

**Persons with Disabilities Act, 2011**

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## **The Rights of Persons with Disabilities Act, 2011**

### ***Statement of Objects and Reasons***

India has ratified the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and has undertaken the obligation to ensure and promote the full realization of all human rights and fundamental freedoms for all Persons with Disabilities without discrimination of any kind on the basis of disability. In fulfillment of this international commitment, the country is obligated to enact suitable legislation in furtherance of the rights recognized in the UN Convention.

India enacted the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995 in fulfillment of its obligation as a signatory to the proclamation on the full participation and equality of People with Disabilities in Asia Pacific region. This legislation has been on the statute book for nearly 15 years and has been the basis of a largely empowering jurisprudence on the Rights of Persons with Disabilities. Whilst the need to retain the empowering jurisprudence is unequivocally acknowledged; it is also recognized that the present Persons with Disabilities Act does not incorporate a number of rights recognized in the UN CRPD. Even the rights that are recognized are not in total harmony with the principles of the Convention.

Furthermore, the UN CRPD recognizes that disability is an evolving concept and 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. The Persons with Disabilities Act on the other hand has provided for AN impairment based exhaustive definition of disability. Consequently, people with impairments not mentioned in the Act have been denied the rights and entitlements recognized in the Act.

Insofar as the present Disability Act at no place mandates the right to equality and non-discrimination for persons with disabilities and only selectively recognizes some rights for some persons with disabilities, it is proposed to replace the current disability legislation with a comprehensive law which recognizes all rights of all persons with disabilities.

To this end, it is proposed that the new Rights of Persons with Disabilities Act shall:

- a. Guarantee equality and non-discrimination to all persons with disabilities;
- b. Recognize legal capacity of all persons with disabilities and make provision for support where required to exercise such legal capacity;
- c. Recognize the multiple and aggravated discrimination faced by women with disabilities and induct a gendered understanding in both the rights and the programmatic interventions;
- d. Recognize the special vulnerabilities of children with disabilities and ensure that they are treated on an equal basis with other children;
- e. Mandate special programmatic interventions for home bound persons with disabilities; persons with disabilities in institutions as also persons with disabilities with high support needs;
- f. Establish a Disability Rights Authority which facilitates the formulation of disability policy and law with active participation of persons with disabilities; dismantles structural discrimination existing against persons with disabilities and regulates the due observance of regulations promulgated under this Act for the protection, promotion and enjoyment of all rights guaranteed in this Act;
- g. Specify civil and criminal sanctions for acts and conduct deemed to be wrongful;

### ***Preamble***

Whereas the Constitution of India resolves to secure to all its citizens justice; liberty; equality; and fraternity; and Citizens with Disability are an essential part of the Indian Human Diversity;

Whereas India has signed and ratified the United Nations Convention on the Rights of Persons with Disabilities and thereby made an international commitment to promote protect and ensure the rights recognized in that Convention;

Whereas Persons with Disability have a right:

- to integrity, dignity and respect with full participation and inclusion;
- to assert human interdependence and celebrate human diversity;
- to live a life free of shame, ridicule, or any form of disempowerment and stereotyping;
- to be bearers of all civil-political and socio-economic rights guaranteed by international and national law on an equal basis with others.

To this end the Union of India, in its sixty-third year, enacts the Right to Persons with Disabilities Act as follows:

## **PART I:           INTRODUCTORY**

### ***Title of the New Act***

#### **1. Short title extent and commencement:**

- (1) This Act may be called the “**Rights of Persons with Disabilities Act, 2011**”;
- (2) It extends to the whole of India. However, its application to the State of Jammu & Kashmir shall be specified by the President of India only after the Government of Jammu & Kashmir gives its concurrence on the application of this law to that State;
- (3) It shall come into force on such date as the Central Government may by notification appoint but in no case later than one year after its assent by the President.

#### **2. *Definitions***

In this Act, unless the context otherwise requires:

- (a) ‘**Advance directives**’ refer to life management decisions made in advance which could include inter alia instructions on personal, property and health matters;
- (b) ‘**Appropriate Government**’ means in relation to the Central Government, any local or municipal authority managed by the government or any establishment wholly or substantially financed by that government or any cantonment board constituted under the Cantonments Board Act 1924, the Central Government; in relation to a State Government controlled and managed by the government or any establishment wholly or substantially financed by that government or any local authority other than a cantonment board, the State Government;
- (c) ‘**Augmentative and Alternative Communication (AAC)**’ are alternative systems of communication that may not involve using one’s own voice and which fulfil the daily communication needs of persons with disabilities in accordance with their requirements;

- (d) **‘Barrier’** means any factor that impedes or obstructs the full and effective participation, of a person with disability in society. This will include attitudinal, social, economic, environmental, institutional, political or structural obstructions;
- (e) **‘Communication’** includes languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;
- (f) **‘Convention’** means the United Nations Convention on the Rights of Persons with Disabilities;
- (g) **‘Disadvantage’** means any restriction on or denial of a right, freedom, entitlement, remuneration, goods, benefit, accessibility, service provision, opportunity, license or any other social, political, economic, cultural or civil interest; and includes any segregation of a person or a group of persons to whom one or more prohibited grounds apply in comparison to others;

### *Explanation*

It is immaterial that such restriction, denial or segregation is unintentional, or that it is intended for the purpose of protecting a person to whom one or more prohibited grounds apply.

- (h) **‘Disabled Persons’ Organisation’** (DPO’s) are organisations controlled by a majority of persons with disabilities at the board and membership levels which provide the opportunity to develop skills in the negotiation process, organizational abilities, mutual support, information sharing and other vocational skills and opportunities;
- (i) Discrimination on the basis of **‘Prohibited Grounds’** means discrimination on the grounds of:
  - (i) Disability,
  - (ii) Perceived disability, whether the perception is accurate or otherwise, or

- (iii) Association of a person with persons to whom one or more prohibited grounds apply, or
  - (iv) A combination of disability and any other ground such as religion, race, caste, tribe, place of birth, age, language, sex, gender identity, sexual orientation, pregnancy, maternity, marital status, care giver status, economic status, political or other opinion.
- (j) ‘Discrimination on the basis of disability’** means 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;
- (k) ‘Establishment’** means and includes:
- (i) Department and Ministries of Government;
  - (ii) Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;
  - (iii) Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public functions which are primarily welfare activities and includes Government Companies as defined in Section 617 of the Companies Act, 1956;
  - (iv) Any contractor who has been awarded a public tender;
  - (v) Any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, landlord, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (i) to (iv) and provides employment in rural and urban areas;

Unless under the scheme prepared by the Disability Rights Authority the entity satisfies the requirements to be exempted for cause of undue hardship; or

- (vi) Any establishment as the Central or State Government may notify in the Official Gazette.

***Explanation***

The term 'industry' shall have the same meaning as in Section 2 (j) of the Industrial Disputes Act, 1947.

- (l) **'Enduring power of attorney'** is the appointment of a representative to manage the affairs of the donor for extended periods and on terms and conditions deemed suitable by the donor;
  
- (m) **'Experiential expert'** is a person with disability who has through personal experience, advocacial intervention or service provision acquired expertise in relation to the impairment and the related barriers; or a family care-giver who has through personal experience, advocacial intervention and service provision acquired expertise in relation to the impairment and the related barriers;
  
- (n) **'Family care-giver'** is a person who is a member of the family who provides care, support and assistance to the person with disability;
  
- (o) **'Fund'** means the National Fund for Persons with Disabilities established under this Act;
  
- (p) **'Harassment'** means unwanted conduct related to any prohibited ground which takes place with the purpose or effect of violating the dignity of a person or of creating an intimidating, humiliating or offensive environment;
  
- (q) **'Hate Speech'** means any kind of expression through any media whether through writing, giving speeches or holding discussions at meetings of groups of individuals with an intention to cause mental trauma, or incite hatred against persons with disabilities or their families;
  
- (r) **'Internet Communication Technologies & Electronics [ICTE]'** refers to technologies that provide access to information through internet and telecommunications where it includes but is not restricted to computers having a user interface;

- (s) **‘User Interface’** refers to that part of the electronic and information and communication technology with which the user interacts and is not restricted only to software and websites;
- (t) **‘Language’** includes spoken and signed languages and other forms of non spoken languages;
- (u) **‘Persons with disabilities’** are persons with any physical, mental, intellectual, developmental or sensory impairments which in interaction with various barriers may hinder full and effective participation in society on an equal basis with others;
- (v) **‘Premises’** includes (i) a structure, building, aircraft, vehicle or vessel; and (ii) a place (whether enclosed or built on or not); and (iii) a part of premises (including premises of a kind referred to in sub-clause (i) or (ii));
- (w) **‘Prescribed’** means prescribed by Rules made under this Act;
- (x) **‘Public building’** means a building, irrespective of ownership, which is used and accessed by the public at large;
- (y) **‘Reasonable Accommodation’** means:
- (i) where a provision, criterion or practice puts a person to whom one or more prohibited grounds apply at a disadvantage in relation to a relevant matter in comparison with other persons, to take such steps as it is reasonable to have to take to avoid the disadvantage;
  - (ii) where a physical feature puts a person to whom one or more prohibited grounds apply at a disadvantage in relation to a relevant

matter in comparison with other persons, to take such steps as it is reasonable to have to take to avoid the disadvantage;

- (iii) where a person to whom one or more prohibited grounds apply would, but for the provision of an auxiliary aid, be put at a disadvantage in relation to a relevant matter in comparison with other persons, to take such steps as it is reasonable to have to take to provide the auxiliary aid;
- (iv) where clause (i) or (iii) above relates to the provision of information, the steps which it is reasonable to have to take include steps for ensuring that in the circumstances concerned the information is provided in an accessible format.

Provided that the particular requirements of women with disabilities shall in no case be seen as imposing a disproportionate or undue burden.

(z) **‘Registered organization’** means an association of persons with disability or a Disabled Persons’ Organisation, association of families of persons with disability or a voluntary, non-governmental or charitable organization or trust, society, non-profit company working for persons with disabilities duly registered under relevant Acts for the time being in force;

(aa) **‘Service Animal’** means a guide dog or any other animal that has been or is being specially trained to aid person with a sight or hearing impairment or any other disabilities;

(ab) **‘Self Help Group’** means an organization formed by people with disabilities with joint resources, for gathering information, undertaking advocacy and offering community based support services or care through mutual support mechanisms;

(ac) **‘Services’** means services provided by the members of any profession or trade, or provided by any government, local authority or establishment and includes services relating to banking and finance; education; health; insurance; rehabilitation; entertainment, recreation and hospitality; transport or travel; and telecommunications;

**(ad) ‘Subject expert’** means a person whether with or without disability who has through a formal course of study acquired recognized educational qualifications and has also obtained experience through the practical application of such knowledge;

**(ae) ‘Support network’** refers to a group which supports a person with disabilities in carrying out his or her life activities. This network may be made of family caregivers, family members, friends, service providers and others who have a personal connection and are in a trusted relationship with the person with disability;

**(af) ‘Universal design’** means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed;

**(ag) ‘Victimization’** means subjecting or threatening to subject any following persons to any disadvantage:

- (i) one who brings a proceeding under this Act; or
- (ii) gives evidence or information in connection with a proceeding under this Act; or
- (iii) takes any other steps in connection with or in furtherance of the purpose of this Act; or
- (iv) reports (whether express or not) that another person has contravened this Act.

## **2. Guiding Principles for implementation and interpretation**

- (1) Any court, person or authority interpreting this Act shall bear in mind that:
  - (a) The provisions of this Act shall be so construed as to promote equality before law, equal protection of laws and equal recognition before law to all persons with disability and the right to live with human dignity and personal liberty;
  - (b) Nothing in this Act shall be so constructed as having the purport and effect of denying, suspending, reducing, or eliminating the legal capacity of any person with disability;
  - (c) Any provision of this Act, or any rule, regulation or programmes made under this Act shall be so constructed to give widest effect to the rights guaranteed under this Act;
  - (d) Any provision restricting or limiting or putting condition to any right under this Act shall be strictly construed;
  - (e) Unless otherwise provided for in the Act, there is no hierarchy amongst the rights guaranteed under this Act; the sequence of their elucidation is not the order of their primacy;
  - (f) Nothing in this Act shall be so constructed which has the purport and effect of denying, suspending, reducing, or eliminating any existing right, benefit, or privilege enjoyed by any person with disability.
- (2) Without prejudice to the above stated general principles of interpretation, any court or authority while adjudicating under this Act shall also be mindful of:
  - (a) The judicial decisions which have advanced the rights of persons with disabilities under the Persons with Disabilities (Equality of Opportunity Protection of Rights and Full Participation) Act 1995;
  - (b) The United Nations Convention on the Rights of Persons with Disabilities which has been signed and ratified by India.

## **PART II LIFTING BARRIERS**

### **3. Awareness Raising**

- (1) In order to ensure that the rights recognized in this legislation are respected, protected and promoted, it is important that both state and civil society comprehend that disability is an integral part of the human condition; recognize the capabilities and contributions of persons with disabilities; combat the stereotypes, prejudices and harmful practices which impede the participation of persons with disabilities on an equal basis with others;
- (2) The Appropriate governments and the Disability Rights Authority shall devise suitable information campaigns, and sensitization programmes which raise awareness on the direct and indirect discrimination directed against persons with disability and especially women and children with disability as a measure to prevent such discrimination;
- (3) In furtherance of this obligation and to prevent the discrimination and exclusion arising from inaccurate and pejorative use of language the nomenclature and terminology developed in this legislation shall be employed in all state communications; transactions; rules; regulations; notifications and orders;
- (4) The Appropriate Governments shall launch and support stigma reduction programmes; mass education campaigns; information and technology linked dissemination programmes; and sensitization workshops on disability rights to achieve the objectives outlined in subsection (1) of section 3 which amongst others addresses the medical fraternity; the family; government officials; political representatives; the media and the legal community;
- (5) In order to achieve the objectives outlined in subsection (1) of section 3 every establishment shall undertake suitable sensitization and information dissemination programmes on disability rights within their organization; and may launch and support stigma reduction programmes, mass education campaigns, information and technology linked dissemination programmes;

- (6) Without prejudice to the general awareness raising obligation in sub section 2 such programmes, campaigns and workshops shall *inter alii*:
- (a) Promote values of inclusion, tolerance, empathy and respect for diversity;
  - (b) Recognize the value of a disabled life;
  - (c) Foster respect for the decisions made by persons with disability on all matters related to family life, relationships, bearing and raising children;
  - (d) Provide orientation and sensitization at the school, college, university and professional training level on the human condition of disability and the rights of persons with disabilities;
- (7) The Appropriate government and establishments shall launch legal literacy and information dissemination programmes on disability rights generally and this law more particularly.

#### **4A Accessibility**

- (1) Insofar as accessibility is an essential pre-condition to enable persons with disabilities to live independently and participate fully in all aspects of life; in furtherance of Article 9 and 20 of the Convention and Article 14, 19 and 21 of the Indian Constitution it is hereby recognized that persons with disabilities shall be provided such accessibility on an equal basis with others to the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas.

#### **4B Accessibility Standards**

- (1) In order to ensure such accessibility, the Disability Rights Authority shall formulate suitable Regulations
- (2) The Disability Rights Authority shall in consultation with subject and experiential experts formulate these Regulations by adopting or adapting prevailing standards on physical environment and information and communication technologies and systems to Indian conditions. Whilst making the adaptation and laying down the standards the authority shall ensure that the regulations are age and gender appropriate and are applicable to:
  - (a) All buildings and facilities used by the public;
  - (b) Permanent, temporary or emergency conditions;
  - (c) All new community residential places and private residences to make them visitable and live-able;
  - (d) Road based transport;
  - (e) Aviation;
  - (f) Railways;
  - (g) Maritime transport and ports;
  - (h) Pedestrian infrastructure;
  - (i) Rural Public Transport System;
  - (j) All modes of transport so that any person with disability is able to travel with safety and comfort.

#### **4 C Infrastructure Accessibility**

(1) The Disability Rights Authority shall take appropriate measures:

- (a) To develop, promulgate and monitor the implementation of accessibility standards and design regulations for both urban and rural areas within a period of 1 year.
- (b) To review and revise these regulations after every five years for infrastructural accessibility so as to render them applicable to all premises.

