and Training) and Law and Justice (Legislative Department).

7. The Committee also undertook on-the-spot study visit to Bengaluru, Chennai and Panaji in January, 2015 and interacted with representatives of Government of Karnataka, NGOs/organizations (Disability Rights Alliance, Tamil Nadu) on the Bill. The Committee also visited National Institute for Empowerment of Persons with Multiple Disabilities (NIEPMD), Muttukadu, Tamil Nadu.

The Committee during their study visit to Chennai in January, 2015 also extensively heard the views of the representatives of the following organizations :-

- (i) Women's Forum
- (ii) Taratdac
- (iii) Wecan
- (iv) Anbagam
- (v) Anpalagan
- (vi) Vasantham
- (vii) Udavi Karankal
- (viii) Vijay Human
- (ix) MNC
- (x) Tamil Nadu Federation

8. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by not only those who deposed before the Committee but also those who gave their valuable suggestions to the Committee through written submissions. The Committee have immensely benefitted by their views.

9. The Committee would like to dedicate the following inspiring quote by Oscar Pistorius and remind to all those specially abled people in the country,



particularly those who took all the pain to appear before the Committee either in New Delhi or in Chennai:-

"You're not disabled by the disabilities you have, you are able by the abilities you have" - Oscar Pistorius (South African sprint runner, also known as 'fastest man on no legs', was also a standout athlete at Olympics, 2012).

**NEW DELHI;**

**5 May, 2015**

**15 Vaisakha, 1937 (Saka)**

**RAMESH BAIS**

**Chairman,**

**Standing Committee on**

**Social Justice and**

**Empowerment**

**REPORT**  
**PART - A**  
**INTRODUCTION**

1.1 The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was enacted to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region. The Act defines Persons with Disabilities as those having not less than forty per cent disability and identified seven categories of disabilities, namely, blindness, low vision, hearing impairment, locomotor disability, mental retardation, mental illness and leprosy-cured.

1.2 In recent times, the conceptual understanding of the rights of persons with disabilities has become more clear and there has been worldwide change in approach to handle the issues concerning persons with disabilities. Responses to disability too have changed, prompted largely by the self-organization people with disabilities and by the growing tendency to see disability as a human rights issue. National and international initiatives- such as United Nations Standard Rules on the Equalization of Opportunities of persons with Disabilities have incorporated the human rights of people with disabilities, culminating in 2006 with the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) laying down the principles to be followed by the States Parties for empowerment of persons with disabilities. India signed the said Convention and subsequently ratified the same on the 1<sup>st</sup> day of October, 2007. The Convention came into effect on 3<sup>rd</sup> May, 2008. India being a signatory to the Convention, has an international obligation to comply with the provisions of the said Convention.

## **Convention on the Rights of Persons with Disabilities (CRPD)**

1.3 Convention on the Rights of Persons with Disabilities is the most recent, and the most extensive recognition of the human rights of persons with disabilities and outlines the civil, cultural, political, social, and economic rights of persons with disabilities. Its purpose is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities and to promote respect for their inherent dignity”. The CRPD applies human rights to disability, thus making general human rights specific to persons with disabilities and clarifying existing international law regarding disability. The Preamble to the CRPD acknowledges that disability is “an evolving concept”, but also stresses that “disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others”.

Article 3 of the CRPD outlines the following general principles:

1. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
2. Non-discrimination;
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

## **Constitutional Provisions**

1.4 Article 39A deals with principles of policy to be followed by the State with regard to securing equal justice and free legal aid to all citizens. It says, “The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities”.

Article 41 prescribes that, “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want”.

Further, Article 243G regarding powers, authority and responsibilities of Panchayats states that “Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to –

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

One of the matters listed in the Eleven Schedule is social welfare, including welfare of the handicapped and mentally retarded. (26)

Again, Article 243W regarding powers, authority and responsibilities of Municipalities, etc. stipulates that “Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to –
  - (i) the preparation of plans for economic development and social justice;
  - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the Committee with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

One of the matters listed in the Twelfth Schedule is safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. (9)

**Existing policies and Acts for welfare of PwDs in some neighbouring SAARC countries:**

1.5 **Pakistan** is following the “National Policy for Persons with Disabilities, 2002” and has National Policy for PwD, 2002 and National Plan of Action, 2006 to implement the National Policy for PwDs. The policy document is based on 5 guiding principles basically focusing on

non discrimination, constitutional guarantees, right based approach and active collaboration amongst all stakeholders. The areas of focus are prevention and early intervention, counseling, education and training. It provides for 2% reservation for PwDs through disabled persons Employment and Rehabilitation Ordinance, 1981. Besides providing for incentives to employer to promote gainful employment of PwDs. It also covers other aspects such as sports and recreation, advocacy and mass awareness, research and development etc.. However the provisions are general policy statements and not provides for any punitive measures for violation.

1.6 **Nepal** has an Act “Protection and Welfare of Disabled Persons Act, 2039 (1982) and “The Protection and welfare of the Disabled Persons Rules”. The Rules provides for a disability determination committee for identification of PwDs, function and duties of social welfare officers for protecting the interest of PwDs etc. The Protection and Welfare of the Disabled Persons Act, 1982 is the main governing Act in Nepal.

1.7 **Maldives** has passed Disability Act in 2010. It provides for legal assistance to PwDs for exercising their legal rights. It guarantees Right to own property, Right to employment and education without discrimination, Right to avail medical fitment. It also mandates the Government to take necessary measures to protect the PwDs from abuse and discrimination, assistive devices/equipment free of cost to economically weaker groups extra care and protection at situation basis.

1.8 **Sri Lanka** is following an Act of 1996 “Protection of the Rights of Persons with Disabilities Act. No. 28 Of 1996”. It provides for

establishment of National Council of PwDs. The functions of the Council are to advise the Government on promotion of welfare, protection and advancement of Rights of PwDs, to coordinate with all Government agencies including all local authorities, to recommend, initiate and implement schemes for welfare and protection of the Rights of PwD, to maintain accurate statistics, establish and maintain rehabilitation centers etc. Any volunteer organization working in the field is required to be registered with this Council. It also provides for panel provisions for violation of the provisions such as failure to furnish information and compliance to the Council through a Court of Magistrate.

### **Journey of current legislation relating to Rights of Persons With Disabilities**

1.9 In 2010, an Expert Committee, under the Chairmanship of Dr. Sudha Kaul, Vice-Chairperson, Indian Institute of Cerebral Palsy, Kolkata, submitted its report on 30 June, 2011 suggesting a draft Bill relating to the Rights of Persons With Disabilities. The draft Bill was extensively debated and discussed at various levels involving State Governments and Union Territories. The Committee held several State Level consultations at 30 places (28 States and 2 UTs) and also a National Consultation involving civil society representatives and consultations with legal experts.

1.10 On the basis of the comments received from Central Ministries/Departments as also the State Governments, the draft RPwD Bill was further revised and subsequently finalized in consultations with Ministry of Law and Justice (Legislative Department). The Union Cabinet considered the proposal of the Ministry and approved the proposed

RPwD Bill, 2013 with the modification regarding exemption of National Fund from the purview of income tax (deletion of clause 102).

1.11 The Ministry further met the representatives of the cross disability groups under the banner of Joint Disabilities Forum. The issues raised by the cross disability Joint Disabilities Forum were discussed in detail in the National Advisory Council on 29.01.2014. Accordingly, the revised proposal to incorporate these amendments in the Bill was approved by the Cabinet on 06.02.2014.

1.12 The Bill was introduced in Rajya Sabha on 07.02.2014 and the amendments thereto were circulated in the Rajya Sabha on 11.02.2014. The Bill was, thereafter, referred to the Standing Committee on Social Justice and Empowerment for examination and report. However, due to dissolution of 15<sup>th</sup> Lok Sabha, the Bill was re-referred to the Standing Committee on Social Justice and Empowerment (2014-15) in the 16<sup>th</sup> Lok Sabha.

The salient features of the Rights of Persons with Disabilities Bill, 2014, *inter alia*, are:

- (i) Nineteen specified disabilities have been defined;
- (ii) the persons with disabilities enjoy various rights such as right to equality, life with dignity, respect for his or her integrity, etc with others;
- (iii) duties and responsibilities of the appropriate Government have been enumerated;



- (iv) all educational institutions funded by appropriate Government shall provide inclusive education to the children with disabilities;
- (v) a National Fund is proposed to provide financial support to persons with disabilities;
- (vi) stakeholders' participation in the policy making through Central and State Advisory Boards;
- (vii) increase in reservation in posts from existing three per cent. to five percent. in the vacancies for persons or class of persons with benchmark disabilities in every establishment and reservation of seats for students with benchmark disabilities in higher educational institutions;
- (viii) setting up of National Commission and State Commission to act as Grievance Redressal Mechanism, monitor implementation of proposed legislation replacing the Chief Commissioner and State Commissioners for persons with disabilities respectively;
- (ix) guidelines to be issued by the Central Government for issuance of certificates of specified disabilities;
- (x) penalties for offences committed against persons with disabilities; and
- (xi) Court of Session to be designated as special Court by the State Government in every district to try offences.

### **Persons with Disabilities in India**

1.13 According to census 2011, there are 2.68 crore Persons with Disabilities (PwDs) in India who constitute 2.21% of the total population. Among these 1.50 crore are male and 1.18 crore are female. These include persons with visual, hearing, speech and locomotor disabilities;

mental illness, mental retardation, multiple disabilities and other disabilities. The disability-wise details are as given below:

<b>Persons with Disabilities by Type of Disability</b>			
<b>Census: 2011</b>			
<b>Type of Disability</b>	<b>Persons</b>	<b>Male</b>	<b>Female</b>
Total	2,68,10,557	1,49,86,202	1,18,24,355
In seeing	50,32,463	26,38,516	23,93,947
In hearing	50,71,007	26,77,544	23,93,463
In speech	19,98,535	11,22,896	8,75,639
In movement	54,36,604	33,70,374	20,66,230
Mental Retardation	15,05,624	8,70,708	6,34,916
Mental illness	7,22,826	4,15,732	3,07,094
Any other	49,27,011	27,27,828	21,99,183
Multiple disability	21,16,487	11,62,604	9,53,883

**1.14 The Committee are of the view that the disabled group in our country still remains an invisible group in the mind of policy makers. A vast number of the disabled are excluded from the existing services and programmes. No country or society can ever progress or develop ignoring needs and aspirations of millions of its people. The Committee are of the considered opinion that bringing such a comprehensive and landmark legislation will not only ameliorate the lives of these people but also empower them to lead a dignified life. The Committee appreciate the Ministry for this historic piece of legislation, which to a great extent, will usher a new era in the lives of PwDs as they will be no more on the charity of the people, society**

**and government and will have all those rights which other citizens of the country possess.**

## **PART - B**

### **ANALYSIS OF THE BILL**

#### **The Schedule**

2.1 The Target Groups, as specified by the Department for Empowerment of Persons with Disabilities, have been defined in Section 2(t) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act, 1995, (also referred to as PwD Act, 1995). The PwD Act, 1995 defines “Person with Disability” as a person suffering from not less than 40% of any disability as certified by a medical authority. The disabilities being (a) blindness (b) low vision (c) leprosy cured (d) hearing impairment (e) locomotor disability (f) mental illness (g) mental retardation. Cerebral palsy has been defined but is part of locomotor disability.

2.2 The present Bill includes the following 19 disabilities in the Schedule to the Bill.

- 1) Autism Spectrum Disorder
- 2) Blindness
- 3) Cerebral Palsy
- 4) Chronic neurological conditions
- 5) Deafblindness
- 6) Hemophilia
- 7) Hearing impairment
- 8) Intellectual disability
- 9) Leprosy cured person
- 10) Locomotor disability

- 11) Low vision
- 12) Mental illness
- 13) Muscular dystrophy
- 14) Multiple sclerosis
- 15) Specific learning disabilities
- 16) Speech and language disability
- 17) Thalassaemia
- 18) Sickle cell disease
- 19) Multiple disability
- 20) Any other category as may be notified by the Central Government

2.3 When the Committee desired to know from the Ministry why other equally prominent and permanent disabilities such as kidney failure, blood cancer, diabetes type-I (Type-I IDDM), dyslexia, dysgraphia, dyscalculia, dyspraxia, slow learning disorders, dwarfism, epilepsy, stroke, dementia, paralysis of the limbs due to spinal cord injury/other reasons, etc. have not been included in the categories of disabilities as specified in the Schedule to the Bill? The Ministry in their written reply stated as under:

“Person with Disability has been defined as persons with long-term physical, mental, intellectual or sensory impairment which hinder full and effective participation in society equally with others. This implies the conditions which lead to affect a person to cause long-term impairment, severely restricting his/her participation in the society on an equal basis, may be termed as disability. The specified disabilities as mentioned in the Schedule are broad categories. The conditions of dyslexia, slow learning disorders are considered under specific learning disabilities. Similarly dwarfism is considered under locomotor disabilities as is being done today. Further, the broad category of chronic neurological conditions take care of paralysis, spinal injury (which can also be considered under locomotor disabilities), stroke, dementia etc. Moreover, it is felt that any new

categories of disorders would require detailed examination vis a vis their effect on causing disability. Keeping this point in view, an enabling provision in the Schedule has been kept so that based on technological advancement and understanding of various other disorders, the Government can notify these conditions as specified disability after due consultation with medical and medico-social experts.”

**2.4 The Committee having gone through the representations and claims of various Disability Groups across the country loudly demanding that disabilities such as kidney failure, blood cancer, diabetes type-I (Type-I IDDM), dyslexia, dysgraphia, dyscalculia, dyspraxia, slow learning disorders, dwarfism, epilepsy, stroke, dementia, paralysis of the limbs due to spinal cord injury/other reasons, etc. also needed to be included as disabilities in the Bill. The Committee recommend the Ministry to consider inclusion of these disorders too as disabilities specially kidney failure, blood cancer, diabetes Type-I (IDDM), which are long term diseases, generally incurable and require substantive medical care and expenses throughout life. The Committee also desire that dwarfism should be considered as a distinct disability rather than a part of locomotor disability, since these people are able to perform all normal activities but need help as they are discriminated because of their height and other characteristics besides having other problems like travelling, driving as well as health related problems.**

## CHAPTER – I

### Preliminary

#### **Title of the Bill**

3.1 While examining the views of individuals/stakeholders and organizations on the Bill, it was pointed out to the Committee that the title of the Bill sounded derogatory and disparaging and therefore, needs to be modified. Across all section of stakeholders, an unanimous view emerged that the title of the Bill, may be changed and made preferably as “Rights of Persons with Different Abilities or Special Abilities”.

