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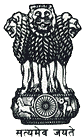
**Poised For Change**

**First Country Report**

**Of**

**INDIA**

**Submitted in pursuance of Article 35 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)**

 **Government of India  
Ministry of Social Justice & Empowerment  
New Delhi**

**Table of Contents**

|  |  |  |
| --- | --- | --- |
| **Description** | **Details** | **Page Nos.** |
| **Part A** | **Common Core document** | 18 |
| **I** | Demographic and Economic Profile of the Country | 19 |
| **II** | Constitutional Framework | 23 |
| **III** | Governance Structure | 24-25 |
| **IV** | Rights Regime | 25-28 |
| **V** | Safeguarding Rights of the Citizenry | 29-30 |
| **VI** | Commitment to International Human Rights Conventions | 30 |
| **VII** | Safeguarding Rights of vulnerable groups | 30-32 |
| **Part B** | **Back ground** |  |
| **I** | Demographic Description | 34-36 |
| **II** | Federal Responsibility | 36-37 |
| **III** | Law and Policy | 37-39 |
| **IV** | Assessment through Five Year Plans | 40 |
| **V** | Institutional and NGO Framework | 40-42 |
| **VI** | Central Corporations under the Ministry | 42 |
| **VII** | Regional and District-level Centres for Persons with Disabilities | 43-44 |
| **Article 1** | **Purpose** | 45 |
|  | Definition of Person with Disability in Indian Law | 45 |
|  | Long Term as Understood in Indian Law | 45 |
|  | Definition of Person with Disability in the National Trust Act | 46 |
|  | Medical Determination of Disability | 46 |
|  | Judicial Interpretation of Person with Disabilities | 46 |
|  | Definition Related Disputes in Proposed Legislations | 47 |
|  | Findings | 47 |
|  | Future Plan of Action | 47 |
| **Article 2** | **Definitions** | 48 |
| **Article 3** | **General Principles** | 49 |
| **Article 4** | **General Obligations** | 50 |
|  | Review of existing laws | 51 |
|  | Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act of 1995 [PWDA] | 51-52 |
|  | The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999 (NTA) | 52-53 |
|  | Mental Health Act of 1987 | 53 |
|  | Rehabilitation Council of India Act of 1992 | 54 |
|  | Disability Related Provisions in General Laws | 54 |
|  | National Disability Policy | 54 |
|  | Review of Schemes and Programmes | 55 |
|  | Horizontal Application of the CRPD | 56 |
|  | Promote Research and development | 56 |
|  | Participative Law – Policy Making | 57 |
|  | Progressive Realization of Socio-economic Rights | 59 |
|  | Federal Influence on Implementation | 59 |
|  | Findings | 60 |
|  | Future Plan of Action | 60 |
| **Part C** | **Specific Treaty Articles** | 61 |
| **Article 5** | **Equality and Non-discrimination** | 62 |
| **A** | Constitutional Mandate of Equality as applicable to Disability Rights | 62 |
| **B** | Disability as Prohibited Ground of Discrimination | 62 |
| **C** | Human Rights Conventions and Constitutional Jurisprudence | 63 |
| **D** | Affirmative Action Measures | 63 |
| **E** | Equality and non-discrimination in the extant disability legislation | 63 |
| **F** | Barriers to Non-discrimination | 66 |
|  | Findings | 66 |
|  | Future Plan of Action | 66 |
| **Article 6** | **Women with Disabilities** | 67 |
| **A** | Constitutional Provisions | 67 |
| **B** | Equality to Women with Disabilities in India, 2005 | 68 |
|  | The Protection of Women from Domestic Violence Act, 2005 | 70 |
|  | The National Policy for Persons with Disabilities, 2006 | 70 |
|  | The status of women with disabilities in India : A demographic profile | 70 |
|  | The XI Plan of India | 72 |
|  | Access to Justice | 73 |
|  | Political Participation | 74 |
|  | Barriers : Data barriers | 74 |
|  | Attitude | 74 |
|  | Findings | 75 |
|  | Future Plan of Action | 75 |
| **Article 7** | **Children with Disabilities** | 76 |
| **A** | Constitutional Recognition to Rights of Children | 76 |
| **B** | Ratification of CRC and Evolving Capacity of Child | 76 |
| **C** | Principles Informing Child Rights Policy | 77 |
|  | National Charter for Children | 78 |
|  | National Plan of Action for Children | 78-80 |
|  | National Policy for Persons with Disabilities | 80 |
| **D** | Right to Participation in Law and Policy | 80 |
|  | Juvenile Justice (Care and Protection of Children) Act | 80 |
|  | Mental Health Act of 1987 | 81 |
| **E** | Monitoring of Child Rights | 81 |
|  | National Commission for the Protection of Child Rights Act | 81 |
| **F** | Induction of Children with disabilities in Child Protection Schemes and Programmes | 81-82 |
|  | Bearers of Rights on Equal Basis with other Children: Law and Policy | 82 |
|  | Equality of Treatment in Schemes and Programmes | 83 |
|  | Sarva Shiksha Abhiyan | 84 |
|  | Findings and Future Plan of Action | 84 |
| **Access 8** | **Awareness Raising** | 85 |
| **8.1 to 8.13** | Initiatives under the PWDA and NTA | 85-91 |
| **8.14 to 8.19** | Non governmental initiatives | 93-94 |
| **8.20 to 8.22** | Information and Awareness | 94 |
|  | Findings | 95 |
|  | Future Plan of Action | 95 |
| **Article 9** | **Accessibility** | 96 |
| **A** | Legal Recognition of Right to Accessibility | 96 |
|  | Accessibility of the Physical Environment | 97 |
|  | The National Policy for Persons with Disabilities (2006) | 97 |
| **B** | Codes and Guidelines | 97 |
|  | National Building Code India, 2005 (Bureau of Indian Standards) | 97 |
|  | Guidelines and Space Standards for Barrier Free Environment for Disabled and Elderly Persons (Central Public Works Department, Ministry of Urban Affairs and Employment) in 1998 | 98 |
|  | Action plan for Barrier-free built environment | 98 |
|  | Schemes and Programs | 98 |
|  | Deendayal Rehabilitation Scheme to promote voluntary action for persons with disabilities (DDRS scheme) | 99 |
|  | Judicial Intervention for Physical Accessibility | 99 |
|  | Guidelines issued by the Directorate General of Civil Aviation (2008) | 100 |
|  | Railways | 100 |
|  | Accessibility of Information | 100 |
|  | Web accessibility | 101 |
|  | Findings | 102 |
|  | Future Plan of Action | 103 |
| **Article 10** | **Right to Life** | 104 |
| **A** | Constitutional Provisions | 104 |
| **B** | Right to Life and Pre-Convention disability related laws | 104 |
| **C** | Adjudication on the Right to Life for Persons with Disabilities | 105 |
| **D** | Abortion on Grounds of Disability | 105 |
| **E** | Euthanasia on grounds of disability | 105 |
|  | Findings | 106 |
|  | Future plan of action | 106 |
| **Article 11** | **Situations of Risk and Humanitarian Emergencies** | 107 |
| **A** | **Legal and Institutional mechanism on Disaster Management in India** | 107 |
|  | Institutional Mechanism | 107 |
|  | Disaster Management Authorities | 107 |
|  | National Disaster Response Force | 108 |
|  | National Institute of Disaster Management | 108 |
|  | Funding Mechanism | 108 |
| **B** | Policies and Schemes on Disaster Management in India | 110 |
|  | Mainstreaming special needs of persons with disabilities | 110 |
|  | Mainstreaming in preparedness measures | 111 |
|  | Mainstreaming in relief measures | 112 |
|  | Food | 112 |
|  | Sanitation | 112 |
|  | Access | 112 |
|  | Mainstreaming in Rehabilitation Measures | 112 |
|  | Psycho-social support | 113 |
|  | Mainstreaming needs of Women and Children with disabilities | 113 |
| **C** | Policy Implementation strategy – Operationalizing the Norm | 114 |
|  | The PPP Model of Implementation | 115 |
|  | Non-governmental initiatives | 116 |
|  | Role of BPA and Spandan in the Gujarat Earthquake Relief Activities | 117 |
|  | Sarista Foundation | 117 |
|  | “Capacity Building of Disaster Risk Reduction Actors in Mainstreaming Disability Issues in India” | 118 |
|  | Relief and Rehabilitation Measures – India’s Track Record | 119 |
|  | Gujarat Earthquake 2001 | 120 |
|  | Findings | 122 |
|  | Future Plan of Action | 123 |
| **Article 12** | **Equal Recognition before the Law** | 124 |
|  | Equal Recognition as Persons before the Law | 124 |
|  | Extant law on legal capacity | 124 |
|  | Reforming Existing Legislations | 126 |
|  | Duty to provide support | 128 |
|  | Findings | 129 |
|  | Future Plan of Action | 129 |
| **Article 13** | **Access to Justice** | 130 |
| **A** | Constitutional Guarantees on Access to Justice | 130 |
| **B** | Statutory Rights to Legal Aid | 130 |
|  | Legal Aid Scheme of NALSA | 131 |
|  | Public Interest Actions | 131 |
|  | Procedural Access to Courts | 131 |
|  | Physical Access | 132 |
|  | Grievance Redress in Other than Courts: National Human Rights Commission | 132 |
| **C** | Office of the Chief Commissioner for Persons with Disabilities | 132 |
| **D** | Sensitization courses in judicial academies | 134 |
|  | Findings | 135 |
|  | Future Plan of Action | 135 |
| **Article 14** | **Liberty and Security of Person** | 136 |
|  | Civil commitment laws | 138 |
|  | Findings | 138 |
|  | Future Plan of Action | 138 |
| **Article 15** | **Freedom of torture or cruel, inhuman or degrading treatment or punishment** | 139 |
|  | Findings | 141 |
|  | Future Plan of Action | 141 |
| **Article 16** | **Freedom from Exploitation, Violence and Abuse** | 142 |
|  | Findings | 144 |
| **Article 17** | **Protecting the Integrity of the Person** | 145 |
| **A** | Constitutional Recognition of the Right to Integrity | 145 |
| **B** | Statutory recognition of the principle of consent | 145 |
| **C** | Distinguishing the case of intellectual disability | 145 |
| **D** | Question of force in the law reformed process | 145 |
|  | Findings | 146 |
|  | Future Plan of Action | 146 |
| **Article 18** | **Liberty of Movement and Nationality** | 147 |
| **A** | Constitutional Provisions relating to Liberty of Movement and Nationality | 147 |
| **B** | Statutory Provisions and Rules for Issuance of a Passport | 147 |
| **C** | Legal Provisions in relation to entry and stay in country | 148 |
|  | Findings | 148 |
|  | Future Plan of Action | 149 |
| **Article 19** | **Living Independently and being included in the community** | 150 |
|  | Reasonable restrictions on the right to residence | 151 |
|  | Existence of Family Support and Abandonment by Families | 151 |
|  | Independent Living and Institutional Support | 151 |
|  | CBR and Establishment of Institutions | 151 |
|  | Community Living Options | 152 |
|  | Mixed Policy Continues in Law Reform Initiatives | 152 |
|  | Entitlements in Community Housing | 152 |
|  | Findings | 152 |
|  | Future Plan of Action | 152 |
| **Article 20** | **Personal Mobility** | 153 |
| **A** | Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost | 153 |
| **B** | Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost | 156 |
|  | Quantum of Assistance to Disabled | 157 |
|  | Types of Aid/Appliances to be provided | 158 |
|  | Locomotor Disabled | 158 |
|  | Visually Disabled | 158 |
|  | Hearing Disabled | 158 |
|  | Mentally Disabled | 158 |
|  | Multiple Disabled | 159 |
|  | Jaipur Foot | 159 |
|  | Artificial limbs and other rehabilitation and appliances to amputees | 159 |
| **C** | Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for  persons with disabilities | 159 |
|  | Findings | 161 |
|  | Future Plan of Action | 161 |
| **Article 21** | **Freedom of Expression and opinion, and access to information** | 162 |
|  | Braille | 163 |
|  | Libraries | 163 |
|  | Captioning News | 164 |
|  | Recognizing and promoting the use of sign language | 164 |
|  | Establishment of an Indian Sign language research & Training Centre (ISLRTC) approved | 164 |
|  | Findings | 165 |
|  | Future Plan of Action | 165 |
| **Article 22** | **Respect for Privacy** | 166 |
|  | Statutory Framework Mental Health Act., 1987 | 166 |
|  | Information Technology Act, 2000 | 166 |
|  | Judicial Decisions | 167 |
|  | Findings | 167 |
|  | Future Plan of Action | 167 |
| **Article 23** | **Respect for Home and the Family** | 168 |
| **A** | Constitutional Mandate on the Right to Marry | 168 |
| **B** | Statutory Provisions on marriage and divorce | 169 |
| **C** | Marriage Schemes and Initiatives | 169 |
| **D** | Family Planning Education and Reproductive Rights | 171 |
| **E** | National Population Policy, 2000 | 171 |
| **F** | Judicial Decisions | 172 |
| **G** | Adoption & Custody of Children | 172 |
| **H** | Schemes and Programmes | 173 |
| **I** | The Scheme of Assistance to Homes (Sisugreh) for Children to Promote in country adoption | 174 |
| **J** | Custody of Children | 174 |
|  | Findings | 174 |
|  | Future Plan of Action | 175 |
| **Article 24** | **Education** | 176 |
| **A** | Free and Compulsory Education from Directive Principle to Fundamental Rights | 176 |
| **B** | **Evolving Philosophy on Education of Children with Disabilities** | 177 |
|  | **Fundamental Right to Education** | 178 |
|  | Right to Education Act, 2009 [RTEA] | 178 |
|  | **RTEA and Education of Children with Disabilities** | 178 |
|  | **Construction of Right to Education in Persons with Disabilities Act** | 179 |
|  | **Implementation of RTEA in States** | 179 |
|  | Universalising Elementary Education: Schemes and Programs | 180 |
|  | Sarva Shiksha Abhiyan (SSA) | 182 |
|  | Teacher Training | 184 |
| **C** | Secondary and Higher Education | 185 |
|  | Scholarships | 186 |
|  | National Means-cum-Merit Scholarship (NMMS) Scheme | 186 |
|  | Kendriya Vidyalaya/Navodaya Vidyalaya | 186 |
|  | Upgradation of Merit of Schedule Tribe Students by Ministry of Tribal Affairs | 187 |
|  | Higher Education | 189 |
|  | Scholarships in Higher Education | 191 |
|  | Post Matric Scholarship for Scheduled Tribe Students by Ministry of Tribal Affairs: Scholarships granted by Central Wakf Council | 191 |
| **D** | Girls Education | 194 |
| **E** | Learning with special modes | 195 |
|  | Facilitating learning through Augmentative and Alternative Modes | 195 |
|  | Continuing Education | 196 |
|  | National Literacy Mission | 196 |
|  | Findings | 197 |
|  | Future Plan of Action | 198 |
| **Article 25** | **Health** | 199 |
| **A** | Constitutional Provisions, Law & Polices | 199 |
| **B** | Affordable Health | 200 |
|  | Providing health care in proximity to community | 202 |
| **C** | Early Identification and Intervention | 202 |
| **D** | Reproductive Health & Insurance | 205 |
|  | Maternal and Early Childhood Care : Janani Surakha Yojana | 205 |
|  | Informed Consent | 206 |
|  | Rashtriya Swasthya Bima Yojana | 206 |
|  | Findings | 208 |
|  | Future Plan of Action | 208 |
| **Article 26** | **Habilitation and Rehabilitation** | 212 |
| **A** | Envisioning attainment of optimum independence | 212 |
| **B** | Institutional support to ensure habilitation and rehabilitation | 212 |
|  | XI Five Year Plan | 215 |
| **C** | Reaching out closest to the community through Community Based Rehabilitation | 217 |
|  | Regional and District level Centres for Persons with disabilities: Composite Regional Centres | 217 |
|  | Ongoing CRCs | 217 |
|  | Establishment of two New Composite Regional Centres (CRCs) | 218 |
|  | District Disability Rehabilitation Centres (DDRCs) | 218 |
|  | Peer Support Systems | 218 |
|  | Gharunda Scheme | 218 |
|  | National Alliance on Access to Justice for Persons with Mental Illness (NAAJMI) | 219 |
|  | Training and development of professionals and staff | 219 |
|  | National Trust Activities | 219 |
|  | Centre Based Scheme (CBS) | 219 |
|  | Schemes and Programmes Strengthening habilitation and rehabilitation | 220 |
|  | Deendayal Disabled Rehabilitation Scheme | 220 |
|  | ADIP | 221 |
|  | Schemes and Policies for the rehabilitation of persons with disabilities in armed forces | 222 |
|  | Findings and Future Plan of Action | 224 |
|  |  |  |
| **Article 27** | **Work and Employment** | 225 |
| **A** | Equality of Opportunity in work and employment | 225 |
|  | Affirmative Action | 227 |
|  | Equality of Opportunity through open competition | 228 |
|  | Prohibition of Discrimination in recruitment, continuance of employment and career advancement | 228 |
| **B** | Safeguarding Right to Work and Employment | 229 |
|  | Just and favourable conditions of work | 230 |
|  | Attaining safe and healthy working conditions | 231 |
|  | Trade Union Rights | 231 |
| **C** | Law and Programmes for employment | 232 |
|  | MGNREGA | 232 |
|  | Programmatic entitlements | 234 |
|  | National Rural Livelihood Mission (NRLM) | 235 |
|  | Vocational Training | 235 |
| **D** | The National Abilympics Association of India | 236 |
|  | Special Employment Exchanges | 237 |
| **E** | Strategizing on Employment | 238 |
|  | Promoting Employment in Public Sector | 238 |
|  | National Bank for Agricultural and Rural Development | 238 |
|  | Promoting opportunities for self-employment and entrepreneurship | 238 |
|  | National Centre for the Promotion of Employment of Disabled People | 240 |
|  | Ability Foundation | 240 |
|  | Enable India | 240 |
|  | National Trust Schemes for Self Employment (ARUNIM) | 241 |
|  | Uddyam Prabha (Incentive Scheme) | 242 |
|  | Encouraging Employment in Private sector | 242 |
|  | Findings | 243 |
|  | Future course of action | 244 |
| **Article28** | **Adequate Standard of Living and Social Protection** | 245 |
| **A** | Constitutional Provisions | 245 |
|  | Bharat Nirman | 246 |
| **B** | Right to Food | 246 |
|  | Annapurna Scheme | 246 |
|  | Nutritional Programme for Adolescent Girls | 246 |
| **C** | Right to Housing | 247 |
|  | Indira Awaas Yojana | 247 |
|  | Interest Subsidy Scheme for Housing the Urban Poor (ISSHUP) | 247 |
|  | Valmiki Ambedkar Awas Yojana | 247 |
|  | Swadhar Scheme | 248 |
| **D** | Right to Improvement of Living Conditions | 249 |
|  | Total Sanitation Campaign | 249 |
|  | Prime Minister Gram Sadak Yojana | 250 |
|  | Jawaharlal Nehru National Urban Renewal Mission | 250 |
|  | Right to Clean Water | 251 |
|  | National Drinking Water Mission | 251 |
| **E** | Accelerated Rural water Supply Programme | 251 |
| **F** | Right to Social Protection | 252 |
|  | Pension Schemes | 252 |
|  | Insurance Schemes | 254 |
|  | Employees State Insurance Corporation | 254 |
|  | Rajiv Gandhi Shramik Kalyan Yojana | 255 |
|  | Unorganized Sector | 255 |
|  | Findings | 257 |
|  | Future Plan of Action | 258 |
| **Article 29** | **Participation in Political and Public Life** | 259 |
| **A** | Constitutional Provisions on Political Representation | 259 |
| **B** | Statutory Provisions on Electoral Rights | 259 |
| **C** | Facilitating the Electoral Rights of Persons with Physical and Sensory Disabilities | 260 |
| **D** | Political Manifestos | 262 |
|  | Findings | 263 |
|  | Future Plan of Action | 263 |
| **Article 30** | **Participation in Cultural Life, Recreation, Leisure and Sport** | 264 |
| **A** | Constitutional Provisions | 264 |
|  | The National Policy for Persons with Disabilities | 264 |
|  | Digital Library of India | 264 |
| **B** | Participation in Cultural Life | 265 |
|  | Access to cultural materials in accessible formats | 265 |
|  | Access to television programmes, films, theatre, monuments and other cultural activities | 266 |
|  | Films | 266 |
|  | The Board of Film Certification | 266 |
| **C** | Barriers in Terms of Intellectual Property Rights | 268 |
|  | The Copyright (Amendment) Bill, 2010 | 269 |
| **D** | Tourism | 269 |
|  | Initiative of the Ministry of Tourism to ensure accessibility of Hotels | 269 |
| **E** | Sports | 271 |
|  | Commonwealth Games 2010 | 271 |
|  | Paralympic Committee of India | 271 |
|  | Scheme of Sports & Games for the Disabled | 272 |
|  | Nehru Yuva Kendra Scheme | 272 |
|  | Panchayat Yuva Krida Aur Khel Abhiyan (PYKKA) | 273 |
|  | Blind Cricket | 274 |
|  | National Playing Fields Association of India (NPFAI) | 275 |
|  | Findings | 276 |
|  | Future Plan of Action | 276-277 |
| **Article 31** | **Statistics and Data Collection** | 278 |
|  | Introduction | 278 |
|  | Census in India | 278 |
|  | Analysis | 279 |
|  | Washington Group Census Questions | 280 |
|  | 2011 Disability Question in Census: Types of Impairment | 281 |
|  | Publicity | 282 |
|  | Findings | 282 |
|  | Future Plan of Action | 282 |
| **Article 32** | **International Cooperation** | 283 |
|  | Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities | 283 |
|  | DFID India and disability | 284 |
|  | Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices | 286 |
|  | Facilitating cooperation in research and access to scientific and technical knowledge | 287 |
|  | Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies | 288 |
|  | Findings | 289 |
|  | Future Plan of Action | 289 |
| **Article 33** | **National Implementation and Monitoring** | 290 |
|  | Central and State Coordination Committees | 290 |
|  | Coordination Mechanisms | 290 |
|  | Central Commissioner of Persons with Disabilities | 291 |
|  | State Commissioners of Persons with Disabilities | 291 |
|  | State Human Rights Commission | 292 |
|  | National Commission for Women | 292 |
|  | National Commission for Protection of Child Rights | 292 |
|  | Findings | 293 |
|  | Future Plan of Action | 293 |

**List of Figures**

|  |  |  |
| --- | --- | --- |
| **Figure No.** | **Details** | **Page Nos.** |
| A1 | Population Size | 19 |
| A2 | Density of Population | 20 |
| A3 | Sex Ratio | 20 |
| A4 | Literates | 21 |
| A5 | Literates Percentage | 22 |
| A6 | Growth Rate of GDP | 23 |
| B1 | State wise Distribution of Population of persons with disabilities | 34 |
| B2 | Area wise Distribution of Population of persons with disabilities | 35 |
| B3 | Types of Disabilities in all India level | 35 |
| B4 | Comparative literacy rate of total population and persons with disabilities | 36 |
| 16.1 | Physical Abuse | 143 |
| 16.2 | Sexual Abuse | 144 |
| 24.1 | Different levels of literacy | 182 |
| 25.1 | Health Expenditure in India (2004) by Source of Financing | 202 |
| 25.2 | Trend in Central Government Health Budget | 203 |
| 27.1 | Percentage of workers and non-workers | 227 |
| 27.2 | Percentage of Non-Workers in persons with disabilities | 228 |
| 27.3 | Number of Persons with Disabilities registered in NREGA | 234 |
| 27.4 | Number of Persons with Disabilities worked in NREGA | 234 |
| 31.1 | Census 2001 v/s NSSO 2002 | 280 |
| 31.2 | Census 2001 v/s NSSO 2002 | 280 |
| 31.3 | Census 2001 v/s NSSO 2002 | 280 |
| 32.1 | Total spend of 295.1 million (2009-10) | 286 |

**List of Tables**

|  |  |  |
| --- | --- | --- |
| **Table No.** | **Details** | **Page Nos.** |
| A1 | Population Size | 19 |
| A2 | Density of Population | 20 |
| A3 | Sex Ratio | 20 |
| A4 | Literates | 21 |
| A5 | Literates Percentage | 22 |
| B1 | Broad Provisions of Persons with Disabilities Act, 1995 | 38 |
| 4.1 | XII plan of Sub group information | 55 |
| 4.2 | Information on State Consultations | 57 |
| 6.1 | Persons with disabilities in India, Age wise, Gender wise and Type of disability Census 2001 | 71 |
| 6.2 | Gender Distribution of Persons with disabilities in India | 71 |
| 6.3 | State Initiatives | 73 |
| 8.1 | Schemes and Programmes of States | 85 |
| 8.2 | Awareness Initiatives by National Institutes | 86 |
| 8.3 | State Awards | 89 |
| 8.4 | Training Initiatives by National Institutes | 94 |
| 9.1 | Indicative Cost Ceiling based on the total  Notional Allocation for the State/UT | 98 |
| 11.1 | State-wise breakup of the allocation of funds (in Crores) for the next four years | 109 |
| 11.2 | Relief Measures | 112 |
| 11.3 | Compensation awarded category-wise (Figures relating to persons with disability have been emphasized) | 119 |
| 11.4 | Representing the extent of distribution of assistive devices in Tamil Nadu | 121 |
| 11.5 | Assistive devices distributed in Andaman and Nicobar Islands | 121 |
| 13.1 | Grievance Redress by CCPD’s office | 133 |
| 13.2 | Details of complaints received & disposed of by Commissioners for persons with disabilities in the year 2009-10 | 134 |
| 15.1 | Report by States on Cruel and unusual treatment to the Supreme Court | 140 |
| 20.1 | Element of Concession for blind | 154 |
| 20.2 | Element of Concession for orthopedically handicapped | 154 |
| 20.3 | Element of Concession for deaf and dumb persons | 154 |
| 20.4 | Element of Concession for mentally retarded | 154 |
| 20.5 | Conveyance Allowance given by State Initiatives | 155 |
| 20.6 | Bus Concession | 155 |
| 20.7 | Petrol/Diesel subsidy to Persons with disabilities | 156 |
| 20.8 | Amount of assistance on the base of total income | 158 |
| 20.9 | NGO Initiatives | 160 |
| 23.1 | Sate Marriage incentive schemes – Entitlements | 170 |
| 24.1 | Elementary Education Schemes and Programmes in India | 182 |
| 24.2 | Position of Children with Special Needs | 184 |
| 24.3 | Schemes of various State Governments for Elementary Education | 186 |
| 24.4 | Secondary Education Schemes and Programmes in India | 187 |
| 24.5 | Schemes of various State Governments for Secondary Education | 189 |
| 24.6 | Scholarship and other schemes of State Government for Higher Education | 193 |
| 24.7 | Schemes and Programmes for Girls Education | 195 |
| 25.1 | Depicting Schemes for Prevention of Disability | 204 |
| 25.2 | Benefit chart for Insured person under ‘Niramaya’ Health Insurance policy | 209 |
| 26.1 | National Institutes | 213 |
| 26.2 | National Institutes under Ministry of Health and Family Welfare | 216 |
| 26.3 | Major Schemes and Programmes for the Rehabilitation of Persons with Disabilities | 221 |
| 26.4 | Details of outlay and expenditure for the first four years of the XI Plan (2007-11) and outlay for 2011-12 | 222 |
| 26.5 | Financial & Physical Progress under DDRS Scheme | 222 |
| 26.6 | Details of outlay and expenditure for the first four years of the XI Plan (2007-11) and outlay for 2011-12 | 222 |
| 26.7 | Schemes/Programmes for Economic Rehabilitation of War Disabled | 223 |
| 26.8 | Schemes of Various State Initiatives | 224 |
| 27.1 | Schemes and Programmes for employment among Rural and Urban poor | 235 |
| 27.2 | Statistics on Job –Seekers who are persons with disabilities at All India, 2002-2006 | 238 |
| 27.3 | Special Employment Exchanges in States | 239 |
| 27.4 | Schemes of self employment by various State Governments | 241 |
| 28.1 | Preferential allotment of land and houses by State Governments | 249 |
| 28.2 | Total Sanitation Campaign Table | 250 |
| 28.3 | Components of NSAP | 253 |
| 28.4 | Disability Pension Schemes of various State Governments | 254 |
| 28.5 | Insurance Schemes for the Unorganized Sector | 256 |
| 28.6 | Provision of Unemployment allowance by various State Governments | 258 |
| 30.1 | Special Awards to Winners in International Sports Events and Their Coaches | 275 |
| 30.2 | State Initiatives: Sports | 277 |
| 31.1 | Disability Data as per Census and NSSO | 279 |

**List of Boxes**

|  |  |  |
| --- | --- | --- |
| **Box No.** | **Details** | **Page Nos.** |
| 6.1 | Extracts from the Perspective Paper | 69 |
| 6.2 | Initiatives by the Central Government  Schemes and Programmes for Women with Disabilities | 72 |
| 8.1 | Story on Inclusion (CBSE English text book) | 92 |
| 9.1 | Sambhav | 99 |
| 9.2 | India’s ratification of CRPD | 100 |
| 11.1 | “Integrating disability in community based disaster risk reduction and response” | 111 |
| 11.2 | Initiation of Survey in Jammu & Kashmir | 114 |
| 12.1 | Legal Capacity with Support | 128 |
| 21.1 | NGO Best Practice | 165 |
| 24.1 | NGO Involvement | 185 |
| 24.2 | Vocational Education through Polytechnics | 182 |
| 24.3 | University for Persons with Disabilities | 191 |
| 24.4 | Dedicated Satellite Channel on Disability | 195 |
| 24.5 | Sense International India | 197 |
| 25.1 | The pilot programme | 206 |
| 25.2 | Corrective surgery for Cleft lip | 206 |
| 25.3 | Creating Awareness on Reproductive health | 207 |
| 26.1 | Helpline of Gujarat Government | 224 |
| 27.1 | Call Centre for Persons with Disabilities | 238 |
| 27.2 | Hiring of hearing impaired by Miracle Couriers | 239 |
| 27.3 | BPO for persons with disabilities | 243 |
| 27.4 | AYJNIHH Initiative | 243 |
| 28.1 | Emergency Feeding Programme in Orissa | 248 |
| 30.1 | Professional Dance Theatre | 269 |
| 30.2 | Creation of Cross Disability Community | 270 |
| 30.3 | Goa Tourism | 271 |
| 30.4 | Journey without Barriers | 272 |
| 31.1 | The next questions ask about difficulties you may have doing certain activities because of a HEALTH PROBLEM | 282 |

**Abbreviations**

|  |  |
| --- | --- |
| AAI | Airport Authority of India |
| ALIMCO | Artificial Limbs Manufacturing Corporation |
| ARWSP | Accelerated Rural Water Supply Programme |
| AABY | Aam Admi Bima Yojana |
| AYJNIHH | Ali Yavar Jung National Institute for the Hearing Handicapped |
| ARUNIM | Association of Rehabilitation under National Trust initiative of Marketing |
| ACBI | Association for Cricket for Blind in India |
| AIR | All India Radio |
| BPL | Below Poverty Line |
| CBR | Community Based Rehabilitation |
| CRCs | Composite Regional Centre |
| CGC | Care Giver Cell |
| CRR | Central Rehabilitation Register |
| CBS | Centre Based Scheme |
| CRPD | Convention on the Rights of Persons with Disabilities |
| CRR | Central Rehabilitation Register |
| CWSN | Children with Special Needs |
| CABE | Central Advisory Board of Education |
| CRC | Convention of the Rights of Child |
| DD | Door Darshan |
| DTF | Disaster Task Forces |
| DPOs | Disabled People Organizations |
| DDRCs | District Disability Rehabilitation Centre |
| EPFO | Employees Provident Fund Organization |
| ESIC | Employee State Insurance Corporation |
| ESI | Employees State Insurance |
| HEPSN | Higher Education for Persons with Special Needs |
| IPR | Intellectual Property Rights |
| INGOs | International Non-governmental organizations |
| IAY | Indira Awaas Yojana |
| ISSHUP | Interest Subsidy Scheme for Housing the Urban Poor |
| IGNWPS | Indira Gandhi National Widow Pension Scheme |
| IGNDPS | Indira Gandhi National Disability Scheme |
| ISOP | Integrated Scheme for Old Persons |
| ICDS | Integrated Child Development scheme |
| IECYD | Inclusion in Education of Children and Youth with Disabilities |
| IEDC | Integrated Education of the Disabled Children |
| IEDSS | Inclusive Education for the Disabled at Secondary Stage |
| ISSHUP | Interest Subsidy Scheme for Housing the Urban Poor |
| IOA  ISLRTC | Indian Olympic Association  Indian Sign Language Research and Training Institute |
| ICF | International Classification of Functioning |
| JNNURM | Jawaharlal Nehru National Urban Renewal Mission |
| JSY | Janany Surakhsya Yojana |
| JSS | Jan ShikshanSansthans |
| KGB | Kasturba Gandhi BalikaVidyalayas |
| MES | Modular Employable Skill |
| MSK | MahilaShikshanKendras |
| MS | MahilaSamakhya |
| MHA | Mental Health Act |
| MoHA | Ministry of Home Affairs |
| MHRD | Ministry of Human Resource Development |
| MoSJE | Ministry of Social Justice and Empowerment |
| MEPMA | Mission for Elimination of Poverty in Municipal Areas |
| NTA | National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act |
| NCPEDP | National Centre for the Promotion of Employment of Disabled People |
| NABARD | National Bank for Agricultural and Rural Development |
| NRLM | National Rural Livelihood Mission |
| NLM | National Literacy Mission |
| NHRC | National Human Rights Commission |
| NGO | Non-governmental organizations |
| NMDFC | National Minorities Development and Finance Corporation (NMDFC) |
| NDMA | National Disaster Management Authority |
| NDRF | National Disaster Response Force |
| NIDM | National Institute of Disaster Management |
| NOAPS | National Old Age Pension Scheme |
| NDWM | National Drinking Water Mission |
| NSAP | National Social Assistance Programme |
| NFBS | National Family Benefit Scheme |
| NPOP | National Policy on Old Persons |
| NRHM | National Rural Health Mission |
| NPCB | National Programme for the Control of Blindness |
| NMHP | National Mental Health Programme |
| NUHM | National Urban Health Mission |
| NSSK | Navjaat Shishu Suraksha Karyakram |
| NIVH | National Institute for the Visually Handicapped |
| NIOH | National Institute for the Orthopedically Handicapped |
| NIMH | National Institute for the Mentally Handicapped |
| NIEPMD | National Institute for Empowerment of Persons with Multiple Disabilities. |
| NPFAI | National Playing Fields Association of India |
| NPE | National Policy on Education |
| NMMS | National Means-cum-Merit Scholarship |
| NPEGEL | National Programme for Education of Girls at Elementary Level |
| NMMS | National Means cum Merit Scholarship Scheme |
| NUHM | National Urban Health Mission |
| NYKS | Nehru Yuva Kendra Scheme |
| NPFAI | National Playing Fields Association of India (NPFAI) |
| NDP | National Disability Policy |
| NALSA | National Legal Services Authority |
| PMGSY | Prime Minister Gram Sadak Yojana |
| PPP | Public Private Partnership |
| PWDA | Persons with Disabilities Act |
| PDUIPH | Pandit Deendayal Upadhayaya Institute for the Physically Handicapped |
| PYKKA | Panchayat Yuva Krida Aur Khel Abhiyan |
| RTEA | Right of Children to Free and Compulsory Education Act |
| RGSKY | Rajiv Gandhi Shramik Kalyan Yojana |
| RSBY | Rashtriya Swasthaya Bima Yojana |
| RPDB | Rights of Persons with Disabilities Bill |
| RMSA | Rashtriya Madhyamik Shiksha Abhiyan |
| RCI | Rehabilitation Council of India Act of 1992 |
| SDMA | State Disaster Management Authority |
| SDRF | State Disaster Response Force |
| SCs | Scheduled Castes |
| STs | Scheduled Tribes |
| SVNIRTAR | Swamy Vivekanand National Institute for the Rehabilitation and Training |
| SSA | Sarva Shiksha Abhiyan |
| SDI | Skill Development Initiative |
| TSC | Total Sanitation Campaign |
| UEE | Universal Education Programme |
| UNDP | United Nations Development Programme |
| UEP | Universal Education programme |
| UGC | University Grants Commission |
| VAAY | Valmiki Ambedkar Awas Yojana |
| WBCC | World Blind Cricket Council |
| WCA | Workmen’s Compensation Act |

**PART A**

**COMMON CORE DOCUMENT**

**I. Demographic and Economic Profile of the Country**

**A1** India is the seventh largest country in the world covering an area of 3.3 million sq. km. It is significant to note that this second most populous country and the largest democracy in the world and considered one of the fastest growing economy. Thus, with 2.4 per cent of the world surface area, she supports and sustains 16.7 per cent of the world population.

**A2** India is often described as an old civilization but a young country.  As the country enters its 65th year of independent existence the description of youth does not seem too apposite. It can now be termed young by reason of the fact that 50% of its billion plus population consists of persons below 25 years of age and 65% of the population is below 35 years.

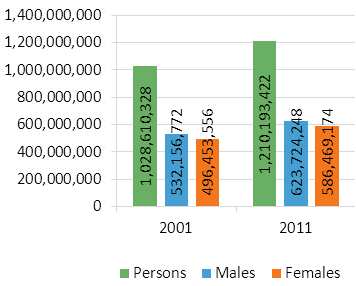
**A3**  The 2011 census estimates the population of the country to be 1.21 billion. Of this, the total male population is 623.7 million and female population is 586.5 millions. The density of population is 382 persons per sq. km.