(2) The Appropriate Government and establishments shall take suitable measures:

- (a) to provide facilities for persons with disabilities at stations and airports that meet the accessibility standards relating inter alia to parking spaces, toilets, ticketing counters and ticketing machines.
- (b) To provide access to all modes of transport that conform to design standards.
- (c) To ensure that old modes of transports shall be retrofitted in accordance with regulations which allow for the fitting of equipment to vehicles for providing accessibility.
- (d) To formulate rules for providing driving licenses to persons with disabilities.
- (e) To ensure that where no modifications are possible, human assistance shall be made available to persons with disabilities.
- (f) To provide Support Services to assist persons with disabilities to negotiate and interact with unfamiliar people, environs and spaces.

#### **4 D Personal Mobility**

- (1) All appropriate governments and establishments shall develop schemes and programmes to promote the personal mobility of persons with disabilities at affordable cost, in the manner of their choice;
  
- (2) Such schemes may *inter alia*:
  - (a) provide incentives and concessions to provide accessible transport facilities to persons with disabilities;
  - (b) provide for retrofitting of vehicles for persons with disabilities at no extra cost;
  - (c) provide personal mobility assistance to persons with disabilities who require such support;
  - (d) promote rural modes of transport to address mobility needs of persons with disabilities in rural areas.

#### **4 E Access to services**

- (1) All appropriate governments and establishments shall ensure that all services and facilities are available to persons with disabilities on an equal basis with others and are responsive to their needs;
- (2) The appropriate governments and establishments shall disseminate latest information on accessibility on a regular basis so as to ensure that persons with disability do not face hardships in using services;
- (3) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (4) All appropriate governments and establishments shall ensure that all announcements inviting public response must be accessible to all persons with disabilities. These announcements may include those made for procurement, employment, public health and disaster preparedness.

#### **4 F Access to information and communication technology**

- (1) All appropriate governments and the establishments shall take measures to ensure that:
  - (a) All content including publications, periodicals, journals, educational materials, text books, multi-media materials, internet and electronic formats shall be made available to persons with disabilities in accessible format;
  - (b) Schemes be formulated or amended for affordable access to Information and Communication Technology & Electronics for persons with disabilities in rural as well as urban areas;
  - (c) All government websites, and private websites providing consumer services, shall conform to the most updated version of the World Wide Web Consortium web accessibility standards;
  - (d) Incentives and concessions shall be provided to support existing websites to make them accessible to persons with disabilities;
  - (e) The conversion, reproduction, adaptation and communication of all copyrighted materials into accessible versions for exclusive use of persons with disabilities on 'not-for-profit' and non-commercial basis shall be deemed fair dealing;

## ***Explanation***

Accessible version include any version or form which gives a person with disability access to the work as flexibly and comfortably as a person without a disability, and shall include, but not be limited to, audio recordings, audio – visual works with audio and/or text descriptions, Braille, e-text including DAISY formats, digital copies compatible with assistive technology or refreshable Braille, tactile material, large print, with different type-faces and sizes and sign language.

- (f) Electronic goods and equipment of everyday use shall follow the principles of universal design;
- (g) Persons with disability have access to Electronic Visual media by providing for audio description, sign language interpretation and close captioning;
- (h) Accessibility to telecommunication services.

## **4 G Access to Consumer goods and services**

All appropriate governments and establishments shall:

- (a) take measures to promote development, production and distribution of universally designed consumer products and accessories for general use;
- (b) take measures to provide accessible consumer services including personal grooming, fitness and beautification services;

## **4 H Service Animals**

- (1) The appropriate government shall set up Service Animal training facilities to provide persons with disabilities with suitable Service Animals;
- (2) The appropriate government and establishment shall facilitate the use of Service Animals by persons with disabilities at public places and public buildings or while using public services or facilities;
- (3) A person with disability needing assistance has the right to be accompanied in public places or public buildings or while accessing

public services by a Service Animal without being required to pay an extra charge for the Service Animal.

#### **4 I Mandatory Observance of Accessibility Norms**

- (1) No individual, organization or establishment shall be granted permission to build any structure if the building plan does not adhere to the regulations formulated by the Disability Rights Authority;
- (2) No individual, organization or establishment shall be issued a certificate of completion or allowed to take occupation of a building if it has failed to adhere to the regulations formulated by the Disability Rights Authority.
- (3) Any contravention of this Section shall be penalized under Section 30D.

#### **4 J Time Limit for Making Existing Infrastructure and Premises Accessible**

- (1) All existing public buildings used for government purposes shall be made accessible within a period not exceeding three years from the enactment of this Act;
- (2) All other public buildings shall be made accessible within a period not exceeding five years from the enactment of this Act;
- (3) Any contravention of this Section shall be penalized under Section 30E.

#### **4 K Dereliction of duty by Service Provider**

- (1) All service providers shall provide services in accordance with the regulations on accessibility formulated by the Disability Rights Authority;
- (2) Any contravention of this Section shall be penalized under Section 30C.

#### **4 L Role of the National Centre for Universal Design and Barrier-free Environment**

- (1) The National Centre for Universal Design and Barrier Free Environment established by order by the Government of India will primarily assist the Country to become universally accessible and inclusive in terms of accessibility;

- (2) The Centre shall support the Disability Rights Authority in developing and monitoring Accessibility regulations for all services and facilities provided to the public at large both in the rural and urban areas;
- (3) In furtherance of the role outlined in sub-section (1) the Central Government shall undertake the following functions:
  - (a) Research and Development in the field of universal design and barrier free environment;
  - (b) Develop curriculum in the field of architecture, design, technology, electronics and engineering in order to incorporate the theory and practice of universal design;
  - (c) Facilitate students in educational institution to undertake projects pertaining to universal design;
  - (d) Provide consultancy services to all establishments and individuals on such request.

Provided that the Central Government shall be the permanent consultant on all issues of universal design and barrier free environment to the Disability Rights Authority and the appropriate governments.

#### **4 M Implementation Plan**

- (1) The Disability Rights Authority in collaboration with NCUDBE would formulate an action plan based on prioritization of providing accessibility in all public buildings and spaces providing essential services such as all Primary Health Centres, Civil/District hospitals, Primary schools/secondary schools, railway stations and bus stations within five years;
- (2) A plan shall include carrying out of access audits by authorized team of auditors and provision of accessible facilities based on standard accessibility guidelines;
- (3) All plans shall be public documents and shall be made available by Disability Rights Authority in formats accessible to persons with disabilities;
- (4) The Disability Rights Authority shall set up a system of monitoring all

existing built infrastructure once the plans to provide accessibility are made public.

## **5 Human Resource Development**

- (1) The appropriate government shall ensure that the social, economic and civil political rights guaranteed in this Act are duly implemented and to that end shall:
  - (a) undertake the development of human resource so that it renders available services inclusive;
  - (b) sensitizes existing personnel and creates curricula which is disability sensitive to persons with disabilities;
  - (c) make provision for adequate numbers of professionals in such manner that such personnel are available in appropriate ratios to provide services for persons across all disabilities at the central, state, local and panchayat level;
  - (d) the provision of personnel to monitor the conduct of training at central, state, district and local bodies and panchayat levels to ensure effective functioning of institutions and professionals.
- (2) In order to fulfill the obligation stated in sub section (1) of section 5, the appropriate governments shall periodically undertake a needs based analysis and formulate plans for the recruitment, induction, orientation and training of suitable personnel to undertake the various responsibilities outlined in this Act;
- (3) The appropriate governments shall ensure that the terms and conditions of service of all personnel and professionals working in the field of disability are appropriate, just and equitable so as to ensure the induction and retention of quality personnel and professionals in the field in adequate numbers;
- (4) Without prejudice to any function and power of Rehabilitation Council of India contained in the Rehabilitation Council of India Act and in addition to the cadre creating obligations outlined in sub section (2) of section 5, the appropriate governments shall ensure human resource development in this sector by *inter alia*:

- (a) Mandating training on disability rights in all courses for the training of administrators, police officials, judges, lawyers and judicial officers:
  
- (b) Induction of disability as a component for all education courses/ programmes for school, college and university teachers, doctors, nurses, para-medical personnel, social welfare officers, rural development officers, Aasha workers, Anganwadi workers engineers, architects, other professionals and community workers;
  
- (c) Initiating capacity building programmes, including training in independent living and community relationships for families and care providers on care giving and support:
  
- (d) Ensuring independence training for persons with disabilities to build community relationships on mutual contribution and respect:
  
- (e) Conducting training programmes for sports teachers with specific focus on sport needs of persons with disabilities.

## 6. Right to Equality and Non-Discrimination

(1) All persons with disabilities are equal before the law and are entitled to equal protection and equal benefit of the law without any discrimination whether direct or indirect:

(a) **'Direct Discrimination'** occurs when whether intentionally or unintentionally:

- (i) a person or group of persons to whom one or more prohibited grounds apply is treated less favourably than another person or another group of persons is, has been, or would have been treated in a comparable situation; or
- (ii) for a reason which is at least in part related to one or more prohibited grounds, a person or group of persons is subjected to a disadvantage; or
- (iii) there is failure to provide reasonable accommodation;
- (iv) a person or a group of persons is harassed or victimized.

(b) **'Indirect Discrimination'** occurs when a provision, criterion or practice, even though neutral on the face of it, has the effect of putting persons to whom one or more prohibited grounds apply at a disadvantage compared with others;

(2) No person with disability shall be discriminated on the basis of any of the prohibited grounds; unless it can be shown that the impugned act, provision, criterion, practice, treatment or omission is a proportionate means of achieving a legitimate aim;

Provided that harassment, victimisation or a failure to provide reasonable accommodation may not be justified under any circumstance;

(3) In no case shall a person with disability be forced or compelled to partly or fully pay any of the costs incurred to provide reasonable accommodation or any of the other obligations imposed in this section;

(4) All persons with disabilities are entitled to equal and effective legal protection from discrimination on any of the prohibited grounds;

- (5) All persons with disabilities have legal capacity and the right to choose their way of life, on an equal basis with others and any measure, intervention, interpretation which has the effect of denying or withdrawing or eliminating the legal capacity of any person with disability shall constitute discrimination;
- (6) Any affirmative action measure aimed to accelerate or achieve de facto equality of persons with disabilities shall not constitute discrimination;
- (7) In any case upon it being found that an establishment or person has practiced discrimination which such establishment or person has failed to justify, the Court or the State Disability Court, as the case may be, shall make declaratory, mandatory, injunctive, compensatory, supervisory or any other suitable orders against such establishment or person or to redress the victim for any disadvantage or mental anguish, suffered because of such discrimination and stop any further discrimination against the victim or persons situated in a position similar to the victim;
- (8) The Court or the State Disability Court shall also require such establishment or person to bear the costs of the proceedings and to pay any interest that may be due.

**6A Pro-active Interventions for Persons with Disability with increased vulnerability.**

- (1) The Appropriate Government shall create and implement pro-active, dedicated and timely interventions in order to guarantee full enjoyment of all rights and benefits of persons with disability with increased vulnerability, on an equal basis with others.

**Explanation:**

Persons with disability with increased vulnerability shall mean persons with disability who due to the nature of their impairment combined with attitudinal, economic, or locational barriers are subject to familial or social exclusion; and shall include persons with disability who are elderly; or homebound; or are concealed, neglected, abandoned or segregated; or living in institutions; or destitute or homeless.

- (2) For the purposes of sub-section (1), the Disability Rights Authority shall, formulate such rules, regulations, standards, guidelines or any other instrument; or conduct research studies and undertake investigation for structural violation of rights of persons with disability; or carry out empirical studies or any other research; or undertake any other activity as it may deem suitable.
- (3) The appropriate government shall designate one or more authorities for the purposes of sub-section (1).
- (4) The authority or authorities mentioned in sub-section(3) shall undertake proactive interventions by formulating and implementing schemes and programmes for such persons with disability in order to ensure their meaningful participation in familial and social interactions; access to all services, facilities and information; and enjoyment of all rights and

benefits guaranteed to all persons with disability, on an equal basis with others.

## **7A Women and Girls with disabilities**

- (1) All women and girls with disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law;
- (2) The appropriate government and establishments shall take all appropriate measures, including formulating, extending and implementing gender-specific programmes and schemes, to ensure the full and equal enjoyment of all rights by women and girls with disabilities;
- (3) No woman or girl with disabilities shall be excluded on the ground of sex, either fully or partially, from any entitlement or programme provided for the benefit of persons with disabilities under this Act or under any other law for the time being in force;
- (4) Nothing in this section shall prevent the appropriate government or any establishment from taking specific measures for, or providing special entitlements to, women and girls with disabilities to promote full and equal enjoyment of their rights.

## **7B. Right to Education of women and girls with disabilities**

- (1) Girls and women with disabilities shall not be excluded from the general education system on the basis of sex or disability;
- (2) The appropriate government shall take all appropriate measures to ensure that all girls and women with disabilities have access to an inclusive education system, without discrimination and on an equal basis with others, at all levels;
- (3) Without prejudice to the generality of sub-section (1), the appropriate government shall take measures to:
  - (a) Provide special allowance for families of girls with disabilities to meet educational expenses;
  - (b) Provide incentives to educational institutions, both in public and private sectors, to enroll girls with disabilities and retain them after enrollment till the completion of education;
  - (c) Provide reasonable accommodation of the requirements of girls with disabilities at all levels of the education system;

(d) Ensure that all girls with disabilities have access to necessary, adequate and appropriate support for the completion of primary, secondary and higher education;

(e) Ensure that all school buildings are accessible to girls with disabilities.

### **7C. Right to Work & Employment of women and girls with disabilities**

(1) No woman with disability shall face discrimination in recruitment, promotion, and other related matters arising in the course of or through the length of employment, in any establishment;

(2) The appropriate government shall take all effective and appropriate measures, including formulation of schemes and programmes, to ensure that women with disabilities have access to employment opportunities on an equal basis with others;

(3) Without prejudice to the generality of sub-section (2), such measures shall:

(a) Ensure reasonable accommodation of the requirements of women with disabilities and provision of support mechanisms for employment in all establishments, including in the form of maternity leaves, flexible working hours and crèches;

(b) Ensure that all establishments are accessible to women with disabilities;

(c) Provide training and assistance for skill development, self-employment, vocational training, and other forms of training to women with disabilities in both rural and urban areas, and to ensure that such trainings are accessible to women with disabilities;

(d) Provide incentives to establishments to recruit women with disabilities;

(e) Ensure that the existing schemes and programmes on poverty alleviation and livelihood are accessible to women with disabilities.

## **7D. Right of women with disabilities to be protected against all forms of violence, abuse and exploitation**

- (1) Every woman with disability has the right to be protected against all forms of exploitation, abuse and violence, including physical, mental, sexual, and emotional on the person of such woman with disability in all settings at all places including, home, care-houses, educational institutions, institutions, workplaces, and any other place which resides, co-habits, employs or in other manner inhabits any woman with disability whether temporarily or permanently;
- (2) The appropriate government shall take all appropriate measures to protect all girls and women with disabilities, whether in rural or urban areas, from all forms of exploitation, abuse and violence. Such measures include:
  - (a) Provision of accessible, safe and confidential complaint mechanism to report instances of exploitation, abuse and violence by women with disabilities;
  - (b) Provision of gender, disability and age sensitive protection services, assistance and support for girls and women with disabilities who are victims of such abuse, violence or exploitation, and their families or caregivers for physical, cognitive and psychological recovery and development, rehabilitation and social reintegration, in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person;
  - (c) Dissemination of information on avoidance, recognition and report of instances of violence, abuse and exploitation;
- (3) For the purposes of this section, the terms “violence”, “abuse” and “exploitation” shall have the same meaning as under Section 13.

## **7E. Right of women with disabilities to health**

- (1) All women with disabilities shall have a right to the enjoyment of the highest attainable standard of health and right to obtain health care in accessible environments through accessible procedures with reasonable accommodation without discrimination on the basis of disability or sex;
- (2) The appropriate government shall take all appropriate measures to ensure the full and effective enjoyment of the right to health by women with disabilities, including measures to:
  - (a) ensure that all healthcare services, including family planning programmes, are gender-sensitive, and are available and accessible to women with disabilities, whether in urban or rural areas;
  - (b) to provide information in relation to all areas of healthcare, including sexual and reproductive health, to women with disabilities.