3.2 When the Ministry was asked to justify the existing title of the Bill, they in their written reply stated as under:

“The Bill is in line with UNCRPD. The UNCRPD uses the term Persons with Disabilities. Some Persons with Disabilities have objection to use of words 'differently abled' or 'specially abled’”.

3.3 **The Committee are of the view that using the words “Persons with Disabilities” in the title of the Bill not only sound disparaging but also belittle the enormous talent, capacity and ability these persons possess to take up any challenge and compete with other normal human beings. Further, the present title itself declares them as ‘persons with disabilities’ whereas the intention and purpose of the Bill is to empower them and give them their rightful due. In fact, the Committee themselves were awe-struck when they witnessed, during their close interaction with these people, the special knack and endowment of these people. The Committee are of the considered view that the present title of the Bill does not justify the talent and aptitude these persons own. The Committee, therefore, recommend that the Bill could be titled either as “The Rights of**

**Persons with the Different Abilities” or “The Rights of Persons with Special Abilities” or “The Rights of the Differently Able persons” which is not only more progressive and encouraging but will also help correct the discourse about the disabled people besides reducing their psychological complexes.**

**Clause 1: Short title, extent and commencement**

3.4 Clause 1(2) says that “it extends to the whole of India except the State of Jammu and Kashmir”

3.5 The Committee are of the view that the present Bill is based on the UN Convention on the Rights of Persons with Disabilities to which India is one of the signatories. Further, India ratified the same on 1<sup>st</sup> October, 2007. Being a signatory to the Convention, India not only has an international obligation to comply with the provisions of the said Convention but it is obligatory also for the Government to align the policies and laws of the country with the Convention which are applicable throughout the country. The Committee find that one similar legislation namely, ‘The Mental Health Act, 1987’ (since repealed or proposed to be repealed by The Mental Health Care Bill, 2013), which is also based on UNCRPD, extended to whole of India including Jammu and Kashmir. Similarly, the new legislation, The Mental Health Care Bill, 2013 also proposed to be extended to whole of India including Jammu and Kashmir. The Committee do not find any rationale as to why the present Bill, after enactment, cannot have provision for extension to Jammu and Kashmir.

**3.6 The Committee are of the view that disabled persons should get all the desired benefits under the Constitution and also those**



**given to them by various central legislations across the country. The Committee desire that the extent of the Bill should include Jammu and Kashmir too.**

### **Definitions**

3.7 'Barrier' in the Bill has been defined as any factor including communicational, cultural, economic, environmental, institutional, political, social or structural factors which hamper the full and effective participation of PwDs in society. During interaction with stakeholders as well as through their written submissions, the Committee were informed that the proposed definition of 'Barrier' is incomplete and should cover all factors which prevent or obstruct with the full and effective participation of persons with benchmark disabilities in society. When the Committee sought the views of the Ministry to include factors such as attitudinal and psychological in the definition of 'Barrier', the Ministry responded as under:

“The terms used in the definition are practicable and can be ensured through various measures to remove such barriers. The words 'attitudinal' and 'psychological' are not quantifiable and hence would be difficult to enforce. Moreover, this would lead to undue litigations. Therefore, barrier has been defined in the context of ensuring accessibility to the PwDs which could be enforced.”

**3.8 The Committee are not convinced with the above reasoning of the Ministry stating that “The terms used in the definition are practicable and can be ensured through various measures to remove such barriers. The words 'attitudinal' and 'psychological' are not quantifiable and hence would be difficult to enforce. Moreover, this would lead to undue litigations. Therefore, barrier has been defined in the context of ensuring accessibility to the PwDs which**

could be enforced". The Committee are of the view that even the terms such as 'environmental' and 'social' are also not quantifiable either but have been used successfully in the Bill. The Committee are of the unyielding view that the 'attitude' and 'psychology' of the people are also major hindrance for full and effective participation of persons with disabilities in society. The Committee, therefore, recommend that 'attitude' and 'psychology' also be included in the definition of 'Barrier'.

### **Communication**

3.9 In the Bill, 'communication' includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology.

A large number of organizations and Institutions, in their written representations to the Committee, have stated that sign language and video & visual displays should also be included in the definition of communication.

3.10 When the Ministry were asked to respond in the matter, the Ministry responded as follows:

"As per the definition included in the Bill, communication includes signs also. However, keeping in view the fact that the deaf associations are pressing for recognition of sign language, it is felt that in the definition of communication, sign language could also be included."

**3.11 The Committee are in agreement with the claims of large numbers of organizations that inclusion of sign language and video & visual displays is imperative in the definition of the 'communication'. The Committee, therefore, recommend words 'sign language' and 'video and visual displays' may also be included in the definition of 'communication'.**

### **Establishment**

3.12 The Bill defines the term 'Establishment' as a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes Department of a Government.

3.13 The Committee had wide range of interactions/discussions with many disabled groups/NGOs and individuals, who were of the collective view that the definition of 'Establishment' should also include the private bodies as lot of activities of the Union Government as well of State Governments have been outsourced.

**3.14 The Committee find justification for inclusion of 'private bodies' also in the definition of 'Establishment'. The Committee too feel that it is a present day fact that a large number of government services are outsourced/have been outsourced to or provided by private bodies/agencies and will remain inaccessible for people with disability unless these are brought under the ambit of 'Establishment'. The Committee desire that the definition of**

**‘Establishment’ may be enlarged appropriately by considering inclusion of ‘private bodies/agencies’ also.**

### **Person with Disability**

3.15 The Bill defines persons with disability as "a person with long term physical, mental, intellectual or sensory impairment which hinder his full and effective participation in society equally with others".

3.16 When the Committee enquired whether the definition of ‘persons with disabilities’ further needs to be defined in terms of long term and short term disabilities, the Ministry informed the Committee as under:

“The specified disabilities identified in the Schedule generally those concerning long-term disabilities. The evaluation and assessment criteria for each disability would be different and will be prescribed under Guidelines in terms of Clause 55 of the Bill after thorough deliberations with concerned experts. The issue of certification of long-term i.e. permanent and short-term i.e. temporary certificate of disability will be addressed in the Guidelines. Since it is not feasible to quantify the extent to qualify for short-term or long-term disabilities without a detailed guideline, it may not be appropriate to have segregated definition in the Bill. The Guidelines will take care of the issue subsequently”.

**3.17 The Committee are convinced with the reply of the Government. The Committee yet desire that detailed guidelines/rules may be framed carefully and thoroughly in consultation with experts so that both long term and short term disability can be defined relatively and specifically in order to benefit the people in need.**

## **Reasonable Accommodation**

3.18 'Reasonable Accommodation' has been defined in the Bill as necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.

3.19 When the Committee enquired how the reasonable accommodation could be defined in the Bill more satisfactorily and appropriately so that it becomes mandatory to make appropriate modifications and adjustments to ensure that disabled persons can enjoy the same rights as others, the Ministry in their written reply stated as under :

“As per Article 2 of the UNCRPD, reasonable accommodation means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. The definition provided in the Bill is purely based on the definition of UNCRPD and appears appropriate and satisfactory”.

3.20 When asked what about deleting the words 'without imposing a disproportionate or undue burden in a particular case', the Ministry clarified as under :

“These words are also used in the definition of UNCRPD. This is so because in some cases there may not be any possibility to make arrangement for reasonable accommodation. For example, in defence establishments, organizations/establishments involved in the process of handling/manufacturing chemical/hazardous substances, any modification in infrastructure may lead to disproportionate use of resources to ensure reasonable accommodation *vis a vis* PwDs. In order to take care of such scenario, it is felt necessary to have such a provision”.

**3.21 The Committee find that the present definition of 'Reasonable Accommodation' links it with undue burden which might result into negation of rights of persons with disabilities instead of promoting it. The Committee desire that the words 'without imposing a disproportionate or undue burden in a particular case' be considered substitution suitably with the words 'to the maximum of its economic resources'. The Committee further desire that the Ministry also consider, alternatively, definition of 'Reasonable Accommodation' as 'means necessary and appropriate modification and adjustments, where needed in a particular case, to ensure to persons with benchmark disabilities the enjoyment or exercise on an equal basis with other of all human rights and fundamental freedoms and also to ensure their full participation in society'.**

### **Registered Organization`**

3.22 'Registered Organization' has been defined in the Bill as "an association of persons with disabilities or a disabled person organization, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organization or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature".

**3.23 The Committee are of the view that there are many non-profit companies working for the empowerment, protection, rights and welfare of the persons with disabilities who have been left out from**

**the ambit of the ‘Registered Organization’. The Committee find sense in the reasoning given by the disabled groups. The Committee, therefore, desire that the present definition of ‘Registered Organization’ be modified so as to mean ‘an association of persons with benchmark disabilities or a disabled person organization, association of parents of persons with benchmark disabilities, association of persons with benchmark disabilities and family members, or a voluntary organization or non-governmental or charitable organization or trust, society., non-profit company working for the empowerment, rights & welfare of the persons with benchmark disabilities, duly registered under an Act of Parliament or a State Legislature’.**

### **Rehabilitation**

3.24 ‘Rehabilitation’ in the Bill has been referred to ‘a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychiatric or social function levels.’”

3.25 During Committee’s interaction, it was desired by many organizations/NGOs/stakeholders that while defining the term ‘Rehabilitation’, ‘environmental and psychological rehabilitation’ should also be added so as to cover holistic rehabilitation.

3.26 When the Ministry were asked to respond, they stated as under:

“The word 'psychological' may be added in place of 'psychiatric' in the definition. It is felt that physical, sensory, psychological or social scenario are components of environment and thus the use of the word environment could be superfluous”.

**3.27 The Committee are not convinced with the reply of the Ministry. The Committee find that the proposed definition does not embrace all facets of rehabilitation process. The Committee, therefore, desire that the words ‘environmental and psychological rehabilitation’ too may be considered in the definition. Further, the Ministry may, alternatively, consider redefining the present definition of ‘Rehabilitation’ on the following lines:**

**“Rehabilitation is the process of taking effective and appropriate measures by identifying and lowering the barriers, including but not limited to through peer support, speech therapy, sign language, audio visual etc. to enable persons with benchmark disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life”.**

### **Special Employment Exchange**

3.28 Special Employment Exchange means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—

- (i) persons who seek to engage employees from amongst the persons suffering from disabilities;
- (ii) persons with benchmark disability who seek employment;
- (iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed;

3.29 When it was pointed out by the Committee that the words ‘suffering from disabilities’ sound derogatory and need to be changed, the Ministry



while agreeing with the suggestions of the Committee, stated that for the words 'suffering from disabilities', the words 'with disabilities' can be substituted.

**3.30 The Committee recommend that words such as 'suffering from disabilities' wherever find place in the Bill, may be substituted with the words 'with disabilities'. The Committee also want the Ministry to consider the feasibility of renaming such an exchange as "Employment Exchange for Differently Able People" as it appears more progressive and dynamic.**

**Inclusion of the definition of the term 'Discrimination'**

3.31 The UNCRPD defines 'Discrimination' on the basis of disability as any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

**3.32 The Committee find that the above definition of discrimination has been left out in the present Bill for the reasons best known to the Ministry. However, the Committee have received numerous representations and suggestions in this regard. All of them have stated that the definition of the term 'Discrimination' as finds mention in the UNCRPD must be included in the Bill. The Committee have thoroughly examined these suggestions and find that the word discrimination has occurred at many places in various substantive**

**provisions of the Bill pertaining to different areas of life. Hence this term requires to be defined to avoid misinterpretation of any substantive provision. The Committee are convinced that definition of term 'Discrimination' needs to be included in the Bill.**

3.33 The Committee also received plethora of suggestions from various stakeholders stating that the definition of abuse, exploitation, violence, hate speech and victimization may find mention in the Bill. When the Ministry was confronted in the matter, they in their written submission stated as follows :-

(i) The clause 6(1) provides for all forms of abuse, violence and exploitation. This implies abuse, violence and exploitation in any manner are covered within the ambit of this clause and therefore there is no necessity to have separate definition for these terms which could be restricted to some form or the other.

(ii) This Clause further provides that the appropriate government shall take measures to protect the PwDs from all forms of abuse. This takes care of abuse in any manner to harass the PwDs. Further, a clause 105(a) provides for penalty/punishment for intentionally insults or intimidates with intent to humiliate a PwD in any place within public view. This covers the aspect of hate speech.