**Table A1 Population Size**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Total* | *Unit* | *Subgroup* | *2001* | *2011* |
| Population size | Number | Persons | 1028610328 | 1210193422 |
| Population size | Number | Males | 532156772 | 623724248 |
| Population size | Number | Females | 496453556 | 586469174 |

**Source:** *As per Provisional Census 2011 which was updated on 30/8/11*

**Figure A1 Population Size**

****

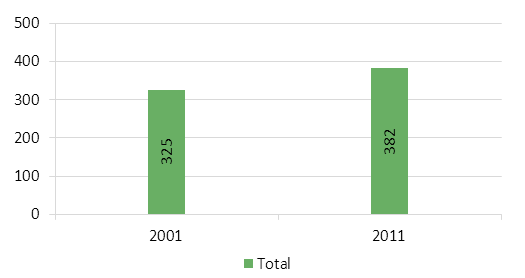
**The Population of India has increased from 2001 to 2011. There was an absolute increase of 180 million. The growth rate of population is 1.5%, thereby increasing absolute population from 1,028 millions persons to 1,210 millions. The growth rate of Male population and Female population is equal. Percentage of Male population is more than Female population in both 2001 and 2011 census.**

**Table A2 Density of Population**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Total* | *Unit* | *Subgroup* | *2001* | *2011* |
| Population density | Persons per sq. km | Total | 325 | 382 |

**Source: As per Provisional Census 2011 which was updated on 30/8/11**

**Figure A2 Density of population**

****

**The density of population increased at 57 persons per sq.km. from 2001 to 2011. Previously in 2001 census, the density was 325 persons per sq.km which increased to 382 persons per sq.km in 2011 census which shows increase in the population of the country.**

**A4** The sex ratio being 914 females per 1000 males; about 72.2% of the population lives in some 640,867 villages and the remaining 27.8% in about 5,480 towns and urban agglomerations.

**Table A3 Sex Ratio**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Indicator*** | ***Unit*** | ***Subgroup*** | ***2001*** | ***2011*** |
| Sex ratio | Females per 1000 males | Total | 933 | 940 |
| Sex ratio | Females per 1000 males | Rural | 946 | 947 |
| Sex ratio | Females per 1000 males | Urban | 900 | 926 |

**Source:** *As per provisional Census 2011 which was updated on 30/8/2011*

**Figure A3 Sex Ratio**

**The gender ratio in the country decreased from 2001 to 2011. Female ratio showed a slight increase between these years. In the year 2001, for every 1000 males there were 933 females and this increased to 940 females in the year 2011. In rural areas, there was no change in the female ratio but in urban areas, it increased from 900 females to 926 females for every 1000 males.**

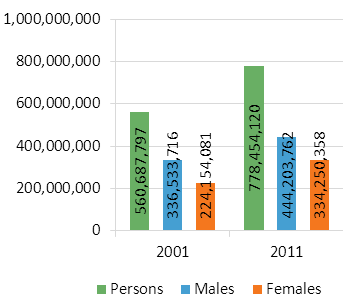
**A5** The literacy rate in the country has improved since the last Census in 2001 from 64.84 per cent to 74.04 per cent in 2011, thereby increasing the absolute number of literates from 560.69 million to 778.45 million. Whereas there exists a gender divide in literacy rate, with greater percentage of male literacy as compared to female literacy; there appears to be closing in of this gap with 2001 divide being to the extent of 21.59 per cent and 2011 being reduced to 16.68 per cent.

**Table A4 Literates**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Indicator* | *Unit* | *Subgroup* | *2001* | *2011* |
| Literates | Number | Persons | 560687797 | 778454120 |
| Literates | Number | Males | 336533716 | 444203762 |
| Literates | Number | Females | 224154081 | 334250358 |

**Source:** *As per provisiona Census 2011 which was updated on 30/8/2011*

**Figure A4 Literates**

****

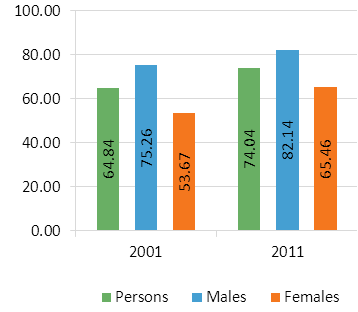
**The literates in the country has improved since the last Census in 2001 from 560 million to 778 million in 2011. Whereas there exists a gender divide in literacy rate, with greater percentage of male literacy as compared to female literacy; there appears to be closing in of this gap with 2001 divide being to the extent of 21.59 per cent and 2011 being reduced to 16.68 per cent.**

**Table A5 Literates Percentage**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *Total* | *Unit* | *Subgroup* | *2001* | *2011* |
| Literacy rate (age 7+) | Per cent | Persons | 64.84 | 74.04 |
| Literacy rate (age 7+) | Per cent | Males | 75.26 | 82.14 |
| Literacy rate (age 7+) | Per cent | Females | 53.67 | 65.46 |

**Source:** *As per provision a Census 2011 which was updated on 30/8/2011*

**Figure A5 Percentage of Literates**

****

**The literacy rate in the country has improved since the last Census in 2001 from 64.84 per cent to 74.04 per cent in 2011. Whereas there exists a gender divide in literacy rate, with greater percentage of male literacy as compared to female literacy; there appears to be closing in of this gap with 2001 divide being to the extent of 21.59 per cent and 2011 being reduced to 16.68 per cent.**

**A6** Indian society is the culmination of centuries of assimilation of diverse peoples and ethnic groups. India has an inclusive, open, multicultural, multi-ethnic, multi-lingual society marked by unparalleled pluralism. India has 18 major languages. More than 1650 dialects are spoken across the country.

**A7** India is home to almost all religions of the world and secularism is a fundamental tenet of the Indian Constitution and political system. All persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. Citizens residing in India have the right to conserve their distinct language, script or culture.

**A8** India has recorded growth of around 9% in the past several years. India now has the fourth largest GDP in the world in terms of purchasing power. There is a confident, competitive private sector, endowed with remarkable entrepreneurial energy. The infrastructure of law and commercial accounting is conducive to modern business, and there is dynamism in many areas of advanced technology.

**A9** This is the result of decades of sustained effort to build institutions that provide the underpinnings of economic development. The dynamism of recent years is also the result of economic reforms. The economic policy changes have liberated Indian enterprise from government control and made the economy much more open to global flows of trade, capital and technology.

**Figure A6 Growth Rate of GDP**



**A10** The above graph gives us decadal increase in GDP at current prices in 1950-51 GDP was 9664 crores, towards 1960-61 it was 16546 crores. In 1970-71 GDP increased to 42903 croresr By the end of 1980-81 GDP went up to 13252 crores in the year 1990-91 GDP was 515032 Crores. towards 2009-2010 India’s GDP is 6133230 crores.

**II. Constitutional Framework**

**A11** India, with a population of around 350 million at the time of independence in 1947, faced stupendous challenges. There were nearly 600 Princely States in addition to those areas known as British India which had to be integrated. The Indian economy was primarily an agrarian economy which was deficient in industries and dependent on imports for its basic needs. The literacy rate was around 18 per cent. In the first few decades, priority was given to building human and industrial capacity in keeping with the needs and priorities of the nation. This was the setting against which India began its journey as a democracy to ensure the basic political, economic, social and cultural rights of her people.

**A12** The Indian Constitution which came into effect in 1950, less than three years after gaining independence, has remained one of the forward looking Constitutions of the world. It embodies the very essence of the freedom struggle and is reflective of the ethos of pluralism and tolerance engendered by a multi-religious, multi-cultural, multi-lingual and multi-ethnic society.

**A13** The Indian Constitution is one of the longest in the world and drew inspiration not only from the richness of our experience of assimilating many religions and cultures over the millennia, but also the leading democratic constitutions of the modern world and from the fledgling United Nations.

**A14** The Constitution of India provides for a sovereign, secular, democratic and socialist polity and confers the right to vote on every citizen of India above the age of 18 years. Universally recognised human rights and fundamental freedoms are guaranteed without discrimination to all citizens of India.

**A15** Several bold measures that were enshrined in the Constitution have enabled India to flourish as a democracy for nearly six decades and preserve its humanist traditions in the face of several challenges. The basic political, social and economic rights found pride of place in the Constitution and became the beacon guiding the political leadership of various hues and colour for over half a century.

**III. Governance Structure**

**A16** India is a federal country with division of constitutional functions between the Union and State with twenty-eight States and seven Union Territories. There are 640 districts, 5,924 sub-districts, 7,935 Towns and 6,40,867 Villages.

**A17** Based on the principle of separation of powers, Constitution provides for separate legislative, executive and judicial arms to operate both at the Central and State level. The executive arm is headed by the President and exercises powers directly or through officers subordinate The Legislative branch comprise of the Parliament which in turn consists of the Lower house, the Lok Sabha and the Upper House, the Rajya Sabha and the President. The Judiciary has Supreme Court as the Apex Court with High Courts and civil, criminal, district courts at District Level.

**A18** The fields of legistlation have been demarcated by way of Seventh Schedule to the Constitution that enumerated in the Union List, State List and Concurrent List. Matters enumerated in the Concurrent List can be legislated upon by both the Union and State. However, the Union Government has been vested with the residuary powers by the virtue of Article 246(4) which categorically states that the Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

**A19** Further Article 253 of the Constitution provides that a non-obstante clause by way of which Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

**A20** Although Indian structure was divided at two tiers till 1992, local government units functioned both in urban and rural areas but as agencies of State Government. With 73rd and 74th Constitutional Amendments in 1992, statutory recognistion was accorded to rural and urban governments. With this State Governments were required to pass legislations appointing Panchayati Raj and urban local bodies.

**A21** Panchayati Raj is a system of governance in which gram (village) panchayats are the basic units of administration. It has three levels: village (Village Panchayat, block (Panchayat Samiti or inter mediate Panchayat) and district (Zilla Panchayat Parishad). Gram Sabha is the village electorate. The XIth Schedule to the Constitution accords the powers, authority and responsibilities to provide for ‘social welfare, including of the handicapped and mentally retarded’ to the Panchayati Raj (Entry no. 26 read with Article 243G). With over 3 million elected local representatives in the *Panchayats,* which are units of local self-government at the village level, India is not only the largest but also the most representative democracy in the world.

**A22** Insofar as urban and suburban areas are concerned, Municipal Corporations and Municipalities remain basic unit of administration. The XII schedule of Constitution entrusts these with responsibility to inter-alia, safeguard, interests of weaker sections of society including the handicapped and mentally retarded.

**IV. Rights Regime**

**A23** The Fundamental Rights and the Directive Principles of State Policy enshrined in the Indian Constitution represent the Indian people’s declaration of their unflinching commitment to core human values, rights and responsibilities. The Indian Constitution and the various rights-centric statutes not only provide for the policy and institutional framework for human rights protection, but also facilitate the concerned institutions in discharging their responsibilities.

**A24 Fundamental Rights:** The Constitution offers all citizens, individually and collectively basic freedoms which are justiciable and inviolable in the form of six broad categories of Fundamental Rights:

* right to equality including equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and equality of opportunity in matters of employment;
* right to freedom of speech and expression; assembly; association or union; movement; residence; and right to practice any profession or occupation;
* right against exploitation, prohibiting all forms of forced labour, child labour and traffic in human beings;
* right to freedom of conscience and free profession, practice and propagation of religion; right of any section of citizens to conserve their culture, language or script and right of minorities to establish and administer educational institutions of their choice; and
* right to constitutional remedies for enforcement of Fundamental Rights.

**A25** The bulwark of all Fundamental Rights is found in Article 21 which provides that no person shall be deprived of his life or liberty except in accordance with procedure established by Law.

**A26 Directive Principles of State Policy:** The Constitution lays down certain Directive Principles of State Policy which though not justiciable, are ‘fundamental in governance of the country’ and it is the duty of the State to apply these principles in making laws.

* Equal justice and free legal aid. [Art 39 A]
* Organisation of village *panchayats* (local governments) [Art 40]
* Right to work, to education and to public assistance in certain cases.[Art 41]
* Provision for just and humane conditions of work and maternity relief. [Art 42]
* Living wage for workers.[Art 43]
* Participation of workers in management of industries.[Art 43 A]
* Uniform civil code for the citizens.[Art 44]
* Provision for free and compulsory education for children.[Art 45]
* Promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections. [Art 46]
* Duty of the state to raise the level of nutrition and the standard of living and to improve public health. [Art 47]
* Organisation of agriculture and animal husbandry. [Art 48]
* Protection and improvement of environment and safeguarding of forests and wild life. [Art 48A]
* Protection of monuments and places and objects of national importance. [Art 49]
* Separation of judiciary from executive. [Art 50]
* Promotion of international peace and security. [Art 51]

**A27** Even prior to India’s accession to the Covenant on Economic, Social and cultural Rights the importance of economic, social, and cultural rights was recognised in our Constitution which contained a separate section on the Directive Principles of State Policy. At the broadest level, they call upon the state to strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which social, economic and political justice would inform all the institutions of national life. Over the years, in a series of landmark judgments, the Indian Supreme Court has ruled that the "Directive Principles "must be "read into" the Fundamental Rights, as the two sets of rights are complementary to each other. The Supreme Court also ruled that the right to life, enshrined in the Constitution, includes within it the right to live with human dignity and all that goes with it, including the necessities of life, such as adequate nutrition, clothing, shelter and basic education.

**A28 Affirmative Action** India has embarked on a programme of affirmative action which is, perhaps, without parallel in scale and dimension in human history. Part III of the Indian Constitution dealing with Fundamental Rights, contains powerful provisions to combat all forms of discrimination, notably those forms that were based on caste. These provisions of the Constitution, which are justiciable, include, *inter alia*, equality before the law or the equal protection of laws, non discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them, special provision for the advancement of any socially and educationally backward class of citizens as well as Scheduled Castes and Scheduled Tribes, affirmative action through the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services of the State, and abolition of “Untouchability”.

* **Civil Political Rights**

**A29 Right to Life and Liberty** The right to life and liberty is the most fundamental of all human rights. This basic right forms the bedrock of human rights jurisprudence. The Constitution confers on every person the fundamental right to life and personal liberty, couched in the terms of Art. 21under Part III. In an attempt to implement the civil liberties laid down in the ICCPR, the Supreme Court has liberally interpreted life and liberty and included a repository of rights under Art. 21. As aforementioned, the Apex Court has interpreted the right to life as denoting a right to a life with dignity, which includes the rights to health, education, clean environment, speedy trial, privacy etc.

**A30 Right to Information** To increase transparency in the functioning of Government at all levels and accountability in public life, the Government brought forward a historic legislation, the Right to Information Act, 2005. The Act has wide reach, covering the Central and State Governments, *Panchayati Raj* institutions, local bodies, as well as recipients of Government grants. It has given citizens access to information with minimum exemptions.

* **Economic, Social and Cultural Rights**

**A31** The Government is committed to providing an environment for inclusive and accelerated growth and social progress within the framework of a secular and liberal democracy. Through a combination of offering entitlements, ensuring empowerment and stepping up public investment, the Government has sought to make the growth process more inclusive*.* All the major initiatives of the Government, in agriculture and rural development, in industry and urban development, in infrastructure and services, in education and health care and in every other facet of life, are aimed at promoting “inclusive growth”. Inclusive growth also means empowering the disadvantaged. The Government has sought to achieve this through a variety of legislative interventions for empowering women, tribals and scheduled castes, the minorities and other backward classes.

**A32 Right to Education** In a historic step towards the realisation of the universal right to education in India, the 86thConstitution Amendment Act, which makes free and compulsory education for children between the age group of 6 to 14 years a fundamental right and thereby this fundamental right to education was enacted in the form of the Right of Children to Free and Compulsory Education Act, 2009 which is in force since April, 2010.

* **Programmes in furtherance of Socio-Economic and Cultural Rights**

**A33 Rural Infrastructure Development** The Government believes that rural India should be seen as a growth engine and is determined to channel public investment in the area of rural infrastructure so as to unleash its growth potential. To upgrade rural infrastructure, the Government has conceived *Bharat Nirman*, a four year time-bound business plan for achieving identified goals in six selected areas i.e. irrigation, rural water supply, rural housing, rural roads, rural telephony and rural electrification.

**A34 Rural Employment** A path-breaking initiative to provide legal guarantee to work and to transform ‘the geography of poverty’ is the National Rural Employment Guarantee Act, 2005 which recognises the right to work as a fundamental legal right. The Act envisages securing the livelihood of people in rural areas by guaranteeing 100 days of employment in a financial year to a rural household. It provides that employment be given within 15 days of application for work and if not so provided, daily unemployment allowance in cash has to be paid. It provides a social safety net for vulnerable households, and an opportunity to combine growth with equity. A social safety net of this dimension has not been undertaken ever before anywhere in the world. This programme was launched on 2 February 2006. Over 14 million households have benefited under the Rural Employment Guarantee Scheme operational in 130 districts. One third of jobs were reserved for women, who currently represent 40 per cent of beneficiaries. This scheme has been expanded to cover the entire country from 1 April 2008.

**A35 Rural Health Care** Intrinsic to the dignity and worth of the human person is the enjoyment of the right to health. Indeed, in the Indian context, the right to life has been expanded, through liberal judicial interpretation, to encompass the right to health and to make the latter a guaranteed fundamental right. The National Rural Health Mission (NRHM) was launched on 12 April2005 to provide accessible, affordable and accountable quality health services to the poorest households in the remotest rural regions. The thrust of the NRHM is on establishing a fully functional, community owned, decentralised health delivery system with inter-sectoral convergence at all levels, so as to ensure simultaneous action on a wide range of determinants of health like water, sanitation, education, nutrition, social and gender equality. Immunisation programme is one of the key interventions under the NRHM for protection of children from preventable life threatening conditions. A major exercise is underway to meet the health challenges of the urban population with a focus on urban poor living in slums, through the launch of the National Urban Health Mission. The Health Insurance Scheme for Workers in the Unorganised Sector is scheduled to be implemented from 1 April 2008.

**V. Safeguarding Rights of the Citizenry**

**A36 Independent Judiciary** The institutional safeguards for the rights enshrined in the Constitution include an independent judiciary and the separation of judicial and executive functions. Legislation in India is subject to review by courts as regards its constitutionality, and the exercise of executive power is subject to different forms of judicial review. In the event of infringement of an individual’s fundamental rights, the highest court in the land, the Supreme Court, can be moved.

**A37 Public Interest Litigation:** The Supreme Court has, in its concern for human rights, also developed a highly advanced public interest litigation regime. The judicial initiatives taken in this regard in the1980s have now become the basis to seek redressal in situations of grave human rights violation. Any individual or group of persons highlighting a question of public importance, for the purposes of invoking its writ jurisdiction, can approach the Supreme Court and also the High Courts in the states. The Supreme Court has also recognised the justiciability of some vital economic and social rights by interpreting the ‘right to life’ as meaning the right to a life with dignity.

**A38 Separate Departments:** As far as administrative structures are concerned, separate departments have been created both at the Centre and in the States for women and child development, social justice, health, education, labour, with a strong focus on the rights of citizens. A number of essential services like education, health and public distribution system of food have been kept in the public sector to ensure its reach across all sections of the population.

**A39 Commissions:** A number of Ombudsman type institutions have been created for the purpose of serving as ‘watchdogs’. The National Human Rights Commission (NHRC) was established in1993. The status and conditions of service of Chairperson of the NHRC is the same as that of the Chief Justice of India, and of Members of the Commission are those of Judges of the Supreme Court. The National Human Rights Commission is playing a major role in the drawing of a National Action Plan for Human Rights, which will cover issues such as the right to health, education, food security, housing, custodial justice and trafficking in women and children.

**A40** The Government has also set up the National Commission for the Protection of Children’s Rights, National Commission for Minorities, the National Commission for Denotified, Nomadic& Semi-nomadic Tribes, and the National Commission for Backward Classes and a Chief Commissioner for Persons with Disabilities.

**A41** In addition, 18 States in India have constituted State Human Rights Commissions while a few more are in the pipeline. Many States have also constituted State Commissions for Scheduled Castes, Scheduled Tribes, Women and Minorities.

**A42 NGO Framework** Besides the institutional and administrative framework set up by the Government to extend and protect human rights, India has a strong tradition of non-governmental and voluntary action. An estimated 25,000 indigenous non-governmental organisations (NGOs) operate in India. India also has a strong tradition of community-based people’s organisations.

**VI. Commitment to International Human Rights Conventions**

**A43** India is a signatory to the six core human rights covenants and is fully committed to the rights proclaimed in the Universal Declaration. It has signed and ratified international Human Rights Conventions which *inter alia* include the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of all forms of Racial Discrimination, Convention on the Elimination of all forms of Discrimination against Women, and the Convention on the Rights of the Child. In 2005, it ratified the two Optional Protocols to the Convention on the Rights of the Child and more recently, it ratified the Convention on the Rights of Persons with Disability. It has also signed the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on Enforced Disappearances signaling its intention to respect the provisions of these treaties and is taking steps towards their ratification.

**A44** India has played an active role in the human rights machinery of the United Nations. It was among the very few select countries who were members of the former Commission of Human Rights throughout over 60 years of its existence. While presenting its candidature to the Human Rights Council for a three-year term in December 2006, India made several voluntary pledges and commitments which, *inter alia,* include maintaining the independence, autonomy as well as genuine powers of investigation of national human rights bodies, setting up of a National Commission for the Protection of Child’s Rights, working for the world-wide promotion and protection of human rights, based on the principles of cooperation and genuine dialogue, supporting the adoption of the Convention on the Rights of Persons with Disabilities. Most of these voluntary pledges and commitments made by India have been fulfilled and the rest are being carried out in earnest.

**VII. Safeguarding Rights of Vulnerable Groups**

**A45 Women’s Rights** India ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1993. Our national commitment to women’s rights, however, dates back to the time when independent India adopted its Constitution adopted in 1950. The Constitution was path-breaking, not only by the standards of the newly independent countries, but also of many of the developed countries, in its focus on the emancipation of women and removal of all forms of discrimination against them. The guaranteeing of equal rights and privileges for women by the Constitution marked the first step in the journey towards the transformation of the status of women in India.

**A46** The **National Commission for Women** was set up by an Act of Parliament in 1990 to safeguard the rights and entitlements of women in the country. The National Commission is responsible for the study and monitoring of constitutional and other laws relating to women review of existing legislation and investigating complaints concerning the rights of women.

**A47** Comprehensive efforts have also been underway to secure gender justice by substantially increasing coverage of programmes for affirmative action, campaigns for equal rights to women in property, credit facilitation, income generating opportunities, provision of support services like day care facilities, crèches, and hostels for working women, etc.

**A48 Rights of the Child:** India has the largest child population in the world. This brings with it huge responsibilities to protect their rights and prevent exploitation in all its forms, as well as unlimited opportunities to create a better future for the coming generations of young Indians. It is in recognition of this that in addition to having acceded to the Convention on the Rights of the Child, India has also acceded to both the Optional Protocols to the Convention.

**A49** India’s commitment to the rights of the child is enshrined in our Constitution. One of the Directive Principles of State Policy contained in the Constitution states that the State shall ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of dignity and that childhood and youth are protected against exploitation and against moral and material abandonment, unquote. In order to direct greater focus on issues relating to children, an independent Ministry of Women and Child Development has been created.

**A50** The comprehensive and holistic **National Plan of Action for Children**, 2005 set time bound targets for achievement in terms of reduction of infant and child mortality and HIV prevalence in infants, universal access to drinking water and basic sanitation, and the elimination of child marriages as well as the incidence of disabilities due to polio.

**A51** In addition, a **National Charter for Children** has been recently adopted which is a statement of intent embodying the Government’s agenda for Children. The National Charter emphasizes India’s commitment to children’s rights to survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, equality, life and liberty, name and nationality, freedom of expression, freedom of association and peaceful assembly, the right to a family and the right to be protected from economic exploitation. The document also defines commitments to children in difficult circumstances, children with disabilities, children from marginalised and disadvantaged communities and child victims.

**A52** India has one of the most comprehensive legal regimes for the protection of children. Among the several laws in place is the Juvenile Justice Care and Protection of Children Act2000 which aims at providing proper care protection and treatment by catering to the development needs of children, and adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the Act. The Act provides several safeguards for juveniles in conflict with law and for children in need of care and protection.

**A53** The Commissions for the Protection of Child Rights Act, 2005 has constituted the National Commission for the Protection of Child Rights. This statutory mechanism seeks to oversee and review the implementation of the National Policy for Children and recommend remedial action in instances of violation of child rights.

**A54 Rights of Older Persons**  Demographic ageing is a global phenomenon. With a comparatively young population, India is still poised to become home to the second largest number of older persons in the world. The National Policy for Older Persons (NPOP) was announced in January, 1999, with the primary objective to encourage individuals to make provision for their own as well as their spouse’s old age; to encourage families to take care of their older family members; to provide care and protection to the vulnerable elderly people, to provide health care facility to the elderly; and to create awareness regarding elderly persons to develop themselves into fully independent citizens.

**A55** The Government has constituted a National Council for Older Persons (NCOP) to advise and aid the Government on policies and programmes for older persons and also to provide feedback to the Government on the implementation of the National Policy on Older Persons as well as on specific programme initiatives for older persons.

**A56** India is a signatory to the Madrid International Plan of Action on Ageing 2002.Government has also enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to provide for more effective provisions including constitution of Tribunals for the maintenance and welfare of parents and senior citizens.

**A57 Rights of Persons with Disabilities** The Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 was enacted much before the UN Convention on the Rights of Persons with Disabilities was adopted. It is a rights-based legislation and contains a range of measures for the prevention and early detection of disabilities, education, employment and non-discrimination. The Government has ratified the United Nations Convention on the Rights of Persons with Disabilities. The Government is presently in the process of replacing the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995 with a new law which is in the harmony with the UN Convention on the Rights of Persons with Disabilities.

**PART B**

**BACK GROUND**

**I. Demographic Description**

**B1** This report aims to outline the status of persons with disabilities in the country.  As it seeks to elaborate on the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter CRPD) in India, the perambulatory paragraphs provide a snapshot of the socio-economic context within which the rights of persons with disabilities are being democratically addressed in India.

**B2** India signed the CRPD on 30th March 2007 when it opened for signature and ratified it in October 2007. The promise to implement the Convention was not made on a clean slate. Various initiatives surrounding persons with disabilities antedated the CRPD. Whilst some of these initiatives were in accord with the CRPD, others demonstrate a pre-CRPD understanding of disability. A synoptic detailing of the various disability related developments is being made so to enable understanding of  the threats and opportunities  existing in the country. However, before that it would be worthwhile to take note of the demographic details of persons with disabilities in the country.

**B3** According to 2001 Census, of the total population, 2.13% are persons with disabilities, of which male population is 57.5 whereas their female counter part comprises of the balance 42.5%. 75% of the population of persons with disabilities lives in rural areas. The state-wise distribution of persons with disabilities can be observed as follows:

**Figure B1 State Wise Distribution of Population of Persons with Disabilities**

**The above Figure B1 shows that Uttar Pradesh has highest population of persons with disabilities. The disabled population of Uttar Pradesh is 3.4 millions. Bihar has next highest population with 1.8 million. The least disabled population exists in Lakshadweep**

**Figure B2 Area-wise Distribution of Population of Persons with Disabilities**

**The Figure B2 shows that the percentage of rural disabled population is more than urban disabled population. This situation exists in all the States. The urban disabled population is more than rural disabled population in Union Territories.**

**Figure B3 Types of Disabilities at all India Level**

**Figure B3 shows us that Disability in seeing is highest in India which is 48.55%. The next highest is Disability in Movement with 27.87%. Disability in Mental and Speech population is nearly 18% and the least disabled population is Disability in Hearing which is 5.76%.**

**Figure B4 Comparative Literacy rate of total population and Persons with Disabilities**

**B4** It can be observed that the largest group for persons with disabilities falls in visually impairment (48.55%) whereas locomotor disability forms the second largest group

**B5** When it comes to attainment of literacy rates, it is being observed that literacy of population of persons with disabilities is 49% which is lower when compared to the general population.

**II. Federal Responsibility**

**B6** In the federal division of power, the responsibility of making laws and policies in relation to persons with disabilities was allocated to the states.   However, the kind of interventions contemplated can be deduced from the relevant legislative entry which spoke of “relief of the disabled and unemployable”.   The exclusion of persons with disabilities from social discourse was perceived as a consequence of the deficiency of their body and mind and not due to social prejudice. Thus though discrimination on grounds only of “religion, race, caste, sex, descent, place of birth, residence or any of them” was prohibited disability did not find inclusion in the prohibited grounds.

**B7** That the founders did not subscribe to the prejudicial exclusion of any people can be discerned from the debate on including unsoundness of mind as a ground for denial of the right to vote.  Whilst the drafting committee acknowledged that a person of unsound mind should not be allowed to vote, they were not amenable to the disqualification coming to play without a judicial determination.  Consequently, electoral rights were denied to only those persons of unsound mind who had been so declared by a competent court.

**B8** In accord with their constitutional mandate various State governments instituted different relief schemes for persons with disabilities. These schemes primarily provided disability or unemployment pension to persons with disabilities, concessions in travel was another common relief provided.

**III. Law and Policy**

**B9** Article 14 of the Constitution guarantees that no person will be denied equality before the law. The State is directed to provide relief and help to the persons with disabilities and the unemployable, vide Entry 9 in List II of the Seventh Schedule. Article 41 states that the State shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

**B10** There are four legislations specifically directed towards the protection, welfare, rehabilitation and development of people with disabilities—

* The Mental Health Act, 1987;
* Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;
* The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999 and
* The Rehabilitation Council of India Act, 1992.

**B11** Persons with Disabilities **(Equal Opportunities, Protection of Rights and Full Participation)** Act, 1995 (PWDA) This is the main Act concerning disability issues in the country.

**B12** A meeting to launch the Asian and Pacific Decade of Disabled Persons 1993-2002, convened by the Economic and Social Commission for Asia and Pacific (ESCAP), was held in Beijing in December, 1992. The Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region was adopted in this meeting, to which India is a signatory. The Central Government enacted The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act), 1995 to implement this proclamation. The Act was enacted under Article 253 - ("Legislation for giving effect to international agreements") of the Constitution of India, read with item No. 13 - ("Participation in international conferences, associations and other bodies and implementing of decisions made thereat") of the Union List, since the subject "Relief to the disabled" is covered under Item 9 of the State List in the Constitution of India.

**B13** The Act provides for education, rehabilitation, employment, non-discrimination and social security for persons with disabilities. The broad provisions of the Act, chapter wise, are given as under:

**Table B1 Broad Provisions of Persons with Disabilities Act, 1995**

|  |  |  |
| --- | --- | --- |
| ***Chapter*** | ***Sections*** | ***Title*** |
| I | 1-2 | Preliminary, Definitions |
| II | 3-12 | The Central Coordination Committee  (and Central Executive Committee) |
| III | 13-24 | The State Coordination Committee  (and State Executive Committee) |
| IV | 25 | Prevention and Early Detection of Disabilities |
| V | 26-31 | Education |
| VI | 32-41 | Employment |
| VII | 42-43 | Affirmative Action |
| VIII | 44-47 | Non-discrimination |
| IX | 48-49 | Research And Manpower Development |
| X | 50-55 | Recognition of Institutions for Persons with Disabilities |
| XI | 56 | Institution for Persons with Severe Disabilities |
| XII | 57-65 | The Chief Commissioner and Commissioners for Persons with Disabilities |
| XIII | 66-68 | Social Security |
| XIV | 69-73 | Miscellaneous |

**B14** **The Mental Health Act, 1987**: As mentioned above, “mental illness” is one of the disabilities mentioned in the PWDA. However, treatment and care of mentally ill persons is governed by a separate Act called the ‘Mental Health Act, 1987’, which is administered by the Ministry of Health and Family Welfare.

**B15** The Mental Health Act, 1987 has the following main provisions:

* 1. regulate admission to psychiatric hospitals or psychiatric nursing homes of mentally ill-persons who do not have sufficient understanding to seek treatment on a voluntary basis, and to protect the rights of such persons while being detained;
  2. protect citizens from being detained in psychiatric hospitals or psychiatric nursing homes without sufficient cause;
  3. regulate responsibility for maintenance charges of mentally ill persons who are admitted to psychiatric hospitals or psychiatric nursing homes;
  4. provide facilities for establishing guardianship or custody of mentally ill persons who are incapable of managing their own affairs;

**B16** **National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple DisabilitiesAct*,* 1999**:The Act, provides for Constitution of the National Trust (Section 3 to 9), a body corporate, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name, sue or be sued. The main objects of the National Trust, as defined under Section 10 are:

* to enable and empower persons with disabilities to live independently and as fully as possible within and as close to their community ;
* to extend support to registered organizations (NGOs) to provide need based services;
* to evolve procedures for appointment of guardians and trustees for persons with disabilities;
* to facilitate the realization of equal opportunities, protection of rights and full participation of persons with disabilities.
* provide for the establishment of Central Authority and State Authorities for Mental Health Services;
* lay down the powers of the Government for establishing, licensing and controlling psychiatric hospitals and psychiatric nursing homes for mentally ill persons;
* provide for legal aid to mentally ill persons at State expense in certain cases.

**B17 Rehabilitation Council of India Act, 1992** The Rehabilitation Council of India was set up under this 1992 Act of Parliament. This Council regulates and monitors the training of rehabilitation professionals and personnel, and promotes research in rehabilitation and special education. Its functions are as below:

1. Determining [minimum standards of education](http://www.disabilityindia.org/#18)
2. Making recommendations to the Ministry regarding [recognition of qualifications granted by Universities, etc., in India for rehabilitation professionals.](http://www.disabilityindia.org/#11)
3. Making recommendations to the Ministry regarding [recognition of qualification by institutions outside India](http://www.disabilityindia.org/#12)
4. [Inspection in examinations](http://www.disabilityindia.org/#15)
5. [Registration](http://www.disabilityindia.org/#19) of rehabilitation professionals/other personnel.
6. [Determining privileges and professional conduct of registered persons.](http://www.disabilityindia.org/#20)

# B18 National Policy for Persons with Disabilities, 2006 The National Policy recognizes that persons with disabilities are a valuable human resource for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society. It is in consonance with the basic principles of equality, freedom, justice and dignity of all individuals that are enshrined in the Constitution of India and implicitly mandate an inclusive society for all, including persons with disabilities. The National Policy recognizes the fact that a majority of persons with disabilities can lead a better quality of life if they have equal opportunities and effective access to rehabilitation measures.

**B19** **The salient features of the National Policy are:**

* Physical Rehabilitation, which includes early detection and intervention, counseling and medical interventions and provision of aids and appliances. It also includes the development of rehabilitation professionals;
* Educational Rehabilitation which includes vocational training; and
* Economic Rehabilitation, for a dignified life in society.

**IV. Assessment through Five Year Plans**

**B20** The Ninth Five Year Plan witnessed a shift from welfare based approach to a right based approach. The Tenth Five Year Plan focused on effective implementation of various provisions of legislation and National Policy for Persons with Disabilities and advocated a multi-sectoral and multi-collaborative approach. Ministry of Social Justice and Empowerment would however be the nodal Ministry.

**B21** The Eleventh Five Year Plan, 2011 – 12, has aimed at faster and more inclusive growth. It seeks to achieve inclusiveness through significant improvements in literacy/education and health, greater employment opportunities, and greater focus on disadvantaged groups.

**B22** The Eleventh Plan emphasized upon the right based approach to empower the persons with disabilities and suggested a four-pronged approach; (i) delineate clear cut responsibility between the concerned Ministries/Depts.; (ii) concerned Ministries/Depts. to formulate detailed rules and guidelines: (ii) each Ministry/Dept. to reserve not less than three percent of their annual outlay for the benefit of the persons with disabilities; (iv) monitoring mechanism at various levels. It also emphasized on strengthening the institutional arrangements, extension services and rehabilitation measures, inclusive and accessible education, accessibility, employment etc.

**B23** The Twelfth Plan is to make an assessment of the status of implementation of various schemes and programmes, consolidate the gains and draw a strategic plan for the empowerment of persons with disabilities, specifically in the light of the provisions of CRPD.

**V. Institutional and NGO Framework**

**B24 Chief Commissioner for Persons with Disabilities (CCPD)** The Office of the Chief Commissioner for Persons with Disabilities has been set up under Section 57 of the PWDA and has been mandated to take steps to safeguard the rights and facilities to the persons with disabilities. Based on the complaints filed before him/her, if the provisions of the PWDA, any rules, bye-laws, regulations, executive orders or instructions are violated or are not implemented, the Chief Commissioner takes up the matters with the concerned authorities. The Act also empowers the Chief Commissioner to issue suo-moto notice of any such non-compliance.

**B25** **National Trust:** The National Trust has institutional arrangements in the form of State Nodal Agency Centre (**SNAC**) and State Nodal Agency Partner (**SNAP**) at the State/UT and Divisional levels to support and take forward its activities. One SNAC in every State/UT and one SNAP for around 10 districts in every State/UT are appointed from amongst the reputed and well established NGOs registered with the National Trust.

**B26 Rehabilitation Council of India (RCI):** The Rehabilitation Council of India, a Registered Society under the Societies Registration Act, XXI of 1860 was established on 22nd May 1986. The Council has been given Statutory Status by an Act of Parliament (34 of 1992), which became operational from 31st July, 1993.

**B27** The objectives of the Council are to regulate the training policies, programmes and standardization of training courses for professionals dealing with the persons with disabilities. The Ministry has notified 16 categories of Professionals, Personnel and others falling under the purview of the Council. The Council maintains a Central Rehabilitation Register of persons possessing recognized rehabilitation qualifications and also promotes research in the area of special education.

**B28** In accord with this welfarist approach, a number of organizations for persons with disabilities sprang up in different parts of the country; several of these organizations were established by parents and family members of persons with disabilities. Since these organizations primarily adopted a medical perspective towards disability; the interventions focused on the individual person with disabilities.

**B29 National Institutes:** The service oriented outlook towards disability was also promoted by the National Institutes who inaugurated professional and technical outlook towards disability.  The establishments of the Institutes contributed to the impairment specific research and interventions in the country.

* National Institute for the Physically Handicapped set up in 1976
* National Institute for the Orthopedically Handicapped established in Kolkata in 1978
* The National Institute for Visually Handicapped was established in Dehradun 1979
* National Institute for the Hearing Handicapped was established in Mumbai in 1983
* National Institute for Mentally Handicapped was established in Hyderabad in 1984
* The National Institute of Rehabilitation Training and Research (NIRTAR) was established in Orissa in 1984.
* National Institute for Empowerment of Persons with Multiple Disabilities was established in Chennai in 2005.

**B30**  The National Institutes along with their regional centres created a network of technical professional expertise around the particular impairments for whose study they were established.

**B31** The professional outlook was not limited to the government established National Institutes. Thus the technical initiatives around cerebral palsy were primarily driven by voluntary initiative whereby parents of persons with cerebral palsy set up Institutes which would advance technically informed interventions in the field. Institutes were established in different regions of the country from 1972 onwards. The Institutes which were termed as Spastic Societies at initiation have from the beginning of this century started to adopt a more advocacial and human rights approach to their work. The need to have the specific   requirements of the particular impairment to be understood has caused service and advocacy initiatives to spring up for autism from the early nineties.