## **7F. Right of women with disabilities to Home and Family**

- (1) Women with disabilities have a right to marry and found a family on the basis of free and full consent, on an equal basis with others;
- (2) Each woman with disability has a right to retain her fertility and shall not be subject to any medical procedure which leads to or could lead to infertility or termination of pregnancy without her express consent. Any contravention of this Section shall be penalized under Section .....
- (3) No woman with disability shall be denied or be forced to undertake the roles relating to marriage, family, parenthood, and relationship on the ground of disability;
- (4) The appropriate government shall take all appropriate measures to eliminate discrimination against women with disabilities in all matters relating to marriage, family, parenthood and relationships. Such measures include:
  - (a) Providing early and comprehensive information, services and support to women with disabilities and their families to prevent concealment, abandonment, neglect and segregation of women with disabilities in relation to home and family life;

- (b) Providing and making accessible information on reproductive health and family planning to enable women with disabilities to take decisions involving their reproductive rights and family planning freely and responsibly.

### **7G. Access to Justice**

The appropriate government shall take measures to ensure that all police stations, courts, tribunals, or any other body having adjudicatory powers or being connected to the legal system or justice delivery system are accessible to women with disabilities.

## **Children with Disabilities**

### **8A Rights of Children with Disabilities**

- (1) Children with disabilities have the same human rights and fundamental freedoms as other children.
- (2) They are entitled to enjoy these rights and fundamental freedoms on an equal basis with other children and the denial of any rights on the basis of disability shall be discrimination.
- (3) The appropriate governments and establishments shall ensure that children with disabilities have a right to freely express their views on all matters affecting them.
- (4) The views of the children with disabilities must be given due weight in accordance with evolving capacities of the child.
- (5) The appropriate government shall devise protocols whereby age and disability appropriate guidance and information shall be provided to the child to exercise this right.
- (6) It shall be the duty of all appropriate governments and establishments to ensure that the birth of all children with disabilities is registered in accordance with the Registration of Births and Deaths Act, 1969.

### **8B Right of children to be protected against violence, abuse and exploitation**

- (1) All children with disabilities have a right to be protected against all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in all settings, including the home, family, schools, institutions and the juvenile justice systems.
- (2) All children with disabilities have a right to be provided with an accessible, safe and confidential complaint mechanism. Such complaints have to be addressed in a time bound manner.

- (3) The appropriate government shall ensure that any establishment providing any service to children with disabilities must be staffed with specially trained personnel and any individual who is involved in providing any support or service to child with disability must be trained for the same in a way to protect the integrity and dignity and rights of the child.
- (4) The appropriate government and establishment shall undertake awareness raising and training programmes for the appropriate personnel and children with disabilities to enable them to understand the signs of violence and abuse and access the complaint mechanism.
- (5) For the purposes of this section, the terms violence, abuse and exploitation shall have the same meaning as under Section 13 of this Act.

#### **8C Right of Children to Home and Family**

The appropriate government shall ensure that children with disabilities have an equal right with respect to family life. The appropriate government shall undertake support measures such as providing comprehensive information and support to children with disabilities and their families to ensure that they are not concealed, abandoned, neglected or segregated.

#### **8D Access to Justice for Children**

- (1) All children with disabilities have a right to be provided with access to court and legal representation and to participate in court proceedings which affect their lives including the right to be mandatorily informed of any proceedings concerning them.
- (2) All children with disabilities shall have a right to be provided with disability and age appropriate accommodation in accordance with the rules formulated by the Court of the National Disability Commissioners.

## **8E Right to Culture, Leisure and Sport**

- (1) All children with disabilities have a right to play and participate in sports, recreation and cultural activities on an equal basis with other children.
- (2) All appropriate governments and establishments shall provide for disability and age appropriate opportunities for children with disabilities to participate in sports and have access to playgrounds along with other children.
- (3) All appropriate governments and establishments shall ensure that children with disabilities have access to cultural materials in an accessible format and access to cultural activities, performance and services along with other children.

## **PART III: LEGAL CAPACITY AND CIVIL POLITICAL RIGHTS**

### **9A Right to Legal Capacity and Equal Recognition before the Law**

- (1) Notwithstanding anything contained in any other law to the contrary, 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 persons before the law;
- (2) Any legislation, rule, notification, order, by-law, regulation, custom, practice that deprives any person with disability of their legal capacity shall be in contravention with this Act and hereinafter be void;

All persons with disabilities shall if they so desire have the right to seek support to exercise legal capacity; and no person with disability shall be obliged to seek support.

- (3) All persons with disability have the right to access all arrangements and support necessary for exercising all the incidents of legal capacity in accordance with their will and preferences;
- (4) The Disability Rights Authority shall take appropriate measures and make suitable schemes which are also gender sensitive to provide access by persons with disabilities to the support they may require to exercise their legal capacity;
- (5) Irrespective of the degree or the extent of support, in no case shall the legal capacity of persons with disabilities be questioned or denied because such persons with disabilities access support to exercise such legal capacity taken;
- (6) When a conflict of interest arises between a person providing support and a person with disability in a particular transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction.

#### ***Explanation***

There shall not be a general presumption of conflict of interest just on the basis that the supported person is related to the person with disability by blood, affinity or adoption.

- (7) No person providing support either individually or as part of a network shall exercise undue influence on a person with disability. Such support when provided by an individual or a network shall be so provided that it respects the autonomy, dignity and privacy of persons with disabilities;
- (8) A person with disability shall have the right to alter, modify or dismantle any support arrangement and substitute it with another. Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transactions entered into by person with disability along with the support arrangement;
- (9) In fulfillment of its obligation to facilitate the provision of support for persons with disabilities, the Disability Rights Authority shall draw up guidelines to enable:
  - (i) Registration of Advance Directives;
  - (ii) Recognition of Support Networks;
  - (iii) Registration of Enduring Powers of Attorney;
  - (iv) Terms of appointment of a Personal Assistant or;
  - (v) Any other suitable mechanism of customary law or family/community/ professional practice by which support can be effectively provided to person with disabilities.

Any person with disability can use the above guidelines to put in place his or her support arrangement and may register the same with the designated authority.

## **9B Access to Support**

- (1) The Disability Rights Authority or any other Authority expressly established for such purpose shall take immediate steps to provide access to suitable support measures for the exercise of legal capacity by persons with disabilities, particularly the persons with disabilities living in institutions and persons who have higher support requirement;
- (2) Plenary guardianship is abolished. Any legislation, rule, regulation and practice following or prescribing the system of plenary guardianship shall, hereinafter, be void;
- (3) The Disability Rights Authority or any other Authority expressly established for such purpose shall take suitable steps including, where appropriate, mediation proceedings, in order to assist persons with disabilities to exit from plenary guardianship and to help set up where

required by persons with disabilities suitable support arrangements for the exercise of their legal capacity.

### **9C Creation of Support for Persons with Disabilities in Institutions**

- (1) The Designated Authority shall take immediate steps to put in place suitable support measures for the exercise of legal capacity by persons with disabilities and especially for persons with disabilities living in institutions and persons with disabilities who have high support needs;
- (2) The Authority shall also devise appropriate policies and schemes which provide suitable support to persons with disabilities and especially persons with disabilities who have high support needs to enable them to realize the social, political, economic and cultural rights guaranteed under the Convention;
- (3) Subsequent to the enforcement of this Act, designated individuals or committees shall assist persons who have exited from plenary guardianship to set up where so desired by the persons with disabilities, suitable support arrangements to aid persons with disabilities in the exercise of their legal capacity. These review activities of the individual or committee are facilitative in nature and no persons with disabilities can be denied legal capacity due to the delay or non occurrence of the review activity.

### **9D Creation of Support Networks**

- (1) The Designated Authority shall undertake the task of conceiving new kinds of support, and formulating guidelines on the already included support, in active consultation with persons with disabilities; disabled peoples organizations; parents associations; organizations working for people with disabilities and other concerned members of civil society;
- (2) The Authority shall devise suitable mechanisms to obtain feedback from the recipients of support on the suitability and usefulness of the support provided and if and whether they desire any modification or addition to it;
- (3) In order to ensure that support is provided whilst respecting the legal capacity of persons with disabilities, the Disability Rights Authority shall regularly conduct awareness raising and sensitization programmes on the role, necessity and manner of providing support.

### **9E Denial of Legal Capacity**

- (1) Any person with disability who is deprived of legal capacity or is denied of the exercise of legal capacity by any person, authority or agency may

file a complaint of such deprivation or denial to the District Commissioner of Disability which shall provide a suitable relief as expeditiously as possible.

## **10 Right to Life and Living**

- (1) Every person with disability has the inherent right to life. The State shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

### ***Explanation:***

The term ‘State’ here has same meaning as the term ‘state’ under Article 12 of the Constitution of India”.

- (2) Right to life includes the right to live with dignity, which includes but is not limited to:
- (a) adequate nutrition, clothing and shelter;
  - (b) wellness and healthcare;
  - (c) access to facilities for reading, writing and expressing one-self in any form or language whether written, spoken, unspoken, or sign language; and
  - (d) freedom of movement, association, participation and living and sharing with other persons and communities;
  - (e) Opportunity to acquire personal, social, educational and vocational skills required to function as a person with disability;
- (3) Any act or omission which damages or injures or interferes with the use of any limb or faculty of persons with disabilities either permanently or temporarily, will be punishable under this Act.

Any contravention of this Section shall be penalized under **Section 30F**.

## **11 Protection and Safety of Persons with Disabilities in Situations of Risk**

- (1) All persons with disabilities shall have the right to suitable protection and safety in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters;
- (2) In furtherance of the right recognized in sub-section (1), the appropriate governments and local authorities shall take effective and appropriate measures to enable the protection and safety of persons with disabilities in these situations on an equal basis with others;
- (3) Without prejudice to the generality of the obligation in sub-section (2), the appropriate governments shall formulate or alter as the need may be, all existing and proposed plans and interventions, in consultation with the Disability Rights Authority for the inclusion of persons with disabilities;
- (4) The National and State Disaster Management Authority shall take appropriate measures to ensure inclusion of people with disabilities in every scheme, program, mission as well as its 'disaster management activities' as defined under S 2(e) of the Disaster Management Act, 2005 during the occurrence of any 'disaster' as defined under S. 2(d) of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities;
- (5) The appropriate governments shall take suitable measures to ensure the safety and protection and offer immediate relief and rehabilitation to victims with disabilities in situations of communal violence or internal disturbance;
- (6) The Armed Forces shall, in all situations of armed conflict, take appropriate measures to ensure the safety and protection of persons with disabilities in light of the obligations under International Human Rights law and International Humanitarian law including the Geneva Conventions I-IV 1949 and Additional Protocols I & II 1977;

- (7) Every reconstruction activity undertaken by the appropriate authority in response to any situation of armed conflict, humanitarian emergencies or natural disasters should take into account the accessibility requirements of people with disabilities. This should be done in consultation with the **Disability Rights Authority** established under this Act;
- (8) The appropriate governments and concerned authorities shall work together with the Disability Rights Authority to –
- (a) undertake research and development on issues relating to protection, relief, rescue or safety of persons with disabilities in situations of risk;
  - (b) provide training to persons with disabilities on responding effectively to interventions by appropriate authorities in situations of risk;
  - (c) provide training to personnel dealing with persons with disabilities in situations of risk so as to enable them to offer effective support in these situations and sensitize them to the needs and requirements of persons with disabilities.

## 12 Right to Liberty

- (1) No person with disability shall be deprived of their personal liberty without the procedure established by law;
- (2) Such procedure established by law must be just, fair and reasonable and not arbitrary;
- (3) No person shall be deprived of personal liberty only on the ground of disability;
- (4) All Persons with disabilities shall:
  - (a) enjoy the right to personal liberty and security on an equal basis with others;
  - (b) if persons with disabilities are deprived of their liberty through any process, they shall be entitled to reasonable accommodation and all such guarantees as are necessary for the effective realisation of the right to liberty and security in such circumstance.
- (5) Right to personal liberty for persons with disabilities includes:
  - (a) freedom from restrictions or encroachments on person, whether those restrictions or encroachments are directly imposed or indirectly arise;
  - (b) freedom from non-consensual civil commitment.
- (6) Persons with disabilities have a right to a non-coercive, non-restrictive and supportive environment which fully respects their sense of space, safety and security;
- (7) In order to protect and promote the freedoms guaranteed in sub sections (3) and (4) of this section, the Disability Rights Authority shall in collaboration with appropriate governmental and non governmental partners launch programs by which *inter alia*:
  - (a) values of peace, love, non-violence and respect for difference and diversity in schools is promoted;
  - (b) safe havens, time out sites and respite places are available to diffuse situations of conflict and violence;

- (c) the importance of difference is appreciated and skills of dealing with diversity developed;
- (d) community leaders trained who can address conflict situations through conciliation and arbitration between the community and within the family so as to protect the liberty of all persons with disabilities and especially women, children and the elderly.

### **13 Access to Justice**

- (1) All persons with disability or any public spirited individual or organization or organisations working in the field of disability shall have the right to access any court; tribunal; any authority; commission; or any other body having power to adjudicate disputes, in order to seek enforcement, protection or prevention of any unlawful or arbitrary interference with the assertion or exercise of any right guaranteed to them under this Act or any other law in force;
- (2) All persons with disability shall have right to initiate a legal proceeding to enforce or defend their rights or participate in any legal proceeding as advocates, witnesses, or experts, or amicus curiae to assist in adjudication of Disputes by any court, tribunal, commission authority or any other body having power to adjudicate upon disputes affecting the rights of persons with disabilities;
- (3) Every person with disability shall have right to use any means of communication which such person finds suitable or appropriate to undertake the aforesaid legal proceedings;
- (4) All communication under sub – section (3) shall be deemed to be oral communication for the purposes of the Code of Criminal Procedure (Act No. 8 of 1908) and the Indian Evidence Act (No. 1 of 1872);
- (5) The competence of any person with disability in performing any function in clause (2) shall not be questioned merely on the basis of the disability. The testimony, opinion or argument given by a person with disability shall be evaluated on an equal basis with others and shall not be rejected, dismissed or disregarded merely on account of the fact of the disability of the person giving such testimony, opinion or argument;
- (6) Every person with disability shall have the right to access any scheme, programme, facility or service created by the National Legal Services Authority and the State Legal Services Authority of the respective State.

- (7) The National Legal Service Authority and the State Legal Service Authority of all the states shall formulate such schemes, procedures, facilities, support systems and arrangements to enable persons with disability to exercise their right as close to their homes under sub-section (1), (2) and (3) of this section;
- (8) The State Government shall take steps to ensure that all police stations are accessible to all persons with disability and that the necessary equipments, support, or arrangements are made available to enable persons with disability to file a First Information Report, enter appearance or make statements before the police;
- (9) The legal services authority, the Bar Council of India, the Bar Councils of all the states and bar association of all the courts and the authority responsible for infrastructure shall take steps to make all courts accessible for all persons with disability;
- (10) The organisations, authorities and institutions in sub-section (9) shall take necessary steps:
- (a) to ensure that all the documents of the court are in accessible formats;
  - (b) to ensure that filing departments, registry or any other office or records are equipped with necessary equipments to enable filing, storing and referring to the documents and other evidence in accessible formats;
  - (c) to make available all the necessary facilities and equipments required to facilitate recording of testimonies, arguments or opinion given by persons with disability in their preferred language and means of communication;
- (11) All Judicial Academies; Police Academies and Training Organizations for Prison Officials and Legal Service Authorities are required to make training in disability rights a mandatory part of their induction and continuing education programs.

## **14 Right to Integrity**

- (1) Persons with disabilities have a right to respect for their identity as persons with disabilities and to be able to function safely as such persons;
- (2) Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others;
- (3) Right to integrity includes right to dignity of self and its appreciation in society and requires that communications which reduce the identity of the person with disability to the impairment be abjured and respectful address practiced;

Illustratively such diminishing of identity happens when a person with disability is called names; labelled; rendered invisible or greeted in a patronizing manner.