**3.34 The Committee while agreeing with the contention of the Ministry, however, desire that the Government may consider possibility of defining the terms, viz., abuse, exploitation, violence, hate speech and victimization to the extent possible. Nevertheless, the Committee recommend that the definition of the term 'Discrimination' as stated in the UNCRPD may be included in the Bill.**

### **Habilitation**

3.35 The Committee note that Article 26 of the UNCRPD speaks about ‘Habilitation’ and ‘Rehabilitation’. The Committee also received several representations regarding the definition of ‘Habilitation’ who suggested that the following definitions of ‘Habilitation’ also be included appropriately in the Bill:

**Habilitation**

2(a)(a) “Habilitation”	Addition by way of new definition of “Habilitation”	This is required to include measures to be taken for persons with benchmark disabilities born. Therefore it is suggested that the definition given to the term “Habilitation in 2011 draft Bill may be included	<b>New Sub Section 2(a)(a)</b> Habilitation is a process by which persons born with impairments learn life skills.
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**Public Infrastructure:**

2 (c)© “Public Infrastructure”	Add a new definition of the term “Public Infrastructure”	This term is very relevant for proper interpretation and understanding the provisions relating to accessibility. As such, the definition of this terms requires inclusion in the definition clause	<b>New Sub Section 2(c ) (c)</b> Public Infrastructure : shall mean and include; <b>(a) Building</b> - means a building, irrespective of ownership, which is used and accessed by the public at large; including but not limited to buildings used for educational &
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			<p>vocational purposes; Workplaces; Commercial Activities; public utilities;, religious, cultural, leisure &amp; recreational activities; Medical &amp; Health Services; Law enforcement agencies, reformatories &amp; judicial foras; Transportation services such as Railway stations, platforms, Roadways, Bus Q shelters/ Terminus, Airports, Waterways ;etc.</p> <p><b>(b) Transportation Systems</b> includes Road Transport, Rail Transport, Air Transport, Water Transport, Para Transit Systems for last mile connectivity, road &amp; street infrastructure etc.</p> <p><b>(c) Information &amp; Communication Technologies</b> includes all services &amp; innovations relating to communication and information such as telecom services, web based services,</p>
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			<p>electronic &amp; print services, digital &amp; virtual services etc.</p> <p><b>(d)Public facilities &amp; services</b> includes all forms of delivery of service provisions to the public at large; including but not limited to housing, educational &amp; vocational trainings; employment &amp; career advancement, shopping/ marketing, religious, cultural, leisure &amp; recreational; Medical, Health &amp; rehabilitation, banking, finance &amp; insurance, communication, postal &amp; information, access to justice, public utilities, transportation etc.</p>
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**3.36 The Committee note that the terms ‘habilitation’ and ‘rehabilitation’ are used together in Article 26 of the UNCRPD and desire that the definitions of 'habilitation' and ‘public infrastructure’ may also be suitably incorporated to help the disabled to get access to all the facilities which are provided by the Government/local bodies to all citizens.**

## CHAPTER - II

### Rights and Entitlements

#### Rights of women and girls with disabilities (Clause 3(2))

3.37 The Committee received the claims of various organizations/stakeholders that certain clauses may be added in the Chapter 'Rights of Women and Girls with Disabilities'. The Committee also note that the UNCRPD also addresses the concerns of women and girls with disability as follows:

“Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation”.

3.38 The Ministry was asked why the same could not be included in the Bill, the Ministry stated in a written reply:

“The Rights of Persons with Disabilities Bill provides for Rights and Entitlements applicable for all PwDs, including children and women with disabilities. Moreover, the Bill also casts responsibility on the appropriate government and local authorities to take measures to ensure that these rights and entitlements are effectively enjoyed by all persons with disabilities including women and children with disabilities. It is felt that in case of women and children with disabilities certain special measures are required to be taken to ensure equitable justice. As such Clause 3(2) casts responsibility on the appropriate government to take special measures to protect the rights of women and children with disabilities and also take steps to utilize the capacity of PwDs by providing appropriate environment. This provision would take care of any specific measure that is required for women and children with disabilities. Certain offences specifically against women have been mentioned in the Bill and also punishment thereto”.

3.39 One of the representatives who appeared before the Committee submitted as under:

“There are similar rights for women with disabilities. If we specified then it can go to the Ministry of Women and Child Development...When we see specifically because in people with disabilities, women with disabilities are always neglected. That is why, when this Bill is for the people with disabilities and if we could specifically focus with women with disabilities, it will help them as they have been neglected all these year and nothing has been done for them. This legislation will help them as it will become a tool for their own development and realization of their rights as well. My humble request to you is please accept and include specific section on women with disabilities in the present Bill as has been done in UNCRPD. Not only here but it has also been internationally acknowledged that women and children with disabilities have been always neglected. Unless until we do not focus on them, we can not talk about their rights and needs leave alone empowering them because the attitude of the our society towards these people is as such”.

**3.40 The Committee while taking note of the fact that the present Bill does not have a separate section on women and children with disabilities since women with disabilities face multiple discrimination and children with disabilities too are vulnerable section. This is also recognized by UNCRPD. The Committee urge the Ministry to consider and include a sub-section on the Rights of Women and children with disabilities which would help the women and children get rights of equality and empowerment.**

3.41 **Clause 3(3) states:**

“No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is appropriate to achieve a legitimate aim.”

3.42 During their meetings with the large number of individuals, organizations and stakeholders and also after going through all the written submissions which were received in the matter, the Committee were informed that the word 'legitimate aim' restricts the people from the right to equality and discrimination under certain circumstances should either be re-worded or deleted from the Bill. Further, it was also pointed out to the Committee that the proposed provisions in Clause 3 restrict the fundamental right to equality of persons with disabilities by giving the Executive arbitrary power to discriminate on the ground of disability under the pretext of certain circumstances.

3.43 When the Ministry was asked to clarify the position, the Ministry stated in a written reply:

“The stipulation in the Bill is only a safeguard clause to take of situations where any action of the public authority intends to achieve a legitimate aim without intending to discriminate against PwDs, at the same time, it could be perceived as discrimination by PwDs. For example, one of the responsibilities of the public authority is to ensure proper management and reduce risk while commuting on road. With a view to achieving this goal, the Law is framed which may not rightly allow grant of driving licenses to drive a motor vehicle to blind and other class of disabilities”.

3.44 The wordings of Article 5 of the UNCPRD are as follows:

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.



3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

**3.45 The Committee are of the view that the present Bill does not prohibit discrimination on the ground of disability completely and also does not explicitly recognize the right of equality and non-discrimination. It also to some extent dilutes even the fundamental right of equality guaranteed to all citizens under Articles 14 to 16 of the Constitution. The Committee also take into consideration the fact that the words 'legitimate aim' could hamper the right to equality and appear to be against the discrimination provisions. The Committee desire that the Ministry recast the words of clause 3(3) on the lines of Article 5 of UNCRPD.**

#### **New Clause 3(5)**

3.46 The Committee note that a new clause 3(5) has been added by the Government by the notice of amendments (to be moved in Rajya Sabha ) which is as under :-

The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

**3.47 The Committee are in agreement with the said amendment. The Committee desire that the same may be added in the Bill and an appropriate roadmap developed so that these persons too get hassle free access to all the facilities which other people have.**

**Clause 11 – Access to justice**

3.48 The Committee find that the provisions in the Bill regarding access to justice are not exhaustive enough to cover all aspects relating to access to justice by persons with benchmark disabilities. Many stakeholders and NGOs with whom the Committee interacted also were of the view that more facilities should be provided to PwDs for access to justice and the provisions made in the Bill are inadequate.

3.49 When the Committee enquired about the free legal aid and other facilities like access to forms of communication and petty expenses including transportation for appearing before the court, the Ministry stated as follows in their written reply :-

“The provision for free legal aid has been provided under Clause 11(1)(3) of the Bill. Further, Clause 11(2) of the Bill mandates the appropriate government to put in place suitable support measures for PwDs especially those living outside family and those disabled requiring high support for exercising legal rights”.

“Further clause 11 (3) of the Bill provides that the National Legal Services Authorities and the State Legal Services Authorities shall make provisions including reasonable accommodation to ensure that Persons with Disabilities have access to any scheme, programme, and facility equally with others. In order to provide for transportation and other facilities to the PwDs the Legal Services Authorities of the appropriate government are required to frame schemes accordingly.”

**3.50 The Committee take note of the fact that some provisions do exist in the Bill for free legal aid for PwDs. However, in the opinion of the Committee, provision of petty expenses, transportation allowance and other related requirements like forms of communication etc. may be made available to the PwDs and the same may form part of law and rules made thereunder.**

**Clause 12 (1) - Legal capacity**

3.51 Clause 12(1) states:

“The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit”.

3.52 When asked to comment, the Ministry stated that following new clause as 12 (1) before the existing clause is proposed to be inserted by moving an amendment to the Bill and the clause 12(1) shall become 12(2) and subsequent clause shall be accordingly renumbered :-

“The appropriate Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as any other persons before the law”.

3.53 When the Committee specifically enquired whether the deaf and dumb and the blind can be recognized as witnesses before the court of law, the Ministry in their written reply stated :-

“Clause 11(4)(c) casts responsibility on the appropriate government to make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by PwDs in

their preferred language and means of communication. It has now been agreed that the words sign language can be included under the definition of communication. Thus it would be incumbent upon the government to make provision for recording of testimonies of the hearing impaired persons in sign language i.e. the preferred mode of communication in terms of Clause 11. As regards blind and other PwDs, the clause takes care of this aspect. Indian Evidence Act and other relevant laws could be considered for similar amendment, if necessary”.

**3.54 The Committee welcome the move of the Government to change the wordings of clause 12 to give the right to full legal capacity in terms of all aspects of life of PwDs. The Committee hope that once the Act is in place, all PwDs specially deaf, dumb and blind will have full legal capacity before the law.**

#### **Clause 13 (1)- provision for guardianship**

3.55 The **original clause 13 (1) in the Bill** is as follows :-

“13. (1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a District Court records a finding that a mentally ill person is incapable of taking care of himself or herself and of taking any legally binding decisions on his or her own, it shall make an order for appointment of limited guardian to take care of such mentally ill person and take all legal binding decisions on his or her behalf in consultation with such person:

Provided that the District Court may grant plenary guardianship to the mentally ill person under extraordinary situations where limited guardianship could not be awarded.

Explanation — For the purposes of this section,—

(i) “plenary guardianship” means a guardianship whereby subsequent to a finding of incapacity, a guardian substitutes for the person with disability as the person before the law and takes all legally binding decisions for him and the decisions of the person with disability have no binding force in law during the subsistence of the guardianship and the guardian is under no legal obligation to consult with the person with disability or determine his or her will or preference whilst taking decisions for him; and

(ii) “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any law for mentally ill person shall be deemed to function as limited guardian:

Provided that where a guardian appointed prior to the commencement of this Act, is unable to function as limited guardian, the concerned District Court may grant plenary guardianship afresh taking into account all relevant records of the concerned mentally ill person within six months from the date of commencement of this Act”.

Explanation.—For the purposes of this section “District Court” means, in any area for which there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction, and includes any other civil court which the State Government may, by notification, specify as the court competent to deal with all or any of the matters specified in this Act.

3.56 The Ministry desired to substitute the above clause 13 (1) of the Bill by the following :-

“13(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by

the State Government, finds that a persons with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his or her behalf in consultation with such persons, in such manner, as may be prescribed by the State Government.

Explanation – For the purpose of this section, -

(i) “Limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability :

Provided that the limited guardianship shall be for a specific period and for specific purpose and shall work in accordance with the will of the person with disability.

Provided further that the District Court or designated authority may grant total support to the person with disability requiring such support or when the limited guardianship has to be granted repeatedly and the decision regarding the support to be provided may be reviewed by the Court or designated authority to determine the nature and manner of support.

(2) On the from the date of commencement of this Act, every plenary guardian appointed under any provision of any law for persons with disabilities shall be deemed to function as limited guardian.

(3) The person with disability shall have the right to appeal against the decision of appointment of a limited guardian before an appellate authority appointed by the State Government for that purpose”.

3.57 One of the representatives of an NGO, who appeared before the Committee stated as under:-

“This provision in this legislation should be extended to all disabled persons who may be, during their life time, in need of a limited guardian or a plenary guardian. It is not by identifying or earmarking it as an exclusive provision for only mentally ill persons; not only we are stigmatising them, but again we are violating the UNCRPD. UNCRPD is very emphatic on the equalities within the disabilities groups amongst themselves and with other citizens. . So, by saying that only mentally ill persons need guardians and others don’t need it, is not fair... it is not only that mentally ill persons who need limited guardianship or plenary guardianship as per this law, but all disabled persons, at some stage or the other, need it because this law provides for high support needs. Therefore, this provision should also be extended to all the disabled persons as a right to free legal capacity”.

3.58 Further the Committee were also informed during their study visit to Chennai in January, 2015 that:

“Section 13 of the RPDB does not only contradict the UNCRPD but the Indian Constitution as well. The Constitution speaks about non-discrimination and equality among all the citizens of India. Article 12 of the UNCRPD speaks about equal recognition before the law on an equal basis with others. Yet when it comes to section 13 of the RPDB, it speaks about plenary guardianship and limited guardianship which is in total contradiction with the other laws mentioned above”.

**3.59 The Committee note that though the Government have already decided to substitute/recast clause 13(1) and (2) suitably by extending provisions of the clause to all disabled persons yet they feel that there is a possibility of the same going against the right to equality and non-discrimination provisions in the Bill and the Constitution of India as well. The Committee desire the Ministry to have a revisit on the aspect of guardianship and if necessary invite views of some prominent NGOs and stakeholders in the matter.**

## CHAPTER – III

### Education

3.60 The Right of Children to free and Compulsory Education or Right to Education Act (RTE) spells out the modalities of free and compulsory education for children between 6-14 years of age.

3.61 The clause 15 of the Bill states :-

“15. The appropriate Government and the local authorities shall endeavour that all educational institutions funded by them provide inclusive education to the children with disabilities and towards that end shall—

(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;

(ii) make building, campus and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support individualized or otherwise in environments that maximize academic and social development consistent with the goal of full inclusion;



(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;

(viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs”.

3.62 The Ministry have informed that they propose to move an amendment proposed to add the words “or recognized” after the words “funded”.

3.63 A representative of an NGO who appeared before the Committee stated that education and welfare of children with different abilities has to be taken care of by different Ministries under the Government of India i.e. Ministry of Social Justice and Empowerment, the Ministry of Human Resource Development and the Ministry of Women and Child Development and there was a need of defining specific aspects of education for the different types of disabilities in the Bill.

3.64 When the Ministry was asked to specify whether addition of “making available, aids and appropriate therapies, like speech therapy and

occupational therapy for inclusive education of disabled children, the Ministry stated in a written reply :-

“Clause 15 (vi) casts responsibilities on the appropriate government and local authorities, for the purpose of providing inclusive education, to detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them. This takes care of the situation where the child with speech difficulties is admitted in an educational institution so as to detect his disability at the earliest as well as providing for suitable therapeutical measures in addition to adaptable teaching methodology to enhance his/her learning abilities”.