**VI. Central Corporations under the Ministry**

**B32 National Handicapped Finance and Development Corporation (NHFDC)** The National Handicapped Finance and Development Corporation (NHFDC) was set up on 24th January 1997. It is registered under Section 25 of the Company Act, 1956 as a company not for profit. It is wholly owned by Government of India and has an authorised share capital of Rs. 400 Crores (Rupees Four Hundred Crore only) & paid up capital is Rs.161.80 Crore (as on 31.03.2011). The company is managed by Board of Directors nominated by Government of India.

**B33 Objectives: -**

* To promote economic development activities and self-employment ventures for the benefit of persons with disability.
* To extend loan to the persons with disability for up gradation of their entrepreneurial skill for proper and efficient management of self-employment ventures.
* To extend loans to persons with disability for pursuing professional/technical education, leading to vocational rehabilitation/self-employment.
* To assist self-employed persons with disability in marketing their produce.

**B34 Artificial Limbs Manufacturing Corporation of India (ALIMCO)** ALIMCO was set up in 1972 by the Government of India under Section 25 of the Companies Act 1956. The authorized capital and paid up capital as on 31.03.2009 were Rs.300.00 lakhs and Rs.196.50 lakhs respectively. The entire paid up share capital is held by the Government of India in the name of the President of India. It is a “Not for Profit” company with the mission that Empowerment of Persons with Disabilities and restoration of their dignity by way of manufacturing and supplying durable, sophisticated, scientifically manufactured modern and ISI standard quality Assistive aids and appliances that can promote physical, psychological, social economic and vocational rehabilitation by reducing the effect of disabilities and enhancing potential for self-dependence. ALIMCO, an ISO 9001-2000 company, is the premier and the largest manufacturer of quality Aids & Appliances in whole of South Asia. The Corporation has been exporting its products to Afghanistan, Angola, Bangladesh, Bhutan, Cambodia, Ghana, Hong Kong, Israel, Namibia, Nepal, Philippines, Sri Lanka, Tanzania, UAE, Uzbekistan and USA.

**VII. Regional and District-level Centres for Persons with Disabilities**

**B35 Composite Regional Centers** Consequent to the enactment of the PWDA which enjoins upon the government a responsibility for taking up steps for providing an enabling environment for persons with disabilities, Scheme of setting up CRCs was formulated. The scheme of setting up of Composite Regional Centres is a part of overall strategy to reach out to the persons with disabilities in the country and to facilitate the creation of the required infrastructure and capacity building at Central, State and District levels and below for awareness generation, training of rehabilitation professionals, service delivery etc. It was thought that initiative from the Central Government is necessary by supporting establishment of CRCs in order to speed up the process of establishing rehabilitation services and sharing with the State Government the innovative model of services developed by National Institutes, Regional Rehabilitation and Training Centres, DDRCs, etc and also to do capacity building, to establish, strengthen and upgrade rehabilitation services to reach unreached disabled population. Centres were proposed to be set up at locations where the existing infrastructure for providing comprehensive services to disabled were inadequate and where such centres are needed the most.

**B36 District Disability Rehabilitation Centres (DDRC)** To facilitate the creation of infrastructure and capacity building at district level for awareness generation, rehabilitation, training and guiding rehabilitation professionals, the Ministry with the active support of the State Governments is providing comprehensive services to the persons with disabilities by way of setting up of District Disability Rehabilitation Centres in all the unserved districts of the country. The scheme of setting up DDRCs was initiated in Ninth Five Year Plan and is continuing in Eleventh Five Year Plan.

**B37** The Scheme is a joint venture of the State and Central Government. The DDRCs are funded through the ‘Schemes for implementation of the PWDA for an initial period of 3 years (5 years in case of North Eastern Region, J&K, A&N Islands, Puducherry, Daman & Diu and Dadra &Nagar Haveli) and thereafter the funding is made through the Scheme of Deendayal Disabled Rehabilitation Scheme (DDRS).

**B38 Family-based service provision-**Service provision has not been confined to governmental effort and the voluntary enterprise of parents and families. The philanthropic impulse has also informed social intervention in the field. It is with this impulse that the  Bhagwan Mahaveer Viklang Sahayata Samiti (BMVSS), Jaipur was set up in 1975. It is amongst the largest organizations for the fitment of artificial limbs and calipers for persons with disabilities. The organization provides all the artificial limbs, calipers, crutches, ambulatory aids like wheelchairs, hand paddled tricycles and other aids and appliances free of charge to those persons with disabilities who cannot afford them.

**B39 Self Advocacy-**Persons with disabilities started to represent themselves only in 1970 when the National Federation for the Blind was established with the philosophy of “Let the blind Lead the blind”.  This trend of single impairment advocacy continued till the 1990’s. From the mid 90’s cross disability advocacy started to gain credence with loose networks such as the Disability Rights Group. Even so persons with intellectual and developmental disabilities were primarily represented through organizations of parents. Thus,  Parivaar – National Federation for Parents Association for Persons with Mentally Handicapped, autism, cerebral palsy and multiple disabilities was formed in 1995. The self advocacy chapter was inaugurated in 2008. The concerns of persons with psychosocial disabilities have again been represented by parents and caregivers and by user survivors themselves.

**B40** The above narration has been made to underscore that the CRPD does not become operational on a tabula rasa. There are persons and organizations that are in accord with the CRPD outlook and philosophy and there are others who are at odds with it. The rights discourse of the CRPD has been inaugurated in a social-political context where perspectives of welfare and rights; preferences of autonomy and protection; technical and experiential expertise are engaged in both amicable and antagonistic dialogue to define the strategy of realizing the rights of persons with disabilities.

**ARTICLE 1 - PURPOSE**

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| --- |
| *The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.*  *Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.* |

**Definition of Person with Disability in Indian Law**

**1.1**    Article 1 of the Convention defines persons with disabilities to include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.  The CRPD has focused on the interplay between impairment and social barriers to define who is a person with disability.  The subsisting Indian law makes the definition of person with disability to depend upon the severity of the impairment.

**1.2** Thus, Section 2 (t) of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (hereinafter PWDA) defines a person with disability to mean “a person suffering from not less than 40% of any disability as certified by a medical authority”.

**Long Term as Understood in Indian Law**

**1.3**     Section 2 (i) of the same statute defines disability to mean “blindness, low-vision, leprosy cured, locomotor disability, hearing impairment, mental retardation and mental illness”.  The statute then goes on to define each of the conditions on a severity scale.  The duration of the condition has only come into play in relation to persons living with mental illness.  The PWDA defined mental illness to mean “any mental disorder other than mental retardation”.  The Indian Disability Valuation Evaluation and Assessment Scale have limited the eligibility for disability benefits to Schizophrenia, bipolar disorder, dementia and obsessive compulsive disorder.  The total duration of the illness is required to be at least two years and for the purpose of scoring the number of months the patient is symptomatic in the last two years is taken into account. Thus, the longer the period of symptoms the higher the disability score.

**1.4**  The issue of duration also comes into play whilst providing certification to persons with disabilities. The responsibility of determining who is a person with disabilities has been placed on medical authorities. The medical authorities provide permanent or temporary disability certificates depending upon the nature of the impairment. Permanent disability certificates are provided “*in cases where there are no chances of variation, over time in the degree of disability”* and certificates for limited duration are issued *“in cases where, there is any chance of variation, over time in the degree of disability” .* Thus, Indian law takes long term into account in two ways: one to determine whether a psychosocial condition could be considered a disability and two, to determine the duration of the disability certificate.

**Definition of Person with Disability in the National Trust Act**

**1.5** Other than the Persons with Disabilities Act of 1995, a person with disability has been defined in the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999 (hereinafter NTA).  In this statute, a person with disability is defined to mean “ a person suffering from any of the conditions relating to autism, cerebral palsy, mental retardation or a combination of any two or more of such condition and includes a person suffering from severe multiple disability”.

**Medical Determination of Disability**

**1.6** The PWD rules of 19 96 provided that the Disability Certificate shall be issued by medical board of three members. This process was considered ponderous. Consequently, from January, 2010, the rules were modified to replace the Medical Board with a single person medical authority who is authorized to issue the certificate in the district of the applicant’s residence. In order to further ease matters for person with disabilities, the rules require that the certificate must be provide within a maximum of one month.

**Judicial Interpretation of Person with Disabilities**

**1.7** Disability related entitlements are primarily limited to persons who have medically certified to have the above named conditions.  This definition has been judicially expanded if a person acquires a disability during his service.  The Indian Supreme Court has ruled that these acquired disabilities are not limited to the one named in the Act and even impairments not so named shall stand included. On this interpretation the Court has included and learning disabilities. Similarly, the Court has extended the benefits of Reasonable Accommodation in educational instruction and examination to persons with learning disabilities. The PWDA provides for 3% reservation in all educational institutions for persons with disabilities. The benefit of this provision has again not been limited to the named disabilities.

**1.8** The present legal position therefore is that in legislative policies and programmes the country operates under an enumerative model of disability.  This enumerative model is supplemented by court decisions when an individual is able to establish that he or she has been denied a constitutional right of equality by reason of disability.

**Definition Related Disputes in Proposed Legislations**

**1.9** In the deliberations surrounding the adoption of a new disability rights law, the continuance of an enumerative model is being hotly debated.  Paragraph (e) of the preamble to the UNCRPD recognizes that disability is an evolving concept which results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder full and effective participation in society on an equal basis with others.  An enumerative model its critics contend would thus seem to be in opposition to an evolving outlook towards the definition of disability.  The proponents of the enumerative model however point out that without explicit naming the lesser known and invisible disabilities would never obtain the programmatic support required to realize the rights guaranteed by law.  Furthermore a generic definition may open the flood gates of claims and to meet such demand may be beyond the capacity of a developing economy.  These concerns are being reported to highlight the difficulties faced on the ground in adopting the philosophical inclinations of the UNCRPD.

**FINDINGS**

* The subsisting definition of persons with disabilities in the extant law is a medical one.
* However, this definition is supplemented by the judiciary which take a mere functional approach of the matter.

**Future Plan of Action**

* The challenge is to arrive at a definition whereby the law does not become a barrier to the realization of the rights of persons with disabilities by being over or u under inclusive.

**ARTICLE 2 - DEFINITIONS**

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| --- |
| *For the purposes of the present Convention:*  *“Communication” includes languages, display of text, Braille, tactile communication, 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;*  *“Language” includes spoken and signed languages and other forms of non spoken languages;*  *“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;*  *“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;*  *“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.* |

**2.1** The definitions provided in the CRPD are not at present operational in the country because legislations whereby the CPRD shall be implemented in the country are still under process.

**2.2** These definitions are being drawn upon to enunciate meaning of these keys in the proposed legislations. Also till the municipal law is modified, Indian courts in line with past practice will draw upon these definitions to pronounce upon questions of access, communication and discrimination.

**ARTICLE 3 - GENERAL PRINCIPLES**

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| *The principles of the present Convention shall be:*  *(a) Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;*  *(b) Non-discrimination;*  *(c) Full and effective participation and inclusion in society;*  *(d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;*  *(e) Equality of opportunity;*  *(f) Accessibility;*  *(g) Equality between men and women;*  *(h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.* |

**3.1** Principles (a) to (g) are in accord with the fundamental rights and directive principles encapsulated in the Constitution of India. To this extent, the principles are operable in the country even without legislative induction.

**3.2** The provisions of PWDA draw from principles (c) and (f). India has ratified to the CRC and hence to that extent evolving capacity of the child does inform the enunciation of child rights in the country. Insofar as Children with disabilities have been perceived as needing greater protection than participation, the operation of this principle would require legislative change and programmatic support.

**Article 4 - General Obligations**

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| --- |
| *1. States Parties undertake 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. To this end, States Parties undertake:*  *(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;*  *(b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;*  *(c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;*  *(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;*  *(e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;*  *(f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;*  *(g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;*  *(h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;*  *(i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.*  *2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.*  *3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.*  *4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.*  *5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.* |

**4.1** The Constitution of India has in its preamble declared that the Constitution would secure to all its citizens: *“justice, social economic and political; liberty of thought, expression, belief, faith and worship; equality of status and of opportunity”.* These values then find resonance in both the fundamental rights and directive principles of the Constitution. The ratification of the CRPD by India is in advancement of the Constitutional principles. In what follows the initiatives the Country has taken in the realm of legislative reform; schematic planning; promotion of research and development; curbing of discriminatory practices and involvement of the private sector are recounted.

**Review of Existing Laws**

**4.2** This review of existing Indian laws encompasses the special legislation relating to persons with disabilities as also provisions in general laws which impact upon persons with disabilities.

**Persons with Disabilities (Equal Opportunities Protection of**

**Rights and Full Participation) Act of 1995 [PWDA]**

**4.3** As already stated the Indian Constitution placed the duty of making laws relating to persons with disabilities in the state list. In accordance with the Indian Federal structure, a subject placed in the state list is within the exclusive purview of state legislatures. Consequently, till 1995 the concerns of persons with disabilities were primarily addressed by the states. No state however enacted a legislation to regulate the entitlements of persons with disabilities such entitlements were only provided by administrative orders. The Union entered into the realm of disability rights in advancement of the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, and the Agenda for Action for the Asian and Pacific Decade of Disabled Persons. This Proclamation “urged all member Governments to formulate and implement policies that would enable the disabled to participate in *economic* and *socia*l development” and sought the establishment of national coordinating committees for the disabled.

**4.4** Keeping these objectives in view and also on taking on Board the requirements of the equalization rules, the Persons with Disabilities Act, the Parliament of India enacted Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995. This statute pronounced upon the rights of education, employment, social security, rehabilitation and accessibility of built environment and transport. In accord with the jurisprudence prevailing around social economic rights, the rights were guaranteed subject to economic capacity and development and were primarily to be realized through appropriate schemes and programmes. Upon comparing the PWDA and CRPD, it can be stated that the Indian legislation does not cover all areas and issues provided for in the CRPD. The Indian statute emanates from an affirmative action outlook; does not address questions of equality and non-discrimination as understood in the CRPD. The whole realm of civil political rights have not been addressed in the PWDA primarily on this understanding that the same have been provided for in the Indian Constitution hence a statutory reiteration is not required.

**4.5** Subsequent to India’s ratification of the CRPD, a number of amendments were introduced into the PWDA in order to remedy its CRPD deficiencies. These amendments were put up on the website of the Ministry and regional consultations were held with members of civil society. The Government received a number of representations from civil society members to enact a New Law instead of introducing multiple amendments into the old statute. These amendments it was contended might make the Indian law textually consonant but would fail to capture the spirit of the CRPD.

**4.6** In the face of these representations and because of the large scale of amendments that would need to be introduced in PWDA to make it CRPD compliant, the Union Ministry of Social Justice and Empowerment established a high powered committee in April, 2010 with membership from civil society, union ministries, state governments and disability specific entities such as the National Trust, Rehabilitation Council and Chief Commissioner for Disabilities to formulate a new Disability Rights Law for the country.

**4.7** After widely consulting with civil society members in the length and breadth of the country. The Committee submitted its report with a copy of the proposed Bill to the Ministry on 30th of June.

**The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999 (NTA)**

**4.8** In comparison to the Persons with Disabilities Act, the applicability of this statute was limited to Persons with autism, cerebral palsy, mental retardation and multiple disabilities. The decision to enact this statute was primarily prompted by the need to address the anxieties of parents of persons with intellectual and developmental disabilities on the fate of their wards after their demise. This protective outlook was affected by more empowering aspirations when the statute came to be drafted. Consequently, even as the statute made provision for setting up caretaking arrangements for persons with intellectual and developmental disabilities in the absence of their parents; it also spoke of training them for self-advocacy and empowerment. Whilst it put in place a procedure for the appointment of guardians for persons with intellectual and developmental disabilities, it also required the appointing authorities to consider whether a guardian was required at all and if so then which areas of the life of a person with disabilities should be subjected to the guardianship arrangement. The NTA thereby for the first time made provision for limited guardianship in Indian law.

**4.9** Upon evaluating the NTA on CRPD touchstone, it was primarily found wanting on the fact that it did not recognize the legal capacity of persons with those disabilities to which it applied. Both the full and limited guardianship regimes were primarily premised on the legal incompetence of persons with disabilities. There is no duty to provide support to persons with disabilities who may be in need of it and consequently no procedures for providing the support and no safeguards to prevent the abuse of such support.

**4.10** The process of harmonizing the NTA with the CRPD was inaugurated in July, 2008 with a concept paper which outlined the changes required in the legislation in order to harmonize it with CRPD. In the face of the large scale apprehension expressed by a number of Parent’s organizations on the recognition of universal legal capacity with support, the Trust modified its strategy and undertook a number of CRPD awareness programmes before releasing the first draft of the amended NTA. Each version of the amended draft was shared with disabled people and their organizations as also legal experts in disability human rights. The CRPD compliant NTA version was nearly complete when the committee to formulate the disability rights law was established. In order to ensure that the various disability legislations were in harmony, the NTA amendment process was halted to await the finalization of the proposed disability rights bill. This process was resumed after the Committee on the formulation of the New Disabilities Rights Law submitted its report.

**4.11** Insofar as the proposed Bill on the Rights of Persons with Disabilities had addressed the right to legal capacity and placed a duty to provide support. The resumed process of amendment to the National Trust Act has focused attention on the duty to provide support. The proposed legislative amendment attempts to create an alliance between disadvantaged groups in acknowledgement of human interdependence. The proposed amendments are being deliberated upon by concerned civil society members.

**Mental Health Act of 1987 (MHA)**

**4.12** This legislation enacted in 1987 primarily aimed at regulating admission and discharge into psychiatric hospitals. The legislation was aimed to ensure that persons with mental illness were subjected to compulsory care and treatment according to procedure established by law. The legislation also established central and state mental health authorities who were to advise governments at the union and state level on the growth and development of mental health services in the country. The statute allows for legal representation and aid to be made available for persons with mental illness in specified circumstances. There are judicially regulated procedures for appointment of guardians of person or managers of property for those persons with mental illness who are unable to care for themselves or their property. These guardianship decisions which are to be made by the District Court are subject to appeal in the High Court.

**4.13** The right to liberty, integrity, living independently in the community as also the principles by which health care should be provided have come into play whilst evaluating the MHA on the CRPD touchstone. These evaluations have yielded opposing conclusions in the country. Those who seek for the continuance of compulsory care, albeit in exceptional situations, point to the fact that there is no express prohibition on compulsory care in the text of the CRPD. Those who advocate for an embargo on the other hand stress upon the need to read Articles 12, 14, 17, 19 and 25 to contend that the mental health legislation needs to be recast so that it phases out compulsory care instead of permitting it.

**4.14** The process of amending the Mental Health Act has been initiated by the Ministry of Health & Family Welfare by appointing a two member expert committee to propose a amendments to the Mental Health Act of 1987. The first set of amendments were available for civil society consultation in April, 2010, after a series of consultations in different parts of the country, the Ministry of Health also decided that it was more desirable to enact a new mental health law instead of amending the MHA. Insofar as questions of legal capacity, liberty and health are addressed in both the proposed disability and mental health legislations, consultations are being undertaken between the ministries in order to ensure that both the legislations are CRPD compliant and not in contradiction to each other.

**Rehabilitation Council of India Act of 1992 (RCI)**

**4.15** This statute was enacted to professionalize rehabilitation services in the country. The Council was enjoined to accord accreditation to professionals pursuing education in recognized institutions in accordance with standards promulgated by the RCI. The medical model of disability has informed the RCI in pursuing the aforesaid activities. It would need to be considered whether the Council and its functions would require modification to address a rights based social model of disability.

**Disability Related Provisions in General Laws**

**4.16** Other than the disability specific legislations the rights of persons with disabilities assume relevance in legislative contexts in two other ways. One, to induct the concerns of persons with disabilities in general legislations and two, to weed out stereotypical constructions of disability in general laws. Pursuant to the first exercise changes are being proposed in the Right to Education Act 2009 and the Copyright Act of 1957. These are being reported under the relevant article of this report. The RPDB is aimed to set a bench mark on how the other exercise will be undertaken. Insofar as RPDB is still under deliberation the other exercise has not been inaugurated though some changes were introduced in the Criminal Procedure Code in 2005 prior to the coming into force of the CRPD. Whether those changes would need further refinement would be considered only after the RPDB has been finalized. 4.16 The above narration on the law reform exercises shows that India has been engaged in fulfilling the obligation of undertaking people participative law reform in both letter and spirit. Whereas the reform of disability-centric legislations has been undertaken by proactively involving disabled people through their organizations; the right to participation has been actively sought and obtained by disabled people and their organizations in other legislative reform exercises, which impact upon their rights.  It is our experience that the involvement of Disabled People’s Organizations is making the legislative enterprise more informed and robust.  At the same time, in the absence of established protocols for people’s participative law making, the large scale diversity in the disability sector makes the process of obtaining consensus a long drawn out exercise.  Consequently, the exercise, of making existing laws compliant with the CRPD, as well as, to make new disability laws in furtherance of the CRPD is still not complete.

**National Disability Policy**

**4.17** The National Disability Policy was formulated in 2006 to chalk out the implementation strategies on rights recognized in the PWDA but also to focus attention on those issues which were not recognized by the law. Further the Policy especially focused on the most vulnerable persons with disabilities. The policy outlined prevention early detection and intervention; rehabilitation; human resource development ; education; employment; barrier free environment; social protection; research and leisure culture and sport as principal areas of intervention and drew special attention to women and children with disabilities.

**Review of Schemes and Programmes**

**4.18** India is a proponent of planned development. The planning process has been employed to ensure that the benefits of development are equitably distributed in all parts of the populace. This process has been effectively employed in the XI plan document which was finalized in the backdrop of the country’s ratification of the CRPD. The obligations as a consequence of being signatory to the CRPD have been taken note of in the XI Five Year Plan.[[1]](#footnote-1) In order to fulfill the same, a four pronged approach has been formulated to:

1. delineate clear-cut responsibilities between the concerned ministries/departments;
2. concerned ministries/departments to formulate detailed rules and guidelines within six months of approval of the Eleventh Plan;
3. ensure that each concerned ministry/department shall reserve not less than 3% of their annual outlay for the benefit of disabled persons as enjoined in the Persons with Disabilities Act, 1995;
4. set up monitoring mechanisms at various levels and develop a review system so that its progress can be monitored on a regular and continuing basis.

It is also proposed that the Disability Division of the Ministry of Social Justice and Empowerment will be strengthened by converting it into a separate department to facilitate liaison with all other concerned Ministries and Departments to fulfil its responsibilities towards persons with disability. [[2]](#footnote-2)

**4.19** In order to take stock of the extent to which the XI Plan Commitments have been fulfilled and what else the country needs to programmatically do to fulfil the CRPD mandate a Working Group on the “Empowerment of Persons with Disabilities” for the formulation of the XII Five Year Plan (2012-2017) has been constituted earlier this year. The Working Group is further divided into the following sub-groups[[3]](#footnote-3) -

**Table 4.1 XII plan of Sub group information**

|  |  |  |
| --- | --- | --- |
| **S.No** | **Sub Group** | **Main Area of Work** |
| 1. | Perspective Planning | Over-view of the sector and progress up to the XI Plan;  Over-all goals, targets & strategy for the XII Plan; Policy & Legislative Issues;  Access to Justice and Legal aid;  Identification of & Interventions for specially vulnerable groups (e.g. Women & Children with Disabilities, Persons with severe & multiple disabilities, homeless disabled),  Political Empowerment; Awareness Generation. |
| 2. | Social Sectors | WCD, Literacy, Pre-School & School Education, Higher Education, Housing & Habitat Improvement, Sports & Recreation, Food & Social Security, Health & Nutrition. |
| 3. | Economic Empowerment | Skill & Entrepreneurship Development, Asset Creation, Credit, Employment Generation, Employment in Public and Private Sectors, Self-Employment. |
| 4. | Rehabilitation | Preparation of Rehab Professionals & Care-givers, Training of PwDs in independent living. |
| 5. | Delivery Process and Mechanism | Strengthening of (including institutional capacity building); Monitoring and Statistics, Community Mobilization & Participation. |
| 6. | Accessibility, Mobility, Research and Innovation |  |

**4.20** The planning process will be employed to review schemes and programs. This review shall be undertaken in accordance with the following procedure. Firstly, the concerned administrative ministry that is the ministry of social justice and empowerment has devised suitable schemes and programs to realize the rights of persons with disabilities. Secondly, the Ministry has through its Minister and Secretary communicated with all sister ministries in the Union and with State Governments informing them of India’s ratification of the Convention and requiring them to devise to suitable schemes and programs or to suitably include persons with disabilities in the subsisting schemes and programs of their ministry. Lastly an evaluation of all the flagship programmes of the Government of India shall be undertaken to assess the extent to which these programs take note of the rights of persons with disabilities and to determine how these programmes would need to be modified to address the concerns of persons with disabilities. The preparation of this Report has been used as an opportunity to undertake this exercise.

**Horizontal Application of the CRPD**

**4.21** The Constitution of India does not only have a vertical outlook towards the recognition of rights. It has especially to usher in social inclusion placed obligation on individuals, organizations and private players. This insight informs the RPDB and the Committee preparing the Bill has recommended that the Constitution of India should be amended to make disability a prohibited ground of discrimination.

**Promote Research and Development**

**4.22** Even as the accessibility related initiatives are being reported under article 9 reference is being made here to the research and development initiatives of the Department of Information and Technology. The Department has developed a set of software and hardware products specifically for Braille Literacy in Indian Languages. Further, the Department of Information and Technology has funded the following projects for persons with disabilities:

* 1. National Programme for Braille Literacy in Indian languages with the application of information technology
  2. Re design and fabrication of 10 numbers of Motor Wheel Chair in collaboration with Webel Mediatronics Ltd to carry out extended field trial and transfer of technology for commercial production
  3. Design and development of Hand Held Scanner based Hindi and English Text Reading Machine for visually impaired persons
  4. Information technology for Internet Access and Rehabilitation for the Visually Impaired.
  5. Icon based education and communication system for the people affected with cerebral palsy in Nepali language
  6. Project proposal on a Computational Analysis of speech impairments in children and development of subsequent therapy.
  7. Development of High Speed Interpoint Braille Embosser[[4]](#footnote-4)

**Participative Law- Policy Making**

**4.23** The Participation with disabled people and their organizations has been one of the non-negotiable principles with which the State has been operating. This principle has informed the law making process as also the preparation of the XII plan document. The text of the proposed Bill on the Rights of Persons with Disabilities has been finalized in accordance with the following process. The committee widely consulted with disabled people and their organizations before putting in place a working draft of the legislation. This process was adopted in order to ensure that the working draft was guided by the aspirations of the sector. These aspirations were then tested on established and radical legal principles to formulate the working draft of the New Law. This working draft which was prepared in English was translated into the local languages and State level consultations were held on it. The accompanying table provides information on the number of consultations which have been held in different parts of the country prior to the committee finalizing the text of the proposed New Law.

**Table 4.2 Information on State Consultations**

|  |  |  |  |
| --- | --- | --- | --- |
| ***S.No*** | ***State*** | ***Whether translated in local language*** | ***Participants at Consultation*** |
| 1 | Assam | Executive summary in Assamese, the local language; audio recording, Braille version | NGOs, DPOs, Parents associations, CBR partners, special educators, psychiatrists, social activists, Government officials from social welfare, education, metropolitan development authority, Gowhati Municipal Corporation, Regional Mental Institute |
| 2 | Jammu & Kashmir | Translated into Urdu | More than 1000 persons across disabilities, the Divisional Commissioner, Lawyers, NGOs, officers from Social Welfare Department and Composite Regional Centre |
| 3 | Karnataka | Translated in Kannada | Views of 700 to 1000 persons from rural areas presented by district facilitators, legal experts and members of state coordination committee and State Commissioner of Disability. |
| 4 | Manipur | --- | Persons with disabilities, parents of persons with disabilities, DPO members, NGOs working in disability sector and professionals. |
| 5 | Meghalay | Simultaneous interpretation in Khasi and Garo the local dialect | NGOs , DPOs, Parents of persons with disabilities and representatives from government departments of education, sports and youth affairs, planning, law, health and officials of the district administration. |
| 6 | Mizoram |  | Individual persons with disabilities, DPOs, family members of persons with disabilities and members of parents association, government officials from social welfare and education. |
| 7 | Nagaland | Not translated as Nagaland has 16 major tribes with their own dialect and English is largely understood | DPO members, Individual persons with disabilities, family members of persons with disabilities and members of parents association, government officials from social welfare and education, volunteers of community based rehabilitation programmes. |
| 8 | Orissa | Translated in Oriya and CDs of Hindi version made available | More than 1000 persons discussed the legislation across the State. Inputs received from persons with disabilities, parents of children with disabilities, government officials, disability advocates and members of the community. |
| 9 | Tripura |  | DPO members, individual persons with disabilities, Family members, health workers, NGOs and then government officials |
| 10 | Andhra Pradesh |  | -do- |
| 11 | Jharkhand |  | Participants from Jharkhand Viklang Manch representing 20 districts of Jharkhand, persons with disabilities and women with disabilities, advocates, NGOs and rehabilitation professionals and civil society organizations |
| 12 | Maharashtra | Marathi version provided | NGOs, DPOs, Representatives from special schools, Maharashtra State Handicapped Finance and Development Corporation, Maharashtra Helpers of the Handicapped, National Institute for Hearing Handicapped and Adopt Trinayani |
| 13 | Uttarkhand  Himachal Pradesh, Punjab, Chandigarh | English and Hindi version provided | DPO members, individual persons with disabilities, Family members, health workers, NGOs and then government officials |
| 14 | Gujarat | Translated into Gujarati | Two coordinators from each district and the Commissioner of Disability. |
| 15 | West Bengal | Translated into Bengali | DPO members, individual persons with disabilities, Family members, health workers, NGOs and then government officials |

State Consultations were also held in Bihar, Delhi, Chattisgarh, Kerala, Tamil Nadu and Uttar Pradesh.

The process of deliberating on the New Law has in more ways than one started a rights based discourse on disability.

**4.24** The participative process which informed the making of the new law has also informed the preparation of the plan document which will chart out the goals and resources processes for disability rights in the next five years. The Ministry has drawn upon the experience and expertise of disability rights activists to constitute the Working Group which will work with the government in formulating the XII Plan Document.

**Progressive Realization of Socio-Economic Rights**

**4.25** The CRPD has once again brought home the indivisibility of civil political and social economic rights. The Constitution of India had distinguished between civil political and social economic rights in this manner that whilst the former were encapsulated in the fundamental rights latter were included as directive principles of state policy. The distinction between these two parts of the Constitution was that whilst fundamental rights could be enforced by the Courts, Directive Principles were not enforceable by any court but the principles laid down therein were fundamental in the governance of the country.

**4.26** The Indian Supreme Court has started to read social economic rights in the manner in which it has interpreted the fundamental rights to life and liberty and equality. Thus, the rights to education, health, livelihood, social security have all been read into the right to life and liberty. In more recent times, the Indian legislature has started to adopt the base line method of enforcing social economic rights. Consequently, there is a minimum base line that is being immediately being guaranteed to all persons. The implementation of the Convention shall be guided by this approach to ensure that persons with disabilities are treated on an equal basis with others.

**Federal Influence on Implementation**

**4.27** The Indian Constitution gives the power of entering into international agreements to the Union. The Constitution also then empowers the Union to direct the States to conduct their affairs in furtherance of this international commitment. It is in fulfillment of this commitment that upon the ratification of the CRPD the then Minister of Social Justice & Empowerment wrote to all State governments[[5]](#footnote-5) informing them of the obligations undertaken by the country under the disability rights convention and required them to take all necessary measures in advancement of these obligations and to undertake no activity which in any manner is in conflict with this commitment. And the present Minister has written to State Governments[[6]](#footnote-6) drawing their attention to specific obligations of the State Governments.

**FINDINGS**

* The constitutional values of the country enable the country to fulfill its CRPD obligations.
* For the redoubled value of constitutional values and the CRPD to be obtained by persons with disabilities it is necessary that a CRPD consonant disability rights law be on the statute book.
* The Country has shown its commitment to the issue by the people’s participative law reform activity it has inaugurated.
* The mandate of the CRPD is at present being fractiously understood in the country.
* There is no difference of outlook between the National Disability Policy and the CRPD on the areas of intervention included; however some issues mandating attention according to the CRPD such as access to justice and civil political rights do not find mention in the Policy.
* The XII plan exercise has advanced further the XI plan initiative of formulating requisite schemes and programs to implement the CRPD mandate.
* There is constitutional promise to make for the horizontal application of the CRPD.

**Future Plan of Action**

* In order to ensure that the vehicle of implementation should be in accord with the CRPD the effort would be to bring a CRPD consonant disability rights law at the earliest on the statute book.
* Every effort will be made to bring harmony between the various points of view especially on the right to legal capacity and liberty within the jurisprudence of the CRPD.
* The XII plan document shall devise suitable schemes and programs to lay down state obligations as also involve the private enterprises.
* There will be every effort to obtain convergence between the union and state schemes and programs.
* Persons with Disabilities and their Organizations would be integrally involved in all law and policy exercises so that such exercises are informed by the disability perspective.
* The Review of the National Disability Policy shall be explicitly informed by the mandate of the CRPD.

**PART C**

**TREATY SPECIFIC ARTICLES**

**ARTICLE 5 - EQUALITY AND NON-DISCRIMIANTION**

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| *1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.*  *2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.*  *3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.*  *4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.* |

**A Constitutional Mandate of Equality as applicable to Disability Rights**

**5.1** Article 14 of the Indian Constitution provides that the State shall not deny to any person equality before the law or equal protection of the law within the territory of India. The presence of this fundamental right in the Indian Constitution makes for conformity with Clause (1) of Article 5 of the CRPD which mandates State Parties to recognize all persons as equal before the law and to be entitled without any discrimination to the equal protection and equal benefit of the law. Whilst interpreting the right to equality, the Indian Courts have laid down that what Article 14 prohibits is class legislation, it however permits reasonable classification. This permission of reasonable classification allows a group of people to be treated differently from others provided that the criteria by which the group is selected are rationally related to the object that is being achieved by such legislation. This interpretation of Article 14 allows for processes to be customized for persons with disabilities to obtain equality of outcome. Consequently, the obligation to provide reasonable accommodation to promote equality and eliminate discrimination is well in accord with the constitutional jurisprudence of equality in India.

**B Disability as Prohibited Ground of Discrimination**

**5.2** Article 5 (2) of CRPD requires State Parties to prohibit all discrimination on the basis of disability and to guarantee to persons with disabilities equal and effective legal protection against discrimination. Articles 15 (1) and 16 (1) of the Indian Constitution prohibit discrimination against any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them. Disability does not find inclusion in these prohibited grounds primarily because the Indian Constitution antedates the emergence of disability rights. It however needs to be noted that the aforesaid constitutional provisions only prohibit exclusive reliance on the named grounds; any law or policy which partially relies on the prohibited grounds are not necessarily unconstitutional provided that the requirements of reasonable classification have been fulfilled.

**C Human Rights Conventions and Constitutional Jurisprudence**

**5.3** The Indian Supreme Court has drawn upon international human rights instruments in order to deepen the constitutional jurisprudence of fundamental rights. Such reliance is in accord with Article 51 of the Indian Constitution which directs the State to foster respect for international law and treaty obligations. It can be logically surmised from the above jurisprudence that subsequent to the ratification of CRPD by India, disability would no longer be a constitutionally permitted ground of classification.

**D Affirmative Action Measures**

**5.4** The Constitution of India recognizes affirmative action measures as an integral part of the right to equality. Consequently, any special provision for the advancement of socially and educationally backward classes and reservations for backward class of citizens not adequately represented in the services of the state are seen in accord with the right to equality. The Indian Constitution thereby accords with Article 5 (4) of the CRPD which clarifies those specific measures which are necessary to accelerate or achieve *de-facto* equality of persons with disabilities shall not be considered discrimination.

**E Equality and Non Discrimination in the Extant Disability Legislation**

**5.5** In order to fulfil the obligations recognized in proclamation on the full participation and equality of persons with disabilities in the Asia and Pacific region. India enacted the Persons with Disabilities (Equality of opportunity, Protection of Rights and Full Participation) Act of 1995. This pre-CRPD legislation was the first statute which recognized the rights of persons with disabilities in the country. The statute did not have an explicit equality and non-discrimination provision however the right to equality greatly informed the jurisprudence of the statute. In a series of decisions, Courts in furtherance of substantive equality required the compulsory implementation of the various schemes envisaged in the statute. The principles of equality were not just advanced between the non-disabled and persons with disabilities but also between disabilities. Thus in a recent judgement ( 21.1.2011) the Punjab and Haryana High Court has required a housing scheme made by the state government which only provided reservation to the physically disabled and visually impaired people to extend the same to all the disabilities included in the PWDA.

**5.6** The PWDA has an exclusive chapter entitled Non-Discrimination. Sections 45, 46 and 47 of this chapter prohibit discrimination on the basis of disability in the matter of public employment and in access to public facilities. Section 47 of the PWDA provides for the principles of non-discrimination in public employment wherein it states that “No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service”. In order to stress that disability cannot be a ground for removal it further provides that “if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits” and provides further “ that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier”. The section allows an establishment to be excluded provided the appropriate Government may “ , having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section”.

**5.7** There have been a number of judicial decisions that have enunciated and evolved the principle of non-discrimination inherent in PWDA. These decisions have sought the discontinuance of discriminatory practices against persons with disabilities on grounds of equality under Article 14 of the Constitution and the right to life under Article 21 of the Constitution.