- (4) The respect for this right should in no way be influenced by the living arrangements of the person with disabilities. The right of homeless persons with disabilities and persons with disabilities in institutions are to be respected on an equal basis with others;
- (5) The person with disability shall not be subject to any research protocol without the informed consent in the manner that is understood by the concerned person and cleared by concerned Ethics Committee.

## 15 Right to be protected from violence, abuse and exploitation

(1) In this chapter:

(a) **‘Violence’** means any random or unprovoked act or threat of such act on any person with disability or her or his property with a motive to cause harm, injure, destroy, damage or humiliate them and includes any act or omission:

- (i) that harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so;
- (ii) that harasses, harms, injures or endangers the aggrieved person with a view to coerce such person or any other person related to the aggrieved to meet any unlawful demand;
- (iii) that puts the aggrieved in any institution, or is subject to any intervention, injection, or introduction to any invasive treatment by electric current or radiation or chemicals or any other technique;
- (iv) threatening the aggrieved with any conduct mentioned in (a), (b) and (c).

(b) **‘Abuse’** means any mental, physical, sexual, psychological, emotional and social mistreatment of any person with disability which has the tendency to cause serious emotional, mental, physical, and/or sexual injury and includes physical, sexual, verbal or emotional abuse and economic abuse which thereof shall be understood as:

- (i) **‘physical abuse’** means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force; and includes taking to any undesirable place, or forcing to see, hear, feel, eat, drink or smell anything undesirable to any person with disability;
- (ii) **‘sexual abuse’** includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of **the victim**;

- (iii) ‘**verbal and emotional abuse**’ includes insulting, ridiculing, humiliating any person with disability whether directly or indirectly on the basis of disability;
- (iv) ‘**economic abuse**’ includes depriving a person with disability of all or substantial economic or financial resources, or restricting or denying any access to the resources and facilities which makes it unrealistic for the aggrieved to live with dignity’;
- (v) ‘**Abuse**’ also includes denying or making or keeping inaccessible necessary support which the person with disability had demanded for which could be reasonably understood to have been demanded and exercise of any undue influence or pressure on, or willfully beguiling any person with disability to do or omit to do something which in the normal course such person with disability would have not done or done;
- (vi) **Exploitation**’ means any act which has the purport and effect of taking unfair advantage of any limitation of the aggrieved. Any person having a relationship whether personal, professional or fiduciary with the aggrieved or otherwise holding the trust and confidence of the aggrieved is guilty of exploitation if that person knowingly, by deception or intimidation, obtains or uses or tries to obtain or use aggrieved person’s funds, assets, or property with the intent to temporarily or permanently deprive such person with disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the aggrieved without obtaining her/his valid consent.

### ***Explanation***

Any act done voluntarily, recklessly, negligently, maliciously or with the knowledge of its consequences endangers or unfairly puts the person with disability to injury, risk or disadvantage not explicitly covered by above explanations is deemed to be exploitation of the person with disability.

## **16 Protection from Exploitation Abuse and Violence**

- (1) Every person with disability has the right to be protected against all forms of exploitation, abuse and violence, including physical, mental, sexual, and emotional on the person of such person with disability in all settings at all places including, home, care-houses, educational institutions, institutions, workplaces, and any other place which resides, co-habits, employs or in other manner inhabits any person with disability whether temporarily or permanently;
- (2) The Central / State Governments shall take all appropriate administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, bearing in mind also that persons with disability may be subject to discrimination on more than one grounds such as gender, religion, caste, sexual orientation simultaneously with disability;
- (3) Any organisation working with persons with disability or any person, who has reason to believe that an act of exploitation, violence and abuse has been, or is being, or is likely to be committed against any person with disability, may give information about it to the police officer, or the magistrate in whose jurisdiction such incident occurs is or is likely to occur, or to the State Disability Court that shall take immediate steps on the receipt of such information to stop it and have the persons responsible for it arrested or if it has not occurred, to prevent its occurrence;
- (4) No civil or criminal liability shall be incurred by any person in good faith furnishing information for the purpose of sub section (3);
  - (i) Any person with disability who is or has been or apprehends or has reason to believe that s/he may be subject to any form of exploitation, violence or abuse may make an application before the State Disability Court for protection;
  - (ii) The State Disability Court upon being satisfied that the act of exploitation, violence and abuse is being committed, or has been committed, or if not prevented in all likelihood would be committed against a person with disability, may pass necessary orders, or may direct or take such steps to ensure safety to the Person with Disability on the basis of any information received under sub-section (3) or any application received under subsection (5).

- (5) The State Disability Court, if satisfied that the impugned act has been committed or is in fact being committed, may after recording its findings and reasons, pass any order, including:
- (a) sending the person causing exploitation, violence or abuse to any person with disability to police custody to initiate appropriate criminal proceeding against such person;
  - (b) If such person is not a natural person, it may send the occupier or manager of such artificial person to police custody for initiation of criminal proceedings;
  - (c) If such person is a company registered under the Companies Act, it may recommend the registrar of the companies to take an appropriate action under the Companies Act against the defaulting company;
  - (d) An order to rescue the victim of such act, authorising the police or any reliable organisation working with the persons with disability to provide for the safe custody, or rehabilitation of such person with disability, or both;
  - (e) Issue an order for providing protective custody of the person with disability if the person with disability so desires it;
  - (f) In addition to the measures mentioned in clauses (a) to (e), it may ask the guilty person or organisation or company to provide monetary relief for the maintenance of such person with disability;
  - (g) A combination of one or more orders or directions mentioned above.
- (6) The State Disability Court, in its discretion, may counsel any person accused of an act of exploitation, violence or abuse against a person with disability in the presence of the aggrieved person and record its observations or recommend a lenient view of the punishment, while passing any order under subsection (6).

- (7) A police officer, State Disability Court or Magistrate who has received a complaint of exploitation, violence or abuse with any person with disability, is otherwise present at the place of such incident or when such incident is reported to him, shall inform the aggrieved person:
- (a) of the right to make an application for obtaining protection under subsection (5) before the Disability Rights Commission;
  - (b) of contacts of the nearest organisation(s) or institution(s) working for the rehabilitation of persons with disability who have been subject to exploitation, violence or abuse;
  - (c) of contacts of the nearest office(s) of the authorities mentioned under this Act, which shall assist the complainant;
  - (d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987) or any other services offered by the National Legal Services Authority or the State Legal Services Authority for the benefit of persons with disability;
  - (e) of her right to file a complaint under the relevant provisions of the Indian Penal Code or any other legislation dealing with such crimes.

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

- (8) The Disability Rights Authority shall take measures for the sensitization of the general public on the ways and forms in which persons with disability are subjected to exploitation, violence and abuse including their gender and age based aspects and the penalties for these acts;
- (9) The Disability Rights Authority shall take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender, age and impairment sensitive assistance and support for persons with disabilities and their families and caregivers, including providing information and education and raising awareness on:

- (a) identifying and recognizing the incidents of exploitation, violence and abuse;
- (b) the legal remedies available against such incidents;
- (c) steps to be taken for avoiding such incidents;
- (d) steps to be taken for reporting such incidents;
- (e) steps required for the rescue, protection and rehabilitation of persons with disability who have been the victims of such incidents.

(10) The Disability Rights Authority shall take all measures to develop gender, age and impairment sensitive support and arrangements to access legal remedies; to contact authorities, organizations and officials including the police whenever any person faces witnesses or apprehends violence, exploitation or abuse; and all information mentioned in subsection (11);

(11) The appropriate governments along with the organisations working in the field of disability shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery, rehabilitation and reintegration shall take place in an environment that fosters the health, well-being, self-respect, dignity and autonomy of the person and takes into account gender, age and impairment specific needs.

## **17 Right to Privacy**

- (1) No person with disabilities shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation;
- (2) Persons with disabilities have the right to the protection of the law against such interference or attacks;
- (3) Such protection shall be provided at all sites and shall among others include homes, institutions or any other living arrangement and will extend to all fields including the media, employment and health sectors.

### ***Explanation***

‘Privacy’ shall include within it informational privacy (right to control one’s information), decisional privacy (right to make one’s own decisions), bodily/physical privacy, communications privacy and sexual privacy.

- (4) The appropriate government and the Disability Rights Authority shall ensure that the privacy of personal, health and rehabilitation information of persons with disabilities is protected on an equal basis with others;
- (5) All public authorities as defined in the Right to Information Act, 2005 in collaboration with the Disability Rights Authority established under this Act shall devise codes of conduct which are gender sensitive and guidelines to protect the privacy of persons with disabilities in different sectors. Whilst formulating the guidelines the concerned authorities shall take note of the following relevant considerations:
  - (a) Privacy needs must be addressed by balancing the need for being alone, and need for being supported;
  - (b) Reasonable accommodation and necessary support must factor in personalized needs for privacy;
  - (c) The balance between disclosure and privacy is a matter to be decided by the person with disability.

## **Illustrations**

The Ministry of Information and Broadcasting and other related agencies under the Ministry shall in collaboration with the Disability Rights Authority come up with Codes of Conduct and Guidelines to ensure that all type of media (electronic, print, website or any other) respect the private and family life, home, health and correspondence of the persons with disabilities. The guidelines must ensure that the media avoids publishing any personal details of a persons with disabilities without his/her consent or, any prejudicial or pejorative reference to a person with disability.

The Ministry of Health and Family Welfare, its related agencies and autonomous organisations working under its ambit such as Dental Council of India and Nursing Council of India, shall in collaboration with the Disability Rights Authority frame code of conduct and guidelines to ensure all medical and related information to be protected and no disclosure of such information to be done except with the consent of the person with disability.

Ministry of Urban Development shall in collaboration with the Disability Rights Authority ensure through guidelines, codes and building by laws that the right to personal privacy, privacy in communications and confidentiality of personal records and information for each resident be maintained in all residential setting whether that be home or institutions. It should take steps to ensure that housing options provided by non-state actors must respect the privacy of persons with disabilities.

The Bureau of Civil Aviation shall in collaboration with the Disability Rights Authority evolve special guidelines regarding frisking of persons with disabilities so that their physical privacy and bodily modesty is not compromised at any time and accordingly appropriate training to be imparted to the ground staff.

The Ministry of Labour and Employment shall in collaboration with the Disability Rights Authority come up with guidelines for industries to establish with their own codes of privacy and confidentiality for protection of personal information (inclusive of medical information) of persons with disabilities.

- (6) No information regarding a person with disabilities except the one which is required by law shall be put up in public domain without consent in writing from the person with disability;

- (7) No person with disability shall be subjected to any pre-employment health screening which directly or indirectly discriminates on the basis of disability.

## **18 Freedom of Speech and Expression**

- (1) In order to promote plurality of opinion and diversity of thought persons with disabilities shall have the freedom to exercise the right to freedom of speech and expression on an equal basis with others;
- (2) Any censorship or curtailment of the thought, speech, expression and communication of a person with disability by reason of disability is discrimination and is impermissible;
- (3) The expression of dissenting opinions by persons with disabilities shall be entitled to the same constitutional respect as is extended to other dissenting voices and any curtailment or gagging of such dissenting opinions by persons with disabilities disability dissent is discrimination;
- (4) Expression of hate speech will be an offence punishable under Section 30L of the Act.

## **19 Right to Live Independently and in the Community**

- (1) All persons with disabilities shall have the right to live independently and in community in order to enable them to grow and develop and have a meaningful life on an equal basis with others;
- (2) In order to realize the right recognized in sub section (1), the appropriate government shall launch suitable schemes and programs which provide to persons with disabilities choice in place and manner of living, without directing or ordering the person with disabilities to live in any particular living arrangement determined by the state or any other entity;
- (3) The appropriate government shall establish sufficient independent and community living environments, taking into consideration gender and age needs and to accommodate the choices of persons with disabilities;
- (4) Such independent living will be accompanied with access to such support that will permit person with disabilities to fully realize their choice in manner of living, on an equal basis with others;
- (5) The appropriate government and Disability Rights Authority shall ensure that community living environments have such provisions and support services and systems, and access to such provisions and support services and systems, that allow for inclusion and participation of the person in general society without any discrimination.

## **20. Right to Home and Family**

(1) Notwithstanding anything contained in the law for the time being in force, every person with disability shall be entitled to solemnise a marriage with a person of his or her choice in accordance with prescribed procedure;

(2) A marriage under sub section 1 may be solemnised if the following conditions are fulfilled:

- (i) Neither party has a spouse living at the time of the marriage;
- (ii) The bridegroom has completed the age of twenty – one years and the bride has completed the age of eighteen years at the time of marriage;
- (iii) That the other spouse was aware of the disabilities of the person with disabilities at the time of marriage;
- (iv) Both spouses consent to the marriage.

(3) A marriage under sub section 1 shall be:

- (i) void if the conditions under Section 2(i), 2(ii) and 2(iv) were not fulfilled at the time of marriage;
- (ii) voidable if the conditions under Section 2(iii) were not fulfilled at the time of marriage.

Provided that a marriage under sub section 1 shall not be void or voidable solely because one or both of the spouses were persons with disabilities at the time of the marriage.

- (4) (i) A marriage solemnized under this Act may, on a petition presented by the husband or wife in accordance with prescribed procedure, be dissolved on the ground that irreconcilable differences have arisen in a marriage;
- (iii) A marriage solemnized under this Act may be dissolved by a decree of divorce, on a petition jointly presented by husband and wife in accordance with prescribed procedure, based on mutual consent of the parties;
- (iii) Notwithstanding anything contained in the law for the time being in force, neither party to a marriage shall be granted a decree of divorce based solely on the ground that the other party is a person with disability.

(5) (i) Where a decree of divorce is awarded under sub-section (i) of Section 4 the marital assets shall be divided as follows:

(a) the husband and wife shall retain all immovable property, movable property and monies acquired by him or her prior to marriage;

(b) the immovable property, movable property and monies acquired by either party after the solemnization of marriage shall be equally divided amongst the husband and wife with special consideration for the disability related needs of the person with disability.

(6)(i) Where a decree of divorce is awarded under sub – sections (i) and (ii) of Section 4 the custody of any child from the wedlock shall be decided based on the best interests of such child;

Provided that the spouse with disability shall not lose custody of any child from the wedlock, solely due to his or her disability.

(ii) In all such matters, the Court shall make an effort to consider the opinion of the child if rendered;

(7)(i) All persons with disabilities shall have the right to decide:

(a) The number of children they have;

(b) The time period between each child.

(ii) The appropriate government shall ensure that persons with disabilities have access to information regarding family and reproductive planning in order to enable them to take the decisions mentioned in sub sections 30H.

(8)(i) All persons with disability, particularly women and children with disabilities, have a right to retain their fertility;

(ii) No person with disability shall be subject to any medical procedure which leads to or could lead to infertility without their express consent.

Provided that in cases of medical necessity such medical procedure may be performed on a minor with the parent or guardian's consent.

Provided further that such medical necessity has to be declared by a qualified medical practitioner.

Any contravention of this provision shall be penalized under **Section.....**

- (9) Subject to the provisions of the Guardians and Wards Act (No. 8 of 1890) every person with disabilities is entitled to apply for an order of guardianship;

Provided that such application shall not be refused on the basis of the person's disability.

- (10) (i) Notwithstanding anything contained in the law for the time being in force, all persons with disabilities are entitled to adopt a child unless such adoption is not in the best interests of the child;

- (ii) Notwithstanding anything contained in the law for the time being in force, all persons with disabilities are entitled to give a child in adoption unless such adoption is not in the best interests of the child;

- (11) (i) No child with disability shall be separated from his parents without at least one parent's consent unless such separation is declared to be in the best interests of the child by a court or competent authority;

- (ii) No child shall be separated from his parents solely on the basis of his disability or on the basis of the disability of one or both of the parents.

Any contravention of this provision shall be penalized under **Section 30J**.