3.65 The UNCRPD states :-

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (c) Reasonable accommodation of the individual’s requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

**3.66 The Committee carefully examined and deliberated upon the issue of duties of educational institutions *vis-a-vis* UNCRPD. The Committee are of the considered view that the term ‘endeavour’ should be replaced by the term ‘ensure’ which is more binding in nature and further, ‘Educational Institutions’ should also include ‘Boards’, ‘Councils’, and ‘Certifying authorities’. The Committee also feel that Clause 15(ii) should be reframed as to make buildings, campuses and various facilities including technologies, toilets, drinking water etc. accessible incorporating the principles of universal design and gender specific where required’. The Committee also desire that special facilities like making available kits, aids and appropriate therapies, like speech therapy and occupational therapy for inclusive education be made available free of cost to disabled children may be added in the provisions of clause 15 of the Bill. The Committee, in their Report on Demands for Grants (2014-15) also emphasized the need to give pre-matric and post-matric scholarships to all disabled children which would greatly help to empower the children with disabilities.**

**Clause 16 (a)**

3.67 Clause 16 (a) states :-

The appropriate Government and the local authorities shall take the following measures :—

“to conduct survey of school going children for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met”.

3.68 When the Ministry was asked to state why in the provisions of this clause, the periodically and time period of conducting such a survey has not been mentioned, the Ministry stated as under:-

“This survey to be conducted for school-going children for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met is to be done based on requirement. It may be noted that there are States and UTs where number of such PwDs are very low and are concentrated in certain localities. In cases where their numbers is already known and adequate measures are put in place, making a mandatory provision for periodical survey will not serve any additional purpose, rather than can be attributed as wastage of otherwise useful public resources. The purpose of conducting survey is to enhance the measures/modification in the system for the purpose of effecting meaningful education for PwDs in an inclusive environment. Thus the periodicity of the survey would depend on the actual need and may not be appropriate to specify a definite period for the same”.

**3.69 The Committee strongly feel that if appropriate periodicity is not mentioned in conducting such a survey in this clause, it would be difficult to identify the children with disabilities, ascertaining their special needs and preparing a road map for their education. The Committee, therefore, recommend that Clause 16(a) may be reframed as under;**

**16(a) “ to conduct a survey every 5 years, of all school going children, in and out of school, for identifying children with disabilities, ascertaining their specific needs and the extent to which these are being met/not met and work out appropriate strategies to fill the gaps”.**

**The Committee also desire that in Clause 16(c)), there is a need for insertion that teachers with disabilities who are employed**

should be employed at all levels of education with equal grade and salary as given to other teachers of the school. Similarly, in Clauses 16 (d) and (e) , at the end of the current text the words 'at all levels of education' and 'including those providing services for children between 3 and 6 years' respectively should also be added. The Committee also desire that all the children having disabilities should be entitled to free education including learning materials, appropriate assistive devices to students with disabilities free of cost till the completion of their school education. Lastly, the Committee further desire that Clause 16(i) of the Bill be recast as under:

**16(i) 'to make suitable modifications in the curriculum and evaluation system, incorporating the principles of universal design that meets the needs of students with disabilities such as formats, extra time for completion of examination paper, facility of scribe or amanuensis, etc. exemption from second and third language courses, provided that no student is denied the opportunity of studying a subject or course on account of the syllabus not being accessible to the student'.**

### **Clause 17: Adult Education**

3.70 Clause 17 stated that 'the appropriate Government and the local authorities shall take measures to promote participation of persons with disabilities in adult education and continuing education programmes equally with others'.

3.71 The Committee note that under this provision 'appropriate Government and the local authorities are supposed to take measures to promote participation of persons with disabilities in adult education...'. The Committee feel that mere measures to

**promote are not enough unless these are protected and ensure too. The Committee, therefore, desire that after the terms 'measures to promote', the terms 'protect and ensure' be added to make the import of this provision more stringent and binding too on the part of appropriate Government and local authorities.**

## CHAPTER – IV

### Skill Development and Employment

#### Clause 18

3.72 Clause 18 of the Bill states :-

“The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment”.

3.73 When it was pointed out to the Ministry that many individuals/NGOs have desired that free educational training may be made available to Central and State run vocational training colleges and skill development programmes be added so as to make it easier for the PwDs to get trained for suitable employment as per their disability. The Ministry stated in a written reply :-

“Clause 18 of the Bill casts responsibility on the appropriate governments i.e. the States and Central Government to frame schemes for the purpose of vocational training and self-employment. The scheme to be framed under this clause would have elaborate mechanisms such as the institutions eligible for this purpose, the quantum of assistance, the programmes to be conducted, etc. to achieve the desired objective. Moreover, the programmes to enhance self-employment automatically include skill development/professional development. Therefore, in the schemes to be framed by the appropriate governments would have all these details rather than embodying in the Bill itself”.

**3.74 The Committee note that Clause 18, is regarding skill development of and employment to the PwDs. The Clause, however, has left certain other related aspects of skill development and**

employment which are equally essential for their all round and inclusive empowerment and employment. These aspects broadly, *viz.* are, training schemes and programmes must be in accessible environments, appropriate exclusive skill training programmes for these people should be provided with active links with the market, need to provide specific training in order to ensure that a person with disability has adequate support then these facilities should be made available besides ensuring that appropriate government must play a proactive role in marketing the products made by PwDs.

3.75 The Committee are of the considered opinion that at the end of Clause 18, the Ministry may consider adding the following text to detail out the guidelines for their empowerment :

“This would include *inter alia*:

- (a) Inclusion of person with disability in all mainstream formal and non-formal vocation/skill training schemes, programmes in accessible environments, with appropriate support, which is gender sensitive and comprise reasonable accommodation, where appropriate;
- (b) If, in the opinion of the person enlisted, there is a need to impart specific training in order to ensure that a person with disability has adequate support, then such facilities should be made available;
- (c) Where appropriate exclusive skill training programmes for persons with disabilities are required especially for those with developmental, intellectual, multiple disabilities and autism, such trainings will be provided with active links with the market;



- (d) Create necessary modifications or formulate schemes and programmes with provisions of loans at concessional rates including that of microcredit to support persons with disabilities for their self-employment including that of supported workshops;**
- (e) The appropriate government shall take a proactive role in marketing the products made by persons with disabilities;**
- (f) The appropriate government and establishment shall maintain disaggregated data on the progress made in the skill training and self-employment of all the participants including that of persons with disabilities. This should be used to reformulate strategies on a regular frequency.**

**Since vocational training is an important aspect of self reliance of the PwDs, the Committee recommend that all disabled persons should get access to free vocational training in the nearest possible polytechnic/vocational training centre so as to help them to attain livelihood skills by making them financially independent. This should be made mandatory and a binding provision for these institutions to give them admission and impart training as per their disability in consultation with the Ministry of Human Resource Development.**

### **Clause 19**

**3.76 Clause 19(1) states :-**

**“No establishment shall discriminate against any person with disability in any matter relating to employment:**

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section”.

3.77 When the Committee enquired whether the order regarding exemption of any establishment by notification to this clause needs reconsideration and appropriately worded so that it is not misused, the Ministry, in their written reply, responded as under:-

“This Clause is similar to that of Clause 47 of PwD Act. Only the defence establishments and para-military establishments have so far been granted exemption under Clause 47 of the PwD Act, 1995 keeping in view the nature of duties of these agencies. Thus, any perception about misuse of this clause is unfounded. So far there has not been any ambiguity in implementing the provision”.

3.78 In regard to the transfer policy of PwDs, the Ministry stated in a written reply that, “DoPT has issued circulars with respect to posting/transfer of PwDs and this issue can be addressed through executive orders as is now being done”.

**3.79 The Committee while accepting the contentions of the Ministry, however, desire that the Ministry should be extremely cautious towards the provisions of this Clause so that they are not misused by any other organization(s) under one pretext or the other albeit this clause may go against the principles on non-discrimination enshrined in the CRPD. The Committee also desire that provisions regarding posting/transfer policy for PwDs may be specified in the Bill or rules made thereunder, so that PwDs remain close to their native place/home.**

**3.80 Clause 19(2) states:**

“Every establishment shall provide appropriate environment to employees with disabilities”.

**3.81 The Committee feel that establishments should not only provide ‘appropriate environment’ but such environment has to be barrier free and conducive too. The Committee, therefore, desire that the current text of the Clause 19(2) be replaced with the following text:**

**‘Every establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disabilities’.**

**Clause 22- Appoinment of Grievance Redressal Officer**

3.82 Clause 22 (1-4) provides for a mechanism for grievances redressal

3.83 When the Committee desired to know whether the grievance redressal mechanism provided under Clause 22 should not be under a separate chapter in the Bill, the Ministry informed that, “the grievance redressal mechanism provided under Clause 22 is only with reference to Clause 19 of the Bill which is regarding non-discrimination in employment and thus has been kept under appropriate chapter. For all other purposes, the grievances can be lodged with district level Committees, State/National Commissions as their functions mandate the same”.

**3.84 The Committee have been informed that the grievance redressal mechanism has to be put in place in every establishment and office where there are PwDs. Since the PwDs suffer mostly on account of discrimination, the Committee desire that this issue needs to be addressed appropriately under a separate heading.**

## CHAPTER – V

### Social Security, Health, Rehabilitation and Recreation

3.85 Clause 23(1) states :-

“The appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community:

Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent. higher than the similar schemes applicable to others”.

3.86 When the Ministry was asked to state whether the words ‘the appropriate Government to the maximum of resources’ be substituted for ‘limit of its economic capacity’, the Ministry stated that, “Article 41 of the Constitution, which is relevant for empowerment of PwDs, uses the phrase "limit of its economic capacity and development". To maintain the same spirit and alignment with the Constitution, the same phrase has been used in the Bill”.

**3.87 The Committee strongly feel that re-substituting the words in clauses 23(1) and clause 26(1) with the words “the appropriate Government to the maximum of resources” would ensure the appropriate Government to make all out efforts to use the maximum of its resources for social and economic development of PwDs.**

3.88 When the Committee pointed out to the Ministry whether the basic ingredients of social security i.e. food, shelter and clothing and healthcare could become a part of Chapter-V to provide minimum social security to all the PwDs irrespective of any BPL criteria and income ceiling, the Ministry responded as under :-

“The Food Securities Act provides for social security on account of food for all citizens across gender, caste, creed and disabilities. Thus, having provision for food in another Act may not be appropriate. The provision for shelter and clothing can be addressed through appropriate schemes/programmes of the Government. The Government has been implementing various programmes to provide shelter to economically weaker sections of the society including PwDs under the Ministry of Rural Development. Similarly, State governments have also their own schemes for this purpose. However, the scheme also provides for framing of schemes by the appropriate governments to provide facilities for persons including children with disabilities who have no family or have been abandoned or are without shelter or livelihood under Clause 23(3)(b). This implies framing of schemes to provide shelter, clothing and food that are basic prerequisites for PwDs”.

**3.89 The Committee are conscious of the fact that difficulties faced by persons with disability to earn their livelihood to sustain themselves and their families are more challenging than normal persons. The Committee, therefore, are of the considered view that basic social security such as, food, shelter, clothing and healthcare should be provided to PwDs free of cost, to the extent possible, that too without any riders of BPL or income ceiling.**

3.90 Clause 23(h) states:

“Unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation”

3.91 The Committee heard many representatives of the State Governments/NGOs in the matter who desired that the unemployment allowance provided, under this Clause, for 2 years is not going to benefit these people much as they would need little more time to get into any gainful occupation.

**3.92 The Committee are in agreement with the contentions made by the stakeholders that period of unemployment allowance to PwDs for two years is insufficient and should be at least for five years. The Committee hence desire that period of unemployment allowance to be given to the PwDs should be at least for five years.**

3.93 Clause 24(1) states :-

“The appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide,—

- (a) free healthcare in the vicinity specially in rural area subject to such family income as may be notified;
- (b) barrier-free access in all parts of the hospitals and other healthcare institutions and centres run or aided by them;
- (c) priority in attendance and treatment”.

3.94 Clause 24(1) which specifies that barrier free access should be available in all hospitals and healthcare institutions aided by the appropriate Government can be modified so as to include all institutions – Government and private as well, the Ministry stated as follows :-

“The Government has full administrative and financial authority over all government hospitals and healthcare institutions/centres run or aided by it. And thus the Bill appropriately provides for free

healthcare facilities through these institutions. In case of private institutions the Government does not have either financial or administrative control. Making a mandatory provision may not be appropriate. However, being a progressive nation the issue can be addressed through developing universal building code to ensure that all new buildings, including hospital institutions, to comply with this code in the future”.

**3.95 Since the PwDs are frequently required to visit hospitals/healthcare centres, the Committee are of the firm opinion that these places ought to be barrier free and easily accessible to them. The Committee, therefore, desire that all hospitals/healthcare centres, whether public or private, should come under the ambit of the Bill/Act and necessary amendments to this effect be made in the byelaws of various Municipalities, Corporations etc. The Committee further desire that family income criteria may also be done away with for providing free healthcare facilities to the PwDs.**

#### **Clause 25- (Insurance Schemes)**

3.96 Clause 25 states :-

“The appropriate Government shall, by notification, make insurance schemes for their employees with disabilities”.

3.97 The Committee find that the present provision does not provide any safeguard against refusal to extend insurance policies by the Insurers on the ground of disability and also against discrimination in the matter of extending benefits and charging extra premium on the ground of disability. When desired the response of the Ministry in the matter, the Ministry in their reply stated :-



“Clause 25 of the Bill only proposes insurance scheme for employees of the appropriate government, whereas Clause 23(j) provides for comprehensive insurance scheme for PwDs as a social security measure by the appropriate governments. The scheme will spell out the details of the insurance premium to be paid by the government, insurance coverage etc. As regards mandatory provision enabling the financial institutions not to charge higher premium for PwDs can only be addressed appropriately through an amendment in the IRDA Act, if necessary”.

**3.98 The Committee strongly feel that provisions for all insurance related matters of PwDs should be incorporated explicitly in the Bill. The Committee desire that a mandatory provision enabling the insurance companies not to charge any higher premium for PwDs *vis-a-vis* other people, in their insurance schemes, should be addressed appropriately through an amendment in the IRDA, Act, if necessary. The Committee also desire that details of insurance schemes to be formulated by the appropriate Government may be spelt out appropriately in the Bill.**

#### **Clause 28 (a – g) (Culture and recreation)**

3.99 Clause 28 of the Bill states that, “the appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others...”

3.100 The Committee perused the provisions of this Clause rather closely and found critical issues of deaf persons *viz.*, promoting deaf culture, giving them access to more TV programmes with sign language, interpreters/subtitling missing in this Clause. The Committee, however,

find that the Ministry have stated that Clause 28(g) provides that the appropriate government and local authorities for the purpose of promoting participation of PwDs in cultural and recreational activities are required to take measures in developing technologies, assistive devices and equipments and access and inclusion of Persons with Disabilities in recreational activities, which implies adaptation of technology such as captioning, provision of sign language interpreters etc. to provide an equitable environment for hearing impaired persons to participate in recreational activities in T.V.