1. With respect to discrimination faced by persons with disabilities in government employment and the scope of such employment, the Supreme Court in the case of **Dalco Engineering Private Ltd.**  
   **v.** **Shree Satish Prabhakar Padhye and Ors[[7]](#footnote-7)** held that the definition of “establishment” under Section 47 included within its ambit government companies set up under the Companies Act, 1956. Hence, Section 47 is applicable to any person who acquires a disability during service in a Government company. However the section would not apply to private companies.
2. While considering the question of discrimination in the promotion of persons with disabilities in government employment, the Hon’ble Supreme Court held in the case of **Union of India (UOI) v.**  **Devendra Kumar Pant and Ors.,[[8]](#footnote-8)** that under Section 47 of the PWDA, promotion of a disabled employee with disability shall not be denied to a person on the ground of his disability if the disability does not affect his capacity to discharge the higher functions of a promotional post.
3. In, **Narendra Kumar Chandla v. State of Haryana**, an employee was reduced in rank on acquiring disability during service. The Supreme Court justified his appointment in the lower rank as an L.D.C. (clerk), but ordered that his salary be retained at the higher scale which he was initially drawing. The Court by relying on Article 21 held that that a person who acquires a disability while in service cannot be placed on a lower scale.
4. In the case of **Delhi Transport Corporation v.**  **Harpal Singh,[[9]](#footnote-9)** the Delhi High Court held that where an employer in service was a Government employee having disability was terminated from employment after the enactment of the PWDA, the benefits of Section 47 of the Act were to be made available to such employee. This obligation flows from the Article 41 of the Constitution, the object of the PWDA and the obligation on the State to prevent any discrimination against persons with disabilities.
5. In **Mohd. Yasin Ansari S/o Shri Mohd. Zahir Ansari v. Union of India (UOI) through the Secretary, Ministry of Defence and Ors.** **(2006)** where the Ministry of Defence vide a notification had exempted certain disabled employees in the Indian Army from the benefits of Section 47 of the Act in complete ignorance to the policy to deal with persons with permanent low medical category by providing sheltered appointments and not exceeding the sanctioned strength of the regiment/corps, the Allahabad High Court held that such a notification was violative of the right of equality guaranteed to the persons with disabilities under Article 14 of the Constitution and was unreasonable.
6. In **Anand Bihari and Ors. v. Rajasthan State Road Transport Corporation, Jaipur and Anr.[[10]](#footnote-10)** the Hon'ble Supreme Court examined the question of whether a State Road Transport Corporation can retire the bus drivers on the ground of their defective or sub-normal eyesight developed during the course of the employment. The Court held that termination of service was unjustified, inequitable and discriminatory. It was impressed by the Supreme Court that service conditions of the bus drivers must provide adequate safeguards since such bus drivers developed defective eyesight or sub-normal eyesight because of the occupational hazards. A scheme was directed to be framed for providing alternative jobs along with the retirement benefits and for payment of additional compensation proportionate to the length of service rendered by them, in case of non-availability of jobs.
7. In **National Federation of Blind v. Union Public Service Commission[[11]](#footnote-11)** a writ petition was filed before the Supreme Court against discrimination of visually impaired persons in competing for the coveted civil services of the country, and for the government to be directed to permit otherwise qualified blind candidates to appear in the selection examination. The Supreme Court not only allowed the petition, but also directed the government to allow them to write the examination in Braille or with the help of a scribe. The Supreme Court also responded to the Writ Petitions filed under Article 32 of the Constitution of India, against the treatment meted out to persons with mental disabilities in institutions for their care and treatment and laid down guidelines on their living conditions, education, training and rehabilitation facilities in such institutions.

**F Barriers to Non Discrimination**

**5.8** Whilst the provisions of the PWDA coupled with the decisions of the Court have advanced affirmative action and non-discrimination, it has been recognized that equality and non-discrimination cannot become the operative credo only through Court rulings especially because all persons with disabilities cannot move the courts. Equality and non discrimination needs to guide legislation and administrative action. It is expected that such a movement may be augured once the proposed Law on the Rights of Persons with Disabilities is enacted.

**FINDINGS**

* The equality jurisprudence propounded by the Indian Courts was in consonance with the CRPD.
* The CRPD would require a reconsideration of cases such as DALCO whereby the private company has been absolved of its public responsibilities.
* Redress on discrimination is reactive not proactive and often non discrimination does not happen till ordered by the Court.
* Consequently only those able to access the Courts would obtain redress against their discrimination.

**Future Plan of Action**

* The Indian legislative regime shall be brought in conformity with the CRPD standard
* Due Consideration shall be accorded to the standard of non discrimination put forth in the law
* The New Law Committee’s suggestion of moving constitutional amendments so that classification on ground of disability may be impermissible.

**ARTICLE 6 - WOMEN WITH DISABILITIES**

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| 1. *States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.*   *2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.* |

**A Constitutional Provisions**

**6.1** Article 15 of the Constitution of India prohibits the State from discriminating on the basis of sex. The Article however contains a proviso stating that nothing in this Article should prevent the State from making special provisions for women. Article 16 lays down that the State shall not discriminate on the basis of sex with regard to equality of opportunity in matters of employment. The Constitution under Directive Principles of State Policy also imposes a positive obligation on the State to endeavour to improve the status of women by providing for equal treatment of women and men in the policies of the State.[[12]](#footnote-12)

**6.2** India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

**6.3 National Policy for the Empowerment of Women (2001):** The goal of this Policy is to bring about the advancement, development and empowerment of women. In order to attain these goals, the Policy prescribes certain measures in following terms:

**(a) Legal-judicial system will** be made more responsive and gender sensitive to women’s needs, especially in cases of domestic violence and personal assault. In order to eliminate discrimination the Policy aims to encourage changes in personal laws such as those related to marriage, divorce, maintenance and guardianship and in laws relating to ownership of property and inheritance by evolving consensus in order to make them gender just.

**(b) Decision Making** Women’s equality in power sharing and active participation in decision making, including decision making in political process at all levels will be ensured for the achievement of the goals of empowerment.

**(c) Mainstreaming a Gender Perspective in the Development Process** Policies, programmes and systems will be established to ensure mainstreaming of women’s perspectives in all developmental processes, as catalysts, participants and recipients.

**(d) Economic Empowerment of women The** macro economic policies and poverty eradication programmes will specifically address the needs and problems of such women. There will be improved implementation of programmes which are already women oriented with special targets for women. In order to enhance women’s access to credit for consumption and production, the establishment of new, and strengthening of existing micro-credit mechanisms and micro-finance institution will be undertaken so that the outreach of credit is enhanced.

**(e) Social Empowerment of Women will be attained by ensuring equal access to education for women and girls, adopting a** holistic approach to women’s health including both nutrition and health services and giving special attention to the needs of women and the girl at all stages of the life cycle. Special efforts will be made to tackle the problem of macro and micro nutrient deficiencies especially amongst pregnant and lactating women as it leads to various diseases and disabilities. Special attention will be given to the needs of women in the provision of safe drinking water, sewage disposal, toilet facilities and sanitation within accessible reach of households, especially in rural areas and urban slums. Women’s perspectives will be included in housing policies, planning of housing colonies and provision of shelter both in rural and urban areas.

**(f)** Women in difficult circumstances-In recognition of the diversity of women’s situations and in acknowledgement of the needs of specially disadvantaged groups, measures and programmes will be undertaken to provide them with special assistance. These groups inter alia include the disabled widows.

**B Equity to Women with Disabilities in India, 2005**

**6.4** In 2005, the Government of India published a strategy paper prepared for the National Commission for Women, India, entitled Equity to women with disabilities in India, listing the major areas of concern for women with disabilities living in urban and rural India.

**6.5** The report analyzed the status of women with disabilities in respect to crucial aspects such as education, employment, social exclusion, health and advocacy. It highlighted key areas of concern for women with disabilities. It made some recommendations and set certain targets for the Government.

**Box 6.1 Extracts from the Perspective Paper**

1) By 2005, Governments should ensure anti-discrimination measures by forming special task forces to protect women with disabilities.

2) By 2005, self-help organizations adopt policies to promote **full representation** of women with disabilities,

3) By 2005, women with disabilities should be included in all the policy making bodies from panchayat to parliament levels

4) Set up state wise task force to prepare white paper on the quality of services available for girls/women with disabilities and all the institutions managed or supported by the government and other donors.

5) The Commission should insist on 50% **Reservations** for girls with disabilities in schools and colleges (out of the existing quota) as well as 50% of the total of job opportunities, reserved for persons with disabilities, ranging from a minimum of 30% and to a maximum of 50% as per the PWD Act, 1995.

6) In order to improve the quality of life of women with disabilities in the rural and urban India, **district CBR Societies for women with disabilities** should function in cooperation with CBR societies for persons with disabilities at the district level, with the District Commissioner as the Chairman of the and the Deputy Director, Women & Child Development as the Secretary. All organizations working for women with disabilities and all organizations of women with disabilities and Self-Help Groups of Parents of adolescent girls with disabilities should become members of the society.

7) In urban areas in addition to the reservation, women with disabilities are finding it extremely difficult to get hostel facilities. Therefore, a **3% reservation** should be made in all existing **women's hostels for women with disabilities**.

8) There is a need for a **scheme to support Self-help mutual aid groups of women with disabilities** on the lines of Stree Shakthi in Karnataka and the DFID Velugu programme in Andhra Pradesh for women with disabilities and this should include a **seed money to start both self and group employment**. In addition to promoting self and group employment, there is a need for EDP programmes, both rural and urban, for women with disabilities to start their own cooperatives on the lines of SEWA, both in Khadi Commission and all the poverty alleviation programmes. Industrial development corporations. Women's development cooperatives should provide skill development, financial support and marketing linkages. In all the shops and malls owned by government or cooperatives or quasi government, out of the 3% reservation, 50% reservation should be made for women with disabilities and it should be allotted at 50% of the cost.

9) Finally, about movies and media, initiatives should be taken to regulate the media, which are mainly focusing on women's external beauty to promote the brands and nothing beyond. We can promote this on the lines of the Erikson Company, Finland which states **women with disabilities should also promote the popular brands**. This will help to fight for the age-old image about women and help people to appreciate inner beauty.

10) Under Sarva Shiksha Abhiyan a special programme for the inclusion of girls with disability in ICDS and elementary schools should be launched on the lines of Joyful inclusion and Udisha Portage programme launched by the Women and child Development Department, Government of Karnataka in cooperation with CBR NETWORK (South Asia)

11) The existing practices of discrimination based on degree of disability or economic criterion should be removed for children with disability up to the age of 14 years for the educational purpose to scale up the access to basic educational services.

**6.6 The Protection of Women from Domestic Violence Act, 2005:** This Act seeks to protect the rights of women under the Constitution who are affected by domestic violence of any kind.[[13]](#footnote-13) The Act defines an aggrieved person to be any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.[[14]](#footnote-14) Even though the statute does not expressly include women with disabilities, the wide nature of its scope and application also extends protection against domestic violence to women with disabilities.

**6.7 The National Policy for Persons with Disabilities**, **2006:** Even as the National Policy for Persons with Disabilities 2006, was finalized before the CRPD it endorsed the need for special attention to doubly disadvantaged groups by creating a separate section on women with disabilities. The National Policy sought the development of special programmes for education, vocational training, employment and other rehabilitation services to women with disabilities. It advocates that rehabilitation women and girls with disabilities be encouraged by ensuring that they are 25% of the beneficiaries in all rehabilitation projects. The policy also seeks the establishment of short duration stay homes for women with disabilities, hostels for working women with disabilities, and homes for aged women with disabilities. Recognizing the need of mothers with disabilities for additional support, the policy document envisages financial support to women with disabilities so that they may hire services to look after their children.

**6.8** The Rajasthan state government is currently working on a state level policy for women with disabilities. States like Chhattisgarh and Bihar have already come out with such policies. States and Central government has encouraged the voluntary sector to ensure that women with disabilities receive training in different skills, starting up of businesses by collectives of persons with disabilities women with disabilities.

**C The Status of Women with Disabilities in India: A Demographic Profile**

**6.9** One of the clear mandates of the PWDA to gather data about the persons with disabilities in India was fulfilled, to a certain extent by the Census of India 2001, where a question on disability was included after a gap of 20 years. This has ensured the development of baseline statistics on persons with disabilities in India, which in turn has affected the planning of essential programmes and allocation of resources for persons with disabilities.

**Table 6.1 Persons with Disabilities in India, Age wise, Gender wise and Type of Disability Census 2001**

|  |  |  |  |
| --- | --- | --- | --- |
| ***Age Group*** | ***Persons*** | ***Males*** | ***Females*** |
| Total | 21907669 | 12605635 | 9301134 |
| 0-14 | 5669233 | 3188672 | 2480561 |
| 15-59 | 12391360 | 7410464 | 4980896 |
| 60+ | 3773612 | 1962489 | 1811123 |
| Age not stated | 72564 | 44010 | 28554 |
|  |  |  |  |

**Table 6.2 Gender Distribution of Persons with Disabilities in India**

(**Source:** *NSSO Rounds 47th and 58th in 1991 and 2002*)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| *Year* | *Rural* | | *Urban* | | *Combined* | |
|  | Male | Female | Male | Female | Male | Female |
| 1991 | 58.81% | 41.18% | 59.14% | 40.57% | 58.12% | 41.88% |
|  |  |  |  |  |  |  |
| 2002 | 59.01% | 40.99% | 58.63% | 41.37% | 58.89% | 41.11% |

**6.10** Census 2001 has revealed that over 21 million persons with disabilities in India, which constitutes 2.1% of the population. Among the total persons with disabilities in the country, 12.6 million are men and 9.3 million are women, who constitute 42.46% of the total population with disabilities. The disability rate (number of persons with disabilities per 100,000 populations) for the country as whole works out to 2130. This is 2,369 in the case of men and 1,874 in the case of women.

**6.11** According to the Census records one positive trend which has been noticed throughout is that the prevalence rates[[15]](#footnote-15) have declined in 2002 as compared to 1991 in majority of the states. This decline this more visible in the urban areas than in the rural areas. Prevalence rates for both for men and women registered a sharp decline. States like Orissa, Himachal Pradesh and Haryana reported high prevalence rates among the males in rural areas whereas in the urban areas the States like West Bengal and Kerala reported high prevalence rate. For females the trends are such that in the rural areas the states of Orissa, Kerala, Tamil Nadu, Andhra Pradesh and some mountain states showed high prevalence rates. In case of urban areas the prevalence rate was high for females in Orissa, Kerala, Tamil Nadu, West Bengal and Chhattisgarh.

**6.12 The XI Plan of India** for the period 2007-2012 observes that "Women with disabilities . . . are considered a financial burden and social liability by their families; they are denied opportunities, movement outside the home and access to education; they are viewed as asexual, helpless and dependent . . . they [are] isolated and neglected with no hope of a normal life." For the first time, the XI Plan considers the situation of women with disabilities in all its complexity, focusing on the need for an intersectional understanding of discrimination for policy to be effective and addressing the vulnerability of poor women to triple discrimination - poverty, gender and disability in significant ways. The XI Plan explores ways in which the gender-based division of labour places women with disabilities at an added disadvantage both at the family and community level. The proactive interventions by the state and its policies have allowed voluntary agencies to come up with practical and workable suggestions. Some of these issues can be dealt with through capacity building of women with disabilities to combat lack of education, poverty, abuse, violence and negative attitude of the society and to bring about effective participation in all aspects of living, which include education, skill development, rehabilitation services, etc.

**Box 6.2 Initiatives by the Central Government**

**Schemes and Programmes for Women with Disabilities**

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| **Provisions given by Central Government** |
| Ministry of Personnel, Public Grievances and Pensions vide circular no. 12011/04/2008 dated September 11, 2008 has on the recommendations of the sixth Central Pay Commission relating to special allowance of child care for women with disabilities laid down the following:   1. Women with disabilities shall be paid Rs 1000 per month as special allowance for child care. The allowance shall be payable from the time of child’s birth till the child is two years old. 2. It shall be payable for a maximum of two children. 3. The above limit would be automatically raised by 25% every time the Dearness allowance on the revised pay structure goes up by 50%. 4. National Scheduled Caste Finance Development Corporation(NSFDC) provides 1% rebate in the interest for women with disabilities under all its schemes including micro-credit scheme 5. Special rebate of 2% on interest is given to women with disabilities in all the schemes of National Handicapped Finance and Development Corporation (NHFDC). 6. Scheme of assistance to disabled persons for purchase/ fitting of aids and appliances (ADIP scheme), 25% of the budgetary allocation is earmarked for women 7. Several Vocational Rehabilitation Centres(VRC)[[16]](#footnote-16) have been set up by the Government. 8. One such VRC for Handicapped at Vadodara is exclusively for the disabled women |

**Table 6.3 State Initiatives**

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| ***State*** | ***Initiatives/ Schemes*** |
| Chattisgarh | Policy for women with disabilities ranging from 18 to 45 years of age who will get a sum of Rs.21,000/- as an encouragement sum. |
| Goa | Award to the persons who select Differently abled his/ her life partner. |
| Gujarat | Gujarat State policy on persons with disabilities mentions that special attention needs to be given to girls with disabilities with regard to education.  The state government has provided special housing support for disabled widows. |
| Himachal Pradesh | The Himachal Pradesh minorities finance development commission provides for a rebate of 1% on term loans to disabled women. |
| Karnataka | A special programme for the inclusion of girls with disabilities in ICDS and elementary schools has been launched by the Women and Child Development Department, Government of Karnataka in cooperation with CBR NETWORK (South Asia).  Hostel for working and trainee women with disabilities to pursue education/employment with a budget provision of Rs. 216.32 lakhs for 27 districts during 2009-10. |
| Rajasthan | Jaipur: Women with disabilities will find a special place in the new state policy.  As a fist step a workshop of stakeholders is held here.  “Women with disabilities are doubly disadvantaged.  Their problems need to be addressed separately. In fact, even in this stakeholders meet we have kept a special session for them so that one can understand their problems and hopefully address them”, said Samir Ghosh, an independent consultant associated with the United Nations Development Programme (UNDP) for helping the state formulate policy and a member of the state’s social security mission.  The state government provides for facility of loan from Khadi and Gramodyog Commission with special emphasis on self-employment on disabled women. |
| Tamil Nadu | The State Government is organizing a training programme for the visually handicapped women to generate income. Visually handicapped women in the age group of 18 to 40 years (45 years in the case of SC/ST) are given training in chalk-piece Making and Weaving in the Government Rehabilitation Home with Sheltered Workshop for the Blind women at Poonamallee. On completion of this training, they are given job in the Home itself in weaving bed sheets, towels bandage cloth and chalk-piece making. These products are sold to hospitals and schools. At present 19 blind women are staying as inmates in the Home. |

**6.13 Access to Justice:** Other than the grievance redress mechanisms available to boys and men with disabilities, girls and women with disabilities can approach the National Commission for Women and State Women Commissions ( wherever established) to address the grievances of women with disabilities. Even as the Commissions have provided redress to women who have approached them and the National Commission for Women has documented the discrimination experienced by women living with mental illness the Commission has not maintained any records of its interventions. Consequently it is not possible to evaluate the effectiveness of the Women’s Commissions as grievance redress bodies. , there is hardly any data with regard to the number of women with disabilities that approach them. This results in a skewed understanding of the current position of the Country with regard to meeting its obligations for women with disabilities under the CRPD.

**6.14 Political Participation:** The need to provide women with disabilities an opportunity to represent their own cause has been recognized in the PWDA. The statute provides for establishing Central and State Coordination Committees as well as Central and State Executive Committees. All these Committees are required to have “five persons as far as practicable being persons with disabilities to represent non governmental organizations or associations which are concerned with disabilities”. The proviso to the section requires that at least one of the five members should be a woman.

**6.15 Barriers: 1) Data Barriers:** One of the major barriers encountered in evaluating the current rights status of women with disabilities was the absence of gender plus disability disaggregated data. The Government has been undertaking gender budgeting and keeping a track of resources expended and received by women in developmental programs. However this gender tracking of resources does not include disability. Consequently whilst data is available on the number of women who have benefitted from a developmental program; in these women the number of women with disabilities is not known. In other programs such as MGNREGA data has been maintained on the number of persons with disabilities who have benefitted from the employment guarantee program., however because gender tracking has not been undertaken in these programs , it was not possible to assess the number of women with disabilities who have benefitted from the program.

**2) Attitude:** In a baseline study on ‘Attitude and Policy towards Women with Disabilities by the key actors in development’ sponsored by Association of Women with Disabilities across five states of eastern India- Jharkhand, Bihar, West Bengal, Assam and Orissa, detailed questions regarding the health facilities available to them were asked in order to assess the status of women in the family and the society at large. One important finding to come out of the survey was that very few women with disabilities were unsatisfied with the health personnel’s or had any serious complaint against them. This finding needed to be processed in the light of the caution sounded bymanya social scientist on how the expression of dissatisfaction also requires a sense of entitlement which evidently women with disabilities did not feel. This conclusion is further supported by the fact that very few women actually attempt to access health care services at the local level. The absence of a sense of entitlement is a barrier as it is often found that social change needs to be accompanied with assertion and advocacy of the stakeholder.

This situation is beginning to change, the consultations on the RPDB has shown women with disabilities assert their rights, express dissatisfactions and demand changes and inclusions in the Bill to accommodate their special needs.[[17]](#footnote-17)

**Findings**

* There is a recognition of the double disadvantage experienced by women with disabilities and the technique of alleviation is primarily a dedicated allocation or quota.
* Schemes and programs for women with disabilities are a sub set of schemes for women or persons with disabilities but disaggregated data on women with disabilities has not been maintained. Consequently impact of programs cannot be assessed.

**Future Plan of Action**

The Government to make a proportionate allocation for women and girls with disabilities in all developmental schemes and programs and maintain records in such manner as may be prescribed of the utilization of such allocation.[[18]](#footnote-18)The RPDB makes a proposal to this effect.

To undertake implement gender based planning of all programmes for persons with disabilities,

For such planning to be effective, there is need to maintain extensive and comprehensive data about gender based situation of persons with disabilities at different sites – rural and urban and in different aspects of life gender differences in health, education, livelihood and social participation.

**ARTICLE 7 - CHILDREN WITH DISABILITIES**

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| 1. *States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.* 2. *In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.* 3. *States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.* |

**A Constitutional Recognition to Rights of Children**

* 1. The Constitution of India accords a special status to children and recognises the need for provisions to secure and safeguard their entitlements. Article 15(3) allows special provision to be made for children Article 39(e) of the Constitution enjoins that *“The State shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.”*

**B Ratification of CRC and Evolving Capacity of Child**

* 1. In the year 1992, India ratified the United Nation Convention on the Rights of the Child (CRC), and following this, the Indian government has recognised the need to shift from a welfare-based approach to a rights-based approach. While all children are viewed as bearers of certain socio-economic rights, such as education, the policy framework surrounding children in difficult circumstances, including children with disability, remains largely paternalistic, and the child is viewed as entity to be protected by the State rather than a right-bearer. Article 3(h) of the CRPD stipulates that a general principles guiding its implementation must be “respect for the evolving capacities of children with disabilities”. Read with Article 5 of the CRC, which recognizes that while parents, legal guardians, extended family or the community have rights and responsibilities to provide appropriate direction and guidance to their children, that duty must be exercised in a manner consistent with the evolving capacities of the child, and Article 12 of the CRC, which provides that every child capable of forming her or his own views has the right to freely express those views and to have them duly considered in all decisions that will affect that child, in accordance with the child's age and maturity, the CRPD creates a unique paradigm for the protection of the evolving capacity of children with disabilities. It recognises the fact that children are entitled to have their moral, cognitive, and social capacities respected, while simultaneously recognising their entitlement as children to be protected from environments and experiences that will damage their immediate and long-term wellbeing.[[19]](#footnote-19)
  2. In keeping with the obligation to recognise and respect the evolving capacity of children, the government recognises that the amount of protection granted to a child should be determined by the particular child’s capacity for self-reliance and self-defence and by the roles and responsibilities of the family, community, society and State.[[20]](#footnote-20) Further, as discussed in greater detail below, national policies have explicitly recognised that all children, including children with disabilities, must be empowered to participate as citizens in decisions that affect their lives, in accordance with their age and maturity. The government has also recognised the diverse settings of childhood, and the need to ensure that the entitlements given to children fulfil their rights and meet their needs in each situation.[[21]](#footnote-21) Indian courts have also recognised the evolving capacity of child while deciding cases relating to the welfare of the child.[[22]](#footnote-22)
  3. The CRC as well as Section 3 of the Indian Majority Act, 1875 defines a child as a person below eighteen years of age. Consequently, all interventions in the country for children cater to the population in the 0-18 age group. On the basis of this definition, the Census Report of 2001 estimated that about 1.67% of the population in the 0-19 age group i.e. children are living with disability.[[23]](#footnote-23)
  4. At the policy level, reasonable accommodations in various sectors have been made to cater to the needs of this constituency, greater details of which are discussed below in accordance with the reporting guidelines under Article 7.

**CPrinciples Informing Child Rights Policy**

* 1. The **National Policy for Children[[24]](#footnote-24)** was formulated in 1974 and forms the basis for nearly all the strategies in place for the welfare of children. It recognises that children, including children with disabilities, are an important national asset, and formulates guidelines in accordance with which developmental programmes for children are to be devised. The Policy’s primary objectives are education, health, rehabilitation of children in difficult circumstances, abolition of child labour and equality of opportunity for children from weaker sections of society. The policy takes special note of children who are socially handicapped, physically handicapped, emotionally disturbed and mentally retarded and aims to provide, on a priority basis, education, training, special treatment, rehabilitation and care for them. The Policy also mandates that all existing laws be amended in order to reflect the interest of children in all legal disputes between parents or institutions. In order to ensure coordination, planning and review, the National Children’s Board has been set up by this policy to ensure the implementation of the Policy at various levels.
  2. The **National Charter for Children[[25]](#footnote-25)** was adopted in 2003 to reiterate the commitment of the Indian government to ensuring the welfare of the child. Its objectives are wide ranging, and reflect the provisions of the CRC. It aims to ensure survival, life and liberty, high standards of health, basic minimum needs and security, play and leisure facilities, early childhood care, free and compulsory primary education, protection from economic exploitation and abuse, protection of the girl child,Equality, Freedom of Expression, Freedom to Seek and Receive Information, Freedom of Association and Peaceful Assembly, protection of children with disabilities, protection of children from disadvantaged sections and child friendly procedures in relation to judicial, administrative, educational or social sectors. In addition to the above objectives, with respect to children with disabilities, the charter aims to ensure that:

1. Children with disabilities are helped to lead a full life with dignity and respect and are integrated into the mainstream society and actively participate in all walks of life.
2. The State and community provide for their education, training, health care, rehabilitation, recreation in a manner that will contribute to their overall growth and development.
3. Preventive programmes against disabilities are launched for the early detection disabilities and to ensure that the families with disabled children receive adequate support and assistance in bringing up their children.
4. The encouragement of research in relation to the prevention, treatment and rehabilitation of various forms of disabilities.
   1. The **National Plan of Action for Children** was launched in 2005[[26]](#footnote-26) to provide all children with their entitlements and to fulfil their rights and meet their needs in accordance with their situation. It recognises children as bearers of human rights and has the following broad objectives in relation to all children, including children with disabilities:
   * Reduction of the Infant Mortality Rate
   * Reduction of the Maternal Mortality Rate.
   * Reduction of malnutrition among children.
   * Universal registration of child births
   * Universal provision of early childhood care and development and quality education for all children, including pre-school education
   * Abolition of female foeticide, female infanticide and child marriage and the protection of the girl child.
   * Improvement of water and sanitation coverage both in rural and urban areas
   * Protection of the rights of Children in Difficult Circumstances.
   * Legal and social protection for children from all kinds of abuse, exploitation and neglect.
   * Abolition of child labour with and progressive elimination all forms of economic exploitation of children.
   * Ensuring child participation and choice in matters and decisions affecting their lives in all actions concerning children, whether undertaken by public or private institutions, courts of law, quasi-judicial bodies, executive or legislative bodies, in accordance with the age and maturity of the child

**7.9** More particularly the Plan aims to ensure survival, care, protection, security, dignity and equality for the development and full participation of children with disabilities. It aims to provide inclusive and effective access to health, education, vocation training and other specialised rehabilitation services for children with disabilities. The plan develops various strategies for ensuring that children with disabilities are ensured their rights on an equal basis with other children. These include:

1. Primary prevention of disabling conditions in children through timely immunization, dietary corrections, prevention of accidents and proper maternal care.
2. Secondary prevention of disability through early detection and timely intervention and effective provision of information to families.
3. Provision of integrated early childhood services to ensure optimum development of children with disabilities up to the age of 6 years.
4. Provision of early intervention services to prepare infants and pre-schoolers by integrating them into the general educational system.
5. Provision of rehabilitation services to all children with disabilities
6. Provision inclusive and accessible education and life skill training for all children with disabilities
7. Protection of children with severe disability, mental disability and mental health difficulties, from abuse, exploitation, neglect and maltreatment.
8. Training of social workers and health workers in hospitals in providing information support, counselling and referral services to children and their families particularly around the time of detection of disability.
9. Provision of assistance for procuring durable, sophisticated and scientifically manufactured aids and appliances and specialized learning material
10. Strengthening of family based systems to enable them to care and protect the children in a way that enables them to continue to live within the family and their community.
11. Provision of general school education as the first option for any child with disability, and the improvement of access, learning and retention of children with special needs in the school.
12. Ensuring physical access, accessible toilets and playgrounds for children with disabilities.
13. Ensuring access to a neighborhood school.
14. Ensuring adequate training and sensitization of all teachers to teach children with disabilities.
15. Development of vocational courses in polytechnics and other institutions to enable children who are mentally challenged, particularly girl children, to acquire skills which ensure their economic self-reliance.
16. Provision of alternative legitimate educational facility for up to the age of 18 years for children who cannot function in the general schooling system.
17. Inclusion of children with mental illness in all existing schemes for children with disability and/or frame appropriate schemes for their growth and development.
18. Awareness raising to create positive view of the child with disability

**7.10** The **National Policy for Persons with Disabilities** was released in 2006 in furtherance of the objective of creating a comprehensive policy document in relation to persons with disabilities. It recognises that children with disabilities are a particularly vulnerable group, and require special attention, and therefore enjoins that the Government should strive to:

* + Ensure right to care, protection and security for children with disabilities;
  + Ensure the right to development with dignity and equality creating an enabling environment where children can exercise their rights, enjoy equal opportunities and full participation.
  + Ensure inclusion and effective access to education, health, vocational training along with specialized rehabilitation services to children with disabilities.
  + Ensure the right to development as well as recognition of special needs and of care, and protection of children with severe disabilities.

**D Right to Participation in Law and Policy**

**7.11** The **Juvenile Justice (Care and Protection of Children) Act** was enacted in 2000 in order to provide for proper care, protection and treatment to children in need of care and protection, including abandoned children with disability. The Act has created a Child Welfare Committee that is exclusively responsible for the care, development, protection, treatment and rehabilitation of children in need of special care and protection (those covered under the Act). Such children may be presented to the Committee upon an application by any public officers or social workers, as well as the child himself, and if the child does not have a home or family, he or she can receive the protection of the children’s homes and shelter homes set up under the Act. The children’s homes are responsible for the rehabilitation and social integration of children in need of special care and protection, and carry out these functions through adoption, restoration, sponsorship or by transfer to an after-care organisation or foster home.

* 1. The best interest of the child is a paramount consideration under the Act, and governs all decisions in relation to the transfer of children from one home to another. A scheme for Juvenile Justice has also been put into place following the Act, and under the scheme, the central government provides 50% assistance to state Governments for establishment and maintenance of various levels of institutions for children in need of care and protection. During the year 2005-06, an amount of Rs. 200.03 million was released to 23 States and in the present year, a sum of Rs. 250 million has been set aside for this programme.[[27]](#footnote-27)
  2. The **Mental Health Act of 1987** deals with mentally ill persons, and regulates the method of their care and protection, and was enacted in order to alter the perception of mentally ill people in society. The Act envisages the setting up of psychiatric hospitals for children under the age of 16, and regulates the manner in which children may be admitted into these hospitals. Under the Act, a child cannot voluntarily admit himself into a psychiatric facility, but the guardian of a child may admit him if he believes the child to be mentally ill.

**E Monitoring of Child Rights**

* 1. The **National Commission for the Protection of Child Rights Act** was enacted in 2005 to provide a forum in the form of the National Commission for the Protection of Child Rights, various State Commissions for the Protection of Child Rights, and Children’s Courts for the speedy trial of legal matters relating to children. Children in need of care and protection, including children with disabilities may approach these forums to enforce their rights. The Committee has the power to enforce compliance with laws, judicial decisions and policy guidelines in area of child rights and can take various measures for the protection of children, including children with disabilities. The Rules framed under the Act mandate that the work of the Commission must be directly informed by the views of children in order to reflect their priorities and perspectives, and that the Commission, government departments and organisations dealing with children promote, respect and consider the views of children in their work. In the year 2010-2011, a total of 675 complaints were dealt with by the various forums across the country.[[28]](#footnote-28)

**F Induction of Children with Disabilities in Child Protection**

**Schemes and Programmes**

* 1. The Integrated Child Protection Scheme (ICPS) was launched by the government in 2009 to counter the budgetary and implementation difficulties faced in the operationalisation of the Juvenile Justice Act, 2000. Under the Juvenile Justice Act, the allocation of funds by the central government was insufficient to establish the required structures envisaged by the Act, and therefore the ICPS was launched to accelerate these objectives.[[29]](#footnote-29) This scheme provides budgetary and technical assistance to the various states in the country, and groups several interventions for the protection of children, including children in need of special protection (children with disabilities). The initiatives under the scheme include:
* Institutional Services: Shelter Homes; Children’s Homes; Observation Homes; Special Homes; and Specialized services for children with special needs are to be set up.
* Service delivery structures for the above services at Central, State and District levels are required to be set up.
* Emergency outreach services for children in difficult circumstances through Child line
* Open shelters for children in need in urban and semi-urban areas
* Family based non institutional care through: Sponsorship; Foster Care; Adoption; and After Care Programme
* Child Tracking System including a website for missing children

**7.16** The Central government provides a major part of the funding required in states which are underdeveloped. Currently, only two states in the country have not participated in the ICPS. The scheme is coordinated with various members of civil society and has been the catalyst for making the objectives of the Juvenile Justice Act a reality. As a result 494 Child Welfare Committees, 511 Juvenile Justice Boards have been set up all across the country, and 1183 care homes and 132 specialised adoption agencies have been funded in the past year. A total of Rs. 910.52 millions was sanctioned in furtherance of the ICPS’ objectives and this benefited a total of 92.379 children in the year 2010-2011.[[30]](#footnote-30)

**G Bearers of Rights on Equal Basis with other Children:**

**Law and Policy**

* PWDA makes special accommodations for children with disabilities. The Act requires each government in the country to undertake the following, to the extent of their economic capacity, for the purpose of preventing disabilities,:
* Surveys, investigations and research concerning the cause of disabilities;
* Promotion of various methods of preventing disabilities;
* Screening of all children at least once in a year for the purpose of identifying "at-risk" cases;
* Provision of facilities for training staff at the primary health centres;
* Sponsorship of awareness campaigns and dissemination of information for general hygiene, health and sanitation;
* Provisions for pre-natal, parental and post-natal care of mother and child;
* Education of the public through the pre-schools, schools, primary health centres and village level workers;
* Creation of awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

**7.17** In addition, governments are to provide free education in an appropriate environment to all children with disabilities. The Act requires that children with disabilities be enrolled in mainstream schools to the extent possible, and also requires that non-formal education is promoted for those children who cannot continue their studies formal education processes. The Act also promotes research for the development of aids, assistive devices and teaching materials for children with disabilities, and envisages the setting up of teacher training institutes to cater to needs of children with disabilities. Provisions are also to be made for transport facilities, removal of architectural barriers, supply of books and uniforms, grant of scholarships, setting up of grievance redressal mechanisms and for reasonable accommodations in the examination system and curriculum to suit the needs of children with disabilities.

* 1. The government is at present examining the RPDB which recognises the vulnerability of children with disabilities and aims to ensure that they are treated on an equal basis with other children.

**Equality of Treatment in Schemes and Programmes**

**7.19** The **Sarva Shiksha Abhiyan (SSA**), discussed in greater detail under Article 24, is the flagship programme of the government to provide universal and inclusive education to children in the 6-14 age group. The Policy of Inclusive Education under the SSA ensures the identification, function and formal assessment, appropriate institutional placement, preparation of Indivisualised Education Plain, provision of aids and appliances, teacher training, removal of architectural barriers, research and monitoring and evaluation in order to make the right to education a meaningful reality for children with special needs in India. The SSA ensures that every child with special needs irrespective of the type of disability is provided meaningful education, and this is achieved through a zero rejection policy. The major thrust is on mainstreaming children with disabilities into formal elementary schooling. The SSA provides up to Rupees 3000 ($66) per child for the inclusion of child with disability per year, with Rs. 1000/- earmarked exclusively for engagement of resource teachers. The total amount of funds sanctioned for inclusive education in 2010-2011 was Rs. 75308.20 lakh. In addition of a total of 1253736 schools, 7273756 (58.01%) have been provided barrier free access across the country. The Sarva Shiksha Abhiyan in certain cases, also partners with the Assistance to Disabled Persons for Purchase, Fitting of Aids/Appliances (ADIP) scheme to distribute aids and appliances to children with disabilities. Under this partnership, the ADIP subsidizes the manufacture of these appliances to the extent of 60% and the remainder of the expenditure is undertaken by the state governments. Of a total of 2535021 aids and appliances required, the SSA has enabled the distribution of 1837672 (72.49%) across the country

* 1. The Deendayal Disabled Rehabilitation Scheme to promote voluntary action for persons with disabilities (DDRS) was launched to provide education and vocational training and rehabilitation of persons with mental disabilities. The Scheme is being implemented since 1999 and was revised in 2009, with the objective of ensuring effective implementation of the PWDA, by creating an enabling environment and encouraging non – governmental organizations through financial assistance for undertaking projects for the empowerment of the disabled. Under this scheme, voluntary organisations are provided assistance for a wide range of activities for persons with disabilities, including children in the areas of programmes for pre-school and early intervention, special education, voluntary training and placement, community based rehabilitation, manpower development and rehabilitation. As of 2009, the total number of beneficiaries of this scheme was 0.11 lakh which is about 5.5% of the population.

**FINDINGS**

* The Schemes and Programmes for children with disabilities can be classified under two heads: One, where children with disabilities are joined into programmes for children; and the other where special programs are conceived for children with disabilities.
* It was found that both strategies could be usefully employed to obtain the inclusion of children with disabilities provided the program did not rely upon a stereotypical conception of children with disabilities. Thus for example the interventions for CWSN’s in SSA aim at having children with disabilities be a part of the educational experience; on the other hand ICPS referred to children with disabilities but only to provide them the protection of institutions.
* The government takes note of the fact that children with disabilities have not always been central point of focus in formulating particular interventions for children, hence the accommodations needed to cater to their needs have not always been made[[31]](#footnote-31)
* Child Rights in the country are more driven by the principle of “ best interests” than by the concept of “ evolving capacity”; the discourse on the rights of children with disabilities is similarly informed.