- (12) The appropriate government shall initiate programs to provide information, services and support to children with disability and their families;

- (13) No woman with disability shall be denied or be forced to undertake the roles relating to marriage, family, parenthood, and relationship on the ground of disability;

## **21. Right to exercise franchise, stand for election and hold public office**

- (1) Notwithstanding anything contained in the Representation of the People Act (No. 43 of 1950), the Representation of the People Act (No. 43 of 1951) or any other law for the time being in force, every person with disability who is not less than eighteen years of age shall be entitled to be registered as a voter in the constituency in which he is ordinarily resident and shall be entitled to vote in all polls in that constituency;
- (2) Notwithstanding anything contained in the law for the time being in force, any person with disability who is unable to cast his vote in person due to his disability or because he is admitted in any establishment maintained wholly or mainly for the reception and treatment of persons with mental disabilities at the time the poll is taken shall be entitled to vote by postal ballot and provisions shall be made, by rules made under the Representation of the People Act (No. 43 of 1951) to enable such voting;
- (3) Notwithstanding anything contained in the law for the time being in force, no person with disabilities shall be disqualified to be chosen as a representative of the House of People (Lok Sabha), Council of States (Rajya Sabha), Legislative Assembly of a State and the Legislative Council of State and all institutions of local self government solely on the basis of their disability;
- (4) (1) The Election Commission shall ensure that all polling stations are accessible to persons with disabilities and that all materials related to the electoral process are easily understandable by persons with disabilities;

(2) Without prejudice to the generality of the provisions contained in sub – section (1), the measures undertaken by the Election Commission in pursuance of that sub – section shall include:

  - (a) the construction and availability of ramps at all polling booths;
  - (b) separate queues for persons with disabilities at all polling booths;
  - (c) the availability of ballot papers and/ or electronic voting machines with candidates’ information available in Braille;
  - (d) training programs to sensitise polling officers about the special requirements of persons with disabilities.

- (3) If the presiding officer is satisfied that, due to his disability, a person with disability is unable to recognise the symbols or to record his vote without assistance, the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording/ casting the vote;
- (4) Every person with disability is entitled to form and be a member of any organization or association of his choice.

## **PART IV CAPABILITY DEVELOPMENT**

### **22 Programmatic entitlements and definition of persons with disabilities**

- (1) In this part of the Act for devising programmatic entitlements “persons with disabilities” means persons with autism spectrum conditions; blindness, cerebral palsy, deafblindness, dyslexia, low-vision; haemophilia, thalassemia, leprosy affected, hearing impairment; speech impairment, specific learning disabilities, locomotor impairment; mental illness, chronic neurological conditions, mental retardation; muscular dystrophy, multiple sclerosis, multiple disabilities which in interaction with various barriers prevents full and effective participation in society on an equal basis with others;

Provided that the Central Government may, by notification, include any other impairment in the above list on the recommendation of an Expert Committee constituted for this purpose with equal representation of subject and experiential experts through a review every five years;

- (2) Subsequent to the enactment of this Act, the Central Government shall constitute an Expert body with due representation to experiential experts to devise an appropriate socio medical scale for identifying persons with disabilities who can claim the programmatic entitlements guaranteed in this part. The appointment of the body and the submission of its report should be so planned that the socio medical scale is available for implementation along with the enforcement of the Act;
- (3) In devising the programmatic entitlements, the appropriate government shall accord due weightage to the intensity of the impairment and the extent of the barrier experienced by the person with disability. The severity of each impairment and the scale of the barrier experienced by the person with the particular impairment shall be as prescribed;
- (4) The appropriate government shall designate in every panchayat, municipal and notified area, officials or authorities who would be authorized to issue a disability certificate in accordance with prescribed procedure;

- (5) The prescribed procedure shall be devised so as to facilitate the obtaining of the certificate by persons with disabilities. The duration of the certificate shall be determined having regard to the nature of the impairment;
- (6) The standards and procedure outlined in the abovementioned sub-sections shall in no way impact upon the validity of the disability certificates obtained by persons with disabilities under the Persons with Disabilities Act, 1995.

## 23 Right to Education

### 23A Definitions

(1) In this Chapter, unless the context otherwise requires:

- (a) **‘capitation fee’** means any kind of donation or fee other than the fee notified by the school;
- (b) **‘child’** means a child with disability who is below the age of eighteen years;
- (c) **‘guardian’** means a person having care and custody of a child and includes a natural guardian, a guardian appointed by a court or a statute;
- (d) **‘neighbourhood school’** is any educational institution providing primary education within a radius of one kilometer or secondary education within a radius of three kilometers which is suitably equipped to provide education to children with disabilities and shall also include schools that are exclusively or dominantly catering to children with disabilities;

In areas with difficult terrain, risk of landslides, floods, lack of roads or any other danger or barrier for children in the approach from their homes to the school, the appropriate government shall locate the school in such a manner as to avoid such dangers and barriers, or devise any other strategy or procedure such as home or hostel based education to ensure uninterrupted education.

- (e) **‘parent’** means either the natural or adoptive parent or step mother or father of a child;
- (f) **‘primary education’** means education from the first class till the eighth class;
- (g) **‘screening procedure’** means any method of selection for admission of a child over another, other than a random method;
- (h) **‘secondary education’** means education from the ninth class to the twelfth class;
- (i) **‘special educator’** includes teachers, trainers, resource persons trained to address the general and particular learning needs of children with disability;
- (j) **‘special school’** means a school established and run only for students with disabilities;

**(k) 'support' means:**

- (i) educational instruction, through appropriate means and methods of communication by educators who have the requisite qualifications and training;
- (ii) the free supply of books, preparatory materials for entrance examinations and study materials in appropriate means and methods of communication;
- (iii) the free supply of assistive devices required by persons with disabilities for the completion of primary, secondary or higher education;
- (iv) the provision of amanuensis or other technological support as required;
- (v) transport facilities for children or in the alternative financial incentives to parents and guardians to enable children to attend school;
- (vi) scholarships for students with disabilities with preference to women and girls with disabilities;
- (vii) extra time to complete tests and examinations as appropriate;
- (viii) spelling concessions in written assignments, tests and examinations;
- (ix) exemption from second and third language courses if so desired by a child's parents or guardian and deemed necessary by the school administration;
- (x) suitable technological equipment which assists in the learning of all disciplines including but not limited to mathematics, geography, economics and science courses;
- (xi) necessary physical adaptations in the classroom;
- (xii) any other appropriate aid required for the completion of primary, secondary and higher education.

**23B Access to Appropriate Education**

- (1) Persons with disabilities shall not be excluded from the education system on the basis of disability, and the appropriate government shall ensure that all persons with disabilities, including women and girls with disabilities, have access to appropriate education, without discrimination and on an equal basis with others, at all levels;

- (2) The appropriate government and establishment shall ensure free and compulsory primary and secondary education to all children with disabilities;
- (3) The appropriate government and establishment shall ensure that appropriate education is based on lifelong learning aimed at:
  - (a) the full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - (b) the development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
  - (c) enabling persons with disabilities to participate effectively in a free society.

### **23C Reasonable Accommodation in Education**

- (1) The appropriate governments and establishments shall ensure that reasonable accommodation of the individual's requirements is provided at all levels of the education system, taking into consideration their gender specific needs;
- (2) The appropriate governments and establishments shall ensure that persons with disabilities receive individualised support, within the education system, to facilitate their effective education provided in environments that maximize academic and social development, consistent with the goal of full inclusion;
- (3) In order to ensure appropriate education for persons with disabilities, the appropriate governments and establishments shall take measures, including:
  - (a) facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
  - (b) facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
  - (c) employing teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education.

### **23D Entitlements of Children**

- (1) Every child shall have a right to free and compulsory education in an appropriate neighbourhood school or special school, as chosen by his parents or guardian, between the age of six and eighteen years or until the completion of his secondary education whichever is later;
- (2) No child shall be liable to pay any kind of fee, charge or expense which may prevent him from completing his elementary and secondary education.

### **23E Right of Admission**

If a child has not been admitted to a school at the stipulated age or was admitted but was unable to complete his education due to his disability then such child shall be admitted to a class suitable to his age.

Provided that, where a child is directly admitted to an age appropriate class such child has a right to suitable training in order to enable effective participation.

Provided further, that the aforementioned training will be imparted through means of communication and in a language which the child understands by educators equipped and trained to perform such training.

### **23F Right of Transfer**

Where a child is required to transfer from one school to another due to his disability or for any other reason whatsoever, such child shall have a right to seek such transfer and the school where the child was last admitted shall immediately issue a transfer certificate for the said purpose.

Provided that failure to procure or produce a transfer certificate shall not be a ground for delaying or denying admission to the school where the child is transferring.

### **23G Right to Support in Schools**

- (1) Every child has a right to receive necessary, adequate and appropriate support for the completion of primary and secondary education;
- (2) Every person with disability has the right to receive necessary, adequate and appropriate support for the completion of higher education;
- (3) Every child has a right to access all school buildings and the appropriate governments and establishments have a duty to make school buildings accessible.

### **23H Pre – School Education**

Every child below the age of six years has a right to free childhood care and pre - school education.

### **23I Right to Higher Education**

- (1) No person with disability, including women with disabilities, shall be denied admission in a higher education institution by reason of their disability if they fulfill all the requirements for such admission as amended by this Act or any rules there under;

Provided that, if a person with disability was unable to seek admission to a higher educational institution at or before the age prescribed for such admission then he shall be given admission in such institution if he fulfills all other requirements.

- (2) All appropriate governments or educational authorities may if they deem fit to enhance diversity and to promote equality of opportunity relax according to prescribed procedure the minimum qualification criteria required to be obtained by persons with disabilities who seek admission to a higher education institution.

### **23J Reservation in Higher Education Institutions**

All institutions of higher education shall reserve not less than six percent of total seats in each course for persons with disabilities.

### **23K Support in Higher Education**

- (1) Every person with disability appearing for an entrance examination for any higher educational institution has a right to adequate, necessary and appropriate support for the purposes of such examination;
- (2) Every person with disability who is admitted to a higher educational institution has a right to adequate, necessary and appropriate gender - sensitive support required to complete the course for which such person is admitted and for any other extra – curricular and co – curricular activities in which he represents such institution.

### **23L Qualifications of Teachers**

- (1) Every school and higher educational institution shall have a staff of educators who have the requisite qualifications and training to cater to the needs of students with disabilities;
- (2) All educators should be trained to teach a student with disabilities in an inclusive classroom.

### **23M Facilities in School**

Every school shall maintain such suitable pupil – teacher ratio between students with disabilities and educators who have the requisite qualifications and training as may be prescribed. In determining the ratio the appropriate authority shall ensure that the ratio should be so specified that it enables persons with disabilities to reach the goals of education specified in this chapter.

### **23N Local Survey**

Subsequent to the enactment of this Act and before its enforcement the appropriate government shall conduct local level surveys throughout the country in order to determine the physical presence of children with disabilities and to devise educational plans for the establishment of suitable neighbourhood schools resource centers or special schools as the case may be.

### **23O Establishment of Neighbourhood Schools, Resource Centers and Special Schools**

For carrying out the purposes of this Act, the appropriate government shall:

- (i) establish neighbourhood schools and special schools within such area or limits of a neighbourhood as may be prescribed and all such schools shall be equipped to provide education to all persons with disabilities;
- (ii) resource centers equipped with requisite personnel and equipment which shall support students and teachers in the pursuit of their education in neighbourhood schools;
- (ii) develop and enforce standards for training educators to teach children with disabilities;
- (iii) provide infrastructure including school buildings, educators who have the requisite qualifications and training to teach children with

disabilities; learning materials and any other materials required to support a child with disability in the completion of his primary and secondary education;

- (iv) Ensure and monitor the admission, attendance and completion of elementary and secondary education of every child with disabilities;
- (viii) Ensure the availability of a sufficient number of educators who have the requisite qualifications and training to teach persons with disabilities;
- (v) Provide training facilities for teachers such that they are trained to cater to the needs of children with disabilities;
- (vi) Establish an adequate number of teacher training institutions and assist the national institutes and other voluntary organizations to develop teacher training programs specializing in training special educators so that the requisite special educators are available for students with disabilities;
- (ix) Develop and establish an inclusive undergraduate and postgraduate degree in education which trains all teachers to cater to the needs of a child with disability in an inclusive classroom; and
- (x) Initiate or cause to be initiated research by official and non – governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials, or such other items as are necessary to give a child or person with disability the support required to complete his or her education.

### **23P Duty of Parent**

It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to a suitable neighbourhood school or special school as the case may be as chosen by the parent or guardian for the purposes of completion of the child's primary and secondary education.

### **23Q Capitation Fee**

No school or person shall, while admitting a child, collect any capitation fee and subject the child or his parents or guardian to any screening procedure.

### **23R No detention**

No child, who is admitted in a school, shall be held back in a class or expelled from school prior to the completion of primary and secondary education.

### **23S Capitation Fee**

No school or person, while admitting a child, shall collect any capitation fee or subject the child or parents to any screening procedure.

### **23T Prohibition of physical punishment or mental harassment**

No child shall be subject to physical punishment or mental harassment by reason of the disability or by denying reasonable accommodation.

### **23U Leisure Culture Sport**

All schools shall ensure that children with disabilities shall have the right to participate in sporting, recreational and leisure activities on an equal basis with others.

### **23V School Management Committees**

- (1) Parents or guardians of children with disabilities shall be members of the School Management Committees established under Section 21 of the Right of Children to Free and Compulsory Education Act, 2009;
- (2) The percentage of parents or guardians of students with disabilities on aforementioned committees shall be proportionate to the ratio of such students in the school;

Provided that in no case shall less than two such parents or guardians be on the Committee.

### **23W School Development Plan**

- (1) All School Development Plans prepared under sub – section (1) of Section 22 of the Right of Children to Free and Compulsory Education Act, 2009 shall state all requirements which are needed to:
  - (i) Make the school buildings accessible;
  - (ii) Provide support to children as mentioned in Section 23G and
  - (iii) Any other requirements which are necessary for children with disabilities.

## **23X Establishment of the Education Reform Commission**

There shall be established an Education Reform Commission for such period of time, not less than three years, as the central government may by notification provide.

- (1) The Commission shall, to the maximum extent possible, involve an effective participation of all stakeholders in the process of formulation, implementation and monitoring of the curriculum and related programmes and policies, including disabled and non-disabled children, teachers and parents;
- (2) The terms of reference of the Education Reform Commission shall be:
  - (a) To review the existing curriculum being adopted in schools from the standpoint of persons with disabilities and their lived experiences;
  - (b) To develop an inclusive curriculum based on the principles of non-discrimination and appreciation of diversity and tolerance;
  - (c) To make recommendations on the pedagogical methodology to be adopted for the teaching to and learning by persons with disabilities of such inclusive curriculum;
  - (d) To suggest measures for the adoption and integration of the inclusive curriculum in mainstream education and to monitor the progress;
  - (e) Make such other recommendations as the Commission may consider necessary.
- (3) The Commission may initiate studies and analysis or take any other measures that may be necessary for performing any function in relation to its terms of reference.

## **24 Employment, Work and Occupation**

### **24A Non Discrimination in Employment**

- (1) No person with disability shall face discrimination in recruitment, promotion, and other related matters arising in the course of, or through the length of, employment in any establishment.
- (2) No person shall be dismissed or suffer any reduction in rank solely on the grounds of acquiring any disability, or any consequences thereof:

Provided that if any employee is placed under undue stress or disadvantage in the usual course of employment as a result of the disability, such employee will be eligible for a post at the same rank with adequate support.

- (3) All establishments shall facilitate reasonable accommodation of persons with disability by taking adequate measures to guarantee that persons with disability are not disadvantaged in any manner at any stage of employment.

### ***Explanation***

- (1) **‘Adequate Facilities’** include, but are not limited to the provision of necessary aids and equipment, adequate healthcare facilities, necessary physical changes in buildings to ensure accessibility at workplaces, flexible work timings, continuous monitoring with regard to necessary support, or any arrangements or facilities created for equality with regard to competitive public service examinations and other such service related tests.
- (2) Any person with disability, if eligible for any post which is sought to be filled, shall have the right to appear for selection and hold the post if selected.
- (3) An establishment shall not transfer a person with disability unless such transfer becomes necessary due to exigencies of the job and expertise possessed by the person with disability. In the event that the reasonable accommodation provided cannot redress the inconvenience caused to the person with disability, failure to comply with such transfer will not be a cause, whether directly or indirectly, for any dismissal, demotion, or withholding of emoluments.

- (4) The appropriate government may frame such rules and regulations as may be necessary from time to time for the purposes of achieving the objectives hereinabove outlined.