**3.101 The Committee, while taking note of the wordings of Clause 28(g), are still not convinced that this Clause befittingly addresses the decisive issues of promoting deaf culture, giving them access to more TV programmes with sign language, interpreters/subtitles etc. The Committee, therefore, desire that this Clause should appropriately also include issues of promotion of deaf culture, access to more TV programmes with sign language, interpreters/subtitles etc.**

### **Clause 29- Sporting activities**

3.102 Clause 29 states :-

“(1) The appropriate Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities,—

(2) The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their

schemes and programmes for the promotion and development of sporting talents.

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the appropriate Government and the sports authorities shall take measures to,—

- (a) restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;
- (b) redesign and support infrastructure facilities of all sporting activities for persons with disabilities;
- (c) develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities;
- (d) provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities;
- (e) allocate funds for development of state of art sport facilities for training of persons with disabilities;
- (f) promote and organize disability specific sporting events for persons with disabilities.”

3.103 The Committee do not find any specific mention of sports activities, awards and recognition at State and National level for PwDs in the absence of which Persons with Disabilities might not feel motivated enough to take up such sports activities. When confronted with the Ministry, they stated in a written reply that:

“It is obvious that when a competition of any discipline is held, the winners are awarded. Similarly in sports activities when there will be state and national level programmes, it will definitely have awards for successful participants. The details of these can be only be spelt out in the schemes of appropriate governments”.

**3.104 The Committee are of the view that the Ministry need to give instructions to the appropriate Government to organize sporting events and institute suitable awards for the PwDs and these need to be notified in the Act because then only it will be binding on the State Governments to hold such events. The Committee also desire that PwDs should not only get due representation in international, national and district sports bodies but all sports awards too be extended to them.**

## CHAPTER – VI

### Special Provisions for Persons with Benchmark Disabilities

3.105 Clause 30(1) states :-

“Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, if necessary”.

3.106 The Committee perused the relevant provisions in the UNCRPD and feel that the right to free education in a neighborhood school or in a special school, the decision of which should be taken by the child itself, needs to find a mention in the Clause. When asked the Ministry to respond, they stated, in a written reply, as under:

“The wording of the Clause 31 provides that every child with benchmark disability between the age of 6-18 years shall have the right to free education in a neighbourhood school which implies that it is the right of the child and thus can be exercised with the consent of the child only. Any further modification in this regard may create ambiguity and other implementation issues.”

3.107 Further, the Committee also feel that the persons with benchmark disabilities should have an upper age relaxation for more than five years. The Ministry on the issue submitted that:

“It may perhaps be appropriate to leave it open to appropriate governments to frame schemes for providing upper age relaxations to the PwDs. This will provide the flexibility for the appropriate governments to give relaxation for more than five years.”

**3.108 The Committee feel that early intervention is very important part of education for the PwDs. The Committee**

**recommend that free pre-school education *i.e.*, before the age of six years should be extended to the children of PwDs. Further, the Committee desire the Ministry to (i) delete the word “special” from the title of Chapter VI, (ii) replace the phrase “if necessary” with “ of her/his choice”, (iii) extend upper age relaxation of five years for PwDs and their children to get admission in institutions of higher education, and (iv) extend the upper age limit of free education to PwDs and their children upto 21 years instead of 18 years since the PwDs may take more time to complete their school education as compared to normal students.**

3.109 Clause 33(1) states :-

“Every appropriate Government shall reserve in every establishment under them, not less than five per cent. of the vacancies meant to be filled for persons or class of persons with benchmark disability, of which one per cent. each shall be reserved for the persons with following disabilities:-

- (a) blindness and low vision;
- (b) hearing impairment and speech impairment;
- (c) locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy;
- (d) autism, intellectual disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including def-blindness in the posts identified for each disabilities;

“Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section”.

Explanation: For this purpose of this section, the computation of reservation of vacancies for the persons with benchmark disabilities shall be computed on five per cent of the total cadre strength.

3.110 When the DoPT was asked to clarify the present Reservation Policy being followed for appointment of persons with disabilities by the Central Government, the DoPT in a written reply stated as under:

“The existing instructions on reservation for the persons with disabilities were issued vide Office Memorandum No.36035/3/2004-Estt.(Res.) dated 29.12.2005.

According to these instructions, 3% of the vacancies in case of direct recruitment to Group A, B, C and D posts shall be reserved for persons suffering from (i) blindness or low vision (ii) hearing impairment and (iii) locomotor disability or cerebral palsy in the posts identified for each disability.

These instructions also provide that 3% of the vacancies in case of promotion to Group D and C posts in which the direct element of direct recruitment, if any, does not exceed 75% shall be reserved for persons with disabilities of which one percent each shall be reserved for persons suffering from (i) blindness or low vision (ii) hearing impairment and (iii) locomotor disability or cerebral palsy in the posts identified for each disability.

Based on the directions of the Hon'ble Supreme Court and the Hon'ble High Court of Delhi, certain modifications were issued to the said instruction of 29.12.2005 on 3<sup>rd</sup> December, 2013 and 6/7 January, 2015.

It has been stated by the Hon'ble Supreme Court in its judgement dated 08.10.2013 in the matter of Civil Appeal No. 9096 of 2013 (arising out of SLP (Civil) No. 7541 of 2009) titled Union of India & Anr. Vs. National Federation of Blind & Ors. Has, inter-alia, held:

“Thus, after thoughtful consideration, we are of the view that the computation of reservation for persons with disabilities has to be computed in case of Group A, B, C and D posts in an identical manner viz., “computing 3% reservation of total number of vacancies in the cadre strength” which is the intention of the legislature.”

Further, in accordance with the directions of the Hon'ble Supreme Court in its judgment dated 08.10.2009, in the matter of Civil Appeal No. 9096 of 2013 (arising out of SLP (Civil) No. 7541 of 2009) titled Union of India & Anr. Vs. National Federation of the Blind & Ors., para 14 of the said OM dated 29.12.2005 was amended to the following extent:

“Reservation for the persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively, in the cadre.”

3.111 Whether there is any special promotion policy followed by the Government for the PwDs, the DoPT furnished as under:

“Department of Personnel & Training has not issued any instructions providing for any special promotion policy for persons with disabilities. However, reservation in promotion in Group D and Group C posts are available as per existing instructions. The issue relating to reservation in promotion in Group A and B is under litigation in various Courts”.



3.112 When the Committee further asked the DoPT regarding the policy of the Government for PwDS in Group 'A' and Group 'B' posts, the DoPT responded as under:

“After the judgement of 8<sup>th</sup> October, 2013 of the Supreme Court as in the case of Group 'C' and 'D', we compute the number of vacancies of both the identified and unidentified posts. Some posts are identified for the persons with disabilities or unidentified for them. Suppose, for the post of Driver, the posts are not identified for the persons with disabilities. In Group 'C' and 'D', we compute the number of vacancies on the basis of vacancies arising in both identified and unidentified posts. In Group 'A' and 'B', the vacancies were being computed on the vacancies arising in the identified posts only, not the unidentified posts. After the Supreme Court judgement, we issued instructions to compute the vacancies of both identified and unidentified posts. Now we received information that the Ministries and Department are computing the vacancies in all Groups in both identified and unidentified posts... Sir, I would like to supplement that a meeting of Committee of Secretaries was held on 1.4.2015 and 15 Ministries, which contribute about 90% of the vacancies, were called. They were sensitized for providing information on filling up of vacancies. They will give their replies quickly and we will be filing an affidavit urgently before the Supreme Court before 28<sup>th</sup> April.”

3.113 On the issue of providing 1% reservation to each category as proposed in the Bill and *inter-se* exchange of reservation in case of direct recruitment, the DoPT stated that, “the existing instructions already provide *inter-se* exchange of reservation in case of direct recruitment. Therefore, 1% reservation to each category proposed in the Bill may be implementable. In case persons from one category for making reservation in direct recruitment is not available, such vacancies can be carried forward and it can be inter-changed among the other category of disabilities.”

**3.114** The Committee note that the DoPT has differed with the Ministry of Social Justice and Empowerment on the proposal of providing reservation in Government services for persons suffering from autism, intellectual disability and mental illness reasoning that “it might not be the best approach to help the disabled persons or for working of the government. Article 335 of the Constitution prescribes that the policy of reservation has to be consistent with the maintenance of efficiency of administration and this provision would also apply to reservation for persons with disabilities. This view had been conveyed to the Ministry of Social Justice and Empowerment in October 2013, while they had circulated the draft cabinet note on the Bill.” The Committee desire that there is a need for consensus between the Ministry and DoPT regarding the new scheme of vacancies as proposed in the Bill as well as promotion policy for effective and smooth implementation of the provisions of this new legislation.

3.115 Further, the Committee have gone through numerous representations and submissions from various stakeholders and NGOs, stating that the proposition of vacancies for different disabilities in the cadre strength also needs to be reviewed by the National Commission once every 5 or 10 years. When asked the Ministry to respond, the Ministry stated that:

“The National Commission is empowered to monitor implementation of the provision of the Act and as such is authorized to monitor implementation of Clause 33 of the Bill. Further, the National Commission is also authorized to call for any information/document from any organization. Further, the National Commission is required to submit Annual Report or Special Report to the Government in a manner to be prescribed by the Government in terms of Clause 85

of the Bill. Thus, the National Commission is at liberty to indicate the position in the Annual Report itself reflecting the status every year. Further to ensure this, the requirement of specific indication with respect to status of implementation of Section 33 will be specified in the Rules in terms of Clause 85.”

**3.116 The Committee, while accepting the reply of the Ministry, however, desire that the National Commission should have powers to review the proportion of vacancies for different disabilities in the various cadre strength of any organization and make recommendations accordingly.**

3.117 Clause 34 states :-

“The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector to ensure that at least five per cent of their workforce is composed of persons with benchmark disability.”

The Clause does not specify the nature of incentives which will be provided or made available to the employer in the private sector by the appropriate Government and local authorities. In the absence of such incentives private sector will barely feel motivated to provide suitable employment opportunities to PwDs.

**3.118 The Committee desire that some broad category of incentives may be specified in the Bill itself which will motivate the private sector to give suitable employment to the PwDs. Further, as the phrase “within the limit of their economic capacity and development” appears to be not very specific and likely to be interpreted differently and, more so, in the interest of the incentive**

**giver rather than in the interest of employer in the private sector, the  
Committee desire that this phrase may be deleted.**

## CHAPTER – VII

### Specific Provisions for Persons with Disabilities with High Support Needs

3.119 The provisions of Clause 37 of the Bill give the details of the functioning of an Assessment Board to certify that a person is a 'high support need'.

3.120 When the Ministry was asked why there is no need to specify the time period for the Assessment Board within which it must certify that a person is a high support need person, the Ministry stated in a written reply:

“As per Clause 37(3) of the Bill, the manner of making assessment and reporting of the case referred to the Assessment Board will be prescribed under Rules. Therefore, the time period for disposing of each case will be prescribed under the Rules”.

**3.121 The Committee are satisfied with the assurance of the Ministry. The Committee expect that appropriate rules will be framed so that persons, having high support need, do not face harassment of any kind and also need not wait too long to get help and benefits which are provided to them. The Committee also wish to add that while framing these rules, it must also be mentioned therein that the applicant is entitled to make his/her case directly to the Assessment Board and in the event of rejection of his/her case, an explanation in writing shall be provided and the applicant shall have the right to request a review if the explanation is not satisfactory. As regards, the title of the chapter VII, the Committee desire that words “Special” and “High” may be removed and the chapter be renamed as**

**“Provisions for Support for Persons with Benchmark Disabilities”.**  
**Further, the terms “persons with high support needs” may also be replaced with the terms “persons with benchmark disabilities”.**

## CHAPTER – VIII

### Duties and Responsibilities of Appropriate Governments

3.122 Clause 38(1) puts obligation on the appropriate Government to conduct, encourage and promote awareness campaigns and sensitization programmes, in consultation with the National Commission or the State Commission to ensure that the rights of the persons with disabilities provided under this Act are protected.

Clause 38(2) states the programmes and campaigns specified under sub section(1) shall also –

38(2)(f)- “ensure that the rights of persons with disabilities are included in the curriculum in Universities and colleges”

**3.123 The Committee note that rights of persons with disabilities have been left out in the curriculum of schools for the reasons best known to the Ministry. The Committee feel that the rights of these people ought to be part of school curriculum too so that PwDs students are aware of their rights at an early stage of their life. The Committee, therefore, desire that in Clause 38(2)(f), the word “schools” be added before the word “universities”.**

3.124 Clause 44(1) states :-

“All existing public buildings shall be made accessible in accordance with the regulations formulated by the National Commission within a period not exceeding five years from the date of notification of such regulations:

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.”

3.125 When asked to specify whether the existing public buildings are to be made accessible in consultation with the National Commission or State Commission within a period not exceeding five years and whether it is desirable to give extension beyond five years to comply with the provision of the Bill for creating infrastructure, the Ministry, in a written reply, submitted as follows:

“Making the infrastructure available, accessible for PwDs would require mobilization of financial resources. The financial capability of the States varies from State to State and so as their requirement. Though the State governments are required to comply with the provision in five years, a safeguard provision has been kept to take care of exigency situations on case to case basis”.