**Future Plan of Action**

* The government notes that disability data varies from one source to another. Consequently in order to ensure effective monitoring of the rights of children with disabilities. [[32]](#footnote-32) Efforts shall be made to comprehensively map their presence and the status of their rights.
* Theservices required by children with disabilities need to be integrated into the programme and scheme of every Ministry.
* The government recognises that teachers in schools are not trained to deal with learning disabilities. There has been a general assumption that general teachers cannot meet the educational needs of children with disabilities. The government recognises that single disability specialized teachers, multi -disability specialized teachers and regular teachers with special education skills are required to resolve this problem since it has not been economically viable to appoint special educators for a small group of children and that therefore, teacher training programmes that enable the teacher to manage all disabilities are the way forward.[[33]](#footnote-33)

**ARTICLE 8 - AWARENESS RAISING**

|  |
| --- |
| *1. States Parties undertake to adopt immediate, effective and appropriate measures: (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;*  *(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;*  *(c) To promote awareness of the capabilities and contributions of persons with disabilities.*  *2. Measures to this end include:*  *(a) Initiating and maintaining effective public awareness campaigns designed:*  *(i) To nurture receptiveness to the rights of persons with disabilities; (ii) To promote positive perceptions and greater social awareness towards persons with disabilities; (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;*  *(b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;*  *(c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention; (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.* |

**8.1** **Initiatives under the PWDA and NTA**

There is provision for awareness raising in the PWDA and NTA. PWDA makes provision for education and awareness raising primarily around the prevention and early detection of disabilities. Section 25 (e) (g) and (h) of the Act provide for awareness campaigns on general hygiene, health and sanitation; education of the public through schools and primary health workers and use of the television, radio and other mass media to disseminate information on the causes of disabilities and the preventive measures to be adopted. The awareness raising provisions in the NTA revolve around the rights of persons with disabilities section 10 (g) of the NTA enjoins the Trust “*to facilitate the realization of equal opportunities, protection of rights and full participation of persons with disability”*. In furtherance of this object the Board of the Trust can under section 11 (2) (a) of NTA approves any programme *“which promotes independent living in the community for persons with disabilities by: creating a conducive environment in the community”*.

**Table 8.1 Schemes and Programmes of States**

|  |  |  |
| --- | --- | --- |
| **State** | **Scheme/Programme/Measure** | **No. of Beneficiaries** |
| Chhattissgarh | Camp conducted by Legal Aid department on the Rights of Persons with Mental Disabilities |  |
| Kerala | World Disability Day Celebrations |  |
| Maharashtra | Camps for Awareness, Prevention and Handing out Disability certificates | 2190 camps  2022 programmes  1,52,404 certificates handed out. |
| Meghalaya | Sports Seminars  World Disability Day Celebrations | 1025 people participated in the event on 3rd December, 2010. |
| Orissa | Pamphlet Distribution  Workshops and Competitions on Art, Painting, etc. held annually. |  |

**Table 8.2 Awareness Initiatives by National Institutes**

|  |  |
| --- | --- |
| **National Institutes** | **Awareness Initiatives** |
| AYJNIHH | * Awareness programs on hearing impairment, sign language training and inclusion of persons with hearing impairment in schools and colleges. * Awareness workshops in tribal villages were conducted in Maharashtra conducted in December, 2008. |
| NIMH  (Budget allocation in 2008-2009 for awareness was Rs 7,02,000) | * The Institute conducts national level seminars in mental retardation in partnership with leading voluntary organizations, parent associations. Special employees national meet at NIMH, National meet of parent organizations and National level Workshops. * NIMH celebrated its Silver Jubilee year on   22nd February, 2009. Cultural programmes, pamphlets, advertisements in leading dailies, brochures and a press conference were organised to spread information of mental disabilities and the work of NIMH.   * Vigilance awareness week was conducted   from 03-11-2008 to 17-11-2008.   * The NIMH Regional Centre conducts awareness camps as a part of its outreach activities. * A special awareness session on the UNCRPD was conducted at the 16th National Parents Meet on 15 & 16 December, 2008 at Secunderabad. * The Institute continues to undertake public awareness programmes such as printing posters, publishing information, materials, and flip charts for grassroots level workers to identify disabilities. |
| NIVH | * To educate, upgrade & train the field functionaries, service providers & policy makers, NIVH conducts short term training programmes geared towards generating greater awareness about the rights and entitlements of persons with visual impairments throughout the year. * The Institute publishes a quarterly newsletter, INSIGHT, which contains useful information about the activities of the Institute and of information relating to rehabilitation. Besides, the Institute has published a number of technical reports, books, brochures, and directories for the benefit of a wide range of professionals working in the field. |
| NIEPMD | * Spreads awareness on the UNCRPD by disseminating information through pamphlets, seminars, workshops in collaboration with local NGOs, etc. |
| NIOH | * Conducts exhibitions cum awareness programs at the district level. * Conducts camps on Disability prevention and Aids and Appliance camps * Conducts training programmes on various Disability related issues and technical problems associated with aids for particular disabilities. |

**International Disability Day**

**8.2** The nation celebrates 3rd December as International Day of Disability [IDOD] and on this day various programmes are organised addressing disability. Issues like prejudices, harmful practices and health related issues pertaining to prevention of disability are covered.

**Each state organises events on IODD**

**8.3** *For example in Andhra Pradesh:*

* The world disabled day was organised on 3rd December, 2009 and on 4thJanuary, 2010, World Blind Day was organised in all mandals in various districts.
* At the district level the celebrations are made with the convergence of the disabled welfare departments.
* Parental counselling meetings were organised in all the mandals to educate the parents in dealing with their children and the benefits which are provided to the children by the government. Further they were given information about the medical service/referral services which are freely available.

**Louis Braille Bicentenary**

**8.4** The Birth Bicentenary of Louis Braille (2008) was commemorated by the introduction of coins of 100 rupee and 200 rupee denominations by the Department for Economic Affairs. One face of these coins contain the portrait of Louis Braille in the center. The top left has his name in Hindi, the top right in English and the bottom in Braille[[34]](#footnote-34).

**8.5 Awards and Awareness:** Recognising the achievements of persons with disabilities serves a triple purpose of empowering and inspiring persons with disabilities and persons working in the Disability sector, challenging stereotypes and drawing attention to and creating awareness about Disability related issues. Both Central and State Governments give awards for outstanding achievement in the field of Disability. This is done on International Day for the Disabled at public functions, thereby attracting widespread publicity for the Disability movement.

**8.6** **National Awards for the Empowerment of Persons with Disabilities:** In recognition of the sincere and dedicated services rendered for the empowerment of the persons with disabilities, the Government of India has been giving National Awards to the outstanding individuals and institutions working in the field of disabilities, every year, since 1969. The awards are presented on the 3rd of December- the International Day of Persons with Disabilities.

**8.7 The awards are given under the following thirteen categories:—**

1. Best Employees/Self-Employed with Disabilities
2. Best Employers and Placement Officer/Agency of Persons with Disabilities
3. Best Individual and Institution Working for the Cause of Persons with Disabilities
4. Role Model
5. Best Applied Research/Innovation/Product Development Aimed At Improving The Life Of Persons With Disabilities
6. Outstanding Work in Creation Of Barrier-Free Environment For The Persons With Disabilities
7. Best District in Providing Rehabilitation Services
8. Best Local Level Committee of National Trust
9. Best State Channelizing Agency of National Handicapped Finance and Development Corporation
10. Outstanding Creative Adult Persons with Disabilities
11. Best Creative Child with Disabilities.
12. Best Braille Press
13. Best Accessible Website

**8.8** Taking cognizance of the importance and indispensability of web access in today’s world, and the growing significance of Information Technology as tool of communication, the category of Best Accessible website was introduced in 2010. There are now a total of 63 awards, comprising **of a cash award up to Rs 1,00,000/-** (one lakh only), a medal, a citation and a certificate.

**8.9** The aim of these awards is to recognise and support outstanding achievement in the field of disability. The Ministry hopes that the awards will help in goal setting and serve to inspire and motivate people towards dedicated work in this field. This in turn serves as a platform for spreading awareness on the Disability Movement. The announcement of awards and the awards function bring much needed attention to the Disability movement and also gives the awardees an opportunity to draw attention to the current scenario and highlight problems and concerns they are facing.

**Table 8.3 State Awards**

|  |  |  |  |
| --- | --- | --- | --- |
| **State** | **Award Category** | **Award** | **Funds Allocated (Lakhs)** |
| Chhattissgarh | Best Disabled Employee  Best Employer of Person with Disabilities  Best Voluntary Organization  Best District | Awards range from a shield to Rs.10,000/- |  |
| Goa | Best Employee  Best NGO  Best Employer  Best Block | Rs 25,000 each |  |
| Gujarat | Best institution | Rs 25,000 |  |
| Haryana | Best Employee  Best Self-Employed Person with Disabilities |  |  |
| Karnataka | Best Work in the field of Disability  Incentive Awards to students | Rs  Ranging from Rs 500- 1000/- |  |
| Kerala | Best Employee  Best Voluntary Organisation | Rs 3000 onwards | 1.45 |
| Maharashtra | Best Employee (Visually handicapped, Hearing impaired, orthopedically handicapped, mentally retarded)  Best Employer  Best Placement Officer  Merit Awards to students | Rs 3000 in cash, certificate and citation  Memento, citation and certificate  Memento, citation and certificate Rs 1000 | 6.26 |
| Madhya Pradesh | Best Employee  Excellence in the field of Disability |  |  |
| Pondicherry | Best Employee in each category viz. Visually Handicapped, Orthopedically Handicapped and Hearing Handicapped.  Best Self-Helped person in each category  Outstanding Service to the cause of Disability  Best Employer | Rs 3500 per person  Rs 10,000/- |  |
| Orissa | Outstanding Person with Disabilities |  |  |
| Punjab | Best Employee  Best Voluntary Organization | Cash prizes and certificates |  |
| Rajasthan | Best Employee  Best Voluntary Organization | Cash prizes and certificates | 0.53 |
| West Bengal | Outstanding Employee  Best Employer |  | 4 |
| Uttar Pradesh | Best Employee  Best Self-Employed Person with Disability  Best Placement Officer |  |  |

**8.10 Private NGO Awards:** The Shell Helen Keller awards were instituted in 1999. They are one of the most prestigious Indian benchmark for honouring people and organizations which have been working towards promoting employment opportunities for persons with disabilities. Awards are given in the categories of (a) Role Model Disabled Person, (b) Role Model Supporter of Increased Employment Opportunities for Disabled People; (c) Role Model Companies/NGOs/Institutions.

**Important Campaigns:**

**8.11** **Census – Inclusion: Count Us In Campaign:** The 2001 Census included a question about the disability issue. However, the late inclusions, which primarily resulted due to advocacy from disability activist, caused for the enumeration to be undertaken without sufficient training of enumerations and awareness raising of the disability community. Learning from the 2001 Census experience, a nationwide campaign for better and more comprehensive inclusion in Census 2011 was undertaken in public- private partnership. This campaign operated through rallies, radio stations, print media and television channels. Large-scale visibility of issue was created through visual campaigns using **Billboards, Bus Shelters and Public Utilities Offices. In addition to All India Radio and Doordarshan, a large number of private radio channels like Radio Mirchi had dedicated segments on disability. News channels (Hindi, English and Regional languages) also joined in the campaign.**

**Other Campaigns and Awareness Programmes**

**8.12 Pulse Polio Immunization Programme**: Easily the most well identifiable Immunization and Disability campaign, Pulse Polio has been running since 1994. One of the most far reaching prevention programs, the program is highly organized and targets children below the age of 5 years. As a result, reported cases of polio have decreased greatly. Last year, only 42 cases of polio were detected. The Pulse Polio campaign uses print and electronic media, advertisements on TV and door to door campaigning to bring about awareness about OPV. In light of the fact that a large number of the instances of physical disability, especially among children are attributed to polio, this campaign is important in the prevention of disability. However, this program does not address Disability related issues or articulate the rights of persons with disabilities. Its huge budget and widespread visibility makes the Pulse Polio program a perfect forum for the dissemination of information on disability related issues and the rights of persons with disabilities.

**8.13 National Trust’s Badhte Kadam:** Badhte Kadam 2010 is an awareness initiative organised by the National Trust. 29 states and 1 Union Territory signed on for the 2010 program and conducted 8 melas (fairs) each in their regions. A first-of-its- meetings kind Awareness campaign on road, BK began on16th November, 2010, with a colourful flagging off celebration at Constitution Club, New Delhi, and continued till 30th of November. This edition of the campaign aimed to create awareness on the U.N.C.R.P.D, NT Program and Schemes, to celebrate diversity and promote inclusion. It is proposed that the program shall be undertaken each year. Badhte Kadam 2011 is proposed to be undertaken from the 3rd of November to 2nd of December. The programme will be executed through cross disability melas (fairs) which shall be undertaken in every state of India except for Sikkim and state of Jammu and Kashmir and draw upon a range of creative modes and methods for disseminate information and educating the public.

**Non-Governmental Initiatives**

**8.14 Samarthyam:** a national information, technical assistance, and research organization working towards creating accessibility for persons with disability in all spheres. They conduct training programmes, seminars and camps at various universities and offices. Some important universities they have worked with are the IITS, IGNOU, Centre for Science and Environment, School of Planning and Architecture, Central Road Research Institute and the Common Wealth Games Organising Committee.

**8.15** **Trinayani:** is a registered trust involved in creating awareness and sensitizing the public about issues pertaining to disability through the medium of films, music, radio, interactive workshops, and seminars. Their most successful and popular enterprise is a radio programme called Mur Mur Ke Na Dekh, a dynamic 15 minute weekly series broadcast on FM station Radio. This show explores the lives of persons with disabilities and highlights their strengths, and features people and organizations working on disability issues and will in due course have a segment exploring the Legal Aspects related to disability issues advocating the Human Rights approach.[[35]](#footnote-35)

**8.16** **Ability Foundation**: In 2002, Ability Foundation, in collaboration with All India Radio (Chennai) initiated a pilot radio show for the dissemination of information on Inclusion and the Disability movement. This addressed the widespread need for channelling people towards proper guidance, and counters the paucity of information on disability issues. A huge success, the show continued to run for 5 years. They now run a weekly programme on “World Space” Satellite Radios on their “Moksha” station. The vital need to inform, interest and inspire in the right way, generating optimism, idealism and hope, forms the gist of the hour-long weekly broadcasts called “Celebrating Diversity”, that is aired every Saturday at 10AM and repeated on Monday evening.

**8.17** **Anjali** (**West Bengal)** : In recognition of the fact that the presence of stigma may prevent accessing of services Anjlai. An NGO working in West Bengal has set up 3 mental health kisoks in 3 municipal areas which are personned by 6 kiosk operators and supported by out reach workers and co-councellors. The space and infrastructural support for the kiosks is provided by the Municipalities. The community workers who person on these kiosks organize mental health awareness camps once a week for each municipal area. The camps are designated to generate practical awareness on how to build positive mental health encourage help seeking behavior from within the communities.

**8.18** The programme has set up 3 mental health kiosks in 3 municipal areas, operating out of the space and infrastructural supports provided by the municipalities, each personned by 6 kiosk operators and supported by outreach workers and co-counselors. All these personnel are community workers who have been provided training over a period of one year and they organize mental health awareness camps, once a week for each municipal area.

**8.19** In order to foster an attitude of respect for the rights of persons with disabilities at all levels of the education system, there is a chapter with a story on inclusion was incorporated in Unit 2 of the English Course (Communicative) has a chapter with a **story on Inclusion** Pg 58 followed by **I am SPECIAL, and so are YOU** a poem Contributed by TRINAYANI towards creating awareness in diversities and disabilities, Page 60 and 61. CBSE will be distributing the hard copies to CBSE schools. The poem is reproduced below:

|  |
| --- |
| **Box 8.1: Fostering Respect in Schools.**  *I am SPECIAL, and so are YOU.*  *Imagine just how boring the world would be*  *If Mother Nature believed in UNIFORMITY?!*  *All living beings the same in colour and shape*  *The ant and the ape!*  *A leopard and a bear!*  *A watermelon and a pear!!!*  *The birds soaring high;*  *The clouds floating by*  *The leaves on every tree.....*  *The fish in every sea...*  *And as a further blow to individuality*  *Hey, may be even you... and me!!!*  *Eeeeeeks!!! Wouldn't life be a tragic shame!!*  *If everything looked*  *Felt*  *Smelt*  *Exactly... the SAME!!*  *Thank God that we all have our own shapes and sizes*  *With different looks, talents and surprises*  *Each with a special strength and may be, a weakness*  *And you know... that's what gives us our uniqueness!*  *I've got friends who are fat and friends who are tall*  *Friends who are skinny and some who are small*  *Friends who are gawky, friends who have grace*  *Some who are slow... and some with the pace*  *Friends who wear glasses or use a wheelchair*  *Friends who wear braces or funny things in their hair!!!*  *Friends whom I help... and friends who help me*  *But friends forever... as we were meant to be...*  *Some are really brainy, ahead of the rest,*  *Scoring superbly in every class test*  *Some are winners in many other ways*  *In music... dancing... painting... or on sports days...*  *Then, there are others who might not win any prizes*  *But watch out, they too are full of surprises*  *That's because each of us is one of a kind*  *Specially created... specially designed...*  *We each have a purpose, each have a role*  *Each with a dream, each with a goal*  *We each are different, special.. rare*  *Each an answer to a special prayer...*  *So love who your are, in life have an aim*  *Be happy to be special not boringly same*  *Be who you are... do what you do*  *We are all really special... coz I am. I... And you are YOU!!!* |

**Information and Awareness**

**8.20 Web Portal:** Rehabilitation Council of India in collaboration with the Media Lab Asia (MLA) has developed a comprehensive national web portal namely “[www.punarbhava.in](http://www.punarbhava.in)” on disability. The portal is designed to provide all related information regarding different disability issues at one platform. This will help persons with disabilities, professionals, policy makers, students, parents, community workers and other stakeholders to access information relating to the disability sector on regular basis.

**8.21** Subsequent to the ratification of the CRPD, the Union and the States have shifted the focus of awareness raising from causes of disability to the rights of persons with disabilities. In furtherance of this commitment attempts have been made to spread information regarding the UNCRPD. The Convention has been translated into the language of each State and training programmes on the Convention are being organized from the district to the national level. However, awareness on the UNCRPD remains minimal. Most organizations and government agencies are focused on sensitizing people on the rights and programs and schemes available in furtherance of the PWDA, 1995.

**8.22 Youth Awareness Campaign is one of the regular programmes of NYK wherein** each NYK identifies 5 sports/ games suitable to local talent/ aptitude of the youth, and 5 social themes for awareness and activity campaigns. While the campaign is on, new clubs are also formed in the villages untouched so far in the district. In the campaign emphasis is added on turning the lesser active clubs into more active and vibrant ones.[[36]](#footnote-36) The Government recognizes that promulgating programmes through NYK on sports and awareness raising as well as capacity building with regards to persons with disabilities will prove beneficial not only for persons with disabilities but also the sporting community, particularly at grass root level. There is thus a pressing need to include persons with disabilities in such programmes.

**Table 8.4 Training Initiatives by National Institutes**

|  |  |
| --- | --- |
| **National Institutes** | **Training Programs** |
| AYJNIHH | * Conducts workshops on basics of Cochlear Implant functioning, troubleshooting and repairing, clinical selection of candidates, Pre and Post-operative management of Cochlear implanted children and adults, changing criteria of selection etc. * Conducts meets of teachers trained to teach hearing impaired students [B.Ed (HI), M.Ed (HI)] to discuss practical methods of solving issues common to teachers and students in the field. * Workshops on Auditory Habitation to high lighten various procedures and strategies being used worldwide for Auditory Habilitation. * Training programs on strategies for CBR workers. |
| NIMH (Budget allocation in 2008-2009 for awareness was Rs 7,02,000) | |
| NIVH | * During 2010-2011, 123 programs covering 24 themes were conducted free of cost (including travel costs of participants) |
| NIEPMD | * Conducts workshops on the UNCRPD * South Regional Workshop on the UNCRPD conducted from 15-16th of April, 2010 and North East Regional Workshop on the UNCRPD conducted from 27-28th of June, 2010 * Conducted a workshop on the Effective Implementation of UNCRPD” for District Differently Abled Welfare of Officers of Tamil Nadu from 22nd – 23rd Oct 2010. * Around 10 training programs conducted at the district level and 2 at the state level for parents of children with multiple disabilities regarding the Rights of Persons with Disabilities, schemes, programmes available, sensitization on mental illness and multiple disability. |
| NIOH | Divisional workshop on the UNCRPD conducted in November, 2008. |

**FINDINGS**

* The Awareness Raising has been undertaken through the procedure of sensitization programs; commemorations days and awards.
* Impact of awareness raising programmes difficult to ascertain.
* The obligation of awareness raising primarily being fulfilled either through public private partnership or by non-governmental organizations.
* The governmental agencies have grater knowledge and understanding of the PWD than the CRPD.

**Future Plan of Action**

* To shift the thrust of awareness raising to the unconverted segments of civil society
* To raise awareness of CRPD in governmental agencies and organizations at the union and state levels.
* To evaluate the efficacy of the awareness raising programmes and to modify their design accordingly.

**ARTICLE 9 - ACCESSIBILITY**

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| *1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*  *(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*  *(b) Information, communications and other services, including electronic services and emergency services.*  *2. States Parties shall also take appropriate measures to:*  *(a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public; (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities; (c) Provide training for stakeholders on accessibility issues facing persons with disabilities; (d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;*  *(e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;*  *(f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;*  *(g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;*  *(h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.* |

**A Legal Recognition of Right to Accessibility**

**9.1** There is no express provision in the Constitution guaranteeing the right to accessibility. Accessibility can be implied from the constitutional promise of equality of status and opportunity to all since without accessibility the various rights guaranteed by the constitution have little meaning for persons with disabilities. The right to accessibility is being realized in India through a range of legal strategies. PWDA provides for accessibility to the physical environment. The PWDA provisions have been implemented through government schemes and programs as also court rulings in public interest actions. The ratification of the CRPD has resulted in the Union Minister of SJE to write to all Union Ministries and State Governments drawing attention to this cross-cutting obligation of the CRPD and seeking that all government buildings and offices be made accessible on priority so as to complete the task preferably during the year 2010-2011.

**9.2** The PWDA does not provide for information and web accessibility, these have been realized through subsequent policies and programs. Non governmental initiatives have joined with governmental efforts to realize this right in all its manifestations. In what follows the various instruments to realize physical, information, and web accessibility have been outlined.

**9.3**  **Accessibility of the Physical Environment:** PWDA addresses the issue of physical accessibility by recognizing how without it the other rights can be rendered nugatory. Thus if Section 30(a) aims at ensuring education for children with disabilities below the age of 18 years; Section 30(b) makes a provision for *“the removal of architectural barriers from schools, colleges or other institution, imparting vocational and professional training”*. Sections 44 to 46 of the said Act make provisions for physical accessibility in transport, public buildings and other public spaces.

**9.4** **The National Policy for Persons with Disability (2006**):

* Required “buildings/ places/transportation systems for public use to be made barrier free”;
* all schools by 2020 to be completely disabled friendly
* modification in design of machinery, work environment, etc so that employment of persons with disabilities is barrier-free
* Inclusion of Universal Design as part of curriculum in Architecture and Civil Engineering colleges. Adoption of comprehensive building bye-laws and provides for adoption and implementation related scrutiny to be granted to local self-government authorities
* Public transport to be made accessible. Special reference to Railways that should make all coaches accessible in a phased manner, and must make all its stations completely accessible. Safety standards and disabled-friendly environment must be enforced in public sector utilities
* Provision for access audits to all public buildings.

**B Codes and Guidelines**

**9.5****National Building Code India 2005 (Bureau of Indian Standards):** Has detailed provisions for construction of buildings and contains accessible design as an inherent part of all plans. Apart from this, there are the “model building bye-laws” that are very similar to the NBC, 2005. The enforcement of these codes and guidelines reside with the local authorities and for these authorities to act, it is important that accessibility should be an integral part of the building bye-laws of the states. Consequently the process of including accessibility in the building bye-laws of States is in operation. 28 *States/UTs have so far amended their building bye laws. Each district would also have an enforcement officer that would bring to notice cases of non-compliance.*

**9.6** In order to implement the accessibility obligations of the PWDA, the Government of India notified a comprehensive set of **Guidelines and Space Standards for Barrier Free Environment for Disabled and Elderly Persons (Central Public Works Department, Ministry of Urban Affairs and Employment) in 1998.** In order to promote implementation, the Central Government has floated a scheme which provides financial support to States for creating a barrier-free, accessible physical environment.

**9.7 *Action Plan for Barrier-free Built Environment****:* plans to harmonize various accessibility guidelines issued by the Bureau of Indian Standards, the Urban Development Ministry and the Chief Commissioner for Disabilities; Amendment of Building Bye-laws and ensuring that they are in tune with Universal design within a period of 2 years; conducting access audits of public buildings.

**9.8 Schemes and Programs:**  The Ministry of Social Justice and Empowerment is providing financial assistance for undertaking activities pursuant to the PDA, 1995 under the scheme “Scheme for Implementation of Persons with Disabilities Act 1995 [SPIDA]”

**Table 9.1 Indicative Cost Ceiling based on the total**

**Notional Allocation for the State/UT**

|  |  |  |
| --- | --- | --- |
| **S.no.** | **Item** | **Cost Ceiling**  **(Rs. in lakhs)** |
|  | **Making Building Barrier Free** |  |
|  | 1. State Secretariat | 50.00 |
|  | 1. Other State level Offices (especially of Department Dealing with PWDs) | 30.00 |
|  | 1. Collectorates (per district) | 20.00 |
|  | 1. State University Buildings/Campuses | 30.00 |
|  | 1. Major Hospitals (Medical Colleges/Main Hospitals at District Head quarters | 25.00 |
|  | 1. Other important Government Buildings frequently used by PWDs | 25.00 |

1. **Name of the State/UT with Notional allocation more than Rs.5.00 crore:**-Andhra Pradesh, Assam, Bihar, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal
2. **Name of the State/UT with Notional allocation between Rs.0.50 crore to Rs.5.00 crore:** Chattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Orissa, Punjab, Tripura & Uttakhand
3. **Name of the State/UT with Notional allocation less than Rs.0.50 crore:** Andaman& Nicobar Islands, Arunachal Pradesh, Chandigarh, Dadar & Nagar Haveli, Daman & Diu, Goa, Lakshadweep, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Pondicherry.

**9.9** **The Deendayal Disabled Rehabilitation Scheme to promote Voluntary Action for Persons with Disabilities (DDRS Scheme):** To facilitate delivery of various services to persons with disabilities by voluntary organizations, the Ministry of Social Justice and Empowerment administers the DDRS scheme and provides grants-in-aid to NGOs that, inter alia, undertake projects for persons with low vision, acquisition of computers, etc.

**9.10 Judicial Intervention for Physical Accessibility:** The Bombay High court ordered the government to comply with universal design and provide for ramps in government buildings. The government replied through an affidavit, within six months that works for ramps had completed in all government buildings including hospitals, collectorates, district head-quarters and divisional head-quarters.. (*ILS Legal Air Center & ors. v. State of Maharashtra & ors. PIL No. 70, 2002.)*

**Box No. 9. 1 Sambhav**

The project **‘Sambhav’** showcases various ways in which the principles of universal design can be applied in different areas of life like communication (enhancing listening, understanding and alternative modes of communication); learning (play, concept teaching and self learning); movement (transfers, supported walking, alternative methods of mobility, and outdoor travelling); and just doing things (for well being, safety, eating, drinking self care, home chores, work and man aging money) being a few specific ones.

**‘Sambhav’** provides facilities for demonstrations and experiencing practical usage of the displayed items by persons with disabilities and for others. This will support people to become acquainted with devices before taking the decision to buy any particular item. It also hopes to provide an opportunity to people to imagine further possibilities based on the ideas displayed. With this objective in mind it will in the future undertake research activities in the field of product design based on the principles of universal design.

**9.11 Access to Transport: Aviation:**  In 1998, *Javed Abidi v. Union of India & Ors., allowed for*  bringing barrier free air travel to persons with disabilities. The Supreme Court ordered that the state carrier *Indian Airlines* provide for ambulifts, aisle chairs, implementation of a fee concession to all persons with 80% or above disabilities.

**9.12** A Delhi High Court judgment in September 2006 pursued the Airports Authority of India and private airlines for their refusal to provide services such as ambulifts to persons with disability, it has suggested that AAI and all airline companies using the airport meet and evolve a disability-friendly policy.

**9.13*****Guidelines issued by the Directorate General of Civil Aviation (2008):*** prohibits the denial of right to travel by airway operators, provides for formulation of procedures for the comfortable carriage of the persons with disabilities, provision of signage and extra assistance to be provided by airport operators, free assistive aids such as wheel chairs, Ambu-lifts, stretchers, aisle chairs and facilities such as low floor buses, etc., ensures equal treatment in allocation and seating as non-disabled people. Exception made towards guide-dogs, provision braille brochures and verbal instruction for briefing

**Box No. 9.2 India’s Ratification of CRPD**

Pursuant to India ‘s ratification of the CRPD, government publications have started to be made available in accessible formats. As a start of this initiative the Right to Information Act of 2005 has been made available in Braille. In the consultations on the RPDB the working text has been made available in accessible means and formats of communication.

**9.14 Railways:** The Union Ministry of Railways provides for fee concessions and other such benefits for persons with disabilities. It has also made efforts to enable all ‘A’ and ‘B’ category railway stations to be disabled friendly ramps for barrier free entry, parking lots for vehicles used by persons with disabilities, non-slippery walkway, wheelchairs, signage and a “May I help you” booth are the facilities it intends to universalize.

**9.15** The High Court of Madras, The Disability Legislation Unit, South has filed a Public Interest Litigation against the Metro Transport Corporation Chennai. The case was filed in the year 2005 in High Court of Madras. A series of interim orders have been given by the court, this has resulted in temporary relief, for instance – the assurance by the government that it shall purchase 10 disabled friendly public buses and an order to make all public places accessible. Compliance is seen to be lacking.

**9.16 Accessibility of Information**: Section 30 (c) of PWDA mandates that students with disabilities be provided with such textbooks which they may require keeping in view the nature of their disability. Persons with print disabilities under the existing copyright law need to seek permission from copyright owners to convert material to accessible formats, who could refuse such permission. Even if copyright owners are open to granting such permission, the process has been found to be cumbersome, lengthy and expensive. Consequently, the need for a change has been recognized by the Government and an amendment which provided for exceptions for persons with print disabilities was proposed in 2006. However, on further examination, these amendments were found to be inadequate and a new Amendment Bill has been proposed in 2010 which posits several changes to the Copyright Act some of which are:

* An explicit allowance of parallel importation. This would benefit persons with disabilities as cross-border trade in accessible versions of copyrighted works may be conducted legally.
* An exception is provided under s.52(1)(zb) which states that the conversion of copyrighted material to a format ‘specially designed only for the use of persons suffering from a visual, aural or other disability’ would not be considered a copyright violation.
* Conversion to non ‘special’ formats can be undertaken subsequent to compulsory licensing. Organizations wishing to apply for such licenses need to be registered charities or have to be disability organizations registered under the PWDA.
  1. The Right to Read Campaign was launched in various cities in India. It aimed at accelerating the change in copyright law while simultaneously creating awareness and a support base for the Treaty for the Blind proposed by the World Blind Union at the World Intellectual Property Organisation.
  2. While organisations have, for the greater part, attempted to overcome the copyright barrier through advocacy and the plea for legislative action, they’ve also held several discussions with publishers. This has led to formation of partnerships with numerous publishers so as to make e-copies of text books, fiction and non-fiction books available to the print disabled.

**Web Accessibility**

**9.19** In February 2009 it was announced that all government websites would be made WCAG 2.0 compliant. The IT ministry intends to make accessible 50 government websites which have been identified by persons with disabilities essential for all persons with disabilities. Since then websites, like that of the Office of the Chief Commissioner for Persons with Disabilities[[37]](#footnote-37)and that of National Internet Exchange of India[[38]](#footnote-38) have been made compliant with WCAG v. 2.0. At present, the websites of the following ministries have become accessible to all disabilities.

**9.20** The Government has formulated a draft *National Electronic Accessibility Policy* in close consultation with all stakeholders. The policy has been formulated on the strength of extensive back ground research by non-governmental organizations on electronic and internet accessibility policies existing in other countries around the world. The policy is presently being circulated to different departments and ministries in the Centre and States for their comments. The policy calls for web sites, electronic infrastructure, public information, procurement and research to be accessible to persons with disabilities.

**9.21** World Wide Web Consortium, India (W3C India) has also worked extensively towards sensitizing organizations and web developers, of the need for universal web design, through workshops and have set standards and guidelines (WCAG is a W3C developed set of guidelines) for the development of tools, technologies and web interfaces accessible for persons with disabilities.

**9.22** The National Awards for the Empowerment of persons with disabilities is given every year for various categories, Two new categories have been added in this Best Accessible website Government and Best Accessible Website Public / Private / Autonomous. The Award for 2010 were given to Ministry of Finance and Ali Yavar Jung National Institute of Hearing Handicapped respectively. The Websites are WCAG 2.0 AA compliant.

**Findings**

* Realizing the goal of accessibility is high on the list of priorities of the government.
* At present, barring the compulsion emanating from some court orders the exercise of obtaining accessibility has been largely relying upon voluntary compliance with some financial support from the State.
* Public-private partnership in formulating guidelines, setting standards and undertaking audits is much in evidence.
* The stress of accessibility interventions have been on physical and transport accessibility primarily for persons with physical and sensory disabilities. The accessibility needs of persons with intellectual, developmental and psychosocial disabilities have not been addressed as yet.
* Pro-active advocacy by persons with disabilities and their organizations in courts and other public forums has significantly contributed to raising state and civic awareness on the demands of accessibility

**Future Plan of Action**

* The setting up of targets and timelines to move from policy to law
* The distinction between following accessible norms in the future and rectifying the inaccessible infrastructure of the past to be clearly articulated in law and policy
* A change of policy from Guidelines to Rules with defined sanctions as proposed by the RPDB to be considered.
* The Accessibility Requirements persons with intellectual, developmental and psychosocial disabilities to be foregrounded

**ARTICLE 10 - RIGHT TO LIFE**

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| *States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.* |

**A Constitutional Provisions**

**10.1** Right to life is a fundamental right provided by the Indian Constitution. Article 21 of the Indian Constitution declares that:

*“No person shall be deprived of his life or personal liberty except according to procedure established by law”*

**10.2** Though the Article is worded in negative terms the judicial interpretation has inducted both negative and positive dimensions to this right. Right to life in India is perceived as ‘not restricted to *“mere animal existence”* but imported human dignity into its peripheries. [[39]](#footnote-39)Right to life was interpreted and extended to many rights such as right to live with human dignity[[40]](#footnote-40), right to free and compulsory education[[41]](#footnote-41), right to privacy[[42]](#footnote-42), right to healthy environment[[43]](#footnote-43), right to health[[44]](#footnote-44), right to medical treatment[[45]](#footnote-45). There are not many cases where the Indian Courts have deliberated upon the content of the right to life for persons with disabilities. It may however be assumed that the expanded formulation will also be applicable to persons with disabilities.

**B Right to Life and Pre-Convention Disability Related Laws**

**10.3** The Mental Health Act 1987, the Rehabilitation Council of India (RCI) Act 1992 and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999, The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995have been passed with the objective of the protection and development of persons with disabilities. None of these legislations have an explicit provision which recognizes the right to life of persons with disabilities. However, these legislations provide for the rights to education, health and employment. Thus, they accord recognition to the expanded version of the right to life enunciated by the Supreme Court of India.

**C Adjudication on the Right to Life for Persons with Disabilities**

**10.4** The Courts has however been required to address right to life in its survival manifestations for persons with disabilities. The Bombay High Court decisions on disability linked abortion and the Supreme Court decision on passive euthanasia have a bearing on the right to life of persons with disabilities. The courts did not concern themselves in either case with the question of the value of a disabled life which has informed the induction of Article 10 in the CRPD. However in both the cases the Courts refused to grant permission for the termination of life.

**D Abortion on Grounds of Disability**

**10.5** In this case before the Mumbai High Court, the parents sought permission of the Court for abortion of her 23 weeks[[46]](#footnote-46) old foetus as her doctor diagnosed congenital deformity in the foetus. The Court sought the opinions of doctors on the prognosis of abnormalities. The doctors expressed different opinions and there was no uniform opinion from the committee of doctors appointed by the court for a report. The High Court of Bombay held that “there was no medical evidence to support the contention of abnormalities with the foetus”. The court primarily refused permission because the prescribed statutory period for obtaining an abortion had expired. The verdict generated demands from a section of society for an extension of the prescribed period of abortion which has brought home to the extent of awareness and sensitization work that needs to be undertaken before a disabled life is valued on an equal basis with others.

**E Euthanasia on Grounds of Disability**

**10.6** In Aruna Ramchandra Shanbaug vs Union of India the Supreme Court of India was required to decide whether food and caretaking should continue for a 65 year old nurse who suffered brain damage 37 years ago when her rapist so suffocated her during the act of sexual violation that oxygen supply to her brain was cut off. This woman nurse was completely bedridden and totally dependent for her basic care on the staff of the hospital. Whilst the hospital staff saw value in her life and being, a public spirited journalist who had written a biography on the nurse moved the apex court asking that the food and care being extended to the afflicted nurse should be stopped and she be allowed to die as even so her life was no better than death. The Union of India opposed the petition and contended that such a course of action was neither legally nor morally permissible.

**10.7** In view of the petitioner and the hospital staff taking opposing views on the value of the life of the nurse the Supreme Court of India sought medical assistance in the matter and on the basis of that opinion concluded that whilst the nurse was not dead or in coma she was definitely in a permanently vegetative state. On the question of whether euthanasia could be practiced on such a person the Court ruled out active euthanasia but allowed for passive euthanasia to be practiced provided the persons who were caring for such a person obtained the permission of the court. It would be pertinent to note here that the apex court approached the case as a case of a hapless victim of rape and not as that of a person with disability. Further the court approached the issue of the value of life from a very physiological perspective and decided on whether the petitioner was alive or not on whether her physical parameters were functional or not. If the Court had viewed the petitioner as a person with disability they may have dwelled further on the kind of interventions which could enhance the value of her life. Such an approach would have been taken if the question of the petitioner’s life had been viewed from the CRPD lens.