## **24B Reservation**

- (1) All establishments shall reserve not less than six percent of vacancies arising against all posts and in promotion for all persons with disabilities in accordance with the following banding of disabilities, with each band being entitled to 1% ;
- (a) Persons with blindness and low vision;
  - (b) Persons with hearing impairment and speech impairment;
  - (c) Persons with locomotor disability and leprosy arrested;
  - (d) Persons with cerebral palsy and muscular dystrophy;
  - (e) Persons with autism, intellectual disability and mental illness;
  - (f) Persons with multiple disabilities, deaf-blindness and multiple sclerosis.

Provided that the reservation provided for in sub section (1)(a) shall be equally distributed between persons with blindness and low vision.

- (2) The percentage stated can be renewed and the classification altered upon review once every 3 years.
- (3) If sufficient number of qualified persons with disabilities are not available in a particular year, then the reservation may be carried forward to the subsequent year, and if in the subsequent recruitment year also a suitable person with disability is not available, then the post may be first filled by interchange among the categories, and if the vacancy is still not filled then the establishment shall identify, train and then induct persons with disabilities on the post. In no case shall a post to which a person with disability is entitled to be appointed be allowed to lapse.

### ***Explanation***

This provision also extends to schemes guaranteeing employment, or the creation of posts for employment, by way of any legislation, notification or rule formulated by the appropriate government, including but not limited to the Mahatma Gandhi National Rural Employment Guarantee Act, 2005.

- (4) Subsequent to the enforcement of this Act, the appropriate government shall appoint persons with disabilities on preferential basis to the posts identified under Section 32 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

## **24C No Discrimination in Promotion on Grounds of Disability**

- (1) No person with disability shall be denied promotion by reason of disability
- (2) Denial of promotion on grounds of disability shall constitute discrimination

## **24D Equal Opportunity Policies**

- (1) Subject to the requirements of Section 62 of this Act, within six months of the commencement of this legislation, all establishments shall put in place an Equal Opportunity Policy detailing measures and commitments initiated by the establishment in pursuance of the provisions of this Chapter and any such Rules thereof.
- (2) An Equal Opportunity Policy shall:
  - (a) delineate measures taken in order to comply with the provisions of the Act;
  - (b) provide strategies to increase employment opportunities with specific attention to all schemes and reasonable accommodation measures.
- (3) The Disability Rights Authority may, if it deems fit, devise the form and structure of Equal Opportunities Policies.
- (4) Once formulated, a copy of the Equal Opportunity Policy shall be deposited and registered with the State Disability Court.

## **24E Maintenance of Records**

- (1) Every establishment shall maintain records in relation to employment, facilities provided and other necessary information with regard to compliance with the provisions of this Chapter in such form and in such manner as may be prescribed by the appropriate government.
- (2) Every Employment Exchange shall register in accordance with prescribed procedure and thereby maintain records of persons with disabilities seeking employment.
- (3) Such records shall be relevant and authentic evidence of a person with disability seeking unemployment allowance under section of this Act.
- (4) Any person authorized by the Disability Rights Authority may inspect the records during the working hours of the establishment.

#### **24F No Removal or Reduction of Rank on Acquiring Disability**

- (1) All establishments and employers as the case may be shall arrange for the rehabilitation of an employee who acquires a disability during the course of service.
- (2) No establishment shall remove or reduce in rank any employee who acquires a disability during the course of service.
- (3) The establishment shall provide reasonable accommodation to enable the employee to resume the job he was doing in the organization before acquiring the disability.
- (4) If the employee cannot function on the same post even with the provision of reasonable accommodation then the establishment shall relocate the employee to a suitable post without any reduction in salary and rank on which the employee can perform whether with or without reasonable accommodation.
- (5) If, after the location and relocation procedures outlined in sub-section (3) and (4) prove unsuccessful, the employee may be kept on a supernumerary post until a suitable post is available or till the age of superannuation, whichever ever is earlier.

#### **24G Vocational Training, Rehabilitation and Self-Employment**

- (1) The appropriate government shall take all necessary measures with respect to formulation of schemes and programmes to facilitate and support employment of persons with disability, with special reference to self-employment and vocational training of persons with disabilities.
- (2) Without prejudice to the general obligation stated in sub-section (1), the appropriate government shall establish in each district work centres where persons with disabilities in rural areas can be imparted necessary skills (rural crafts, trades and domiciliary occupations) and provide work in horticulture/ handicrafts/ agriculture and making of agricultural equipments etc.
- (3) Without prejudice to the general obligation stated in sub-section (1), the appropriate government shall ensure imparting of skills through convergence in existing centers and establish centers where none exists where persons with disabilities in rural areas can be imparted necessary skills in crafts, trades and domiciliary occupations and provide work;

- (4) The appropriate government shall provide adequate loans at concessional rates under the existing microcredit and loan schemes to persons with disabilities in order to facilitate self-employment schemes;
- (5) If, in the opinion of the person recruited, there is a need to impart specific training prior to recruitment in order to ensure that a person with disability has adequate support, then such facilities should be made available.
- (6) The appropriate governments shall institute suitable schemes to promote and support the creative skills of persons with disabilities in rural areas and by establishing networks between the artisans and marketing federations and handicraft boards.

#### **24H Incentives to Establishment**

- (1) The appropriate government shall within a period of one year of the enforcement of this Act provide incentives to all establishments to ensure that at least ten per cent of their work force is composed of persons with disabilities.

#### **24I Grievance Redressal**

- (1) Each establishment shall, as part of their Employment policy, set up a grievance redressal cell. The officer-in-charge of such grievance redressal cell shall be termed the grievance redressal officer, and shall be registered with the State Disability Court.
- (2) Any person may register a complaint with the grievance redressal officer, who shall maintain a register of complaints in the manner prescribed by the appropriate government, and any such complaint shall be looked into within two weeks of such registration;
- (3) Without prejudice to the general nature of the above obligation, the grievance redressal officer shall ensure that every establishment shall fulfill the obligations stated in sub-section (3) of section 19A. In case of any lapse on the part of the establishment in the fulfillment of this obligation, the grievance redressal officer shall be liable unless he is able to demonstrate that the establishment has defaulted despite his efforts to ensure otherwise;
- (4) If the grievance redressal officer fails to address the complaint within two weeks of being registered, then the person with disability may approach the State Disability Court.

## **24J Special Employment Exchange**

- (1) The appropriate government may, at its discretion, retain the Special Employment Exchanges established under Section 34 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and establish new Exchanges;
- (2) After the enforcement of this Act any notification issued by the appropriate government under Section 34(1) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 shall continue to be effective and establishments shall adhere to any new notifications issued by the appropriate government in this regard.

## **25 Right to Social Security**

- (1) In furtherance of the right to life and living elaborated in section 10 and the right to live independently and in the community in section 19 of this Act, all persons with disabilities shall have a right to social security which includes but is not limited to securing adequate standard of living for persons with disabilities and their families in terms of food security, shelter, housing, social care, pension, unemployment allowance, medical and life insurance;
- (2) The appropriate government shall promulgate necessary programmes and/or plans to safeguard and promote the realization of the rights of persons with disabilities recognized in sub-section (1) to provide adequate standard of living and improve their living conditions to enable them to live independently and in the community. In devising these plans and programmes the diversity of disability, gender, age, and socio-economic status shall be relevant considerations;
- (3) These plans shall inter alia provide in rural as well as urban areas for:
  - (a) safe and hygienic community centres with decent living conditions in terms of nutritional food, sanitation, health care and counseling;
  - (b) facilities for persons including children with disabilities who have no families or have been abandoned, or are without shelter or livelihood;
  - (c) support required during times of natural or man-made calamities and in areas of conflict;
  - (d) social care to women with disabilities who have no livelihood; and family support for upbringing of their children;
  - (e) a person with disability to be considered as a single unit for the purpose of availing benefit under any food security scheme;
  - (f) access to safe drinking water and proper sanitation facilities especially in rural areas.
- (4) The appropriate government shall formulate schemes to provide for social security benefits and aids and appliances without cost to persons with disabilities belonging to economically weaker sections of society.

- (5) Any refusal of insurance on the basis of disability is unlawful. Any rule in standard form contracts that persons with disabilities constitute higher or unacceptable risk constitutes discrimination and is invalidated; and any practice to that effect stands invalidated.
- (6) In furtherance of right to live independently and in the community, the appropriate government shall *inter alia*:
- (a) frame disability pension schemes to cover all ‘persons with disabilities requiring this support in all such schemes, the individual person with disability shall be the unit of entitlement for award of disability pension;
  - (b) frame rules for making provisions for transfer of pension benefits of government employees to their children with disabilities;
  - (c) provide for special initiatives such as enhanced disability pension for persons with multiple disabilities, with high support needs, women and elderly persons with disabilities;
  - (d) provide adequate care-giver allowance to all persons with disabilities with high support needs;
  - (e) pay enhanced post retirement benefits to persons with disabilities;
  - (f) organise special camps at Gram Panchayat level, at least once a year, to give information on, and to introduce persons with disabilities to, various government schemes.
- (7) The appropriate government shall, in furtherance of the right to habilitation and rehabilitation and the right to living independently, provide *inter alia*:
- (a) for not less than six percent reservation and preferential allotment of land and housing to persons with disabilities in all government housing schemes and/or urban or rural development programmes with priority to women and elderly persons with disabilities;
  - (b) ensure that not less than six percent of the beneficiaries, in all poverty alleviation and various developmental schemes, shall be persons with disabilities with priority to women and elderly persons with disabilities;

- (c) provide for not less than six percent reservation in allotment of land on concessional rate, where such land shall be used for the purpose of promoting housing, shelter, setting of occupations, businesses, enterprises, self help groups, gainful occupations, recreation centers, production centers exclusively for persons with disabilities whether or not such facilities are owned and managed by persons with disabilities;
  
- (d) to provide incentives to house owners by way of reduction in property tax who lease out premises to persons with disability for residential or commercial purposes;
  
- (7) No person with disability who is willing to work under the employment guarantee schemes or such other developmental schemes shall be denied the work.

## 26 Right to Health

- (1) All persons with disability are entitled to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.
- (2) All persons with disabilities have the right to obtain health care in accessible environments through accessible procedures and with reasonable accommodation.
- (3) The appropriate governments and establishments shall ensure that all health care rights, entitlements and benefits are universally available with due consideration accorded to gender, age and socio-economic status.
- (4) Appropriate governments and establishments shall ensure that persons with disabilities have access to free or affordable quality health care close to their communities particularly in the rural areas.
- (5) The appropriate governments and establishments shall provide health care services needed by persons with disabilities specifically because of their disabilities. Such services shall make provision for early identification and intervention.
- (6) In fulfillment of its obligation under this section the appropriate governments shall make schemes and programmes with the participation and involvement of persons with disabilities and care-givers that *inter alia* makes provision for:
  - (a) the minimization and prevention of further disabilities with requisite education and information;
  - (b) the health care of persons with disabilities during times of natural disasters and other situations of risk ;
  - (c) disability specific equipments and accessible infrastructure at all health care centres; public buildings and places; and all other such places that may be notified by the appropriate government from time to time;

- (d) 'essential medical facilities' for all life saving emergency treatment and procedures;
- (e) sexual and reproductive health especially of women with disabilities;
- (f) access to all Primary Health Care services especially within rural areas and for the urban poor;
- (g) subsidized and where necessary, free treatment and medical services for weaker and indigent sections; and
- (h) coverage of medical expenses, travel allowances and therapy within a comprehensive insurance scheme for persons with disabilities.

### ***Explanation***

'Medical Services' include surgery, therapy, medicines, pathology and follow up.

### **26A Insurance**

- (1) All establishments shall provide (medical insurance) and life insurance to persons with disabilities on an equal basis with others;
- (2) The denial of such insurance or its provisions on disproportionate premiums or iniquitous conditions would be seen as discrimination.

### **26 B Ethical Guidelines**

- (1) All health professionals shall not discriminate against persons with disabilities in the observance of ethical guidelines on informed consent and confidentiality whilst providing health care and other services to persons with disabilities;
- (2) Without prejudice to the general obligation stated in sub-section (1) all health care professionals shall when making impairment specific interventions take special care to provide complete information to persons with disabilities through accessible modes, methods and formats;
- (3) Any negligent departure from the guidelines shall invite action for professional misconduct or poor and inadequate service;
- (4) The medical practice guidelines shall be suitably revised to incorporate accessible procedures of communicating with persons with disabilities and to delete any prejudicial references.

### **26C Awareness Raising Responsibilities**

(1) The appropriate government and establishment in collaboration with the Disability Rights Authority shall carry out sensitization and awareness-raising amongst care-givers, service-users and the general public as regards the human rights, dignity, autonomy and needs of persons with disabilities;

(2) The Appropriate Government and establishment shall:

- (1) Undertake or cause to be undertaken surveys, investigation and research on the health status and needs of persons with disabilities;
- (2) Provide facilities for training at primary health care centres to address the needs of persons with disabilities;
- (3) Take measures for pre-natal, peri-natal and post natal care of mother and child;
- (4) Sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information on general hygiene, health and sanitation as impacting the health status of persons with disabilities.

## **26D Prohibition on Denial of Food and Fluids**

(1) The denial of foods and fluids to persons with disabilities including infants with disabilities by reason of their disability is hereby prohibited;

(2) Any person found to either deny food and fluids to any person with disability or to aid and abet in such denial shall be liable to criminal prosecution and penalties under Section. Any contravention of this Section shall be penalized under Section 30K.

## 27 Right to Habilitation and Rehabilitation

- (1) In furtherance of the right to life and living elaborated in section..... of this Act generally and clause (d) of sub-section 2 more particularly all persons with disabilities have a right to habilitation in order to realize the rights guaranteed under this Act.

### *Explanation*

Habilitation is a process by which persons born with impairments learn life skills. Rehabilitation refers to a process by which persons readapt to society after acquiring impairment.

- (2) In furtherance of the right recognized in sub-section (1) the Appropriate Governments and establishments shall take effective and appropriate measures to enable persons with disabilities to maximize their physical, mental, personal, social, educational, vocational and professional abilities to enable them to live a full, inclusive and dignified life. In devising these measures the diversity of disability; gender; age; and socio-economic status shall be relevant considerations;
- (3) Without prejudice to the generality of the obligation in sub-section (2), in order to ensure that children with disability have the same life development opportunities as other children, the appropriate government and local authorities shall formulate habilitation plans for children with disabilities with strategies for ensuring that it starts as early as possible;
- (4) These plans shall inter alia provide for:
- (i) Appropriate support and guidance to parents of infants and young children with disabilities to enable them to perform their parenting responsibilities;
  - (ii) The training of children and young persons with disabilities in self care and self reliance depending upon the nature of impairment;
  - (iii) The promotion of total communication among children and adults with different types of impairments
  - (iv) Provision of social skills and social networking between children with disabilities; other children; extended family and larger community;
  - (v) Therapeutic, surgical or other corrective interventions and for aids and appliance;

- (vi) Ensuring the provision of adequate training in mobility, orientation of environment, use of assistive devices and application of technology.
- (5) In order to ensure that every child with disability obtains access to habilitation at the earliest possible time the appropriate government shall:
- (i) Proactively survey the presence of infants and children with disabilities;
  - (ii) disseminate information on nature of disabilities and the plan of habilitation to the community generally; and to community workers, doctors and teachers particularly.
- (6) The habilitation plan shall have a dynamic approach and would change in its interventions and outcomes in accordance with the age, gender, local environment and functional goals of the person with disabilities;
- (7) Every person with disability shall have the right to take a decision with regarding their own habilitation plan; and due consideration should be given to the evolving capacity of children in supporting and obtaining their participation.

## **27A Right to Rehabilitation**

- (1) All persons with disabilities have the right to live a full and meaningful life irrespective of the nature of the impairment and the manner, age, place, situation or circumstance in which such impairment is acquired.
- (2) In furtherance of this right to life and living all persons with disabilities have a right to peer, professional, community and state support to resume and continue their personal, social, economic and political participation on an equal basis with others.
- (3) In enforcement of this abovementioned right the appropriate governments and local authorities shall put in place suitable peer and professional intervention to enable the persons with disabilities to accept the altered nature of their mind and body.
- (4) All persons with disabilities have a right to be provided aids and appliances of recognized quality at an affordable cost along with the requisite training to utilize it.