**3.126 The Committee are of the view that the term ‘infrastructure’ includes many big and small facilities ranging from huge buildings to toilets. As infrastructure, such as bus stops, railway stations, airports, parking spaces, toilets, ticketing counters, ticketing machines and modes of transport etc. neither entails major structural changes nor incurs substantial expenditure and, therefore, could be made PwD friendly within the stipulated limit of five years. As regards, other big infrastructure such as building, hospital, office etc. extension for its completion and updation may be reviewed and given on case to case basis. The Committee, therefore, desire that types of small infrastructure be specified in the Bill and time period for their completion should be five years. Similarly, types of huge infrastructure be also specified in the Bill and extension for their completion be given on case to case basis. The Committee also desire that the Ministry explore the feasibility of**



**bringing the private sector, being service providers, also under the ambit of Clause 45.**

## CHAPTER – IX

### Registration of Institutions for Persons with Disabilities and Grants to such Institutions

3.127 Clause 50 of the Bill deals with application and grant of certificate of registration in respect of institutions for PwDs. When the Ministry was asked to specify why the time period for issuing certification or registration of the institution has not been given, the Ministry stated in a written reply:

“Clause 50(2) may be modified as under so as to prescribe the time period for grant of registration:-

“On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and on being satisfied that the applicant has complied with the requirements of this Act and the Rules made thereunder, shall grant a certification of registration to the applicant **within a period as prescribed by the State Government** and if not satisfied, the competent authority shall by order refuse to grant the certificate applied for”.

**3.128 The Committee appreciate the Ministry for bringing the desired amendment with the hope that the Ministry will make it mandatory for specifying the time period of granting a certificate of registration.**

3.129 As large number of representations were received by the Committee stating that there is no mention in the Clause, whether the institutions so registered and receiving grants for working for disabled women/girls, mandatorily have the governing body/executive with large representation of women to ensure that girls/women with disability are not exploited,. When the response of the Ministry was sought in the matter, the Ministry stated:

“The Bill deals with the registration of institutions for Persons with Disabilities. It does not differentiate between an organization for women with disabilities and other institutions generally working for PwDs. It is felt that registration of institutions in the field of PwDs may not be too restrictive. However, while extending financial assistance to these institutions, stricter eligibility criteria could be prescribed in the relevant schemes in respect of organizations involved in rehabilitation women/men with disabilities.”

**3.130 The Committee are not fully satisfied with the response of the Ministry and are of the view that they should be extremely cautious in granting registration to institutions working for the welfare of girls/women with disabilities and this should be suitably incorporated while framing relevant rules under the Act .**

3.131 Clause 53 states :-

“Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.”

3.132 When the Ministry was asked to specify the reasons for making such a provision in this Clause and why all institutions should not follow the same set of rules, the Ministry in their written reply submitted that:

“The registering authority as per the Bill will be a government authority. The government agencies/institutions are bound to abide by the rules and regulations of the government. Their bye-laws and governing principles are laid down in the Act or through a notification in the Government which is a legally binding document. In case of other institutions, this very aspect is not there. Thus there is a necessity to have a process of registration other than Government institutions wherein they are required to declare their bye-laws and other governing principles so as to make them accountable in case of lapses. Thus the requirement of a

Government organization, which is otherwise responsible/legally questionable for each of activities, with another Government authority will be a superfluous activity and is not required”.

**3.133 The Committee are convinced, to a great extent, with the reasoning given by the Ministry for giving exemption to the institutions established or maintained by Central or State Governments. The Committee hope that keeping these institutions out of the purview of the Act will not result in denial any justice to PwDs.**

## **CHAPTER – X**

### **Certification of Specified Disabilities**

3.134 Clause 56 (1) & (2) states :-

“(1) The appropriate Government shall designate persons, having requisite qualifications and experience, as certifying authorities, who shall be competent to issue the certificate of disability.

(2) The appropriate Government shall also notify the jurisdiction within which and the terms and conditions subject to which, the certifying authority shall perform its certification functions.”

3.135 When it was pointed out to the Ministry that the above Clauses do not specify any time period under which certifying authorities are required to issue certification of specified disabilities, the Ministry stated:

“Clause 57(2)(a) may be substituted as under to provide for indicating the time period for grant of certificate of disability in the Rules as under:

"(a) Issue a certificate of disability to such persons, in such form and within such period as may be prescribed by the Central Government”.

3.136 Further, in Clause 57, there is no mention about the extent of validity of such a certificate. When reasons were sought from the Ministry, the Ministry stated in a written reply:

“A new sub-clause 57(3) may be inserted namely, -

"(3) The certificate so issued will be valid throughout the country"

**3.137** The Committee welcome such move of the Ministry to bring in the required and necessary amendments to the Clauses 56 and 57 regarding time period for certification of specified disability and its validity in the Bill. The Committee are quite hopeful that time period so specified for certification of disability will be fairly reasonable and such certificates or ID cards will be universally valid-across all departments and for all purposes.

## **CHAPTERS – XII and XIII**

### **National Commission and State Commissions**

3.138 Chapters XII and XIII deal with the powers and working of the National Commission and State Commissions. A large number of institutions/organizations have desired that the Chairperson of the National and State Commissions should be a person with disability as he/she would not only be in better position to understand the problems of PwDs but sensitive too towards their needs/requirements. Further, there was a demand that two members of the National Commission should also be from PwD community. When the Ministry was asked to comment on the same, the Ministry stated in a written reply:

“The existing clause does not debar the PwD to be the Chairperson. Keeping in view the function of Chairman, National Commission, it may be appropriate to leave it open for the most appropriate person to take up the job rather than restricting it to only PwDs. It is a negative notion that only the Persons with Disabilities can look after the welfare of PwDs. There are examples where persons other than PwDs have been doing exceptional work for the cause of PwDs. However, it may be noted that in order to safeguard the interest of PwDs one member of the National Commission will be a Person with Disability.”

**3.139 The Committee suggest that if a provision is made for two members in the National Commission to be from the PwD community, one preferably a woman with disability, it will not only give due recognition to the contribution of PwDs in the society but also inculcate a sense of immense psychological satisfaction too, to the PwDs. The Committee, therefore, desire the Ministry to consider their suggestion accordingly .**

3.140 When the Committee pointed out to the Ministry whether Clause 76(1)(c) and Clause 89(1)(c) regarding disqualification of a member on account of physical or mental incapacity either need deletion or revision, the Ministry submitted as follows:

“For Clause 76(1) (c) the following may be substituted:

"(c) is of unsound mind and stands so declared by the competent court; or"

**3.141 The Committee are satisfied with the proposed amendment by the Ministry. The Committee, however, hope that similar amendment will also be made to Clause 89(1)(c) or at any place in the Bill.**



## CHAPTER – XIV

### Special Court

3.142 As regards formation of Special Court to try the offences under this Act, when the Committee mooted the idea of having setting up Disability Rights Tribunal instead for adjudication of the cases of deprivation and violation of rights of PwDs conferred under this Act and wanted the response of the Ministry, the Ministry in a written reply stated as under:

“Clause 98 of the Bill provides for designation of Court of Session to function as Special Court to try the offences against the PwDs under the Act for the purpose of providing speedy trials. Such designated Courts can only be notified by the State Governments with the concurrence of respective Chief Justice of Hon'ble High Court. The designated Special Courts will be set up in each District so as to take care of the concerns of PwDs at nearby Courts. Setting up of separate Tribunals at the District level would therefore be superfluous. Further, the Bill mandates setting up of State and National Commissions to function as monitoring agencies for implementation of the Act. The National Commission will have quasi judicial powers.”

**3.143 The Committee feel that title ‘Disability Rights Tribunal’ is more explicit, progressive and constructive *vis a vis* ‘Special Court’ which does not sound very positive. The Committee, therefore, desire the Ministry to consider renaming of a ‘Special Court’ as ‘Disability Rights Tribunal’ which appears more focused and sounds more precise.**

## CHAPTER – XV

### National Fund for Persons with Disabilities

3.144 When the Committee asked the Ministry why there can't be a State Fund for Persons with Disabilities on the lines of National Fund, the Ministry replied as under:

“It is for the States to decide as to whether they would create a separate fund similar to that of National Fund or they would meet the expenses from their yearly budgetary allocations.”

3.145 When further asked whether compulsory donation under this section can be added for banks, corporations and financial institutions including MNCs and for the public/private sector as a Corporate Social Responsibility (CSR), the Ministry replied:

“The Companies Act 2013 allows CSR funding in disability sector. There is a separate set of guidelines to regulate CSR funding. The banks, corporations, financial institutions etc, and all other private sector organizations registered under the Companies Law are required to follow these guidelines for utilization of their contribution towards CSR. It would, therefore, not be appropriate to include the above suggestion within the ambit of the Bill. However, Clause 100(1)(c) allows donations to the fund. Moreover, Clause 100(1)(e) also allows receipt of all sums from other sources as may be decided by the Central Government. As and when situation so arises, the Central Government may notify other sources of funding for the National Fund.”

3.146 The Committee also pointed out to the Ministry that this section does not give any details of the management and utilization of funds to which the Ministry stated that Clause 100(2) provided that the manner of utilization and management of the National Fund will be prescribed under the rules.

**3.147        The Committee are concerned that if decision to create a State Fund for persons with Disabilities is left to States and is not made binding for them, that too, within a definite time period, there is every possibility of this fund not seeing the light of the day under some pretext or the other. However, modalities of such a fund could be left to State Governments. The Committee, therefore, desire that the Bill should have a provision for setting up of State Fund for Persons with Disabilities too, to preclude any anxiety in the minds of PwDs. Further, broad manner of utilization and management of the National Fund should also be prescribed in the Bill.**

## **CHAPTER – XVI**

### **Offences and Penalties**

#### **Clause 105- Punishment for offences of atrocities**

3.148 When the Committee wanted to know from the Ministry, whether this Clause can also include punishment for those deliberately making a person/child disabled for the purpose of begging, the Ministry stated in a reply:

“The Bill provides for punishment for use of force to any person with disabilities with intent to dishonour. Making a person or child with disability for begging may be covered under Clause 105(b).”

3.149 Clause 105(f) states :- Whoever, -

“performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

3.150 The Committee find that this Clause is silent regarding the opinion of the woman and her consent may be added in this section. When the Ministry was asked to clarify, the Ministry stated in a written reply:

“The above provision has been provided based on the suggestions received from Women and Child Development Ministry. From the reading of the Clause it would be seen that no medical procedure could be conducted on any woman with disability without her express consent under normal circumstances. The clause provides

for conducting such medical procedure under exceptional cases i.e. without her consent with the stipulations proposed in the Bill. It may be noted that in case of certain categories of disabilities the Women with Disabilities may not be in a position to express her consent and in that scenario with a view to save her life if it is considered necessary to terminate the pregnancy, the proposed clause has been kept to address that scenario.”

**3.151 The Committee are of the considered view that as these medical procedures directly affect the dignity of the women and girls as well, taking away the right to have their opinion and/or consent can hardly be justified. The Committee hence desire the Ministry to reframe the wordings of the Clause 105(f) accordingly.**

3.152 Clause 107 states :-

“No Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter, except with the previous sanction of the appropriate Government or a complaint is filed by an officer authorized by it in this behalf.”

3.153 The Committee received a large number of representations apprehending that under the provision of this section all Government officials would easily escape penalty as there may not only be an inordinate delay in giving the sanction by the appropriate Government but the required sanction may not be given at all. To this, the Ministry responded as under:

“There is an established procedure in the Government to look into the irregularities/negligence on the part of any government servant. Any government servant facing any allegation with respect to misconduct/irregularities/negligence is required to go through disciplinary proceedings. As such making it mandatory for any government employee to be charged under the provisions of the law with the prior sanction of the government would not in any way

dilute the case against the official concerned but on the other hand would enhance the scope of justifying the case once sanction is granted which would preliminarily indicate that there is a case *prima facie* against the erring official.”

**3.154** The Committee are in agreement with the reply of the Ministry stating that government servants facing allegations over misconduct/irregularities/negligence are required to go through disciplinary proceedings and making it mandatory for them to be charged under the provisions of the law with the prior sanction of the government would not dilute the case against them rather enhance the scope of justifying it once sanction is granted which would preliminarily indicate that there is a *prima facie* case against the erring officials.

## CHAPTER XVII

### Miscellaneous

3.155 The State Governments under Clause 114(1) have been given the power to make rules under this Act. Since this is a central legislation, the set of rules should be framed by the Central Government and made applicable in all States and UTs. When the opinion of the Ministry was sought on this, the Ministry stated in their written reply as follows:

“Welfare of PwDs being a State subject by virtue of entry 9 of State list of the Constitution of India. The Central Government is legislating the law by virtue of signing UNCRPD attracting international obligation by virtue of Article 253 of the Constitution of India. There is no bar in a central law authorizing the States to frame rules. For example, the Motor Vehicles Act, 1988, though a Central Act on a subject on a Concurrent List allows framing of rules by the States as well on certain issues. It may further be noted that the existing PwD Act 1995 also allows framing of Rules by the States in certain cases.”

**3.156 The Committee, while accepting the reasoning of the Ministry in the matter, as there is no mention of any timeframe to frame the rules, however, feel that since State Governments are likely to take a considerable long time in framing these rules, either some monitoring needs to be done or some realistic period may be specified in the Bill under which State Governments would make such rules.**

3.157 There were large number of representations as well as suggestions from various quarters desiring that the words ‘his/her’ should be deleted from the Bill and be made gender neutral. When the Committee desired the response from the Ministry of Law and Justice

(Legislative Deptt.), The Legislative Department of the Ministry of Law and Justice responded as under:

“Relating to language of gender neutral, we have written to Administrative Ministry as per section 13 of the General Clause Act, in all Central Acts and Regulations, unless there is anything repugnant in the matter of context words importing the masculine gender shall be taken to include female gender...we can use gender neutral language here. There is no problem.”

**3.158 The Committee are of the considered view that the language of the Bill should be gender neutral. The Committee also desire that transgender should also be brought under the ambit of the Bill and all provisions may be applicable to them too.**



**PART – C**  
**MISCELLANEOUS**

**3.159** The Committee further recommend that the Ministry should consider suitably incorporating the following suggestions in 'The Rights of Persons with Disabilities Bill, 2014':-

**1.** The provisions of this Act or the rules made thereunder should be in addition to and not in derogation of any other legislation, orders, rules or instructions which provide for entitlements or benefits to persons with disabilities.

**2.** As per the different disabilities enumerated in Schedule to the Bill, change in nomenclature of certain impairments and the recognition of new impairments shall not invalidate any existing disability certificate issued by the Authority as on date.

**3.** There should be a 'disability budget' allocated to all Ministries, Departments, Organizations at State and Central level including Panchayats/Districts on the lines of SC and ST Sub Plan. The expenditure of allocation for this budget under the various schemes should be monitored by the Department of Empowerment of Persons with Disabilities being a nodal Department for the empowerment of persons with disabilities.