**FINDINGS**

* The special legislations on disability acknowledged that persons with disabilities are entitled to all those rights which make his or her life full and meaningful.
* The filing of the Nikita Mehta and Aruna Shanbagh petitions demonstrate that a life with disability is socially seen to be of poor value and better not lived.
* In order to challenge, the social stereotype which prompts cases like Nikita and Aruna Shanbagh, the RPDB stresses upon the inherent value of a life with disability.
* The refusal of the courts to provide relief is not actuated by disability rights.

**Future Plan of Action**

* There is need to initiate social and legal discourse around the intrinsic value of a life with disability and to challenge the social prejudices which deny it.

**Article 11 - Situations of Risk and Humanitarian Emergencies**

*States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.*

**A Legal and Institutional Mechanism on Disaster Management in India**

**11.1** The law on disaster management in India is the Disaster Management Act (hereinafter the Act) enacted in 2005. The Government felt the need for a permanent institutional mechanism to deal with disasters natural and man made in the wake of natural disasters such as the Gujarat Earthquake (2001) and the Tsunami (2005) and manmade disasters such as the Bhopal Gas Tragedy (1986).[[47]](#footnote-47) The term disaster has been defined[[48]](#footnote-48) to include mishaps or accidents due to manmade causes besides natural calamities.

**11.2 Institutional Mechanism:** The Act provides for the setting up of the following institutions for disaster management:

**(I) Disaster Management Authorities:** at the National, State and District levels. These are the permanent bodies responsible for disaster management[[49]](#footnote-49) in India. The Disaster Management Authorities at all levels are statutorily required to formulate ‘Disaster Management Plans’ which shall include –

1. measures to be taken for the prevention of disasters or the mitigation of their effects,
2. measures to be taken for the integration of mitigation measures in the development plans
3. measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster
4. roles and responsibilities of different Ministries or Departments of the Government of Indian in respect of measures specified in clauses a, b and c.
5. The State plans are required to map vulnerability of different parts of the State to different forms of disasters.

**11.3**  In addition to the above, the District Disaster Management Authority is required to formulate response plans in event of disasters which address the allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district; prompt response to disaster and relief thereof; procurement of essential resources; establishment of communication links; and the dissemination of information to the public.

**11.4** Further, the NDMA at the national level and the SDMA at the state level is required to lay down guidelines for minimum standards of relief i.e. the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation; the special provisions to be made for widows and orphans; ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood and such other relief as may be necessary.[[50]](#footnote-50)

**11.5 The National Disaster Response Force[[51]](#footnote-51)** has been set up under for the purpose of specialist response to a threatening disaster situation or disaster. Ten battalions of National Disaster Response Force (NDRF) comprising 144 specialized teams trained in various types of natural, man-made and non-natural disasters have been set up. All the battalions are being trained to respond to natural disasters while four of them are being specially trained for handling radiological, nuclear, biological and chemical disasters.[[52]](#footnote-52)

**11.6 National Institute of Disaster Management[[53]](#footnote-53)** has been set up under Section 42 of the Act. The main responsibility of the institute is human resource development through development and implementation of human resource plans, capacity building & training, research, documentation and policy advocacy in the field of disaster management. NIDM works in tandem with the NDMA and Central, State and local governments as well as various other stakeholders to build their capacities towards promoting a culture of prevention and preparedness at all levels.[[54]](#footnote-54)

**11.7 Funding Mechanism:** The Act mandates the setting up of the National Disaster Response Fund (NDRF) and the State Disaster Response Fund (SDRF) at the National and State levels respectively to finance the disaster preparedness and management activities.[[55]](#footnote-55) The Government has constituted the NDRF notified vide Gazette Notification No. 1995 dated 20.09.2010.

**11.8** The Ministry of Home Affairs (MHA) is the body responsible for overseeing the operations of the SDRFs. Every State has been advised by the MHA to constitute its SDRF vide its letter dared 28.09.2010.

**11.9** The **Thirteenth Finance Commission** has recommended allocation of funds to the various SDRFs which have been accepted by the Government of India.

**Table 11.1 State-wise break up of the allocation of funds (in Crores)**

**for the next four years**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| S. No. | States | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 | Total  (In Crores) |
| 1 | Andhra Pradesh | 508.84 | 534.28 | 560.99 | 589.99 | 618.49 | 2811.64 |
| 2 | Arunachal Pradesh | 36.74 | 38.58 | 40.51 | 42.54 | 44.67 | 203.04 |
| 3 | Assam | 263.77 | 276.96 | 290.81 | 305.35 | 320.62 | 1457.51 |
| 4 | Bihar | 334.49 | 351.21 | 368.77 | 387.21 | 406.57 | 1848.25 |
| 5 | Chhattisgarh | 151.32 | 158.89 | 166.83 | 175.17 | 183.93 | 836.14 |
| 6 | Goa | 2.96 | 3.11 | 3.27 | 3.42 | 3.6 | 16.37 |
| 7 | Gujarat | 502.12 | 527.23 | 553.59 | 581.27 | 610.33 | 2774.54 |
| 8 | Haryana | 192.9 | 202.55 | 212.68 | 223.31 | 234.48 | 1065.92 |
| 9 | Himachal Pradesh | 130.76 | 137.3 | 144.17 | 151.38 | 158.95 | 722.56 |
| 10 | Jammu and Kashmir | 172.46 | 181.08 | 190.13 | 199.64 | 209.62 | 952.93 |
| 11 | Jharkhand | 259.45 | 272.42 | 286.04 | 300.34 | 315.36 | 1433.61 |
| 12 | Karnataka | 160.96 | 169.01 | 177.46 | 186.33 | 195.65 | 889.41 |
| 13 | Kerala | 131.08 | 137.63 | 144.51 | 151.74 | 159.33 | 724.29 |
| 14 | Madhya Pradesh | 392.75 | 412.39 | 433.01 | 454.66 | 477.39 | 2170.2 |
| 15 | Maharashtra | 442.69 | 464.82 | 488.06 | 512.46 | 538.08 | 2446.11 |
| 16 | Manipur | 7.22 | 7.58 | 7.96 | 8.36 | 8.78 | 39.9 |
| 17 | Meghalaya | 14.65 | 15.38 | 16.15 | 16.96 | 17 | 80.95 |
| 18 | Mizoram | 8.55 | 8.98 | 9.43 | 9.9 | 10.4 | 47.46 |
| 19 | Nagaland | 4.97 | 5.22 | 5.48 | 5.75 | 6.04 | 27.46 |
| 20 | Orissa | 391.58 | 411.16 | 431.72 | 453.31 | 475.98 | 2163.75 |
| 21 | Punjab | 222.92 | 234.07 | 245.77 | 258.06 | 270.96 | 1231.78 |
| 22 | Rajasthan | 600.66 | 630.69 | 662.22 | 695.33 | 730.1 | 3319 |
| 23 | Sikkim | 22.75 | 23.89 | 25.08 | 26.33 | 27.65 | 125.7 |
| 24 | Tamil Nadu | 293.52 | 308.2 | 323.61 | 339.79 | 356.78 | 1621.9 |
| 25 | Tripura | 19.31 | 20.28 | 21.29 | 22.35 | 23.47 | 106.7 |
| 26 | Uttar Pradesh | 385.39 | 404.66 | 424.89 | 446.13 | 468.44 | 2129.51 |
| 27 | Uttarakhand | 117.66 | 123.54 | 129.72 | 136.21 | 143.02 | 650.15 |
| 28 | West Bengal | 304.83 | 320.07 | 336.07 | 352.87 | 370.51 | 1684.35 |
|  | TOTAL | 6077.3 | 6381.18 | 6700.22 | 7035.22 | 7387.01 | 33580.93 |

**Source:** *Annex 11.1, Thirteenth Finance Commission Report, p. 450, Ministry of Finance, Government of India.*

**B Policies and Schemes on Disaster Management in India**

**11.10** The current approach to policy making is one of disaster preparedness as opposed to that of calamity relief.[[56]](#footnote-56)*Inter alia,* one of the initiatives at the policy level for disaster preparedness has been to provide for a normative framework of relief measures that will be made available in the *event* of disaster. Accordingly, the NDMA has developed National Guidelines on Minimum Standards of different services in disaster relief. In the process, NDMA has consulted various stakeholders including state governments, SDMAs, PRIs, INGOs, NGOs, academic & research institutions, universities, specialists and humanitarian professionals from various sectors to get their feedbacks and recommendations on the draft National Guidelines on Minimum Standards.[[57]](#footnote-57)

**11.11** Identification of vulnerable groups and addressing their special needs features is recognised as one of the important considerations in the guidelines on minimum standards of relief:

*“The groups most frequently at risk in disasters are women, children, widows, orphans, older people, disabled people and people living with HIV/AIDS (PLWH/A). In certain contexts, people may also become vulnerable by reason of ethnic origin, religious or political affiliation, or displacement. The specific concerns and measures for the vulnerable groups along with some other important issues pertaining to gender, protection, social inclusion and environment are cross cutting issues that should be considered at all stages of the food aid response.”[[58]](#footnote-58)*

At the policy level, persons with disabilities find mention in the ‘vulnerable groups’ in the various schemes and plans relating to disaster relief and management. In this respect persons with disabilities are at par with other vulnerable groups.

**11.12 Mainstreaming special needs of persons with disabilities:** The Government has provided for the special needs of persons with disabilities in its Guidelines on Minimum Standards of Relief. Further, the Government has also partnered with other institutions to understand and consequently include the special needs of persons with disabilities. For instance, the Ministry of Home Affairs, Government of India in partnership with UNDP has formulated a toolkit to promote an understanding of the needs of persons with disabilities and thereby assist the exercise of mainstreaming ‘disability’ in disaster management.

**11.13 Mainstreaming in Preparedness Measures:** The Disaster Preparedness Plan for People with Disabilities has been operationalised. It involves data collection of accurate data on location of disabled people in towns and villages at risk of (natural) disasters and incorporating them into plans.[[59]](#footnote-59)

**Box 11.1 “Integrating Disability in Community based Disaster risk Reduction and Response”.**

In the cyclone-struck State of Orissa, to reduce vulnerability and strengthen capacities of multi-hazard prone communities by engaging people in inclusive communities with special focus on Persons with disabilities throughout the entire cycle of disaster risk management, the Orissa SDMA implemented a project titled “Integrating disability in community based disaster risk reduction and response”. The project addresses the key issues and challenges faced by the persons with disabilities. The project covers 8 cyclone shelters (6 shelters of OSDMA and 2 shelters of Red Cross) in the districts of Balasore, Kendrapada and Jagatsinghpur. The duration of the Project is 15 months w.e.f 1st July,2009.

**11.14** Since persons with disabilities are most at risk when separated from their families since they are dependent to a large extent on the support they receive from their families, identification of family or neighbors of persons with Disabilities shall be undertaken so that they can be provided space in the same shelter.[[60]](#footnote-60)

**11.15** Under the Disaster Preparedness Training for People with Disabilities programme, members of ‘disaster task forces’ (DTF) in villages are being trained on how to help disabled people during natural calamities, as well as equipping persons with disabilities themselves with the skills to cope with such adverse incidents, such as how to reach a place of safety until rescue teams arrive.[[61]](#footnote-61)

**11.16** Training in accessible format viz. Braille, special computer software, audio versions, large print and use of sign language interpreters and production and use of communication tools through a booklet highlighting the specific needs of the types of disabilities to be used as a training and reference manual for disaster/relief personnel is planned to be undertaken.[[62]](#footnote-62)

**11.17** **Mainstreaming in Relief Measures:** Specific instances of mainstreaming the needs of persons with disabilities in the normative framework of relief measures formulated are enumerated hereunder various heads of relief measures:

**Table 11.2 Relief Measures**

|  |  |  |
| --- | --- | --- |
| ***Districts*** | ***Block*** | ***Shelter*** |
| Balasore | Balasore, Sadar | Talbarei  Kalasimuli |
|  | Baliapal | Jamburai |
| Jagatsinghpur | Balikuda | Tarasahi  Ichhapur |
| Kendrapada | Maha Kalpada | Khursiapat |

**11.18 Food:** It has been noted that persons with disabilities and neurological illnesses face difficulties in chewing and swallowing leading to reduced food intake and choking; inappropriate position/posture when feeding; reduced mobility affecting food access and access to sunlight (affecting vitamin D status); individuals with disabilities may be at particular risk of being separated from family members and usual care givers in a disaster. The Draft Minimum Guidelines on Food Relief recognises the need to determine and reduce these risks by ensuring physical access to food- including the relief food; developing mechanisms for feeding support (e.g. provision of spoons and straws); developing systems for home visiting or outreach; access to energy-dense foods.

**11.19** During the Tsunami relief efforts, it was noticed that food was distributed on a first-in-line basis which makes it difficult for vulnerable groups to access food while competing with other persons.[[63]](#footnote-63) As a result, separate distribution points for the persons with disabilities have been provided for.

**11.20 Sanitation:** It has been noted that the toilets in relief camps constructed after the Tsunami in Tamil Nadu was reported to be located very far from the shelters making it difficult for persons with disabilities to use them.[[64]](#footnote-64) The Draft Minimum Guidelines on Sanitation formulated thereafter take note of the fact that persons with disabilities have special needs and the toilets constructed in relief camps need to be designed for usage by persons with disabilities along with other categories of persons with special needs viz. women, children and persons of old age. [[65]](#footnote-65)

**11.21** Further, it has been provided that toilet floors in the relief camps shall have non-slip surface without any level difference; that a light weight PVC door shutter should be provided as a sliding door[[66]](#footnote-66) and guiding block near the entry of the toilets shall have a textural difference e.g. Diamond Tiles, Prima Regina Tiles, Undressed Granite.

**11.22 Access:** In order to ensure access to amenities at relief camps for persons with disabilities, training of professional local builders and architects in Universal Design[[67]](#footnote-67) norms shall be undertaken. Other measures to make the relief camps disability-friendly include fencing of the shelter compound or areas that are unsafe (open manholes, piles of rubble, etc) and ensuring sufficient lighting, in shelter areas/camps, so obstacles can be easily seen by those with low vision; installation of handrails for stairs, and ramps for buildings.[[68]](#footnote-68)

**11.23 Mainstreaming in Rehabilitation Measures:** Recognising that disability is a consequence of disaster, provisions for physiotherapy to improve the ability of a person with physical impairment to move (exercise, positioning, strengthening, etc) and occupational therapy/ADL to help a Person with Disability learn new ways to complete daily activities (dressing, eating, using implements etc.) are in place. Identification of vocational training skills and provision of training through VRCHs or DPOs is also being undertaken. [[69]](#footnote-69)

Further, the following measures have been conceived in this regard[[70]](#footnote-70):

Organizing screening, fitment and distribution camps and training of relief workers to assist with repairs of assistive devices and determining the need of assistive devices is being undertaken.[[71]](#footnote-71)

**11.24 Psycho-Social Support:** The Guidelines on Psycho-social support and Mental Health Services in Disasters were put in place in 2009 by the NDMA containing comprehensive interventions aimed at addressing the psychosocial problems that arise in the aftermath of a disaster. The interventions are aimed to cover all three levels – disaster preparedness, management and rehabilitation. The interventions for psychosocial support are proposed to be integrated with the National Mental Health Programme under the supervision of the Ministry of Health and Family Welfare. The primary responsibility of providing these support services has been entrusted to the state governments who are required to integrate the same within the Disaster Management Plans. The identification of persons with pre-disaster mental illness and persons with disabilities has been given importance. Such persons shall be referred to and followed up through secondary and tertiary health service sector.[[72]](#footnote-72)

**Box 11.2 Initiation of Survey in Jammu & Kashmir**

Jammu and Kashmir has initiated a door to door survey to ascertain the exact number of persons with disabilities for welfare schemes. 783 persons were rendered disabled due to militancy related incidents and have been registered and are provided monthly pension of Rs.750/-.

**11.25 Mainstreaming needs of Women and Children with Disability:** Special needs of women and children with disabilities have been addressed. Education and training of health service personnel in provision of sensitive services and of the needs of girls and women with disabilities is one of the initiatives.[[73]](#footnote-73)

For children with disabilities facilitation of special educators for and inclusion of topics related to disaster management (search and rescue, first aid etc.) in special schools is being undertaken.

**C Policy Implementation Strategy – Operationalizing the Norm**

**11.26** The apex body for policy, plans and guidelines formulation in disaster management is the National Disaster Management Authority set up under the Act. However, the implementation of the same is to be carried out through a network if coordinated efforts between the Disaster Management Authorities at the State, District and Sub District levels on one hand and the other Ministries or Departments of the Government of India. To address gaps in the efficient and efficient functioning of Disaster Management Stakeholders mentioned hereinabove during and after disasters, the Guidelines on Role of NGOs in Disaster Management have been formulated in 2010 which provide an institutional framework for NGOs to contribute to the process of operationlising the plans and policies on disaster management.

**11.27 The PPP Model of Implementation:** Efforts to facilitate a Public-Private Partnership as the modality of involving NGOs in implementation of disaster management plans and policies includes institutionalization of the NGO Task Force on Disaster Management as a permanent mechanism to regularly review the performance of partnership efforts at the state and district levels. This task force shall liaise with the NDMA and the SDMAs for effective coordination to address emerging requirements.

**11.28** NGOs and such other organisations for participation in the coordination mechanisms of Disaster Management Plans and Policies shall be shortlisted by the NDMA, SDMAs and the DDMAs based on proven track record and past work in the field of disaster management.

**11.29** The NDMA shall establish suitable entry points for such selected NGOs via the Task Force to provide their inputs at the planning and policy formulation level.

**11.30** At the State level, the functions of the Task Force shall be taken up by the Inter Agency Groups of NGOs or a State level Task Force. This Agency is required to facilitate the functioning of the SDMA and the SDMA will designate an officer to the Inter Agency Group for Disaster Management from the concerned Department. Similar mechanism shall be in place at the District level as well. One of the reasons for involving NGOs in implementation of disaster management plans and policies is also due to the fact that such organisations are capable of specialised approach to risk and vulnerability. Addressing the needs of vulnerable groups and cross cutting issues is one of the key areas in which the service and expertise of NGOs is sought to be utilised.

**11.31** The scheme laid down in the Guidelines requires NGOs to carry out risk-mapping with special emphasis on the needs of persons with disabilities with a resource inventory taking into consideration three areas of disability: physical, sensory (hearing, speech, vision) and mental or intellectual.[[74]](#footnote-74)

**11.32** Further when resource mapping is carried out, resources specific to persons with disabilities are to be identified. These may include accessibility dimension:

* + Disabled-friendly drinking water and sanitation sources,
  + accessible disabled-friendly shelters,
  + volunteers to provide physical and psychological support,
  + rehabilitation centres, emergency healthcare and hospital services for injured persons, special schools or schools that include children with disabilities, etc.

**11.33** The guidelines also address the need to have ‘Disabled-Friendly Relief Camp’[[75]](#footnote-75): The guidelines require all locations including existing social institutions such as schools, large halls, community multi-purpose centres or stadia that may be used as shelter sites, to be made accessible to all community members using the universal standard design of accessibility (such as building ramps, installing handrails, modifying water and sanitation sources) so as to ensure that the sites will be accessible to all. Persons with disabilities should be included in this participatory consultative process to ensure that their needs are adequately addressed. It has to be seen that in community-based and managed shelters or camps, disaster-affected individuals (including persons with disabilities) feel more comfortable and take ownership in decision-making and civic governance Disabled-friendly Construction.

**11.34** During rehabilitation and reconstruction phases, the guidelines require NGOs to assess whether houses, toilets and water sources are easily accessible to persons with disabilities. Basic design standards for designing and planning buildings and utilities for persons with disabilities, as per prevailing persons with disabilities friendly design, the best international standards of other countries should be referred. In existing individual or public buildings,

* + Awareness and sensitisation and training of end users including house owners, families, students, teachers, decision makers and users of buildings and facilities needs to be carried out, prompting them to take local action to reduce risk.
  + Mitigation actions should also link relief, rehabilitation and development.

**Non Governmental Initiatives**

**11.35 Role of BPA and Spandan in the Gujarat Earth quake relief Activities**

Post earthquake in Gujarat there was a need for long term intervention in terms of fitting of assistive devices, artificial limbs, psychological reinforcement, counselling, vocational orientation, vocational training and rehabilitation.  NGOs provided the follow up services to all the persons who have been provided artificial limbs and other assistive devices by other organizations as well.

***Following Interventions were provided:***

1. Fitting of prosthetic devices and rehabilitation aids:
2. Physiotherapy Services:
3. Psychotherapy and Counselling Unit:
4. Vocational Training and Rehabilitation Unit
5. **Micro Credit:** The project with the support of the National Handicapped Finance & Development Corporation, Faridabad, a venture of the Ministry of Social Justice & Empowerment provided micro credit to earthquake-affected persons with disabilities. This scheme enabled the target group to avail micro credit at reasonable and affordable rate of interest.
6. **Community Based Rehabilitation:**Services of rehabilitation were provided at the homes of the target group with the involvement of the community.
7. **Other Activities:**Apart from these activities, the envisaged project also provided other individual need based services as listed below:
   * Pension under Department of Social Justice & Empowerment
   * Special monthly pension of Rs. 2000 per person to those having spinal injuries
   * Scholarship for children with disabilities
   * Travel concessions for persons with disabilities
   * Maintenance allowance for persons with disabilities
   * Special financial support to persons with spinal injuries
   * Any other support to earthquake affected people under different schemes of Govt. of India, State Govt. or other developmental organizations.

**Outcome**:

**11.36** After BPA/SPANDAN started working the area, it was realized that the target group would require most of these services on a continuing basis for a very long time. For example, any person who has been provided artificial limbs would require consistent follow-up services and repair and maintenance of these devices.  Similarly any person with spinal injury may require long term care treatment and support services including short-term hospitalization.  Thus to begin with, the top priority of the project was to provide appropriate assistive devices, physiotherapy and counselling services.  To begin with, the priority of the project was to provide health intervention to people with spinal injuries and repair and replacement of artificial limbs.

**11.37** **SARISTA Foundation** has provided an opportunities to persons with disabilities since its inception on 5th of June, 2000.  The foundation has the distinction of a placing disaster risks reduction practice and preparedness for persons with disabilities in India.   The Foundation has prepared and built capacity amongst 7250 persons with disabilities by organizing as many as 82 workshops and preparedness modules in disaster prone states of India.  The workshops have included all persons with disabilities irrespective of impairment.  Trainings have been provided to the persons with physical, intellectual, mental, sensory and developmental disabilities.  The foundation has set up public private partnerships in order to include persons with disabilities in policy formulation, decision making and implementation to realize their right of safety and security to life.

**Objectives of the Foundation are:**

1. To develop rapport with persons with disabilities in order to change the mind set of helplessness and powerlessness.
2. To build capacity through motivation, information, interaction and participation
3. To impart practical training
4. To make provision for appropriate means and methods of communication
5. To develop a culture of individual safety by making individual persons with disabilities to believe in themselves
6. To sensitize administrators and to seek cooperation from families

**Methodologies followed:**

1. To meet persons with disabilities at their door step with a team of experts in villages, towns and cities of disaster prone states in order to prepare them to mitigate the risk of disaster.
2. To seek support of school administrations, institutions and the community for identifying the varied needs of persons with disabilities and to make capacity building and preparation plans accordingly.
3. To provide tool kits on the dos and don’ts in disaster situations
4. To encourage buddy system for the practice of drills
5. To promote group competition through simulated activities

**Capacity Building of Disaster Risk Reduction Actors in Mainstreaming Disability Issues in India”[[76]](#footnote-76)**

**11.38** In 2008, a programme known as “Capacity Building of Disaster Risk Reduction Actors in Mainstreaming Disability Issues in India” was launched by Handicap International in collaboration with International Federation of Red Cross and Red Crescent Societies funded by European Commission Directorate General for Humanitarian Aid (ECHO) While noting that Persons with disabilities are particularly vulnerable during disasters due to their specific needs and account for a very significant percentage of persons injured or killed in disasters, the programme highlights the need to address the special needs of persons with disabilities Disaster Risk Initiatives. The overall objective of this project is to reduce the vulnerability of persons with disabilities from natural disaster by improving their opportunities to participate in DRR initiatives against flood, earthquake and cyclone hazards in India.

**11.39** The specific objective is to build the capacity of other stakeholders active in DRR, by enhancing their knowledge and improving their skills on mainstreaming disability issues in DRR projects, and to regionally disseminate the lessons learnt.

**11.40** The target group is several stakeholders working in the field of DRR/Disaster Management all over India so they are in a position to mainstream disability in their programmes, policies, strategies and training curricula. It concerns a total of 4,108 The target group is several stakeholders working in the field of DRR/Disaster Management all over India so they are in a position to mainstream disability in their programmes, policies, strategies and training curricula. It concerns a total of 4,108 individuals, including staff from Disabled People.

**11.41** Disabled People Organizations (DPOs), Non Governmental Organizations and International Non Governmental Organizations (NGOs and INGOs), International Organizations, Government bodies and institutions are expected to directly benefit from the project.

* Moreover, 40 selected persons with disabilities will receive adequate rehabilitation services to be able to fully participate in the DRR activities of two selected organizations.

**D Relief and Rehabilitation Measures**

**11.42 The after math of Bhopal Gas Tragedy, 1984:** In the aftermath of the gas disaster, the Office of the Welfare Commissioner, Bhopal Gas Victims, Bhopal was established under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 with an object to adjudicate the claims and disburse the compensation to the victims of the disaster.

**11.43** Claims were processed upon the submission of a ‘Claim Form’ filled by the victims at the Office of the Welfare Commissioner. A total of almost 1029516 claim forms were submitted.

**Table 11.3 Compensation awarded category-wise (Figures relating to persons with disabilities have been emphasised):**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *Category* | *No. of cases registered* | *Decided* | *No. of awarded cases* | *Total Amount awarded (Rs. in Crores)* | *Total Amount Disbursed (Rs. in crores)* |
| ‘01’ Personal Injury |  |  |  |  |  |
| Minor Injuries | 964773 | 964773 | 521333 | 1310.79 | 1310.14 |
| **Permanent Disablement** | **3210** | **3210** | **3199** | **15.48** | **17.42** |
| **Temporary Disability** | **33691** | **33691** | **33672** | **130.89** | **130.31** |
| Utmost Severity Case | 49 | 49 | 42 | 0.41 | 0.36 |
| ‘02’ Loss of Livestock | 658 | 658 | 233 | 0.11 | 0.07 |
| ‘03’ Loss of Property | 4902 | 4902 | 547 | 0.14 | 0.13 |
| ‘04’ Death | 22150 | 22150 | 5295 | 54.64 | 88.85 |
| Minor injuries | 6561 | 17.74 |
| **Permanent Disablement** | **1703** | **9.73** |
| **Temporary Disability** | **1783** | **6.75** |
| Utmost Severity Case | 0 | 0 |
| ‘05’ PSUs | 84 | 84 | 08 | 1.87 | 1.87 |
| Total | 1029517 | 1029517 | 574376 | 1548.55 | 1549.15 |

***Source:*** *Ankur Shrivastava, Category wise Analysis of Awarded Cases related to compensation to the Bhopal Gas Victims[[77]](#footnote-77)*

**11.44** Of the total compensation disbursed, Rs. 164.21 crores has been disbursed to satisfy claims by persons with disabilities permanent or temporary. Recently in 2010, the Government announced a new rehabilitation package for the victims of the disaster whereby Rs. 5 lakh each shall be given to victims of the disaster who have become persons with permanent disability and Rs. 1 – 3 lakh each to persons with temporary disabilities.[[78]](#footnote-78)

**11.45 Gujarat Earthquake, 2001:** In the aftermath of the Gujarat Earthquake in 2001, the Gujarat Government set up permanent centre knows as “Kutch Comprehensive Centre for the Rehabilitation of Persons with Disabilities” Under this:

* The State Govt. provided the land admeasuring one acre completely free of cost.
* Handicap International provided technical support for 3 years and all the recurring expenses for 2 years.
* Die Johanniter provided complete funding for the construction of building of the centre at the cost of Rs. 1.5 crores.
* The Give India raised Rs. 45,00,000 for the centre.
* The European Commission provided an endowment of Rs. 1 crore for the meeting recurring expenses of the center on permanent basis
* Corporate world and individual donors provided support for meeting all initial expenses

**11.46** This centre is capable of provided relief and support to persons with injuries, persons acquiring disabilities and those needing psychological counselling and psychiatric intervention in Western part of India.

**11.47 Tsunami, 2005:** In the aftermath of the 2005 Tsunami, the government of Tamil Nadu announced a payment of Rs. 5000 for individuals who have sustained injuries which in some cases resulted in disability; Rs. 25000 for those who have lost their limbs or eyesight.[[79]](#footnote-79)

**11.48** The Tsunami 2005 saw a considerable rise in the population of persons with disabilities wherein at least 153 new cases of disability usually orthopedic resulted in a survey of just 4 districts of Tamil Nadu without taking into account many other possible cases in other parts of Tamil Nadu and the Andaman and Nicobar Islands. The Total number of persons with disabilities before the Tsunami were about 2645 on a survey of around 9 districts of Tamil Nadu. Mental Disability was also found to be one of the major outcomes of the calamity.[[80]](#footnote-80)

**11.49** The efforts of the government to supply assistive devices were supplemented by grants from international organisations and assistance from NGOs. The government of Tamil Nadu used a Rs. 22,25,000 grant from a German collaboration company from Bangalore (SCHUNK) to distribute assistive devices to 750 persons with disabilities.

**Table 11.4 Representing the extent of distribution of assistive**

**devices in Tamil Nadu**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| ***Name of the District*** | ***Tricycle*** | ***Wheelchair*** | ***Crutches*** | ***Calipers*** | ***Artificial Limbs*** | ***Hearing Aids*** | ***Solar Charger and Batteries*** | ***Braille Watch and Stick*** | ***Total*** |
| Tirnulveli | 12 | 05 | 10 |  |  | 10 |  | 03 | 40 |
| Cuddalore | 140 | 85 | 439 | 484 | 397 | 162 | 162 | 15 | 1884 |
| Nagapattinam | 60 | 60 | 120 |  |  | 60 | 60 |  | 360 |
| Kancheepuram | 01 | 02 |  |  |  |  |  |  | 03 |
| Chennai | 25 | 06 |  |  |  |  |  |  | 31 |
| Tiruvalluvar | 14 | 02 |  |  |  |  |  |  | 16 |
| Villipuram | 10 | 01 |  |  |  |  |  |  | 11 |
| Tuticorin |  |  |  |  |  |  |  |  |  |
| Kanyakumari |  |  |  |  |  |  |  |  |  |
| Total | **242** | **161** | **569** | **484** | **397** | **232** | **222** | **18** | **2345** |

***Source:*** *International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, (2005).*

**Table 11.5 Details of Assistive Devices Distributed in**

**Andaman and Nicobar Islands**

|  |  |
| --- | --- |
| **Assistive Device** | **Total** |
| Orthosis Measurement Taken | 46 |
| Orthosis fitted on the Spot | 21 |
| Prosthesis Measurement Taken | 13 |
| Prosthesis Fitted on the spot | 17 |
| Tricycles | 2 |
| Wheel Chairs | 12 |
| Crutch/Blind Stick | 67 |
| Hearing Aids | 117 |

**Source:** International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, (2005).

**FINDINGS**

* The policies and programmes put in place to address and include the special needs of persons with disabilities in the context of disaster management are in consonance with the ‘Disability Checklist for Emergency Response’ formulated by Handicap International, a set of general guidelines to facilitate inclusion of persons with disability in disaster management mechanisms.[[81]](#footnote-81)
* Mock Drills as a measure of disaster preparedness has been adopted. Drills especially in schools have been conducted.[[82]](#footnote-82) However, the available documentation on such exercises does not mention any instance of inclusion of persons with disabilities.
* The draft guide lines on the minimum standards of medical relief do not address the specific needs of persons with disabilities.
* In the aftermath of the Tsunami, it has been noted that persons with disabilities did receive adequate medical care from trained professionals at the relief camps and the Ministry of Social Justice and Empowerment also sought to put in place specific programmes for persons who acquired disability as a result of the Tsunami.[[83]](#footnote-83)
* It has come to the notice of the Government that during the 2005 Tsunami, there have been instances of discrimination between persons with disabilities in that the compensation payable to persons with spinal injuries was Rs. 5000 whereas for persons who had lost their limbs or eyesight it was Rs. 25000. Further, that persons with physical disability were given higher priority over persons with mental disability in terms of special benefits or compensation.[[84]](#footnote-84)

**Future Plan of Action**

* The draft guidelines shall be amended to provide for medical care for persons with disabilities. This is required because lack of adequate health care can aggravate disability or result in temporary disability becoming permanent. Early identification and care can limit the extent of disability arising from injuries following disasters.
* The participation of persons with disabilities in mock drills shall be documented in order to ensure that such participation in fact takes place.
* The replacement period prescribed for assistive devices shall be suitably modified to provide for disaster situations.
* Equitable relief and compensation norms shall be prepared across disabilities.
* Disability specific data on government expenditure shall be maintained in order to monitor the inclusion of persons with disabilities in disaster management.

**ARTICLE 12 - EQUAL RECOGNITION BEFORE THE LAW**

|  |
| --- |
| *1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.*  *2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.*  *3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.*  *4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person’s circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person’s rights and interests.*  *5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.* |

**12.1 Equal Recognition as Persons before the Law:** Article 14 of the Indian Constitution provides that “the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India” This obligation of equality has been interpreted to require that similarly situated persons should be similarly treated. Consequently whilst reasonable classification is permitted there is a prohibition of class legislation. Reasonable classification means that a group of people may be treated differently provided the criteria that are selected are rationally related to the object that is being achieved by such legislation. This permission of reasonable classification has not come into play whilst determining the legal personhood of persons with disabilities. Thus Indian law recognizes persons with disabilities as subjects of rights and persons before the law. The option of reasonable classification has been employed in order to determine the legal capacity of persons with disabilities.

**12.2 Extant law on legal Capacity:** Legislative Classification on the basis of disability was not perceived as discriminatory by the Indian Constitution. It was believed that the legal capacity of persons with disabilities especially persons with intellectual and psychosocial disabilities needed to be addressed in a manner distinct from other persons and provision to that effect has been made in a number of pre-CRPD laws. Even as the status and outcome test have also been used to construct the legal capacity provision in a few cases; Indian laws have primarily drawn upon the functional test. Even as there are some instances of the functional test being employed on other vulnerable groups such as women living a veiled life; it has to be compulsorily used to evaluate the legal capacity of persons with disabilities. As already stated the functional test of capacity is more commonly administered on persons with intellectual and psychosocial disabilities. The functioning of persons with other disabilities has not been globally questioned but limited to a few domain specific laws. Thus for example the testifying capacity of persons with speech and hearing impairment has been questioned in proceedings in the Code of Criminal Procedure; whilst the banking regulations(before amendment) questioned the capacity of persons with visual impairment to undertake their own banking transactions.

**12.3** India has two legislations which address the question of guardianship or substituted decision making for persons with disabilities. These two legislations are the Mental Health Act of 1987 and the National Trust Act of 1999. The Mental Health Act allows for the appointment of a guardian of person and a manager of property once it is determined that a person is living with mental illness and is unable to manage self or property by reason of the condition. It is not necessary that substituted arrangements must necessarily be put in place for both person and property. If a person is able to manage self then only an arrangement to manage property may be put in place. However, once the need for such substituted arrangement is established and a guardian or manager appointed, then all decisions in relation to the person or property of the declared incompetent person can only be taken by the substituted management. The orders of substitution are made by a judicial authority and are subject to appeal before a Superior Court. The Mental Health Act provides a list of actions which cannot be done by the substituted manager without the permission of the Court. A similar list of prohibited actions has not been provided for the guardian. Instead the statute allows institutional care and treatment to be obtained by any relative of a person living with mental illness provided the person refuses or is unable to consent to such treatment and the illness causes the person to be a danger to self or others. The guardian can also consent to the enrolment of the person with mental illness in a research investigation whether or not of direct benefit to the person living with mental illness.

**12.4** The above guardianship model was constructed in acceptance of the fact that mental illness could affect the competence of an individual to make self care and property management decisions. For similar reasons, the statute puts in place surrogate management arrangements for care and treatment decisions. Both the legislations and judicial decisions allow such arrangements to be made only for persons living with mental illness. Consequently, the existence or non-existence of mental illness is of vital import once that condition is established the absence of judgment, the absence of capacity to make decisions has been more easily presumed. The CRPD conformity of this model is being actively considered as part of the law reform exercises undertaken post ratification in the country.

**12.5** The Mental Health Act put in place a highly formal plenary system of guardianship. In comparison, the National Trust Act contemplated that persons with intellectual, developmental and multiple disabilities could operate without a guardian or with guardians that may be appointed only for those purposes for which the person with disability may require support. The National Trust Act also had a more facilitative mode of appointing guardians. The appointment of guardians was not undertaken through Courts but through local level committees consisting of the District Magistrate; representative from a registered disability organizations; and a person with disability. In practice however the limited system of guardianship has not taken off and guardians have been routinely appointed for all persons with disabilities covered by the statute. This could be because of the stereotype which subsists against persons with disabilities or because the decision-making needed more training to understand the concept of limited guardianship. Be that as it may this non-utilization shows that a legislative provision was insufficient to render a limited system of guardianship operational.

**12.6** Other than these global arrangements of guardianship, Indian law has also made arrangement in particular contexts. Thus Order XXXII rule 15 of the Code of Civil Procedure also made provision for the appointment of a guardian in litigation for a person who is unable to represent his own cause due to mental infirmity or unsoundness of mind. The procedure for appointing this guardian can be initiated by the plaintiff or the defendant.

**Reforming Existing Legislations**

**12.7** Article 12 of the CRPD had a contentious journey in the Ad-hoc Committee. The conflict primarily arose around the universal extent of legal capacity. Would the recognition of legal capacity only be recognition that all persons with disabilities could be bearers of rights? Or did the recognition also extend to the legal capacity to act? These questions were primarily raised in the context of persons with intellectual and psychosocial disabilities as also for persons in coma. The other contentious question in Article 12 has revolved around the issue of support. Does the recognition of support oust the procedures of substitution? Has Article 12 rendered the institution of guardianship illegal? Or is guardianship permissible provided a higher standard of fair procedure is observed?