- (5) Every person with disability has the right to be informed of the various rehabilitation options and make the final decision on the course of rehabilitation.

## **27B Research and Development**

- (1) The appropriate governments and the Disability Rights Authority shall initiate or cause to initiate research and development through individuals and institutions on issues which would enhance the habilitation and rehabilitation processes for persons with disabilities.

## **28 Participation in Cultural Life, Leisure, Recreation and Sports**

- (1) Persons with disabilities have a right on an equal basis with others to participate in cultural life, leisure, recreation and sports;
- (2) No person shall be denied access to and participation in sports, cultural, recreation and other co-curricular and extra-curricular activities on grounds of disabilities;
- (3) The appropriate government shall take appropriate measures to guarantee effective participation and access to cultural life, sport and recreational activities for persons with disabilities;
- (4) The appropriate government shall take appropriate measures to promote and encourage the participation of persons with disabilities in mainstream sporting, recreational and cultural activities for the development and utilization of their cultural, artistic and intellectual potential;
- (5) Without prejudice to the general obligation stated in sub-section (2) and (3), the appropriate government shall take specific measures to the effective participation in cultural life, recreation and sports which shall include:
  - (a) Redesigning courses in cultural and arts subjects to include participation and access for persons with disabilities;
  - (b) Organising specific programmes for encouraging and developing literature and art relating to persons with disabilities in fields such as music, dramatics, theatre and languages;
  - (c) Designing, promoting and organising programmes for developing inter alia, sports facilities, infrastructure, events, recreational activities and games to include persons with disabilities;

- (d) Developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities and sports;
  - (e) Include multi-sensory essentials and features for all recreational activities and sports;
  - (f) Special allocation of funds for the development and better utilization of existing facilities for inclusion of persons with disabilities;
  - (g) Adequate measures for promoting and organizing disability specific events for persons with disabilities; and
  - (h) Ensuring that current physical education/ sports courses include disability perspective by:
    - (i) providing coaching facilities as well as services of sports teachers who understand the specific sport needs of persons with disabilities; and
    - (ii) ensuring that children with disabilities have the right to participate in sports, cultural, recreational and leisure activities on an equal basis with others;
- (6) Children with disabilities shall have equal access with others and the right to participate in sports, recreational and leisure activities, including activities organized in school.

## **PART V REGULATORY AND ADJUDICATIVE AUTHORITIES**

### **29 Establishment and Incorporation of Disability Rights Authority**

- (1) There shall be established, for the purposes of promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms of all persons with disabilities, an Authority which shall be called the Disability Rights Authority;
- (2) Disability Rights Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued;
- (3) Disability Rights Authority shall have its head and seat in New Delhi;
- (4) Disability Rights Authority may establish offices at other places in India.

### **29A Composition and Management of the Authority**

- (1) Disability Rights Authority shall consist of a Chairperson and a Governing Board comprising of:
  - (a) 14 members who shall be persons with disabilities and shall be appointed by way of an election, by an electoral college that shall comprise of all organizations of persons with disabilities, the organizations of families of persons with disability and organizations working for the rights of persons with disability which are registered under this Act or registered under the National Trust Act, 1999, by such procedure as may be prescribed;
  - (b) 5 members who shall be persons not below the rank of Joint-Secretary to the Government of India and shall be nominated by the Central Government, one each representing the Ministries of Social Justice and Empowerment (Disability Division), Health and Family Welfare, Urban Development, Rural Development and Human Resource Development;
  - (c) 2 members who shall be persons nominated by the Federation of Indian Chambers of Commerce and Industry and the Confederation of Indian Industries; and

- (d) a Member-Secretary with requisite knowledge and experience in the field of disability to be appointed in accordance with the procedure prescribed.
- (2) When deemed necessary, for due deliberation on any matter, before the Disability Rights Authority, the Chairperson may invite a representative of any other Ministry or Department;
  - (3) The Chairperson of the National Trust and the Chairperson of the Rehabilitation Council of India shall be ex-officio members of the Governing Board;
  - (4) The members of the Governing Board shall have a tenure of five years and no person shall be appointed as member of Disability Rights Authority for more than two consecutive terms;
  - (5) The Disability Rights Authority shall operate through an Executive Board which shall be constituted from amongst the members of the Governing Board by such procedure as may be prescribed;
  - (6) The Executive Board shall consist of the Chairperson and nine other members. The Chairperson of the Governing Board shall be the Chairperson ex-officio of the Executive Board; of the nine other members: four members shall be representatives of the elected members; two members shall be representatives of Government; two members shall be representatives of the National Institutes and one member representing commerce and industry.
  - (7) The Executive Board may appoint one of the members to be Vice-Chairperson of the Authority who shall exercise and discharge such powers and functions of the Chairperson as may be prescribed or as may be delegated by the Chairperson.
  - (8) The general superintendence, direction and management of the affairs of Disability Rights Authority shall vest in the Executive Board of members, which may exercise all powers and do all acts and things which may be exercised or done by Disability Rights Authority.
  - (9) The Chairperson and the members of the Governing Board shall be full time members.

## **29B Reservation within the elected members of the Governing Board**

- (1) Of the 14 members comprising of persons with disabilities on the Governing Board, the following reservations shall be provided:
  - (a) 1 seat shall be reserved for persons with autism, intellectual disabilities and mental retardation;
  - (b) 1 seat shall be reserved for persons with mental illness;
  - (c) 1 seat shall be reserved for persons with multiple disabilities, deaf-blindness, multiple sclerosis;
  - (d) 2 seats shall be reserved for women with disabilities.
- (2) The provisions of sub section (1) shall be applicable only in the event and to the extent that the impairments mentioned therein, do not find representation by way of general election.
- (3) In the event that the persons with disabilities under clause (a) of sub-section (1) or clause (b) of sub-section (1) are not available to stand for election, the seats so reserved shall be open for election to the care-givers of persons with the respective disabilities.

## **29C Selection Committee for the Chairperson**

The Chairperson shall be appointed by warrant under the hand and seal of the President of India; provided that every appointment shall be made after obtaining the recommendations of a Selection Committee comprising of:

- (a) the Prime Minister of India;
- (b) the Leader of the Opposition in the Lok Sabha;
- (c) the Leader of the Opposition in the Rajya Sabha;
- (d) the Union Minister for Social Justice and Empowerment;
- (e) the Union Minister for Corporate Affairs;
- (f) two experts who shall be persons of integrity and standing who have special knowledge of and experience in the field of disability, law, health, education, management, industry, economics, business, commerce and public affairs.

**29D                    Resignation, Removal and suspension of the Chairperson and other members**

- (1) The Chairperson may resign office by tendering notice in writing to the President of India.
- (2) Any other member may resign office by tendering notice in writing to the Chairperson.
- (3) The President of India may remove the Chairperson from office if he or she:
  - (a) has been adjudged insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the Governing Board, involves moral turpitude; or
  - (c) has acquired such financial or other interest as is likely to prejudicially affect such person's functions as a member, or
  - (d) has so abused the position as to render continuance in office prejudicial to public interest.
- (4) The Governing Board may, by a resolution passed by special majority, remove from office any member, who:
  - (a) has been adjudged insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the Governing Board, involves moral turpitude; or
  - (c) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
  - (d) has so abused the position as to render his continuance in office prejudicial to the public interest.
- (5) No such member shall be removed from office under clause (c) or clause (d) of sub-section (3) and under clause (c) or clause (d) of sub-section (4) unless given a reasonable opportunity of being heard in the matter.
- (6) In the event of a vacancy in the office of the Chairperson by reason of death, resignation, suspension or removal; the Vice-Chairperson shall act as the Chairperson, until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon office.

- (7) When the Chairperson is unable to discharge the functions of the office owing to absence, illness or any other cause, the Vice-Chairperson shall discharge the functions of the Chairperson until such date that the Chairperson resumes charge.

**29E Establishment of National Fund for Persons with Disability**

- (1) There shall be constituted for the purposes of this Act, a Fund to be called the National Fund for Persons with Disabilities and shall be credited thereto with:
- (a) all moneys payable by banks, corporations, etc., in pursuance of judgment dated 16.04.2004 of the Supreme Court in Civil Appeal No.4655 and 5218 of 2000;
  - (b) a sum equivalent to the moneys collected under clause (a) to be contributed by the Central Government;
  - (c) all moneys received by the Fund by way of grant, gifts, donations, beneficinations, bequests or transfers; and
  - (d) all moneys received by the fund in any other manner or from any other source.
- (2) The money received by the Fund under clauses (a) and (b) of sub section (1) of section 29 E shall constitute the corpus of the Fund which shall be held in trust by the Disability Rights Authority. Only the earnings from the corpus may be expended to carry out the various purposes of the Disability Rights Authority.

**29F Dissolution of Erstwhile Fund for Persons with Disabilities and transfer of their rights, assets and liabilities to the National Fund for Persons with Disability.**

On and from the date of the constitution of the National Fund for Persons with Disability in accordance with Section 29E , the Erstwhile Fund for Persons with Disabilities shall stand dissolved, and on such dissolution –

- (a) all properties and assets, movable and immovable, of, or belonging to the dissolved fund shall vest in the National Fund for Persons with Disabilities;
- (b) all rights and liabilities of the dissolved fund shall be transferred to, and be the rights and liabilities of the National Fund for Persons with Disability;

- (c) without prejudice to the provisions of clause (b) all liabilities incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the dissolved Fund, shall be deemed, as the case may be, to have been incurred, entered into, or engaged to be done by, with or for, the National Fund for Persons with Disability;
- (d) all sums of money due to the dissolved Fund immediately before their dissolution shall be deemed to be due to National Fund for Persons with Disability;
- (e) all suits and other legal proceedings instituted or which could have been instituted by or against the dissolved Fund immediately before their dissolution may be continued or may be instituted by or against the National Fund for Persons with Disability.

## **29G Grants by Central Government**

- (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Government may think fit for being utilised for the purposes of this Act.
- (2) The contribution by Public Sector Undertakings and Public Limited Companies towards the National Disability Fund shall be deemed fulfilment of their Corporate Social Responsibility.

## **29H Exemption from tax on wealth and income**

- (1) Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Disability Rights Authority shall not be liable to pay wealth-tax, income-tax, or any other tax in respect of their wealth, income, profits or gains derived.

## **29I            Functions of the Authority**

- (1) Subject to the provisions of this Act, it shall be the duty of the Disability Rights Authority to promote, protect and monitor the enforcement of the rights of persons with disability by such measures as it deems fit.
- (2) Without prejudice to the generality of the foregoing provisions, the measures referred to herein may provide for –
  - (a) developing effective and comprehensive national policy, legislative and regulatory framework to address issues faced by persons with disabilities;
  - (b) reviewing and evaluating legislations, policies, rules, regulations, bye-laws, programmes, notifications or any other legal instrument at the Union, State and local level on a periodic basis for their conformity with rights of persons with disability;
  - (c) preparing and publishing a Plan of Action within six months of the date of formation of the Disability Rights Authority that shall identify principles and priorities, list out the activities to be undertaken by Disability Rights Authority for a *two-year period* and shall be reviewed and revised as and when necessary;
  - (d) developing and conducting information programmes to foster public understanding and guidance on this Act, the Convention and the role and activities of Disability Rights Authority, thereby sensitizing and raising awareness throughout society, including at the family level, regarding persons with disabilities to foster respect for the rights and dignity of persons with disabilities;
  - (e) promoting understanding, capacity building and encouraging the development and exchange of good practices by forging

partnerships with public and private sector organisations, employers and service providers, NGOs and public-spirited individuals;

- (f) undertaking research, collecting data and materials relating to persons with disabilities and disseminate the same to promote evidence based understanding of disability rights;
- (g) inquiring, suo motu, into any systemic violation of rights of persons with disabilities;
- (h) addressing grievances that raise systemic issues pertaining to full and effective realization of rights of persons with disabilities;
- (i) intervening in any proceeding involving any allegation or violation of rights of persons with disability pending before a court with the approval of such court;
- (j) issuing binding Regulations on the standards of practice; and
- (k) performing any other functions that are incidental and ancillary to the above functions and which will facilitate the discharge of such functions

## **29J Power of the Disability Rights Authority to Review and Advice**

- (1) Where the Disability Rights Authority finds that any law, policy or practice directly or indirectly discriminates against or violates the rights of persons with disabilities, it shall advise the appropriate government or

establishment referred to under Section 2 (ff) (i) to take measures to address the alleged discrimination or violation.

- (2) The appropriate government or aforementioned establishment may consult the Disability Rights Authority on the advice tendered.
- (3) The appropriate government or aforementioned establishment shall report to the Parliament or State Legislative Assembly, as the case may be, on the measures taken in pursuance of the advice tendered under **sub-section.....**

#### **29K Power to Review, Advice and Report**

- (1) Where the Disability Rights Authority finds that any practice directly or indirectly discriminates against or violates the rights of persons with disabilities, it shall advise the establishment mentioned under Section 2 (ff) (ii), (iii), (iv), (v) and (vi) to take time bound measures to address the alleged discrimination or violation.
- (2) If the aforementioned establishment fails to take measures under subsection (1), then the Disability Rights Authority shall give an opportunity to the establishment to be heard.
- (3) Subsequent to the hearing, the Disability Rights Authority may forward a report on the establishment's failure to address the alleged discrimination or violation to the Court of the National Disability Commissioner for further action.

#### **29L Power to Suo Moto Conduct Investigation/Inquiry for Determining Cases of Systemic Violation of Rights of Persons with Disabilities**

- (1) The Disability Rights Authority shall conduct a Disability Discrimination and Harassment Inquiry by requiring evidence to be provided regarding any systemic violation of disability rights from various stakeholders.
- (2) The Disability Rights Authority shall consult all relevant stakeholders by soliciting written submissions and by organizing meetings and public hearings with individuals and representatives of organizations involved in disability rights issues.
- (3) The Disability Rights Authority may conduct a survey through a questionnaire which would be in accessible format and ask the respondents about the manner in which the denial of disability rights happened.
- (4) The Disability Rights Authority shall on the basis of the inquiry and the survey, identify areas, organizations and policies that are leading to systemic denial of rights and record the discriminatory practices and rules in a report.
- (5) For the purpose of conducting any investigation, the Disability Rights Authority may utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.
- (6) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of Disability Rights Authority:
  - (a) summon and enforce the attendance of any person and examine him;
  - (b) require the discovery and production of any document; and
  - (c) requisition any public record or copy thereof from any office.
- (7) Where the Disability Rights Authority finds subsequent to the investigation that there have been systemic violations of the rights of persons with disabilities it shall have the power to serve a compliance notice against all parties who are found to be in violation of such rights.

- (8) A notice may also require further information to be produced before the Disability Rights Authority for the purposes of assessing compliance.
- (9) The Disability Rights Authority in consultation with the parties shall develop a written undertaking that provides the measures which shall be taken to ensure compliance.
- (10) Failure to comply with the aforementioned undertaking shall result in the imposition of sanctions and penalties.
- (11) The parties against whom any sanctions and penalties under sub section (4) has been imposed, may appeal to The Court of National Commissioner of Disability as provided under this Act.
- (12) The Disability Rights Authority may where it considers feasible, endeavour to eliminate any discriminatory practice by informal methods of mediation and conciliation.

## **29M Power to Facilitate Mediation and Conciliation**

- (1) The Disability Rights Authority shall keep a record of accessible mediation and conciliation centres and have the duty to ensure that any person with disability willing to resolve disputes through these processes has access to suitable institutions

(2) The Disability Rights Authority shall have the power to engage with and establish ties with Conciliation and Mediation centres in all regions of the country on issues regarding the rights of persons with disabilities and the provisions of this Act.

(3) The Disability Rights Authority shall have the power to organize and conduct training programs, workshops and seminars for mediators and conciliators on resolving disputes involving persons with disabilities.

#### **29N Power to Associate, Co-ordinate with Individuals and Organizations**

(1) The Disability Rights Authority shall, by way of signing Memorandums of Understanding, agreements, engaging in active partnerships or through any other procedure associate with any person, organization, regulatory authority or authorities whose assistance and advice is desirable for carrying out the purposes of this Act.