**4.** The Government should take adequate steps to provide a platform for active political participation of PwDs and encourage

them to be a part of policy making at panchayat level and District level for the general wellbeing of the PwDs.

5. To give better healthcare facilities to the PwDs, Public-Private-Partnership mode should be encouraged and private healthcare providers be given some tax concessions on treatment of PwDs.

6. It should be made mandatory for the National Commission as well as State Commissions to maintain websites giving explicit details of their working and transparency on the complaints and cases received and pending with them.

7. A specific timeframe should be laid down for disposal of cases relating to PwDs in Special Courts or Disability Rights Tribunal (as suggested by the Committee). The normal time period may range from six months to one year, maximum.

8. Grants received by the National Fund from various sources including Corporate Social Responsibility should be displayed on the internet and annual and quarterly reports on expenditure may be made available to the general public.

9. The penalty should be increased for different types of offences which include:

- (a) Discrimination in employment- Fine upto Rs. 10 lakhs.
- (b) Discrimination in schools- revoke the license of the school/ academic establishment.

**(c) Non-compliance to building, vehicle - Fine for non-compliance Accessibility.**

**10. Since acquired disability is growing rapidly, especially in old age, a fund should be created, such as, disability insurance and a payroll deduction can be made to support the costs of programmes for such people.**

**11. Since inclusive education of PwDs has been specified in the present legislation, the same should be exclusively monitored by the Education Department at State and District level and at the Central level, the Ministry of Human Resource Development should be made the nodal Ministry for monitoring the inclusive education of PwDs with special funds and release of grants for the purpose.**

**12. For school going children who are enrolled in normal schools as per the concept of inclusive education specified in the Bill, some modifications may be made in the curriculum and examination system to meet the needs of students with disabilities, like - extra time for completing the examination paper, facility of scribe or amanuensis or computer, exemption from second and third language courses, access to special equipments for their special learning capabilities.**

**13. The HRD Ministry should make it mandatory to integrate disabled children in mainstream education and not deny any admission on the pretext of disability of the child. The schools should be asked to display data on the PwD children enrolled in the**

**schools on the lines of Economically Weaker Section (EWS) students.**

**14. Service animals like dogs should be provided to PwDs, especially for the blind and hearing impaired. Training should be imparted to these animals and they should be allowed to enter buildings along with the PwDs.**

**15. As large number of stakeholders/institutions have varied with the view of defining blindness, and autism spectrum disorder in the Schedule of the Bill, the same may be considered in consultation with the Rehabilitation Council of India.**

**16. It should be specifically provided in the Bill that any provision in any other law for the time being in force which is inconsistent and which negates the object and spirit of this Act, shall be deemed to be repugnant.**

**17. As the financial memoranda appended to the Bill does not give a specific amount needed for execution of the schemes at Centre and State level, there is a need to specify the manner of funding to implement the various schemes/aspects of the Bill.**

**18. An Inter-Departmental Committee having representatives of various Ministries *i.e.*, mainly Education, Health, Women and Child Development, DoPT etc. at Joint Secretary level may be constituted prior to implementation of this new legislation.**

**19. Family-centric model for development and rehabilitation of the PwDs should be given weightage over special centres to allow**

holistic and overall development of PwDs in society. This can be appropriately incorporated in the Bill.

20. In order to effectively implement the Act and to ensure that PwDs derive maximum benefit from the Act, the first and foremost agenda of the Government should be to create awareness about the Act. Efforts should be made to disseminate information about the Act through regional and national channels on TV and radio and this should be done by the Department of Empowerment of Persons with Disabilities rather than by any other agencies.

21. The Government should ensure that appropriate/consequential amendments are made in other laws which govern the life, education, legal rights etc. of PwDs, which may be required.

22. Specific efforts should be made by the Government to provide housing to leprosy cured people who may not be allowed to live in other colonies on the grounds of discrimination by the society.

23. The rules applicable to PwDs enabling them to get pension should be adopted by all States and UTs to give equal benefits to all PwDs and provisions of criteria such as income ceiling or below poverty line may be waived off. Rules issued by State and Central Governments should be modified to the above extent.

#### In the Schedule

24. 6: “haemophilia “ : delete the word “only” in the definition.

**7: Replace the term “hearing impairment” with the term “deafness and hard of hearing”. Definition may be drafted in consultation with persons with disabilities and be notified too.**

**12: Replace the term “mental illness” with “psycho-social disabilities”**

**Add “Spinal Cord Injury “to the Schedule. Definition can be drafted in consultation with persons with disabilities and notified too.**

**25. To sum up, the Committee are of the considered and firm view that the proposed legislation should be very carefully calibrated so as not only to guarantee security, safety, health and welfare of the Persons with Disabilities but also to facilitate their growth and empowerment.**

**NEW DELHI;**

**5 May, 2015**

**15 Vaisakha, 1937 (Saka)**

**RAMESH BAIS  
Chairman,  
Standing Committee on  
Social Justice and  
Empowerment**

**MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON  
SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY,  
27<sup>th</sup> NOVEMBER, 2014**

The Committee met from 1500 hrs. to 1645 hrs. in Committee Room  
No. 139, Parliament House Annexe, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Jasvantsinh Sumanbhai Bhabhor
3. Shri Shri Dilip Singh Bhuria
4. Shri Santokh Singh Chaudhary
5. Shri Bhagwant Khuba
6. Shri Sadashiv Lokhande
7. Smt. Maragatham K.
8. Prof. A.S.R. Naik
9. Sadhvi Savitri Bai Phule
10. Prof. Sadhu Singh
11. Smt. Neelam Sonkar

**MEMBERS  
RAJYA SABHA**

12. Shri Praveen Rashtrapal
13. Smt. Vijila Sathyananth
14. Smt. Wansuk Syiem

**LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Shri Kushal Sarkar - Additional Director

**REPRESENTATIVES OF DEPARTMENT OF DISABILITY AFFAIRS  
(MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT)**

<b>SL. NO.</b>	<b>NAME</b>	<b>DESIGNATION</b>
1.	Ms. Stuti Kacker	Secretary
2.	Shri Awanish K. Awasthi	Joint Secretary
3.	Shri Mukesh Jain	Joint Secretary
4.	Shri K.V.S. Rao	Director

2. At the outset, the Chairman welcomed the Members and representatives of the Department of Disability Affairs (Ministry of Social Justice and Empowerment). The Chairperson drew the attention of the witnesses to Direction 55(1) of the Directions by the Speaker, Lok Sabha. He then asked the Secretary, Department of Disability Affairs (Ministry of Social Justice and Empowerment) to brief the Committee on the contents of "The Rights of Persons with Disabilities Bill, 2014".

3. The broad issues which were discussed at the meeting relating to the Bill are as follows:

- (i) Free education for the PwDs upto the age of 21 years.
- (ii) Inclusion of other disabilities apart from the specified 19 disabilities proposed in the Bill.
- (iii) Difficulties faced by disabled persons, especially blind people in opening bank accounts.
- (iv) Accessibility in buildings and public transport for the differently-abled persons.
- (v) Establishment of deaf colleges in the different Districts of the country.
- (vi) Implementation of 3% reservation policy for the PwDs and collection of data from States and Union Territories.
- (vii) Clearing of backlog for vacancies reserved for PwDs.
- (viii) Implementation of the United Nations Convention on Rights of Persons with Disabilities by other countries of the world, including the SAARC countries.



4. The representatives of the Department responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish written replies to those points which could not be replied to.
5. The Chairperson thanked the Secretary and other officials of the Department for giving valuable information to the Committee and expressing their views in a free and frank manner on the issues raised by the Members.
6. The verbatim proceedings were kept on record.

*The witnesses then withdrew.*

*The Committee then adjourned.*

**MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON  
SOCIAL JUSTICE AND EMPOWERMENT HELD ON TUESDAY,  
2<sup>nd</sup> DECEMBER, 2014**

The Committee met from 1500 hrs. to 1730 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Jasvantsinh Sumanbhai Bhabhor
3. Shri Dilip Singh Bhuria
4. Shri Santokh Singh Chaudhary
5. Shri Jhina Hikaka
6. Shri Bhagwant Khuba
7. Shri Sadashiv Lokhande
8. Smt. Maragatham K.
9. Prof. A.S.R. Naik

**MEMBERS  
RAJYA SABHA**

10. Smt. Jharna Das Baidya
11. Shri Ahamed Hassan
12. Smt. Mohsina Kidwai
13. Shri Praveen Rashtrapal
14. Smt. Vijila Sathyananth

**LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Shri Kushal Sarkar - Additional Director

## LIST OF NON-OFFICIAL WITNESSES

Sl. No.	Name	Organization
1.	Ms. G. Shyamala	Disability Rights Group
2.	Shri S.K. Rungta	National Federation of the Blind
3.	Shri Rajendra Kumar	Rakshak Foundation
4.	Shri M.R. Madhavan	PRS Legislative Research
5.	Ms. Merry Barua	Action for Autism
6.	Ms. Seema Baquer	The Leprosy Mission Trust India
7.	Shri Pankaj Sinha	Human Rights Law Network

2. At the outset, Hon'ble Chairman welcomed the Members of the Committee and representatives of the organizations/NGOs appearing before the Committee in connection with the examination of "The Rights of Persons with Disabilities Bill, 2014". He then requested the non-official witnesses to brief the Committee on their views on "The Rights of Persons with Disabilities Bill, 2014" and also drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The representatives of the various organizations/NGOs then put forth before the Committee their views/suggestions on various provisions of the Bill. The representatives suggested the following changes/amendments in the new proposed legislation:

- (i) Amendments moved in Rajya Sabha along with the Bill in the month of February, 2014 may be incorporated *in toto* in the new Bill.
- (ii) The private sector, including educational institutions and schools should be covered in the provisions of the Bill to make education a right for the disabled persons.

- (iii) The word “disabled” should be replaced from the title of the Bill with more suitable and dignified title.
- (iv) Vocational skills should be promoted as disabled people can learn the skills.
- (v) Sign language should be included as a language of communication in the Bill.
- (vi) More TV programmes and entertainment for the deaf by use of sign language.
- (vii) A separate Clause on the rights of disabled women to be incorporated in the Bill to help empower them.
- (viii) Implementation of reservation policy for the disabled.
- (ix) Fundamental Right to equality to be included in Section 3 of the Bill.
- (x) To change the definition of discrimination as per the UNCRPD.
- (xi) To remove the words “legitimate aim” as per Clause 3.
- (xii) To include deaf and dumb and blind as witnesses in the courts.
- (xiii) To include the words “every appropriate government shall ensure that every child with disability receives free education up to the age of 18 in an appropriate and accessible environment.”
- (xiv) 5% reservation for the PwDs in skill development and vocational training in all institutions, both in public and private sector.
- (xv) Separate posting and transfer policy for the disabled so that they are more near to their native place.
- (xvi) Insurance for the disabled at the same cost as a normal person and no extra premium to be given in such schemes.
- (xvii) Deletion of Clause 53 in the Bill which permits government organizations/institutions to be exempt from the implementation of the Act vis-à-vis Chapter IX.
- (xviii) A disabled should be Chairman of National Commission and State Commission for disabled and maximum representation of the disabled should be in the composition of the Commissions.

- (xix) Section 83 to give powers to the National Commission to give direction to any organization to implement the provisions of the Act within a prescribed period and if the same, does not happen then the National Commission can approach the Head of the Department/Establishment.
- (xx) Establishment of a Tribunal for adjudication of the cases of violation of rights conferred under this Act.
- (xxi) Deletion of provisions in Clause 108, which prevent action from being initiated against Government officers, who fail to implement and enforce the provisions of this Act.
- (xxii) Reservation in employment for the people affected by autism.
- (xxiii) Autism should not be considered as a psychiatric or psychological problem. It should be considered a developmental problem as it occurs by birth.
- (xxiv) The needs of family of affected children having autism should be addressed in the Bill.
- (xxv) The language of the Bill should be gender neutral rather than using the words "his/her".
- (xxvi) The definition of the disability should include long term and short term disability.
- (xxvii) The Bill should give importance to disability rather to male/female bias.
- (xxviii) Audit of funds of the National and State Commissions and non-bailable punishments and special punishments against those who make children disabled for begging.
- (xxix) Violation of rules proposed in the legislation does not amount to criminal offence in many cases and therefore, no punishment would be possible.
- (xxx) The Bill should have a mechanism of funding at State and municipality level to ensure that the provisions in the Bill regarding education and other facilities are made available to all PwDs.

- (xxxix) The Bill does not give the financial amount worked out for its implementation under the Financial Memoranda.
- (xxxixii) The guardianship for mentally ill and other disabled persons should be properly defined in the Bill. The mentally ill person may recover at some point of time and therefore, may not need guardianship.
- (xxxixiii) The safeguards for Medical Termination of Pregnancy Act, 1971, for terminating pregnancies between 12 and 20 weeks for disabled person is lower than abled person as it requires only the view of one medical practitioner.
- (xxxixiv) The definition of “appropriate government” needs to be properly framed so as to earmark which government will be responsible for subjects like adult education, right to access a court and making roads accessible in the Bill.
- (xxxixv) “Leprosy cured people” should be changed to “disabled by leprosy” in the Bill.
- (xxxixvi) Inclusion of definition of discrimination – direct discrimination, disadvantaged, discrimination based on disability, indirect discrimination and prohibited grounds.
- (xxxixvii) Partial loss of sensation may also be included as a disability in the Bill.
- (xxxixviii) Elimination of leper colonies and proper housing facilities for the leprosy affected people.

4. The Hon’ble Chairman thanked the non-official witnesses for giving valuable suggestions and information to the Committee on the Bill under examination and also for expressing their views in a free and frank manner on various issues.