**12.8** In implementing the mandate of Article 12, India has acknowledged that the CRPD makes a paradigm shift on the question of legal capacity of persons with disabilities. This shift is primarily made by recognizing the full legal capacity of all persons with disabilities. In order to enable all persons with disabilities to exercise this capacity, it would be necessary to make provision for support. Insofar as the denial of legal capacity for persons with intellectual, developmental and psychosocial disabilities has been sanctioned by the law, it would be necessary to repeal such disqualifying provisions and replace them with enactments which recognize legal capacity. The law would also need to facilitate the provision of support and most importantly provide that the accessing of support in no way negates the presence of legal capacity. The legislation would also need to lay down guidelines in accordance with which support has to be provided as also to incorporate safeguards for preventing abuse.

**12.9** The process to amend the National Trust Act has been amongst the earliest initiatives to induct the CRPD legal capacity paradigm in the law of the country. The proposed amendment recognized the legal capacity of all persons with disabilities; declared all legislations denying such capacity to be void. It also proposed an elaborate process to provide and seek support and safeguards to prevent abuse. In the consultations surrounding the proposed amendments, there was a sharp divide between Parents organizations and individual persons with disabilities. Whilst the latter welcomed the change, the former had misgivings. The apprehensions of the parents came on two counts, one kind emanated from the nature of impairment and the other surrounded the efficacy and safety of support arrangements.

**12.10** Subsequent to the initiation of the National Trust reform process, the issue of legal capacity had to be addressed by the Committee which had to draft the New Disability Rights Law. The Rights of Persons with Disabilities Bill submitted by the Committee has recognized the legal capacity of all persons with disabilities in all areas of life. There are provisions in the new law whereby: all existing laws which deny the legal capacity of persons with disabilities are overridden and rendered unenforceable; plenary guardianship is replaced with limited guardianship and limited guardians are to act in close consultation with persons with disabilities to arrive at legally binding decisions. The proposed Bill acknowledges the state’s duty to provide support and puts in place a redress mechanism to address situations of denial of legal capacity.

**12.11** The Rights of Persons with Disabilities Bill proposed the creation of suitable support measures for the exercise of legal capacity of persons with disabilities living in institutions and in need of high support. The current draft amendment of the National Trust Act has elaborated upon the nature of this duty; the authorities that need to perform the act; and the mechanisms through which the obligation shall be realized. This Draft Amendment is at present being considered by the concerned stakeholders.

**12.12** The other development which had a bearing on legal capacity and support has been the reform process to replace the Mental Health Act of 1987. Here guardianship is being viewed in facilitative terms that is personal representative who will assist a person with mental illness to obtain support. The MHA reform activity has been happening under the auspices of the Ministry of Health. Whilst mental health professionals and care givers organizations largely endorse the effort; the response of persons with psychosocial disabilities is mixed with some totally rejecting the proposals and others seeing possibilities of negotiation within them.

**Box 12.1 Legal Capacity with Support**

Parivaar has launched a pilot project in five regions of the country: Dehradun, Bangalore, Hyderabad, Bhubaneshwar and Bhilai to acquire learning which would inform how the paradigm of legal capacity with support should function. *The Project shall*

* Create a community level system that enables people with intellectual disabilities to make personal life decisions and maintain their full legal capacity with the support of families friends and professionals;
* Develop human resource and leadership capacities for implementing supported decision-making by developing a training strategy on the CRPD;
* Raise Awareness among Parivaar leadership, the National Trust, Local Level Committees and the general public.

**12.13** The above narrative shows how different perspectives on legal capacity are at present occupying space in the domain of proposed law. Whilst some of these perspectives are in harmony, others are at odds with each other. The process of law making in a democratic polity has necessarily to balance between competing interests. The various committees are presently trying to reach consensus amongst them.

**Duty to Provide Support**

**12.14** The country at present has no structured system of providing support to persons with disabilities. There are some initiatives at governmental and non governmental level but these are primarily either local efforts or pilot initiatives. It is expected that the amendments to the National Trust Act may provide an institutional grounding to the duty to provide support notably for persons with high support needs.

**12.15** **Access to bank loans, financial credits**: The above narrative primarily elaborated upon the legal reform process on legal capacity which is still at the stage of consultation either between government agencies or between state and civil society. In prefatory paragraphs the discrimination encountered by persons with disabilities especially persons with visual impairment was noted. It is hereby reported that these discriminatory provisions have been remedied by a Circular of the Reserve Bank of India[[85]](#footnote-85) which states “banks have to therefore ensure that all the banking facilities such as cheque book facility, including third party cheques, ATM facility, Net Banking facility, locker facility, retail loans, credit cards etc are invariably offered to the visually challenged without any discrimination”**.** The ICICI Bank which is amongst the leading private banks in the country states that in no way discriminates between customers with or without disabilities whilst sanctioning loans[[86]](#footnote-86).

**FINDINGS**

* The regime on the legal capacity of persons with disabilities is not in accord with CRPD and needs to change.
* Varied opinions subsist in the country on the nature and extent of such change
* To acquire learning on how legal capacity with support will operate on the ground research projects have been initiated.

**Future Plan of Action**

* To reach a coherent and consistent understanding of legal capacity across legislations
* Whilst taking into account the ground realities in the country fulfil the mandate of the CRPD.

**Article 13 - Access to Justice**

|  |
| --- |
| *1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*  *2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.* |

**A Constitutional Guarantees on Access to Justice**

**13.1** The founders of the Constitution of India were informed by the philosophy that there was no right without a remedy. In order to ensure that the Bill of Rights in the Constitution did not remain an empty promise they made the right to move the courts upon infringement of a fundamental right itself a Fundamental Right under Article 32 of the Constitution. The right to obtain legal representation was guaranteed under Article 22 of the Constitution.

**13.2** Insofar as the right to legal representation may have little meaning for a number of persons without financial support. Article 39A of the Constitution of India mandates that the State shall secure the operation of the legal system promotes justice on the basis of equal opportunity and shall in particular provide free legal aid by suitable legislation or schemes or in any other way to ensure the opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. And in one more example of convergence between fundamental rights and directive principles the Supreme Court of India in. In *Suk Das v. Union Territory of Arunachal Pradesh***[[87]](#footnote-87)**  stated that it is settled law that free legal assistance at State cost is a fundamental right of a person accused of an offence which may involve jeopardy to his life or personal liberty and this fundamental right is implicit in the requirement of reasonable, fair and just procedure prescribed by Article 21. In *M.H. Hoskot v. State of Maharashtra*[[88]](#footnote-88) , the Supreme Court declared that if a prisoner sentenced to imprisonment is virtually unable to exercise his constitutional and statutory right of appeal inclusive of special leave to appeal (to the Supreme Court) for want of legal assistance, there is implicit in the Court the power to assign counsel for such imprisoned individual ‘for doing complete justice.

**B Statutory Rights to Legal Aid**

**13.3** In furtherance of this constitutional commitment the Legal Services Authority Act of 1986 was enacted. Section 12 (d) of this Act provides entitles free legal aid to persons with disabilities and persons with mental illness. Section 91 of the Mental Health Act of 1987 makes provision for a right to legal representation and legal aid for persons with mental illness in proceedings under the Act Section 91 of the Mental Health Act of 1987 makes provision for a right to legal representation and legal aid for persons with mental illness in proceedings under the Act

**Legal Aid Scheme of NALSA**

**13.4** In 2010 the National Legal Services Authority through the National Legal Services Authority (Legal Services to the Mentally Ill Persons and Persons with Mental Disabilities) Scheme, 2010, has put into place a mechanism to provide legal aid to persons with psychosocial and intellectual disability

**Public Interest Actions**

**13.5** The legal aid machinery primarily operates on a reactive mode. Thus persons requiring legal aid generally need to seek it. Further courts required that they should be moved by the aggrieved person. This procedure can operate as a barrier to justice if the aggrieved person is not aware of his rights or socially educationally or economically disadvantaged to be able to assert them. By relaxing the rule of locus standi Supreme Court of India [[89]](#footnote-89)has permitted public spirited individuals to file cases on behalf of disadvantaged constituencies.. A number of issues concerning persons with disabilities have been brought before the higher judiciary using this mechanism

**Procedural Access to Courts**

**13.6** Insofar as persons with disabilities require distinct modes means and methods of communication, it is important that such modes, means and methods are both recognized and facilitated by policing and justicing institutions. At present, sections 340 and 341 of the Code of Criminal Procedure 1973 are the only provisions which refer to situations where an accused who is not of unsound mind but is unable to communicate or understand the proceedings against him or her. The Courts are under an obligation to enquire as to how the family of the person with disability communicates with him or her, and then attempt to understand whether the individual can be made to understand the proceedings.[[90]](#footnote-90) In order to aid such an understanding the courts are under an obligation to provide for appropriate interpretation facilities.[[91]](#footnote-91). Since these sections have been drafted at a time when the modes, means and methods of communication used by persons with disabilities were not known hence no mention has been made of them.

**13.7** The admissibility of evidence is dealt with in the provisions of the Indian Evidence Act, 1872, and Section 118 enumerates that all persons shall be competent to testify unless the Court considers that they are prevented from understanding the question put to them, or from giving rational answer to those questions, by tender years, extreme old age, disease, whether of body and mind, or any other cause of the same kind. Further, Section 119 provides that a witness who is unable to speak may give his or her evidence in any other manner in which he or she can make it intelligible, as by writing or by signs, provided but such writing must be written and the signs made in open Court. Evidence so provided shall be deemed to be oral evidence

**13.8** At present other than these entry points no other explicit procedural accommodations currently exist in the Indian legal framework to ensure effective participation of persons with disability in the justice and policing system.

**Physical Access**

**13.9** Access to Justice also requires courts, police stations and prisons to be accessible. At present, the Supreme Court of India is accessible and the High Courts of Bombay, Bangalore and Delhi are partially accessible.

**Grievance Redress in Other than Courts**

**13.10**  **The National Human Rights Commission** is a statutory body set up by an Act of Parliament that possesses a wide mandate that includes the ability to inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of violation of human rights or abetment or negligence in the prevention of such violation, by a public servant. Further the Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.. Women with disabilities can approach the **National or State Commission for Women** for the redress of grievances. **The National Commission for Protection of Child Rights** (NCPCR) inquire into complaints and take *suo motu* notice of matters related to deprivation and violation of child right; and non- implementation of laws providing for protection and development of children including children with disabilities.

**C Office of the Chief Commissioner for Persons with Disabilities**

**13.11** Other than the Courts, the Office of the Chief Commissioner for Persons with Disabilities established under Section 57 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 has been mandated to take steps to safeguard the rights and facilities to the persons with disabilities. Based on the complaints filed before him/her, if the provisions of the PWDA, any rules, bye-laws, regulations, executive orders or instructions are violated or are not implemented, the Chief Commissioner takes up the matters with the concerned authorities. The Act also empowers the Chief Commissioner to issue *suo-motu* notice of any such non-compliance.

**13.12** The Commissioner’s office has been an accessible and expeditious site of dispute resolution for persons with disabilities. During the year 2008-09 1161 cases were registered and 1103 cases were disposed of. In the year 2009-10 (upto December, 2009), 765 cases have been registered and 745 cases have been disposed of. The period of 2009-2010 ended with approximately 1000 instances of intervention and dispute resolution occurring through the Office. `Most proceeding before the Chief Commissioner relates to matters of employment, promotion or service. Relief granted to petitioners before the Chief Commissioner includes directions for reinstatement and advisories to establishments to ensure that persons with disabilities are not discriminate against. The Office of the CCPD received 21,883 complaints, including those in the Mobile Courts till February 2010. Out of them, 20,864 have been disposed off and 1,019 were under process as on 28.02.2010. [[92]](#footnote-92)

**Table 13.1 Grievance Redress by CCPD’s Office**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| S.No | Year | Cases received  during the year | Cases carried forward from previous year | Cases disposed off during the year |
| 1. | 2007-08 | 1178 | 452 | 680 |
| 2. | 2008-09 | 1161 | 950 | 1103 |
| 3. | 2009-10 | 931 | 1008 | 1070 |
| 4. | 2010-11 | 993 | 869 | 1238 |

**13.13** Under the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995,[[93]](#footnote-93) state governments are empowered to constitute the office of the State Commissioner for Persons with Disabilities. In accordance with the legislation, all proceedings before the Commissioner is deemed to be akin to those before a civil court of India. The State Commissioners are empowered to look into the deprivation of rights of persons with disabilities and the non-implementation of laws that benefit the concerned constituency.[[94]](#footnote-94) All the States and UTs have appointed State Commissioners for persons with disabilities. 14 of such Commissioners have been appointed on full time basis.

**13.14** 24 States have declared District Collectors as Deputy/Additional Commissioners, Disabilities. 25 Joint Mobile Courts of CCPD and concerned State Commissioners, Disabilities in 15 States were held since November 2006. 10,062 grievances of persons with disabilities concerning various departments of State Government/District Administration/Central Government Organizations were filed and sorted out on the spot.[[95]](#footnote-95) In the year 2009-10, the State Commissioner of Madhya Pradesh received 2411 complaints out of which 2191 were disposed of, while Uttar Pradesh, India’s most populous state, disposed of 377 cases after having received 371 complaints. Jharkhand displayed the maximum of number of cases reported, with 6468 out of 6603 complaints being disposed of.

**Table 13.2 Details of complaints received & disposed of by Commissioners for Persons with Disabilities in the year 2009-10**

|  |  |  |
| --- | --- | --- |
| ***State*** | ***Received*** | ***Disposed*** |
| Andhra Pradesh | 05 | 18 |
| Assam | 46 | 38 |
| Bihar | 41 | 19 |
| Chattisgarh | 51 | 44 |
| Delhi | 81 | 38 |
| Goa | 09 | 08 |
| Gujarat | 104 | 93 (including pending cases |
| Haryana | 54 | 17 |
| Himachal Pradesh | 10 | 08 |
| Jharkhand | 6603 | 6468 |
| Karnataka | 1254 | 900 |
| Kerala | 177 | 154 |
| Madhya Pradesh | 2411 | 2191 |
| Maharasthra | 268 | 28 |
| Manipur | 02 | 02 |
| Meghalaya | 04 | 04 |
| Orissa | 26 | 13 |
| Punjab | 150 | 150 |
| Rajasthan | 90 | 93 |
| Tamil Nadu | 23 | 19 |
| Tripura | 38 | 15 |
| Uttar Pradesh | 377 | 371 |
| Uttarakhand | 11 | 02 |
| West Bengal | 436 | 428 |
|  |  |  |

**D Sensitization Courses in Judicial Academies**

**13.15** Pursuant to the orders of the Delhi High Court in Pratibha Chopra v. Union of India[W.P. (C) 6698/2007], training to judicial officers has begun to be imparted in matters relating to persons with disability in the **Delhi Judicial Academy**. Sensitization Courses on Disability Rights are also conducted by **Tamil Nadu State Judicial Academy**; **Chandigarh Judicial Academy**. And the **Himachal Pradesh Judicial Academ**y has indicated its willingness to conduct such courses

**FINDINGS**

* Persons with Disabilities have available a range of grievance redress bodies. However each body comes with its own strengths and weaknesses. The formal system has the normative power and has used it for persons with disabilities. However the physical and communication barriers make it a difficult system to access for persons with disabilities.
* The less formal system such as the CCCPD and State Commissioners office are more accessible to persons with disabilities but the binding nature of their orders is questionable[[96]](#footnote-96).
* The Legal Aid and training initiatives do show a receptivity on the part of the judiciary to the concerns of persons with disabilities however except for Delhi and Gujarat segregated data on legal aid to persons with disabilities is not maintained.

**Future Plan of Action**

* The communication, physical access, legal representation and aid entitlements of persons with disabilities to be explicitly recognized as in the RPDB.
* A Grievance Redress System which is proactive, understands disability rights with power to issue binding orders to be set up as proposed in RPDB.
* all police stations to be accessible to all persons with disabilities and the necessary equipment, support or arrangements are made available to enable persons with disabilities to file a First Information Report, join investigation, and get their statement recorded before the police.
* All Judicial Academies, Police Academies and Training Organizations for Prison Officials and Legal Service Authorities to undertake regular training programmes on disability rights as a part of their induction and continuing education programmes.
* Legal Service Authorities shall maintain segregated data on persons with disabilities in order to assess the kind of assistance persons with disabilities require and to do be able to requisite follow up where required.

**ARTICLE 14 - LIBERTY AND SECURITY OF PERSON**

|  |
| --- |
| *1. States Parties shall ensure that persons with disabilities, on an equal basis with others:*  *(a) Enjoy the right to liberty and security of person;*  *(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.*  *2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.* |

**14.1** Article 21 of the Constitution of India provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. In this context the word ‘liberty’ as found in the Indian constitution takes on a narrower meaning than that in the American constitution since it is preceded by the word ‘personal’ and therefore excludes many aspects of the American understanding of liberty. The Indian meaning of ‘personal liberty’ as understood initially meant a “freedom from physical restraint or confinement within the bounds of a prison”.[[97]](#footnote-97) Over time this was expanded to include the right to privacy[[98]](#footnote-98) and other rights essential to the enjoyment of ordinary life and liberty. These include the rights of prisoners, the rights of inmates in protective homes, the right to legal aid, the right to speedy trial and the right against cruel and unusual punishment.

**14.2** For nearly 30 years of constitutional jurisprudence, the Supreme Court of India found the deprivation of liberty to be lawful provided it was sanctioned by a duly enacted legislation[[99]](#footnote-99). In 1978, this interpretation changed and the Supreme Court of the country required procedure by which liberty was deprived to be just fair and reasonable[[100]](#footnote-100). The observance of principles of natural justice; the provision of counsel and the proportionality of sanctions were common parameters for evaluating the fairness of a procedure.

**14.3** That the right to life and liberty is available on an equal basis with persons with disabilities is ensured by the constitutional protection of Article 14 of the Indian Constitution, which guarantees the right to equality between any two citizens in the eyes of the law. In addition, the fair process requirement of Article 21 of the Constitution requires that any deprivation satisfy the touchstone of Article 14 (equality and non-arbitrariness), Article 19 (reasonableness and proportionality) and Article 21 (due process and right to liberty).

**14.4** The constitutional jurisprudence of Article 21 has been activated in relation to persons with disabilities in the context of compulsory commitment to mental hospitals and in criminal proceedings.

**14.5** In the first set of cases the matter went before the court to highlight the absence of therapeutic facilities in the mental hospitals. It was contended that a person with mental illness could not compulsorily confined in a facility which provided him no treatment. Such a confinement infringed the life and liberty rights of the inmate.

**14.6** The Court accepted the contention and proceeded to make a series of orders to upgrade the facilities of the psychiatric institutions. However, the Court did not consider the question whether a person with mental illness had the right to refuse institutional care even if it was adequate. The Court has perceived that the right to life and liberty of persons with mental illness requires that such like institutions should be established in each state. The government the other hand is seeking mental health treatment to be based in non-institutional community settings.

**14.7** The second was when a person with mental illness was charged on convicted of a crime.

**14.8** The Code of Criminal Procedure of 1973 has a separate procedure for persons with intellectual and mental disabilities. The primary thrust of the law in relation to the first group was to enquire upon the existence of unsoundness of mind and upon a positive finding to postpone proceedings. These proceedings would only resume after a finding of competence was sent to the appropriate Court by the concerned institutional authorities. The legislation had been primarily made in recognition of the right to a fair trial, if the person charged with a crime was unable to understand the proceedings or instruct counsel, then continuance of the trial was manifestly unjust. It was brought home as a result of a number of public interest actions that postponement was resulting in the confinement of persons with mental and intellectual disabilities for inordinately long durations. The process was especially discriminatory to persons with intellectual disabilities as trial was meant to resume once the under trial with disability regained competence.

**14.9** In order to address the injustice of this process, the Code of Criminal Procedure was amended and this amendment has come into force from 31st December, 2009. The following changes have been brought in through the amended law:

1. The amended legislation requires the Magistrate or Court to obtain the opinion of a Psychiatrist or clinical Psychologist before concluding that the accused is of unsound mind or is a person with mental retardation.
2. The Magistrate or Court is to postpone the trial only if the prosecution is able to establish a prima facie case against the accused.
3. If the accused is found to be a person with mental retardation who is incapable of entering defence then the Magistrate or Court are required to close the enquiry or not hold the trial as the case may be. Instead they are required to either order the release of the accused or transfer him or her to a residential facility which provides care and appropriate education and training.
4. When an accused is found to be an unsound mind the Court or Magistrate have been given liberal powers of bail provided that a friend or relative undertakes to obtain regular outpatient psychiatric treatment from the nearest medical facility and prevent the accused from injuring self or others.

**Civil Commitment Laws**

**14.10** The above narration demonstrates the varied perceptions on the right to liberty for persons with disabilities that subsist in the country. These varied perceptions are yet again on display in the process of harmonizing Indian law with the CRPD.

* 1. The Committee formulating the New Law on the Rights of Persons with Disabilities has outlined both negative and positive duties for the realization of this right. The proposed draft law places a total embargo on the deprivation of personal liberty on the ground of disability. It further holds that right to personal liberty includes freedom from non-consensual civil commitment. It further requires programmes to be launched by which safe havens, timeout sites and respite places are available to diffuse situations of conflict and violence. Even as the unequivocal recognition of the right to liberty is being unanimously endorsed the absolute prohibition of non-consensual civil commitment is being questioned.
  2. A different approach has been adopted in the draft law on Mental Health Care and Treatment Act which has been formulated to replace the current Mental Health Act. This reform effort allows for the development of alternatives to compulsory care even as it supports the continuance of non-consensual civil commitment.

**FINDINGS**

* The extant interpretation right to liberty holds that institutions must be thriving therapeutic communities if persons with disabilities can be housed in them without infringing Article 21.
* Persons with disabilities are not provided future treatment on an equal basis with others.

**Future Plan of Action**

* To so formulate the RPDB and MHCA that the two legislations operate as a bridge between the deal and the real.

**Article 15 - Freedom of torture or cruel, inhuman or degrading treatment or punishment**

|  |
| --- |
| *1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.*  *2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.* |

**15.1** India is a signatory of the UN Convention against Torture (CAT). To realize this commitment, the courts and the laws of the country have created a national jurisprudence to combat torture. Article 21 of the Constitution of India reflects Article 7 of the ICCPR and guarantees to every person the right to life and liberty, and has been construed repeatedly by the country’s judiciary to include within its ambit the right to freedom against any form of torture or cruel, inhuman or degrading punishment. Several cases have enshrined that the right against torture applies to every person irrespective of station and position. The Indian Supreme Court has thus utilized Article 21 to prevent cruel and inhuman practices. This article has been the basis of finding the solitary confinement of death row victims to be unconstitutional. The court has also frowned upon the arbitrary use of bar fetters by prison authorities. The court has also extended this jurisprudence to persons with disabilities by finding the chaining of “mentally challenged persons” to be illegal and placing an absolute prohibition on such chaining. Thus the Indian Union safeguards the right against torture to all citizens, irrespective of station and situation.

**15.2** Recognising the special and particular needs of persons with disabilities, a number of statutory provisions have also been enacted to give specific rights to persons suffering from disabilities against any form of torture. Section 81 of the Mental Health Act of 1987 lays down that no mentally ill person shall be subjected during treatment any indignity (whether physical or mental) or cruelty. Section 17 of the National Trust Act, 1999 read with Rule 17 of the National Trust Rules, 2000 further defines various acts of abuse and neglect on the part of the guardian of a person with disability: this includes acts such as solitary confinement, chaining, beating and sexual abuse. These acts have been made punishable by removal of the guardian from the care of the patient.

**15.3** The Prevention of Torture Bill, 2008 was drafted by the Indian government and aims to protect ordinary citizens against torture by errant Government servants, including police officials, within the ambit of punishable offences. Under the proposed law, public servants and others responsible for causing grievous hurt or danger to life, limb or health of any person would be liable for being punished for torture.

**15.4** Following a regrettable incident involving the mistreatment of mentally ill patients in a mental hospital in the state of Tamil Nadu, the Supreme Court of India ordered the various states of the Indian union to file before it affidavits regarding the state of patients at the mental institutions of the country. Special emphasis was paid to the use of direct Electro-convulsive therapy (ECT) among patients, the restraining of patients in chains and fetters, and the confinement of patients in cells. States were also asked what steps towards rehabilitation they had undertaken.

**Table 15.1: Report by States on Cruel and unusual treatment to the Supreme Court**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***State*** | ***Name of Mental Hospital*** | ***Use of Chains and other physical restraints*** | ***Use of direct electro convulsive therapy (ECT)*** | ***Whether patients kept in Cells*** | ***Rehabilitation facilities*** |
| Andhra Pradesh | Institute of Mental Health, Hyderabad | No physical restraints. Only exited & violent patients are isolated for a few hours. | Only modified ECTs under anesthesia. | No single cells or jail like cells. | Technical/psychiatric/social support |
| Jharkhand | Central Institute of Psychiatry and Ranchi Institute of Neuro-Psychiatry & Allied Sciences (RINPAS) | Not chained. In rare cases hands and feet are tied with bed sheets. | Direct ECT at present but anesthetist available shortly. |  | Vocational Rehabilitation Centre |
| Karnataka | Karnataka Institute of Mental Health | Not used except in extreme cases where medication fails. | No direct ECT, only modified ECT |  | Psychiatrists |
| Maharashtra | Regional Mental Hospitals | Not chained or subject to unnecessary physical restraint. | ECT is only given under anesthesia. | Available for mentally ill criminal patients. Violent, excited, unmanageable patients who are dangerous to themselves and others are isolated. | Occupational and recreational therapy |
| Meghalaya | Meghalaya Institute of Mental Health and Neurological Sciences, Shillong | No physical restraints. Even violent persons are treated only with medicines. | Neither direct nor indirect ECT used. | Since the mental hospital used to be a jail previously, there are cells. | No current facility for rehabilitation or counselling, but the govt. is proposing the same. |
| Mizoram | None at present. Mental patients are treated in the general government hospital. | No chaining, only linen and cotton bandages used if needed. | Not used. |  | Counselling, psychotherapy |
| Orissa | Mental Health Institute, Cuttack | Not used. | No direct ECT, only modified ECT |  | Psychiatrists |
| Rajasthan |  | No report of physical restraint by chaining | Is used if the case demands it. |  |  |
| Uttar Pradesh | Varanasi Mental Hospital | Not used. | Has been stopped. | No; cells have been closed for ever. | Counselling, psychotherapy |

**Source:** *Affidavits filed before the Supreme Court of India in Saarthak, Regd, Society & Ors v. Union of India & Ors., Civil Writ Petition No. 562 of 2001*

**FINDINGS**

* Force is increasingly being perceived as a measure of last resort in mental health treatment.

**Future Plan of Action**

* To plan for services and procedures which would allow the total phasing out of force from mental health care and treatment.

**ARTICLE 16 - FREEDOM FROM EXPLOITATION,**

**VOILENCE AND ABUSE**

|  |
| --- |
| *1. States Parties shall take all appropriate legislative, 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, including their gender-based aspects.*  *2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.*  *3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.*  *4. States Parties 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 and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.*  *5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.* |

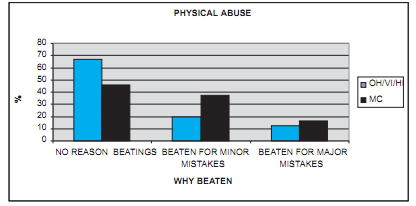
**16.1** Article 14 and 21 of the Constitution of India coupled with international human rights instruments have been the basis of questioning particular instances of exploitation, violence and abuse as also for laying down an elaborate code against sexual harassment. This constitutional jurisprudence though available has not been explicitly activated for persons with disabilities. The question of violence and abuse of persons with disabilities has primarily come to light when the conditions of particular institutions housing persons with disabilities have been investigated.

**16.2** To combat the brutal face of insensitivity towards the persons with disabilities the Indian Supreme Court in injunction with the various state High Courts have repeatedly safeguarded the rights of affected persons, especially women. The Supreme Court in *Tulshidas Kanolkar v State of Goa*[[101]](#footnote-101) unequivocally and vehemently condemned the repeated rape of a mentally challenged woman. The Court’s treatment of this case was notable in that it had observed that with persons with disabilities, apart from the mere factum of physical violence, there is also an element of a blatant “exploitation of her helplessness”. Arijit Pasayat, J. also suggested that Section 376(2)(f) of the Indian Penal Code, which prescribes a higher penalty for rape of a woman below 12 years of age, should also prescribe a higher penalty for the rape of a mentally challenged woman.

**16.3** Working on this and its own recommendations, the National Commission for Women in its draft version of the Criminal Law Amendment Bill, 2006 included specially a provision criminalising the sexual assault of women with disabilities. Section 376(2)(i) of the proposed Bill imposes a minimum term of ten years imprisonment that may extend to life, and a fine for the commission of sexual assault on a “person suffering from mental and physical disability”. Also notably, Section 114A of the Indian Evidence Act, 1872 would involve a presumption of the absence of consent, shifting the burden of proof on the accused rather than on the victim, as is the usual practice in criminal matters.

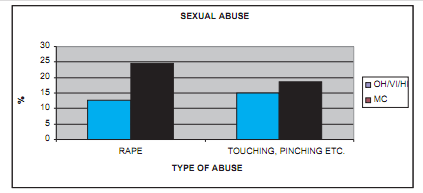
**16.4** In the context of violence and exploitation within the family, India has enacted the Protection of Women from Domestic Violence Act 2005. This statute provides women in a domestic relationship protection from domestic violence. A domestic relationship has been defined to mean “a relationship between two persons who live or have at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family”. Physical, sexual, verbal and emotional and economic abuse has been covered within the definition of domestic violence. While the Act was theoretically drafted to cover all women in the country and not just the disabled the acts and omissions rendered punishable by this law or as especially acutely experienced by women with disabilities. It is hoped that as persons with disabilities are empowered to access justice and as the justicing system begins to recognize the needs of persons with disabilities then protections available in the general law then they would not only access specific protections devised for them but would also activate general protections as have been provided for in statutes such as the Protection of Women from Domestic Violence Act.

**16.5** A study launched by researchers in 20 districts of rural Orissa state have shown appalling results as far as violence within the family are concerned. In the context of physical (i.e. non-sexual) abuse, it was found that almost 70% of disabled persons reported being beaten for “no reason at all,” while mentally challenged persons tended to get abused more for minor and major mistakes:

[Figure 16.1]

**Source:** *“Abuse and Activity Limitation: A Study on Domestic Violence against Disabled Women in Orissa, India.”* 2005[[102]](#footnote-102),

Statistics related to sexual abuse revealed that 25% of the mentally challenged respondents had reported being raped. The mentally challenged are on the whole at a much higher risk of being sexual abused, possibly because they did not understand the nature of the act being performed on them and only comprehended the situation much later:

[Figure 16.2]

**Source:** *“Abuse and Activity Limitation: A Study on Domestic Violence against Disabled Women in Orissa, India.”* 2005[[103]](#footnote-103)

**16.6** The context and nature of the violence and abuse experienced by persons with disabilities within their homes often makes it difficult for the government to obtain conclusive records of the same. In an effort to bridge this gap, however, the government has entered into on-going consultations with civil society on the proposed new legislation on the Rights of Persons with Disabilities. This experience has brought to the fore rich anecdotal evidence on the wide presence of such abuse and the need to devise particular remedies. The consultations have shown, for example, that in several instances the absence of social security causes violence and abuse.

**FINDINGS**

* The sporadic research and personal narratives anecdotal evidence show that there is wide spread abuse, violence and exploitation against persons with disabilities.
* There is a connection between poor socio-economic status and the experience of abuse and violence.
* There is need for disability specific interventions to address the issue.

**Article 17 - Protecting the integrity of the person**

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| *Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.* |

**A Constitutional Recognition of the Right to Integrity**

**17.1** The constitutional basis of this article as all other civil political rights recognized in the CRPD arises from articles 21 and 14. The two fundamental rights would mandate that any intervention which impacts upon the physical or mental integrity of persons with disabilities should occur with their consent. The proposition is in the main unproblematic except that in the case of persons with disabilities the issue of consent is imbricated with legal capacity.

**B Statutory Recognition of the Principle of Consent**

**17.2** Section 81 of MHA does recognize that a person with mental illness should not be a subject of research without consent. This consent does not necessarily have to be of the person with disabilities a parent or guardian can also provide that consent. The same principle applies in relation to compulsory care and treatment. The person with mental illness can voluntarily seek treatment however if he or she is unable to do so then in specified circumstances the treatment can be obtained or provided with the consent of a friend or guardian.

**C Distinguishing the Case of Intellectual Disability**

**17.3** In *Sucheta vs Chandigarh Administration[[104]](#footnote-104)* the Supreme Court of India whilst interpreting the provisions of the Medical Termination of Pregnancy Act, 1971, introduced a distinction between persons with intellectual and psychosocial disability. On the basis of distinction, the Court has ruled that an abortion could not be performed on a woman with intellectual disability without her consent. Such an embargo in the opinion of the Court did not subsist against a woman with mental illness.

**D Question of Force in the law Reform Process**

**17.4** The conflict which came to the fore between the RPDB and MHCA whilst deliberating on legal capacity and liberty also arose in the deliberations on this right. The position adopted in the MHCA being that though consent should be the rule, in the rarest of rare cases, treatment without consent should be permissible. The RPDB on the other seeks an embargo on force. The RPDB also requires that pursuant to implementing total prohibition, protocols should be developed whereby both the circumstances which necessitated the use of force should be recorded; and procedures devised which will ensure that such force shall not be resorted to it in the future.

**FINDINGS**

* A substitute consent is as good as the consent of the person with disabilities.
* In the case of certain disabilities the Courts have recognized that no procedure infringing on the physical integrity of the person with disabilities can be performed against their will and without their consent.
* The issue of force remains a disputed question in the law reform process.

**Future Plan of Action**

* As in legal capacity and liberty, the right to integrity in the MHCA, RPDB and the NTA need to be in consonance with the CRPD and in harmony with each other.

**ARTICLE 18 - LIBERTY OF MOVEMENT AND NATIONALITY**

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| *1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:*  *(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;*  *(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;*  *(c) Are free to leave any country, including their own; (d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.*  *2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.* |

**A Constitutional Provisions relating to Liberty of Movement and Nationality**

**18.1** Article 19 (1) (d) of the Indian Constitution guarantees to all citizens, the right to move freely throughout the territory of India and Article 19 (1) (e) recognizes the right to reside and settle in any part of the territory of India. Both rights can be reasonably restricted in the interest of general public and for the protection of scheduled tribes. These provisions are only of tangential relevance to Article 18 as the article is concerned with transnational movement.

**18.2** In *Satwant Sawhney vs APO* the Supreme Court of India has ruled that the right to move to and from the country is an integral part of the right to personal liberty guaranteed under article 21. Consequentially this right could not be denied just by executive order but the procedure of depriving this right needed to be incorporated in a duly enacted legislation. *Maneka Gandhi vs Union of India* took this jurisprudence a step further to require that this procedure would satisfy the mandate of article 21 only if it was just fair and reasonable.

**B Statutory Provisions and Rules for Issuance of a Passport**

**18.3** Sections 6 of the Passport Act of 1967 lay down the rules by which a passport may be refused to an applicant. The disability of the applicant is not a ground for refusal. The Consular Passport and Visa (CPV) Division of the Ministry of External Affairs is responsible for the issuance of the Indian Passport to Indian Citizens. The procedure for obtaining a passport is transparent and has recently been made available online. The law mandates that each applicant fill in the application form as well as a form enlisting certain personal details.

Amongst others, the details required to be granted in the application form are: Name, Photos, Gender, Place and time of birth, details of legal guardian, residential address, with necessary documentary proofs to prove the aforementioned details. The personal details form requires each applicant to additionally provide names and addresses of two responsible persons in the applicant’s locality who can vouch for the applicant. The Ministry of External Affairs operates 720 special counters to facilitate the issue of passports to persons with disabilities

**C Legal Provisions in relation to entry and stay in country**

**18.4** Persons entering the country are required to apply for one of the several available kinds of visa. The law governing registration of foreign nationals visiting India is the Registration of Foreigners Act, 1939 read with the Registration of Foreigners Rules, 1939. If the visa is valid for more than 180 days, then every foreigner entering India or resident in India is required to present himself in person or through an authorised representative to the satisfaction of the appropriate Registration Officer at the place of his stay within the specified period mentioned on visa. Foreigners coming to India on Medical Visa (M) or Medical Attendant (MX) Visa are also required to register themselves with the concerned Registration Officer within 14 days of arrival irrespective of the duration of stay. During immigration, a foreigner may be refused entry in one of the following cases, if he is “insane” or is suffering from infectious or loathsome disease which is prejudicial to public health. The Airports Authority operates special immigration counters at major Airports for ease of entry for persons with disabilities.

**18.5** In India, births are recorded under The Registration of Birth and Death Act, 1969. It is the duty of the head of the household and if s/he is not present in the house the nearest relatives of the head present in the house and in the absence of any such person, the oldest adult person present in the house to report the occurrence of any live birth or still birth.  The machinery for implementing the legislation is State Governments that are empowered to frame their own rules for the establishment of the registration machinery in the State and procedures for registration. Most of the States have standard forms that need to be filled for the grant of a birth certificate. There is no discrimination in granting the certificate as long as the details viz., name, age, gender, date and time of birth, mother’s name, father’s name and address are duly filled.

**FINDINGS**

* There is no discrimination on grounds of disability in grant of a passport. There is an effort to provide logistics support through special counters.
* Persons with physical and sensory disabilities are facilitated in their entry into the country. Insanity and infectious disease can be a ground for refusing entry.
* There is no data on how the power to refuse admission on the ground of

“insanity” has been implemented.

* Persons on medical visas are mandatorily required to register in the Foreigners Registration office irrespective of length of stay.
* No discrimination on grounds of disability to issue birth certificates.

**Future Plan of Action**

* Employ disability neutral standards to regulate refusals of entry in the country
* Explore if there can be convergence between the early identification and birth registration program

**ARTICLE 19 - LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY**

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| *States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:*  *(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;*  *(b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;*  *(c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.* |

**19.1** Article 19(1)(e) of the Constitution of India guarantees to Indian citizens the right to reside and settle in any part of India. However, according to Article 19(5), reasonable restrictions on the same may be imposed by the State by law, in order to protect the interests of the general public or of persons belonging to any Scheduled Tribes.