(2) The Disability Rights Authority may constitute Working Groups in specific areas and regions of the Country for the purpose of carrying out its functions and duties.

#### **29O Establishment of Committees**

(1) The Disability Rights Authority may establish such Committees as it deems fit, for the effective discharge of its functions under this Act and to exercise such powers that may be conferred and such functions as may be assigned to it under this Act.

(2) The composition, membership, qualifications, terms and conditions of appointment, removal, tenure, removal, tenure, meetings, quorum and resignation of the Committees shall be determined by the regulations.

#### **29P Accounts & Audit:**

(1) The Disability Rights Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the National Fund including the income and expenditure accounts in such form as required by the Comptroller and Auditor-General of India.

(2) The accounts of the National Fund shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified and any expenditure incurred in connection with such audit shall be payable

by the Disability Rights Authority to the Comptroller and Auditor-General of India.

- (3) The Comptroller and Auditor-General of India and any other person appointed in connection with the audit of the accounts of the National Fund shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books of accounts, connected vouchers, other documents and papers and to inspect any of the offices of the Disability Rights Authority.
- (4) The accounts of the National Fund as certified by the Comptroller and Auditor-General of India or any other person appointed in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government, which shall cause the same to be laid before each House of Parliament.

#### **29Q Annual Report of the Disability Rights Authority**

- (1) The Disability Rights Authority shall submit an annual report to the Central Government or State Government as the case may be, and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.
- (2) The Central Government or the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, along with a memorandum of action taken or proposed to be taken on the recommendations of the Disability Rights Authority and the reasons for non-acceptance of the recommendations, if any.

#### **29R Court of the National Disability Commissioners**

- (1) The Central Government shall establish a Court of the National Disability Commissioners.
- (2) The Court of the National Disability Commissioners shall consist of three full-time members including:
  - (a) one person who will be the presiding judge and shall be someone qualified to be a Judge of the Supreme Court;

- (b) two persons having knowledge of disability law and having expertise and experience in human rights or rights of persons with disabilities;
- (3) The National Disability Commissioners shall be appointed by warrant under the hand and seal of the President of India for a period of five years.
- (4) The appointments under this section shall be made after obtaining recommendations of a Committee comprising of the Chief Justice of India, a senior judge of the Supreme Court and an expert in the field of disability law.
- (4) The salary and allowances payable to and other terms and conditions of service of the National Disability Commissioners and other officers or employees of the Court of the National Commissioners of Disability shall be such as may be prescribed by the Central Government.

## **29S Functions of the Court of the National Disability Commissioner**

- (1) The Court of the National Disability Commissioners shall -
  - (a) be the appellate authority from all original orders of the Disability Rights Authority;
  - (b) adjudicate upon matters referred to it by the Disability Rights Authority;
  - (c) take suo moto cognizance of the infringement of rights of persons with disabilities and pass appropriate orders or directions;
- (2) Any aggrieved person may directly approach the Court of the National Disability Commissioners for matters related to disability discrimination.

## **29T Powers of the Court of the National Disability Commissioners**

- (1) For the purposes of this section, the Court of the National Disability Commissioners shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908 while trying a suit in respect of the following matters, namely –
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;

- (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decisions;
- (g) dismissing an application for default or deciding it ex parte;
- (h) setting aside any order of dismissal of any application for default or any order passed by it ex parte; and
- (i) any other matter which may be prescribed by the Concerned Government.

**29U Enforcement of the Orders of the Court of the National Disability Commissioners**

- (1) A decree or an order passed by the Court of the National Disability Commissioners shall have the same force and effect as a decree or order of a Civil Court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 for the execution of decrees and orders.
- (2) A decree or order may be executed either by the Court of the National Disability Commissioners or by any other Court to which it is sent for execution.

**29V Procedure in the Court of the National Disability Commissioners**

- (1) Any aggrieved person may approach the National Disability Commissioner in case of any discrimination on the basis of disability;
- (2) On receipt of a complaint, the Court of the National Disability Commissioners shall provide a copy of the complaint to the opposite party mentioned in the complaint directing such party to respond within a period of thirty days.
- (3) The Court of the National Disability Commissioners shall give a reasonable opportunity to both the parties to present their case in person or through a legal counsel.
- (4) In every proceeding before the Court of the National Disability Commissioners, it shall be open to such Court to secure the services of a disability expert for the purposes of assisting the Court in discharging the functions imposed by this Act.
- (5) The Court of the National Disability Commissioners shall decide every

application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced.

- (6) Every proceeding before the Court of the National Disability Commissioners shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and the Court shall be deemed to be a civil court for the purposes of the Code of Civil Procedure.

### **29W Finding of the Court of the National Disability Commissioners**

- (1) The Court of the National Disability Commissioners shall decide both questions of law and facts that may be raised before it and if it is satisfied that there has been a violation of any right guaranteed under this Act or a violation of any provision of this Act, it shall issue an order to the opposite party directing one or more of the following things –
  - (a) to remedy the infringement by removing the discriminatory practice or scheme;
  - (b) to discontinue any activity that is violating the provisions of this Act;
  - (c) to pay such amount as may be awarded by it as compensation to the victim for any loss or injury suffered;
  - (d) to provide adequate costs to the parties.
- (2) Every order made by the Court of the National Disability Commissioners shall be signed by the members conducting the proceedings and published regularly on its website;

### **29X State Disability Courts**

- (1) The State Government shall establish a Court of the State Disability Commissioners to be known as “State Disability Court”.
- (2) The State Government may establish a requisite number of Benches of State Disability Courts in different parts of the state having regard to demographic and geographic requirements.

- (3) A State Disability Court shall consist of two full-time members including:
  - (a) one person who will be the presiding judge and shall be someone qualified to be a Judge of a High Court;
  - (b) a person having knowledge of disability law and having expertise and experience in human rights or rights of persons with disabilities
- (3) The appointments under this section shall be made by the Government after obtaining recommendations of a Selection Committee comprising of the Chief Justice of the High Court of the respective State, a senior judge of that High Court and an expert in the field of disability law. The Selection Committee may consult with the Court of the National Disability Commissioners while making appointments under this section.
- (4) The salary and allowances payable to and other terms and conditions of service of the State Disability Commissioners and other officers or employees of the State Disability Court shall be such as may be prescribed by the State Government.

## **29Y Powers of the State Disability Court**

- (1) For the purposes of this section, the State Disability Court shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure 1908 while trying a suit in respect of the following matters, namely –
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;
  - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;
  - (e) issuing commissions for the examination of witnesses or documents;
  - (f) reviewing its decisions;
  - (g) dismissing an application for default or deciding it ex parte;
  - (h) setting aside any order of dismissal of any application for default or any order passed by it ex parte; and
  - (i) any other matter which may be prescribed by the Concerned Government.

**29Z Enforcement of the Orders of the State Disability Court**

- (1) A decree or an order passed by the State Disability shall have the same force and effect as a decree or order of a Civil Court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 for the execution of decrees and orders.
- (2) A decree or order may be executed either by the State Disability Court which passed it or by any Court to which it is sent for execution.

**29AA Procedure in the State Disability Court**

- (1) Any aggrieved person may approach the State Disability Courts with a complaint in case of an alleged violation of any provision of this Act.
- (2) On receipt of a complaint, this Court shall provide a copy of the complaint to the opposite party mentioned in the complaint directing him/her to respond within a period of thirty days.
- (3) This Court shall give a reasonable opportunity to both the parties to present their case in person or through a legal counsel.
- (4) In every proceeding before the State Disability Court, it shall be open to such Court to secure the services of a disability expert for the purposes of assisting the Court in discharging the functions imposed by this Act.
- (5) The State Disability Court shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced.
- (6) Every proceeding before the State Disability shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and the Court shall be deemed to be a civil court for the purposes of the Code of Civil Procedure.

**29 AB Finding of the State Disability Court**

- (1) The State Disability Court shall decide both questions of law and facts that may be raised before it and if it is satisfied that there has been a

violation of any right guaranteed under this Act or a violation of any provision of this Act, it shall issue an order to the opposite party directing one or more of the following things –

- (a) to remedy the infringement by removing the discriminatory practice or scheme;
  - (b) to discontinue any activity that is violating the provisions of this Act;
  - (c) to pay such amount as may be awarded by it as compensation to the victim for any loss or injury suffered; or
  - (d) to provide adequate costs to the parties
- (2) Every order made by the State Disability Court shall be signed by the members conducting the proceedings and published regularly on its website

#### **29AC      Penalty**

Whoever fails to comply with any order made by the Court of the National Disability Commissioners or the State Disability Courts, as the case may be, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten lakhs rupees or both.

## **Part VI: OFFENCES AND PENALTIES**

### **30A Offences by establishments**

- (1) Where any offence under this Act has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proved that the offence was committed without his knowledge or that all due diligence was exercised to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an establishment and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any other officer of the establishment, such person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### **30B. General penalty for offences**

- (1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to fifty thousand rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to one thousand rupees for every day to which such failure or contravention continues after the conviction for the first such failure or contravention;
- (2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to four years.

### **30C. Penalty for contravention of Section 4K**

- (1) Any service provider who fails to comply with the provisions under Section 4K shall be penalized with cancellation, revocation or suspension of service license or manufacturing; or with fine, which may extend up to one lakh rupees or with both;
- (2) If the offender fails to comply with the provisions of Section 4K within a period of six months from the date of conviction, the offender shall be penalised with additional fine which may extend up to five thousand rupees for every day during which such failure continues after the conviction for first such failure;

### **30D. Penalty for contravention of Section 4I**

- (1) Any individual who or any organization or establishment which fails to comply with the provisions under Section 4I shall be penalised with:
  - (a) Suspension of the supply of water and electricity till the accessibility requirements are fulfilled; or
  - (b) Cancellation, revocation or suspension of the license of the builder; or
  - (c) Fine which may extend to five percent of the market value or the estimated market value, as the case may be, of the building; or
  - (d) A combination of two or more of the above.
- (2) If the offender fails to comply with the provisions of Section 4I within a period of six months from the date of conviction, the offender shall be penalised with additional fine which may extend up to one lakh rupees for every day during which such failure continues after the conviction for the first such failure.

### **30E. Penalty for contravention of Section 4J**

- (1) Any individual who or any organization or establishment which fails to comply with the provisions under Section 4J shall be penalised with suspension of the supply of water and electricity till the accessibility requirements are fulfilled; or fine which may extend to five percent of the market value or the estimated market value, as the case may be, of the building; or both;

- (2) If the offender fails to comply with the provisions of Section 4J within a period of six months from the date of conviction, the offender shall be penalised with additional fine which may extend up to one lakh rupees for every day during which such failure continues after the conviction for the first such failure.

### **30F Punishment for contravention of Section 10 (3)**

- (1) Whoever voluntarily injures, damages or interferes with the use of any limb or faculty of a person with disability, permanently or temporarily shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to eight years, or with fine, or with both.

### **30G Aggravation of sentences for offences under the Indian Penal Code**

If any offence under the Indian Penal Code (45 of 1860) has been committed against the person or property of a person with disability on the ground that such person is a person with disability, the maximum sentence prescribed under the relevant provision of the Indian Penal Code may be aggravated for a period not exceeding two years, having regard to the sentence prescribed in the relevant provision.

Provided that in cases where the maximum sentence given for an offence is less than or equal to two years, the maximum sentence after aggravation shall not exceed double the maximum sentence as given in the Indian Penal Code.

#### ***Illustration:***

- (a) Under Section 325, the maximum sentence for voluntarily causing grievous hurt is seven years. However, if such an offence is committed against a person with disability due to the fact of such disability, then the judge may aggravate the sentence by any period up to two years, such that that the maximum sentence could be seven years six months, eight years, eight years six months and so on up to a maximum of nine years. However, in no case may the sentence exceed a total of nine years;
- (b) If any offence against person or property under the Indian Penal Code is punishable with a maximum sentence of six months, if such an offence is committed against a person with disability due to the fact of such disability, then the judge may aggravate the sentence by one month or three months or five months up to a maximum of six months, such that the total maximum punishment is twelve months.

### **30H Penalty for contravention of Section 20 (8)(ii) and Section 7F(2)**

- (1) Whoever performs, conducts or directs any medical procedure to be performed on a person with disability which leads to or is likely to lead to infertility in contravention of Section 16(8)(ii) shall be punishable with imprisonment for a period not exceeding seven years and with fine.
- (2) Any person acting as a care-giver of the person with disability, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, shall be punishable with imprisonment which may extend to five years and with fine.

### **30I Penalty for forceful termination of pregnancy**

- (1) 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 shall be punishable with imprisonment for a period not exceeding ten years and with fine.

Provided that in cases of medical necessity such medical procedure may be performed on a minor with parent or guardian's consent.

Provided further that such medical necessity has to be declared by a qualified medical practitioner.

- (2) Any person acting as a care-giver of the woman with disability, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, shall be punishable with imprisonment which may extend to seven years and with fine.

### **30J Punishment for contravention of Section 20(11)**

- (1) Whoever voluntarily or knowingly separates or causes the separation of a child with disability from his parents or guardians in contravention of Section 20(11) shall be punishable with imprisonment for a period not exceeding seven years and with fine.

### **30K. Penalty for contravention of Section 21D(2)**

Whoever voluntarily or knowingly denies food or fluids to any person with disability or aids or abets in such denial shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine.

### **30L Penalty for Hate Speech**

Whoever voluntarily or knowingly commits the offence of uttering hate speech shall be inducted into one or more different community service programmes, or shall be punishable with fine, or with both.

#### ***Explanation:***

Community service programme means a programme developed by the appropriate government, which shall include, but not be limited to engaging individuals with working in various institutions housing persons with disabilities and participating in awareness programmes relating to persons with disabilities.

## **PART VII: MISCELLANEOUS**

### **31 Power to make rules**

- (1) The appropriate government shall have the power to make rules for the effective implementation and the purposes of this Act;
  
- (2) Without prejudice to the generality of sub-section (1), the appropriate government shall make rules relating to:
  - (a) The issuance of driving licenses to persons with disabilities considering their accessibility requirements under Section 4 C (2) (d) of this Act;
  - (b) Measures and conditions relating to the Equal Opportunity Policy to be formulated by establishments under Section 19 C (1) of this Act;
  - (c) The minimum qualification criteria for the persons with disabilities seeking admission to higher educational institutions under Section 18 H (2) of this Act;
  - (d) Fixing the salaries and allowances for the members of the Disability Rights Authority;
  - (e) The qualifications for any person contesting the election to the membership to the Disability Rights Authority bearing in mind the experience and contribution required for such posts;
  - (f) Reservation of posts within the Disability Rights Authority for ensuring diversity and representation of various forms of disability;
  - (g) Accessibility to infrastructure, facilities, services, information and communication technologies and personal mobility bearing in mind the diversity of disability and principles of universal design; and
  - (h) Any other matter incidental or ancillary for the enforcement of this Act.

- (3) Prior to the formation of the rules, the appropriate government shall make available the draft of the rules in accessible formats to the members of the public and invite their suggestions and objections to the same.

## **32 Power to make Regulations**

- (1) The appropriate government and Disability Rights Authority as the case may be shall have the power to make regulations for the effective implementation and the purposes of this Act;
- (2) Without prejudice to the generality of sub-section (1), the appropriate government and Disability Rights Authority as the case may be shall make regulations relating to:
- (a) Standards for accessibility to infrastructure, facilities, services, information and communication technologies and personal mobility bearing in mind the diversity of disability and principles of universal design;
  - (b) Matters under Section 7A (12) including procedures, appropriate authorities and other requirements;
  - (c) Training and educational qualifications for teachers having regard to the support requirements of persons with disabilities;
  - (d) Procedure relating to matters under Section 16;
  - (e) Procedure relating to the preparation and publication of the annual reports of the Disability Rights Authority;
  - (f) The composition, membership, qualifications, terms and conditions of appointment, removal, tenure, meetings, quorum and resignation of the Committees formed by the Disability Rights Authority; and

(g) Any other matter incidental or ancillary for the enforcement of this Act.

(3) Prior to the formation of the regulations, the appropriate government and the Disability Rights Authority as the case may be shall make available the draft rules in accessible formats to the members of the public and invite their suggestions and objections to the same.