5. A verbatim record of the proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

**MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE ON  
SOCIAL JUSTICE AND EMPOWERMENT HELD ON WEDNESDAY,  
3<sup>rd</sup> DECEMBER, 2014**

The Committee met from 1500 hrs. to 1650 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Jasvantsinh Sumanbhai Bhabhor
3. Shri Dilip Singh Bhuria
4. Shri Jhina Hikaka
5. Shri Bhagwant Khuba
6. Smt. Maragatham K.
7. Prof. A.S.R. Naik
8. Sadhvi Savitri Bai Phule
9. Smt. Satabdi Roy
10. Prof. Sadhu Singh

**MEMBERS  
RAJYA SABHA**

11. Smt. Sarojini Hembram
12. Shri Praveen Rashtrapal
13. Smt. Vijila Sathyananth
14. Smt. Wansuk Syiem

**LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Shri Kushal Sarkar - Additional Director

## LIST OF NON-OFFICIAL WITNESSES

Sl. No.	Name	Organization
1.	Dr. Shayama Chona	Tamana
2.	Dr. Nirmala Srinivasan	Action for Mental Illness
3.	Dr. Soumya Vinayan	Council for Social Development
4.	Shri Rajesh Kishore	National Human Rights Commission
5.	Shri Manjit Singh	Persons with Disabilities Association

2. At the outset, Hon'ble Chairman welcomed the Members of the Committee and representatives of the organizations/NGOs appearing before the Committee in connection with the examination of "The Rights of Persons with Disabilities Bill, 2014". He then requested the non-official witnesses to brief the Committee on their views on "The Rights of Persons with Disabilities Bill, 2014" and also drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The representatives of the various organizations/NGOs then put forth before the Committee their views/suggestions on various provisions of the Bill. They suggested the following changes/amendments in the new proposed legislation:

- (i) Work done for the PwDs should not be treated as charity but should be for their overall development.
- (ii) Since work of PwDs is carried out by three Ministries – Ministry of Social Justice and Empowerment, Ministry of HRD and Ministry of Women and Child Welfare, the enforcement of the Act would be the work of all these Ministries collectively.
- (iii) Category-wise breakup of reservation for PwDs should be avoided to give benefit to all PwDs so that all are able to get access to education and jobs.
- (iv) PwDs should also get representation in Parliament.



- (v) The Bill should have separate provisions for each type of disability since their needs are different from one another.
- (vi) The word “mentally ill” should be deleted in the Bill since mentally ill people are different from the mentally challenged.
- (vii) To include PwD children in mainstream education, it is required that all facilities, like speech therapy, physical and occupational therapy, sensory integration, special aids and curriculum be available to them.
- (viii) Clause 13 of the Bill regarding guardianship should be extended to all PwDs and not only to the mentally ill. Provisions of guardianship should be extended as a right to free legal capacity. The word “guardianship” may not be used in the Bill and the provision for the same may be kept in The Mental Healthcare Bill.
- (ix) Reasonable accommodation for PwDs should be introduced on immediate and urgent basis.
- (x) A Clause on “women and girls with disabilities” should be introduced in the Bill since they are harassed, abused and become victims of violence.
- (xi) The Clause on “benchmark disabilities” should also cover education along with employment and special reservation should be there for women PwDs.
- (xii) Non-discrimination should also be included in the employment Clause of the Bill.
- (xiii) The panel for issue of disability certificates should also include experts from the disability field who are non-medical practitioners.
- (xiv) The National Commission should also have members from judicial and other Commissions, like National Commission for Women, National Commission for SCs/STs as its members.
- (xv) There should be a Disability Rights Tribunal other than a special court provision to speed up the process of justice.

- (xvi) A special Clause to be introduced to allow termination of pregnancy of women with disability with her consent.
- (xvii) Clause 13 should be expanded to cover a large number of people who may not be able to exercise their legal rights due to their age and other reasons and are not able to take right decisions.
- (xviii) Punishments for offences in the Indian Penal Code are more stricter in comparison to what is proposed in the proposed Bill and therefore, this aspect should be looked at.
- (xix) The provisions of the new legislation should be in addition and not in derogation of any other law for the time being in force.
- (xx) The certification of benchmark disabilities in measurable terms may sometimes not be possible to define. Some guidelines need to be issued in this regard.
- (xxi) There should be a separate chapter on complaint redressal mechanism, which should include provisions of Clause 5, Clause 6 and Clause 22.
- (xxii) More explicit definition of “exploitation”, “abuse” and “violence” should be given in the Bill.
- (xxiii) Isolation of a PwD should form a part of the definition of the phrase “discrimination on the basis of disability”.
- (xxiv) The National Commission may be headed by retired judges of the Supreme Court.
- (xxv) The National and State Commissions may be empowered to impose fines and compensation besides recommending disciplinary action against the delinquent and guilty public officials.
- (xxvi) Schemes and programmes for the disabled should be free of cost rather than having any rider, like income ceiling.

4. The Hon'ble Chairman thanked the non-official witnesses for giving valuable suggestions and information to the Committee on the Bill under examination and also for expressing their views in a free and frank manner on various issues.

5. A verbatim record of the proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

**MINUTES OF THE ELEVENTH SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON MONDAY, 22<sup>ND</sup> DECEMBER, 2014.**

The Committee met from 1500 hrs. to 1615 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Dilip Singh Bhuria
3. Shri Santokh Singh Chaudhary
4. Shri Jhina Hikaka
5. Smt. Maragatham K.
6. Shri Kariya Munda

**MEMBERS  
RAJYA SABHA**

7. Smt. Jharna Das Baidya
8. Shri Ahamed Hassan
9. Smt. Vijila Sathyananth
10. Smt. Wansuk Syiem

**LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director

## **Representative of the Government of Gujarat**

### **Shri M.S. Dagur, Additional Chief Secretary, Social Justice and Empowerment Department**

2. At the outset, the Chairman welcomed the Additional Chief Secretary, Social Justice and Empowerment Department, Government of Gujarat appearing before the Committee in connection with the examination of "The Rights of Persons with Disabilities Bill, 2014". He then requested him to brief the Committee on his views on "The Rights of Persons with Disabilities Bill, 2014" and also drew his attention of the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

3. The representative of the Government of Gujarat then put forth before the Committee his views/suggestions on various provisions of the Bill. He suggested the following changes/amendments in the new proposed legislation.

- (i) To include three categories of disabilities instead of five with regard to exemption earmarked posts by the Central Government.
- (ii) Need to clarify the definition and benchmark for disability so that the Medical Officer and Medical Board could issue certificate without any ambiguity.
- (iii) Provision for reservation for the disabled people should be made mandatory in the industries where the Government is granting land, tax deferment or tax concession.
- (iv) Need for a provision where support counselling as well as medical help can be provided to the family itself without bringing the disabled persons to the hospital or any care institutions.
- (v) Some funds be made available at the State level for the welfare of the disabled people on the lines of Special Component Plan for Scheduled Castes and Scheduled Tribes

4. The representative of the Government of Gujarat responded to the queries raised by the Members to the extent possible.

5. The Chairman thanked the Additional Chief Secretary, Social Justice and Empowerment Department, Government of Gujarat for giving valuable information to the Committee and expressing his views in a free and frank manner on the issues raised by the Members.

6. The verbatim proceedings were kept for record.

*[The representative of the Government of Gujarat then withdrew]*

### **Representative of the Government of Andhra Pradesh**

#### **Smt. K. Sarada Devi, Director, Social Justice and Empowerment Department**

7. At the outset, the Chairman welcomed the Director, Social Justice and Empowerment Department, Government of Andhra Pradesh appearing before the Committee in connection with the examination of "The Rights of Persons with Disabilities Bill, 2014". He then requested her to brief the Committee on her views on "The Rights of Persons with Disabilities Bill, 2014" and also drew her attention of the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha.

8. The representative of the Government of Andhra Pradesh then put forth before the Committee his views/suggestions on various provisions of the Bill. She suggested the following changes/amendments in the proposed legislation.

- (i) The word 'long term' should be specified in detail otherwise there is a chance for its misuse.
- (ii) In chapter 3 on Education, 'inclusive education' may be replaced with 'appropriate education' which includes inclusive education as also other forms of education like home-based education.
- (iii) A provision for pre-school education for children with disabilities be incorporated.
- (iv) In chapter 4, in regard to skill development, she suggested adding "every establishment shall furnish such information or return to such employment exchange". Also, "Any person authorised by the employment exchange or Government shall have access to any relevant record or document in the possession of any establishment and may enter at any reasonable time and premises and inspect or take relevant records/documents or copies of such or ask any question necessary for obtaining any information in relation to employment".
- (v) On Section 23(1) of the Bill regarding social security - Community centre be defined and the eligibility of PwDs to get the services like nutritious food etc. in the community centre may be prescribed.

- (vi) As regards chapter 6 - three years for review of the identified posts is less. The periodicity may be increased to five years.
- (vii) Instead of carrying forward the posts upto three years and interchange among the categories of disabilities in the fourth year, - the vacancies may be filled within the first year itself by interchanging among the category of disabilities.
- (viii) Additional incentives be provided to the establishments for having more women with disabilities in their workforce because they are more vulnerable when compared to men.

9. The Chairman thanked the Director, Social Justice and Empowerment Department, Government of Andhra Pradesh for giving valuable information to the Committee and expressing her views in a free and frank manner on the issues raised by the Members.

10. The verbatim proceedings were kept for record.

*[The representative of the Government of Andhra Pradesh then withdrew]*

*[The Committee then adjourned].*

**MINUTES OF THE TWENTIETH SITTING OF THE STANDING COMMITTEE  
ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY,  
9<sup>th</sup> APRIL, 2015**

The Committee met from 1100 hrs. to 1235 hrs. in Committee Room No. '62', Parliament House, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Kunwar Bharatendra
3. Shri Santokh Singh Chaudhary
4. Shri Sher Singh Ghubaya
5. Shri Bhagwant Khuba
6. Smt. Maragatham K.
7. Smt. Satabdi Roy
8. Smt. Neelam Sonkar
9. Smt. Mamta Thakur

**MEMBERS  
RAJYA SABHA**

10. Smt. Mohsina Kidwai

**LOK SABHA SECRETARIAT**

1. Shri Ashok Sajwan - Director
2. Shri Kushal Sarkar - Additional Director



## REPRESENTATIVES OF THE MINISTRY/DEPARTMENT

SL. NO.	NAME	DESIGNATION
<b>REPRESENTATIVES OF MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (DEPARTMENT OF EMPOWERMENT OF PERSONS WITH DISABILITIES)</b>		
1.	Shri Lov Verma	Secretary
2.	Shri Awanish Kr. Awasthi	Joint Secretary
3.	Shri Mukesh Jain	Joint Secretary
<b>REPRESENTATIVES OF THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (DEPARTMENT OF PERSONNEL AND TRAINING)</b>		
1.	Shri T. Jacob	Additional Secretary
2.	Smt. Mamta Kundra	Joint Secretary
<b>REPRESENTATIVES OF MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)</b>		
1.	Dr. G. Narayana Raju	Additional Secretary
2.	Dr. N.R. Battu	Joint Secretary And Legislative Counsel

2. At the outset, Hon'ble Chairperson welcomed Smt. Mamta Thakur, a newly elected Member to the Committee on Social Justice and Empowerment. Thereafter, he welcomed the Secretary and other accompanying officials of the Department of Empowerment of Persons with Disabilities, Additional Secretaries & other officials of Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) and the Ministry of Law and Justice (Legislative Department). Impressing upon the witnesses to keep the proceedings of the Committee 'Confidential', the Chairperson asked the Secretary, Department of Empowerment of Persons with Disabilities and Additional Secretaries, Department of Personnel and Training and

Legislative Department to brief the Committee on some specific contents of " The Rights of Persons with Disabilities Bill, 2014".

3. The broad issues related to the Bill which were discussed at the meeting are as follows:

- (i) Measures taken for filling up the identified vacancies for the Persons with Disabilities.
- (ii) Reservation policy for the Persons with Disabilities and percentage of employment to them in Central Government, State Governments, Universities and Educational Institutions.
- (iii) Consideration of UNCRPD as a guideline document.
- (iv) Making of language of the present Bill gender neutral for inclusion of male, female and transgenders.
- (v) Provision for inclusion of new disabilities in the Bill.
- (vi) Utilization of public private participation in healthcare so as to help the PwDs and provision for incentive to the private health care institutions.
- (vii) Consideration of Disability Budget and allocation of funds for all Ministries/Departments
- (viii) Participation of eminent women working in the field of disability in the Constitution of National Commission and State Commission.

4. The representatives of the Departments of Empowerment of Persons with Disabilities, Legislative Affairs and Personnel & Training suitably responded to the queries raised by the Members. The Chairperson directed them to furnish written replies to those points which could not be replied to there and then.

5. The Chairperson thanked the officials of all Departments for giving desired inputs to the Committee on the PwD, Bill, 2014.

6. A verbatim record of the proceedings has been kept.

*The witnesses then withdrew.*

*The Committee then adjourned.*

**MINUTES OF THE TWENTY SECOND SITTING OF THE STANDING COMMITTEE  
ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON TUESDAY, 5<sup>TH</sup> MAY, 2015**

The Committee sat from 1500 hrs. to 1530 hrs. in Chairman's Chamber,  
Room No. 116, Parliament House Annexe, New Delhi.

**PRESENT**

**SHRI RAMESH BAIS - CHAIRMAN**

**MEMBERS  
LOK SABHA**

2. Shri Dileep Singh Bhuria
3. Shri Santokh Singh Chaudhary
4. Shri Sher Singh Ghubaya
5. Shri Bhagwanth Khuba
6. Smt. Maragatham K.
7. Dr. Udit Raj
8. Smt. Neelam Sonkar
9. Smt. Mamta Thakur

**MEMBERS  
RAJYA SABHA**

10. Smt. Vijila Sathyananth

**LOK SABHA SECRETARIAT**

1. Shri Ashok Kumar Singh - Joint Secretary
2. Shri Ashok Sajwan - Director
3. Shri Kushal Sarkar - Additional Director

2. At the outset, Hon'ble Chairperson welcomed the Members to the sitting of the Committee and apprised them that the sitting had been convened to consider and adopt the draft Fifteenth Report on "The Rights of Persons with Disabilities Bill, 2014".

3. The Chairperson then requested the Members to give their suggestions on the draft Report. The Report was adopted by the Committee without any change. The

Committee then authorized the Chairperson to finalize the Report in the light of consequential changes that might arise out of factual verification of the draft Report and to present the same to both the Houses.

*The Committee then adjourned.*