**19.2** The Supreme Court of India has held that the right to shelter or adequate housing is a fundamental human right emanating from this provision, as well as following from Article 21 of the Constitution which guarantees to all the right to life. This has been established in numerous Supreme Court decisions, including *U.P. Avas Evam Vikas Parishad v. Friends Cooperative Housing Society Ltd.[[105]](#footnote-105)* where the Court held that, “*The right to shelter is a fundamental right, which springs from the right to residence under Article 19(1)(e) and the right to life under Article 21*”.

**19.3** In *Chameli Singh v. State of UP* [[106]](#footnote-106)the Supreme Court clearly read in the right to adequate shelter in a place of one’s choice into the right to life under Article 21. ‘Adequate shelter’ was widely interpreted to include “*not just a roof over one’s head but right to all the infrastructure necessary to enable them to live and develop and develop as a human being*”.[[107]](#footnote-107)

**Reasonable restrictions on the Right to Residence**

**19.4** Ensuring of public safety or maintenance of public order have been upheld as a reasonable restrictions on the right to residence under Article 19(1)(e).[[108]](#footnote-108) However, exterment of a person has been viewed by the Supreme Court to be characterized as ‘*economic harakari and psychic distress*’ and safeguards such as presence of clear and cognizable evidence as well as compliance with principles of natural justice has been mandated.[[109]](#footnote-109) Also, there is a maximum period for which such an order can operate.[[110]](#footnote-110)

**19.5** The mandate of article 19 CRPD is reinforced by the aforementioned constitutional jurisprudence insofar as it recognizes the individual’s right to live at a place of his or choice. The requirement of living in the community primarily arises from the history of institutional living that is experienced by persons with disabilities.

**Existence of Family Support and Abandonment by Families**

**19.6** Whilst as a global statement it can be stated that persons with disabilities in India primarily reside with their families; it cannot be contended that institutional abandonment does not exist in the country. The various parliamentary and court committees examining the conditions of psychiatric and other institutions have found inmates who were staying in institutions because their families had failed to come back for them.

**Independent Living and Institutional Support**

**19.7** This social reality has been attempted to be addressed in the NTA which envisages that the Trust will “support any program which promotes independent living in the community for persons with disability”. The Trust has also been permitted to set up “residential hostels and residential homes” and any program which promotes respite care, foster family care or day care service for persons with disability”.

**CBR and Establishment of Institutions**

**19.8** This dual policy evidenced in NTA has also been adopted in the National Disability Policy which both endorses community based rehabilitation (CBR) and requires institutions to be established for persons with severe disability. PWDA also operates on the premise that institutions were the only residential option suitable for persons with severe disabilities and attempts to protect their interest by instituting a rigorous licensing requirement for these institutions.

**Community Living Options**

**19.9** Whilst law and policy have opted for a mixed residential policy for persons with disabilities, non-governmental initiatives have put in place some innovative community living options. Thus Basic Needs have attempted to assist community living by establishing cross disability protected communities; Sangath , Goa have experimented with protocols which extend such like support to caregivers that the need for institutionalization is averted and Bapu Trust has been developing peer support to advance living in the community.

**Mixed Policy Continues in Law Reform Initiatives**

**19.10** Notwithstanding the innovative programs the demand for the institutional option for persons with disabilities continues in the law reform deliberations In RPDB; MHCA and NTA. With some people demanding that living in the community be the only option and others stressing on the inevitability of institutions. In relation to persons living with mental illness even the Supreme Court of India has questioned government policy of not building institutions by requiring that not only should existing psychiatric institutions be upgraded but a psychiatric hospital should be established in every State in the country. The Union of India has however filed an affidavit seeking a reconsideration of this directive.

**Entitlements in Community Housing**

**19.11** In the backdrop of these deliberations, the three percent reservation for persons with disabilities in IAY demonstrates the significance accorded to the fact that persons with disabilities live in the community.

**FINDINGS**

* Community living and institutional care subsist together in law and policy
* Some exit initiatives especially from psychiatric institutions or custodial houses however the movement primarily to less restrictive institutions
* Like the State institutions nongovernmental institutions also running both kind of initiatives
* Affirmative Action in programs such as IAY assists in community integration however not available for all persons with disabilities.

**Future Plan of Action**

* Institutional Option as shelter not custody a method of bridging the divide between the two perspectives
* Living in the Community requires greater investments in awareness raising and community acceptance.

**ARTICLE 20 - PERSONAL MOBILITY**

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| *States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:*  *(a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;*  *(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;*  *(c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;*  *(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.* |

**20.1** Article 19 (1) (c ) of the Constitution of India recognizes that all citizens have the freedom of movement throughout the territory of India. For persons with disabilities this freedom has meaning only when provision is also made for aids and appliances which allow such movement to happen. Section 42 of the Persons with Disabilities Act 1995 obligates appropriate governments to make schemes to provide aids and appliances to persons with disabilities.

**20.2** Article 9 of the UNCRPD addresses the issue of accessibility in the public spaces, transport, Malls, etc, while Article 20 recognises that mobility aids, assistive devices are required to facilitate accessibility of the individuals. These devices, aids must be at ‘affordable cost’ so that it can be used by many.

**20.3 (a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;**

**20.4** Persons with disability receive travel concessions that assists them to travel by public transport at affordable costs which in some cases is extended to the person travelling with them.

## By Bus Concessions are provided for persons with physical impairments and visually handicaps. Student concessions are provided to all children. Mostly each state has its own policy.

## By Rail As per the Order of Ministry of Railway, Government of India, the following concessions are available for the disabled:

**Blind Person the blind person traveling alone or with an escort, on production of a certificate from Government doctor or a registered medical practioner, is eligible to get the concession as below:**

**Table 20.1 Element of Concession**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Percentage of Rail Concession for Blind persons*** | | | | | |
| **Class** | **First Class** | **Second Class** | **Sleeper Class** | **Season Ticket** | |
| **First Class** | **Second Class** |
| %age of Concession | 75 | 75 | 75 | 50 | 50 |

### 20.5 Orthopaedically Handicapped Person: The Orthopaedically Handicapped person traveling with an escort, on production of a certificate from a Government doctor to the effect that the person concerned is orthopaedically handicapped and cannot travel without the assistance of an escort, is eligible for getting concession.

**Table 20.2 Element of Concession**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Percentage of Rail Concession for Orthopaedically Handicapped*** | | | | | |
| **Class** | **First Class** | **Second Class** | **Sleeper Class** | **Season Ticket** | |
| **First Class** | **Second Class** |
| %age of Concession | 75 | 75 | 75 | 50 | 50 |

**20.5** All categories of Orthopaedically Handicapped persons/ patients accompanied by escort, when traveling for admission or on discharge from hospital where the O.H. persons are treated or consultation with Medical Expert, on production of a certificate from a Government doctor/ Orthopaedic surgeon that the person is a bonafide O.H. person and he cannot travel without an escort, for availing concession.

**20.6 Deaf & Dumb Person:** A deaf and dumb person traveling alone (both afflictions together in the same person) on production of a certificate from a government doctor is eligible for the concession.

**Table 20.3 Element of Concession**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Percentage of Rail concession for deaf and dumb persons*** | | | | | |
| **Class** | **First Class** | **Second Class** | **Sleeper Class** | **Season Ticket** | |
| **First Class** | **Second Class** |
| %age of Concession | 50 | 50 | 50 | 50 | 50 |

### 20.7 Mentally Retarded Person: A mentally retarded person, accompanied by an escort, on production of a certificate in the prescribed form, from a government

**Table 20.4 Element of Concession**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Percentage of Rail Concession for Mentally Retarded Persons*** | | | | | |
| **Class** | **First Class** | **Second Class** | **Sleeper Class** | **Season Ticket** | |
| **First Class** | **Second Class** |
| %age of Concession | 75 | 75 | 75 | 50 | 50 |

**Table 20.5 Conveyance Allowance given by State Initiatives**

|  |  |  |
| --- | --- | --- |
| ***State*** | ***Details*** | ***Quantum*** |
| Andhra Pradesh | Conveyance allowance is granted to visually impaired and orthopedically handicapped employees for commutation to the place of their duty. | 10% of the basic pay subject to maximum of Rs.900/- per month. |
| Bihar | Scheme of granting conveyance allowance to employees who are persons with disabilities as per their salaries. The facilities of concession in state transport buses is also under active consideration of the State Government. | 25/- per month |
| Goa | Conveyance allowance is provided for government servant | 5% of basic pay or Rs.100/- whichever is less. |
| Himachal Pradesh | State Govt. is providing conveyance allowance to the Visually Impaired and Orthopedically Impaired Govt. employees. | Rs.75/- per month. |
| Orissa | Employees who are persons with visual and locomotor disability | Rs.75/- per month. |
| Rajasthan | Handicapped Government employees | 5% of their pay and Rs.75/- p.m. |
| Tripura | The State Government has been granting Conveyance allowance to the Blind & Orthopedically handicapped government employees w. e. f. 1-9-1998. | Rs.100/- per head per month along with salary |
| Uttar Pradesh | The State Government employees who are handicapped are given conveyance allowance at the following rates | Upto Rs.999/- p.m 30/- p.m  1000 to 1999/- Rs.50/- p.m  2000/- and above 60/- p.m |

**Table 20.6 Bus Concession**

|  |  |
| --- | --- |
| **State** | **Details** |
| Goa | Free transport in State owned transport corporation |
| Gujarat | Free travel for the visually impaired and his helper, hearing and speech impaired for a person with 40% or more disability, for a person with 75% or more disability, 50% concession is forwarded in the travel cost of his helper for persons with 70% or less IQ is entitled to free travel and their helper receive a concession of 50% in travel cost. |
| Himachal Pradesh | Free travelling facilities available to the persons with disabilities having disability card in HRTC buses within the State. In addition, free traveling facilities outside the state is available visually impaired persons. |
| Kerala | Travel concession @ 50% of the actual bus fare is given to the hearing impaired person. For 100% visually impaired person life time free pass is given. For Mentally Retarded persons and one accompanying them are given travel concession @ 50% of the actual bus fare. |
| Orissa | Free bus travel given to orthopedically handicapped and blind persons whose disability is 50% and above and 50% concession to their escorts. |
| Rajasthan | Free bus travel provided to the persons with disabilities. |
| Tripura | Tripura Road Transport Corporation (TRTC) has accorded approval to sanction full traveling concession benefit to 100% blind persons and 50% concession to the other category of physically handicapped persons for journey in and outside the State. The persons with disabilities can also have escort with them who is also entitled to have 50% concession in traveling. |
| Uttar Pradesh | There is a proposal to provide free traveling to handicapped person in UPSRTC buses upto a distance of 10000 kms in one calendar year. Government of UP have already allocated Rs.9.19 lakhs for this purpose in this current financial year. |

**Table 20.7 Petrol/Diesel Subsidy to Persons with Disabilities**

|  |  |
| --- | --- |
| ***State*** | ***Details*** |
| **Andhra Pradesh** | Persons with disabilities who are owners of motorized vehicles having an income upto Rs.24,000/- per annum are sanctioned 50% subsidy on actual expenditure of petrol or diesel to the extent of 15 litres for 2 horse power vehicles and 25 litres for more than 2 horse power vehicles for commutation. |
| **Goa** | 50% subsidy on 15 ltrs or petrol/diesel to assist the person with disability to use to vehicle to place of work. |
| **Chandigarh** | Person with disability using motorized vehicle is entitled to 50% subsidy on actual expenditure on purchase of petrol/diesel having income upto Rs.2,500 from all sources; provided no conveyance allowance is availed. |

**BY AIR**

### Blind Person: The Indian Airlines Corporation allows 50% concessional fare to Blind persons or single journey or single fare for round trip journey on all domestic flights.

**20.9** Also under the G.O.Ms.No.108, the government of India have issued orders to grant a conveyance allowance at 10% of the basic pay subject to a maximum of Rs.900 per month to their blind and orthopedically handicapped employees for going to and coming from the place of their duty, subject to certain conditions stipulated therein.

**20.10** Disabled persons who are owners of motorized vehicles and having an income up to Rs.24,000 per annum are sanctioned 50%subsidy on actual expenditure on purchase of petrol/diesel to an extent of 15 litres for 2 horse power vehicles and 25ltrs for more than 2 horse power vehicles to go to the place of duty and back to their residence.

**20.11(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;**

**20.12** Government of India has established Artificial Limbs Manufacturing Corporation of India (ALIMCO) Their motto is “Restoration of Dignity.” It is an ISO 9001:2000 certified company and most of its 355 products bear the ISI mark. It is reputed to be the “largest manufacturing organization of artificial limbs and rehabilitation aids in whole of South Asia & Africa.

**20.13** Products priced as low as Rs.21 for a button prosthetic to as high as Rs.28,240 for a motorized tricycle, the products they sell are affordable to the common man. It manufactures products which aid people with orthopedic, visual and hearing disability. For the people with orthopedic disability, it has categorized its products into two categories: rehabilitation aids and mobility aids. Rehabilitation aids cover orthotic and prosthetic appliances for upper & lower extremities, spinal braces, cervical collars and traction kits. Mobility aids range from wheel chairs and tri wheelers to crutches and walking sticks.

* For the persons with visual disability, it manufactures Braille slates, folding canes and Braille shorthand machines.
* For persons with hearing disability it provides hearings aids of two kinds: pocket type hearing aid and digital type behind the ear (BTE) hearing aid.

**20.14** All products manufactured by ALIMCO are exempted from central excise and central sales tax. However, States may apply taxes which are to be borne by the buyer.

**20.15 Scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids/Appliances (ADIP Scheme):** The Scheme aims at helping the disabled persons by bringing suitable, durable, scientifically-manufactured, modern, standard aids and appliances within their reach. The main objectives of the Scheme is to assist the needy disabled persons in procuring durable, sophisticated and scientifically manufactured, modern, standard aids and appliances that can promote their physical, social and psychological rehabilitation, by reducing the effects of disabilities and enhance their economic potential. The aids and appliances supplied under the Scheme shall conform to BIS specifications to the extent possible.

**20.16** The Scheme shall also include under its ambit, medical/surgical correction & intervention, which is essential prior to fitment of aids and appliances. The cost could range from Rs. 500/- for hearing & speech impaired to Rs.1000/- for visually disabled and Rs.3,000/- for orthopaedically disabled.

**20.17 Quantum of Assistance to Disabled:** Only those aids/appliances which do not cost less than Rs.50/- and more than Rs.6000/- are covered under the Scheme. However, for visually, mentally, speech & hearing or multiple disabled, the limit should be Rs. 8000/- during their study period upto XII standard. The limit will apply to individual items of aid and where more than one aid is required, the ceiling will apply separately. The amount of assistance will be as follows:

**Table 20.8 Amount of assistance on the base of total income**

|  |  |
| --- | --- |
| ***Total Income*** | ***Amount of Assistance*** |
| Upto Rs.6,500/– per month | Full cost of aid/appliance |
| Rs.6,501/– to Rs.10,000/– per month | 50% of the cost of aid/Appliance |

**20.18 Types of Aids/Appliances to be Provided:** The following aids and appliances may be allowed for each type of disabled individual. However, any other items as notified from time to time by the Ministry of Social Justice and Empowerment for the purpose will also be allowed

**20.19 Locomotor Disabled:**

1. All types of prosthetic and orthotic devices.
2. Mobility aids like tricycles, wheelchairs, crutches walking sticks and walking frames/rotators.
3. All types of surgical footwear and MCR chappals.
4. All types of devices for ADL (activity of daily living)

**20.20 Visually Disabled**

1. Learning equipment like arithmetic frames, abacus, geometry kits etc. Giant Braille dots system for slow-learning blind children. Dictaphone and other variable speed recording system. Tape recorder for blind student upto XII standard.
2. Science learning equipment like talking balances, taking thermometers, measuring equipment like tape measures, micrometers etc.
3. Braille writing equipment including Braillers, Braille shorthand machines, typewriters for blind students after the XII class. Talking calculators, Geography learning equipment like raised maps and globes
4. Communication equipment for the deaf-blind. Braille attachments for telephone for deaf-blind persons.
5. Low vision aids including hand-held stand, lighted and unlighted magnifiers, speech synthesisers or Braille attachments for computers.
6. Special mobility aids for visually disabled people with muscular dystrophy or cerebral palsy like adapted walkers.

**20.21 Hearing Disabled**

1. Various types of hearing aids.
2. Educational kits like tape recorders etc.
3. Assistive and alarming devices including devices for hearing of telephone, TV, doorbell, time alarm etc.
4. Communication aids like portable
5. speech synthesizer etc.

**20.22 Mentally Disabled**

1. All items including in locomotor disabled.
2. Tricycle and wheel chair including the modifications to suit the individual.
3. All types of educational kits required for the mentally disabled.
4. Any suitable device as advised by the Rehabilitation Professional or treating physician.

**20.23 Multiple Disabled**

1. Any suitable device as advised by Rehabilitation Professional or treating physician.

**20.24 Jaipur foot:** Bhagwan Mahavira Viklanga Sahayta Samiti was established in March 1975 by Mr. D. R. Mehta and they popularised the use of Jaipur foot. The main objective of the BMVSS is the physical, economic and social rehabilitation of physically challenged, particularly the resource-less, enabling them to regain their mobility, self-respect and human dignity so that they become self-reliant, normal and productive members of the community. In the first year after the formation of the society, 59 limbs were fitted. Now, the number of limbs fitted every year approaches 16,000.’[[111]](#footnote-111)

**20.25 Artificial limbs and other rehabilitation aids and appliances to amputees.**

1. Calipers, modified footwear and other rehabilitation aids and appliances to polio afflicted and other disabled persons.
2. Hearing aids to persons who are hearing impaired.
3. Special shoes and other aids to persons suffering from leprosy.
4. Various types of financial and other support of self-employment and social rehabilitation of the physically challenged.
5. Scientific and technical research in developing and improving aids and appliances for the physically challenged.
6. Dissemination of knowledge and expertise relating to the manufacture of aids and appliances, care of the disabled by providing training to technicians, doctors etc., by organizing training courses, technical workshop, seminars and publication of technical and social books / reports etc.
7. Collaboration with various organizations both National and Inter-national dealing with the handicapped.
8. Organizing on-the-spot-limb / caliper-manufacturing-fitment-camps in India and abroad.
9. Some programs for the up-liftment and self employment of distressed women, whether physically challenged or not.][[112]](#footnote-112)

**20.26(c) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.**

**20.27 Technology Development Projects by IITs:** With a view to provide suitable and cost effective aids and appliances through the application of technology and to increase their employment opportunities and integration in society of the physically disabled, the above scheme was started during 1990-91. Under the scheme, suitable R&D projects are identified and funded for developing aids and appliances. The scheme is implemented through the IITs. Educational Institutes, Research Agencies and Voluntary Organisations etc. Financial assistance is provided on 100% basis. The four Technical Advisory Groups monitor the selection of the projects and also their progress at different stages in areas of disabilities, namely, Orthopedic (including Cerebral Palsy), Visual, Speech and Hearing and Mental. All the projects those are recommended by the respective Technical Advisory Groups placed before the Apex Level Committee headed by Secretary, Ministry of Social Justice and Empowerment.

[National Initiative for the Blind (A joint project with Vidya Vrikshah) bring literacy, education, skills and services to the four million blind of India]

**20.28** The idea is to re-orient  these institutions  to function as Special Resource Centres  to provide the following services to all the blind in the districts in which they are located:

* Produce and distribute the Braille Magazines and School Text books for children as described earlier, free of cost, by equipping them with special Braille Printers.
* Provide braille output services to all other blind persons in the district at a nominal cost.
* Offer training courses for mobility, travel, and other activities of coping with the environment.
* Offer computer-based vocational training courses like data entry, job typing, email and browsing services, running public call offices etc.][[113]](#footnote-113)

**Table 20.9 NGO initiatives**

|  |  |  |
| --- | --- | --- |
| 1 | Project Akshara | A Literacy Program to Learn / Teach alphabets and words in any Indian Language or English, as represented in their Written, Spoken, Sign language and Braille forms. |
| 2 | Project Vidya | An Education Program to Learn / Teach any school level subject in any Indian Language or English, as represented in their  Written, Spoken,  and Braille forms. |
| 5 | Project Pusthak | To establish a Model Demonstration-cum-Training Centre for production of free Braille Text books for Visually Impaired students in all Indian languages. An innovative and inexpensive duplication  process has been developed for this purpose, which can be widely implemented  on  a cottage industry basis. |
| 6 | Project Yantra | Adaptation of existing assistive devices or development of  new devices that will enable persons with different types of disabilities to use computers in Indian languages, e.g.,  a Light-actuated Keyboard (both Hardware and On-screen models) with  Spectacle-mounted  Light Pointer that a bi-plegic or quadri-plegic person can use to operate the keyboard  modification of an inexpensive radio-cum-tape recorder to serve additionally as a  hearing aid.  development of Electronic Talking Text Books in local languages.  development  of a new design for a braille slate, for learning to read and  write in braille.][[114]](#footnote-114) |

**20.29** Ferro-Equip[[115]](#footnote-115) an ISO 9001:2008 certified company & has been customizing vehicles for the Physically challenged for over 30 years. **"We make dreams a reality" "Ferro Equip"**

**20.30** Ferro Equip has till date modified more than 1000 cars and made various types of equipment and fittings to suit the needs of the physically challenged all over the country. Ferro-Equip has modified 49 types of all makes and models all over the country , including, various models of Fiat, Uno, Palio, Skoda, Honda Civic, Honda City, Prado, Maruti alto, Zen, Wagon R, Swift, Baleno, Versa, Toyota Corolla, Prado, Altis, Camrey, Hyundai Santro, Sonata, Zing, i10, Tata Indica, Indigo, Xeta, Mahindra Voyager, Scorpio, Bolero, Renault Logan, Xylo, BMW etc.

Ferdinand Rodricks of Ferro-equip is the recipient of NCPEDP-Emphasis award for Universal Design for his innovative approach of modifying cars which they can independently drive.

**FINDINGS**

* The right has been ensured through schemes and programs which lower the mobility barriers for persons with disabilities.
* This is done either by the provisioning of mobility aids or by easing the use of public transport by allowing for free or concessional travel.
* The mobility schemes and programs have primarily targeted persons with physical and sensory disabilities, though the personal attendant schemes and the help desk initiatives would also persons with intellectual, developmental and psychosocial disabilities.

**Future Plan of Action**

* Upgrade the product range of ADIP and ALIMCO. Most of the equipment under these are use out dated technology.
* Research and development in aids and assistive devices that are durable, cheaper and practical for such areas is needed.
* Promote extensively the use of assistive devices/ technologies along with suitable training programs across the country. Build human resources to provide training for disabled people in using assistive technologies

**ARTICLE 21 - FREEDOM OF EXPRESSION AND OPINION, AND ACCESS TO INFORMATION**

|  |
| --- |
| *States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:*  *(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;*  *(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;*  *(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;*  *(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;*  *(e) Recognizing and promoting the use of sign languages.* |

**21.1** The right to freedom of expression and opinion is critical to the enjoyment of other human rights by people with disabilities.

**21.2** Article 19 (1)( a) of the Constitution of India provides that all citizens shall have freedom of speech of expression. The constitution permits the right to be reasonably restricted but specifies the grounds on which such restriction can take place. The Supreme Court of India has emphasized the primacy of this right by not allowing it to be restricted on any ground other than that which has been specified in article 19(2). The Court has further held that information was integral to the effective exercise of the freedom of speech and expression and consequently saw freedom of the press as a right which logically flows from article 19(1) (a).

**21.3** The above interpretations when extended to persons with disabilities require that to enable persons with disabilities to exercise their rights under Article 21 of the CRPD and article 19 (1) (a) of the Indian Constitution they are to be provided the required information through appropriate means of communication. The availability of these means of communication are also necessary if the opinions of persons with disabilities are to be a part of public discourse. Insofar as the CRPD requires that the freedom to be available to persons with disabilities on an equal basis with others the communication support which is integral to the exercise of the right obtains preferred support in Indian constitutional jurisprudence.

**21.4** Despite the importance of the right to freedom of expression and opinion, people with disabilities face numerous barriers to full enjoyment of this right. The major barrier is the lack access to information in accessible formats. This has a direct connect with Article 9 of the UNCRPD, the general issue of accessibility. Also, there is a link to the definition of communication contained in Article 2[[116]](#footnote-116).

**21.5** The right to freedom of expression and opinion is essential to the ability of people with disabilities to develop as individuals and to participate in societies on an equal basis with others. However, full enjoyment will remain elusive for people with disabilities as long as access, attitudinal, and other barriers exist. Article 21 has further links with themes such as training, awareness-raising and education. There is also a strong link to provisions related to informed consent, as obtaining information is dependent on access to information.

1. *Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;*

**21.6 Braille:** The National Programme for Braille literacy has taken many initiatives of setting up Braille presses throughout the country. Resource Centres have been setup with repositories of reading of books, magazines etc. material made available in Braille. School and College texts are available in Braille.

**21.7** U. G. C. Grant in its circular (No. F-6-1 (CCP II) dated 09/01/2009) has mentioned:

* To extend facilities of cassette recorders for Blind students in Universities
* To provide facilities to persons with disabilities
* To take steps to make institutions barrier free
* All educational institutes should provide Braille books and Talking books

**21.8 Libraries:** Some leading universities have made changes to provide library facilities:

1. **Bharathihar University**, Tamil Nadu. It has introduced a ‘Talking Book Library’. Rotary Club has provided help to form the library. The library has started functioning with 1000 books in the form of CDs and audio cassettes.
2. **Jammu University** has opened a Resource Cell for the visually disabled users. A separate software JAWS (Job Access with Speech) has been installed to convert hard copy to voice.

**(c) Delhi University** extended its existing Braille Library for multi-purpose use. The Braille Library is established in the Central Reference Library. It has Braille production, talking book production and electronic text preparation. Over 400 visually challenged students are benefited by these new initiatives. Computer equipped with special software can translate textbooks in regional languages in Braille format. The modern equipment like Braille printer, audio cassettes containing reading and reference material are also available. Facilities like conversion of soft text to voice are also available.

1. **Punjab University** has established a special section in the library for visually impaired users where facilities for listening to the contents of books are available by using some special software. University has also decided to provide free accommodation in the hostel with free education for visually challenged students. Jawaharlal Nehru University (JNU) has also established a separate section called Helen Keller Unit for visually challenged students. The Unit has screen reading software like Kurzweil and JAWS etc.

**(e) Lucknow University** has established Dr. Manohar Lohia Library for visually disabled students equipped with conversion software. Fifteen rooms are allotted for visually impaired students in Narendra Dev Hostel which is situated in front of the library for their convenience.

**(f) University of Calcutta** with the collaboration National Association of the Blind (NAB) is going to open a state-of–art ‘Digital Braille Library and Audio Recoding Workstation’, in the 2nd floor of the Central Library, College Street, where all modern learning equipment for visually disabled persons will be available.

*Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;*

**21.9 Captioning News:** Captioning of news in the form of sub-titles or scrolling text which appears at the bottom of the television screen as the news reader reads has been made mandatory for all news broadcast by Ministry of Information & Broadcasting. The Prasar Bharathi, the public service broadcaster and some other news channels do captioning of news.

|  |
| --- |
| **Box 21.1 NGO Best Practice**  A website called [www.deafsigns.org](http://www.deafsigns.org/)went online to promote Indian Sign Language so that deaf persons can be better understood. This website is the first of its kind to use video instructions to teach Indian Sign Language. The signs are displayed in short continuously repeated video files. This gives any user who accesses the site, an easy way to learn mimics and gestures that are necessary for visual communication. UNCRPD has been translated into sign language and is available on the Website as DVD for sale. |

**21.10 Recognizing and promoting the use of sign languages:** A number of the accessibility initiatives India has taken have already been recounted in article 9 hence in this part the efforts around the promotion of sign language are being recorded in greater detail.

**21.11 Establishment of an Indian Sign language research & Training Centre (ISLRTC) approved:**

As per the 2001 Census, there were about 13 lakh deaf & hearing impaired persons in the country. They use Sign language for communication amongst themselves. Recognising that existing facilities for systematic study and research and training in Indian Sign Language are limited, the Eleventh Five Year Plan had envisaged establishment of an Indian Sign Language Research & Training Centre for development and promotion of the Indian Sign Language and training of teaches and interpreters.

**a.** Accordingly, the Government of India, Ministry of Social Justice & Empowerment has now established Indian Sign Language Research & Training Centre (ISLRTC), in July 2011, initially on a project basis for a period of five years as an autonomous Centre of the Indira Gandhi National Open University (IGNOU), New Delhi. IGNOU will be making five acres of land available for the Centre in its campus at Maidan Garhi, New Delhi. The Centre will lead the way in the study, academic development, and propagation of Indian Sign Language and in its teaching and training, so that this language gains its rightful linguistic, cultural, educational and social place.

**b.** The Government has also accorded approval for creation of 35 posts for the Centre for Developments like Sign Linguistics, Interpreting, Library, Documentation and Administration. The Centre will be established at an estimated cost of 44.00 Crore, over five years.

**c.** IGNOU has been a pioneer in open and distance education in the country and provides cost effective quality education. The University also has a National Centre for Disability Studies and is conducting sign language programmes in collaboration with the University of Central Lancashire, UK, under the UK-India Education and Research Initiative (UKIERI). Thus, IGNOU is well suited to incubate the ISLRTC. Its vast distance education network, including 61 Regional Centres and more than 3000 study Centres will be available to the ISLRTC to expand its outreach.

**d.** Representatives of National level organizations of the deaf, will be duly represented, among others on the Committees which will be responsible for planning and managing the ISLRTC.

**FINDINGS**

* The interventions under the Article are operating on premise that information is essential to expression
* Consequently whether by supporting libraries, establishing Sign Language Research Centre or Braille Literacy the background conditions to enable freedom of speech and expression are being created
* There are no interventions undertaken to realize the expression and information entitlements of persons with intellectual, developmental and psycho-social disabilities

**Future Plan of Action**

* Plan Interventions to realize the expression and information entitlements of persons with intellectual, developmental and psycho-social disabilities

**ARTICLE 22 - RESPECT FOR PRIVACY**

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| --- |
| *1. No person with disabilities, regardless of place of residence or living arrangements, 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. Persons with disabilities have the right to the protection of the law against such interference or attacks.*  *2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.* |

**22.1** Article 22 of the UNCRPD recognizes the right of persons with disabilities to the protection of their private life, reputation and honor *qua* the right to privacy. While the right to privacy does not find explicit mention in Constitution of India in a series of decisions, the Indian Supreme Court has read the right to privacy into the right to life and personal liberty under Article 21 of the Constitution. In addition to the judicial decisions laid down, the right to privacy finds mention in legislations enacted by the State.

**Statutory Framework Mental Health Act, 1987**

**22.2** The only statutory provisions addressing the issue of privacy for persons with disabilities are contained in the following two sections of the Mental Health Act.

Section 81 (3) of the Mental Health Act of 1987 provides that no letters or other communication sent by or to a mentally ill persons shall be intercepted detained or destroyed. This right is not absolute but subject to any rules made to prevent vexatious or defamatory communications or communications prejudicial to the treatment of the person with mental illness.

Section 13 (1) of the Mental Health Act of 1987 requires an Inspector of psychiatric hospital or nursing home to keep confidentiality in relation to the personal records of the patients. However, if the Inspector finds on examination that the patient is not receiving proper care and treatment then he may report the same to Licensing Authorities without breaching the obligation of confidentiality.

**Information Technology Act, 2000**

**22.3** Data protection is an important component of the right to privacy since it entails important details such as an individual’s name, address, telephone numbers, profession, family, choices, etc. These details are sought to be protected as per Article 22 of the UNCRPD. The Government of India has enacted the Information Technology Act, 2000 so as to provide for data protection. The Act covers instances such as computer trespass, violation of privacy etc., downloading and extraction of data, computer database or information, theft of data held or stored in any media, data loss, data corruption etc., (e) computer data/database disruption, spamming etc., unauthorised access to computer data/computer databases, instances of data theft (passwords, login IDs) etc. with disabilities generically included.

**Judicial Decisions**

**22.4** The Supreme Court of India has read the right to privacy into Article 21 of the Constitution of India as a component of the right to life and personal liberty through a catena of judicial decisions. Most of these cases refer to forceful disclosure of information, human dignity and individual autonomy, phone tapping and intercepting data:

**22.5** *Kharak Singh v. State of U.P. [AIR 1963 SC 1295]:* In this case the Supreme Court struck down Regulation 236(b) of UP Police Regulation, which permitted domiciliary visits at night as unconstitutional and violative Article 21. The Court held that Article 21 of the Constitution includes “right to privacy” as a part of the right to “protection of life and personal liberty”. The Court equated ‘personal liberty’ with ‘privacy’, and observed, that “the concept of liberty in Article 21 was comprehensive enough to include privacy and that a person’s house, where he lives with his family is his ‘castle’ and that nothing is more deleterious to a man’s physical happiness and health than a calculated interference with his privacy”. *R. Rajagopal v. State of Tamil Nadu [AIR 1995 SC 264]* The Supreme Court held that “A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent- whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages…….” *Naz Foundation v. Government of NCT of Delhi [160 (2009) DLT 277]* The Delhi High Court while striking down Section 377 of the Indian Penal Code ruled that “The sphere of privacy allows persons to develop human relations without interference from the outside community or from the State.

**FINDINGS**

* There is a constitutional jurisprudence on privacy which could employed to create the legislative regime on the privacy rights of persons with disabilities.
* The Mental Health Act of 1987 has a best interests model of privacy which does not meet the CRPD standard.
* Persons with disabilities generically included in the Information Technology however such generic inclusion does not address their particular needs.

**Future Plan of Action**

* To deliberate on RPDB provisions on the right to privacy.
* To include the concerns of persons with disabilities in any Future Data Protection Act.

**ARTICLE 23 - RESPECT FOR HOME AND THE FAMILY**

|  |
| --- |
| *1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:*  *(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;*  *(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;*  *(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.*  *2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.*  *3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.*  *4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.*  *5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.* |

**A Constitutional Mandate on the Right to Marry**

* 1. Family is an integral component of the social fabric of a society. In fact, the family may be considered as the most elementary unit of a society. In this context, it is vital for any person to be fully integrated with society in the social that their right to marry, found a family and manage a home be respected. Even as the expanded interpretation of Article 21 of the Constitution would encompass the right to marry within the right to life, the Supreme Court has ruled that an unrestricted and absolute right to marry cannot be claimed. The Court has however acknowledged that such restrictions should be formulated in disability neutral terms.
  2. India does not have a uniform civil code; consequently except for persons who have inter-religious marriages, each religious community is governed by its own personal law. India recognizes the sanctity of the institution of marriage and the right of all people to marry and found a family in accordance with the principles of their religious personal laws or the secular civil law. Depending upon the law opted for, the marriage and consequences such as divorce, maintenance, guardianship, trusteeship, adoption are regulated by either the religious personal law or the secular civil law.

**B Statutory Provisions on marriage and divorce**

* 1. The **Hindu Marriage Act, 1955** codifies the Hindu law on marriage between two Hindus in accordance with all customs and traditions. Similarly, the **Indian Christian Marriage Act, 1872** contains provisions relating to marriage between two Christians, **the Parsi Marriage and Divorce Act, 1936** governs the matrimonial relations of Parsis and Mohammedian Law regulates marriages between Muslims. Further the **Special Marriage Act, 1957** contains provisions relating to marriage between individuals of different religions while the **Foreign Marriage Act, 1969** facilitates the solemnization of marriages between an Indian citizen and a foreigner.
  2. For most personal laws, a sound mind and the ability to understand the implications of marriage are a pre-requisite for a valid marriage. However under Muslim Law, the marriage of a person with a mental disability is valid if consent is given by the guardian of such person on his or her behalf. Unsoundness of mind which is incurable or which is coupled with behaviour of a kind that is not reasonable to expect the petitioner to stay with the respondent is the standard formulation to permit divorce. The respondent being afflicted with a virulent form of leprosy is also ground for divorce.

**C Marriage Schemes and Initiatives**

* 1. In addition to the statutory and judicial framework governing marriages, the Central and State governments have also implemented various marriage incentive schemes to promote inter-caste marriages, widow remarriages and marriages with persons with disabilities as a means to improve the social integration of vulnerable groups into mainstream society. There is a range of Central and State schemes whereby monetary support is provided to enable the marriages of persons with disabilities

**23.6** The tables below provide for the entitlements provided and expenditure incurred by various state governments for the marriage incentive schemes dedicated solely to the marriage of persons with disabilities or disabled and non-disabled persons:

**Table 23.1 State Marriage Incentive Schemes- Entitlements**

|  |  |
| --- | --- |
| State | Marriages of Persons with Disabilities |
| Andhra Pradesh | Incentive awards for Marriages between persons with disabilities and non-disabled persons:  To encourage marriages between persons with disabilities and non-disabled persons for Social integration and social reform, a sum of Rs.50,000/- as cash incentive award is sanctioned to either of the spouse if a normal person marries a persons with disabilities. Those couples in which persons with disabilities with minimum of 40% of disability got married to a normal person on or after 01.04.2008 are only eligible for sanction of this award.  During the year 2008-09, incentive awards worth Rs. 2.76 lakh were sanctioned to 92 persons with disabilities couples. |
| Chattisgarh | Marriage Encouragement Policy for the Persons with Disabilities  For the social rehabilitation and self-dependence of persons with disabilities, the State Government has formulated this policy for women with disability ranging from 18 to 45 years of age and men with disability ranging from 21 to 45 years of age. In this regard, for a marriage in which either one or both the spouses are disabled, a sum of Rs.21,000/- would be given to the couple as an encouragement sum. |
| Himachal Pradesh [[117]](#footnote-117) | Marriage Grant for persons with disabilities  To encourage non-disabled young men or girls to marry the persons with disabilities boy or girl having not less than 40% disability and who have attained the Marriageable age, marriage grant at the rate of Rs. 8,000 to 15,000 is provided by the State Government.  Against the budget provision of Rs. 25.00 Lakh an amount of Rs. 13.17 lakh has been spent upto December, 2010. 152 persons with disabilities have been benefitted. |
| Kerala | Marriage assistance to daughters of persons with disabilities. Total Budget 24 lakhs, 32 lakhs received as one time ACA through gender awareness programme and Budget outlay of Rs. 2 lakhs and 340 beneficiaries[[118]](#footnote-118)  Total Budget 24 lakh; 32 lakh received as one time ACA through gender awareness programme and Budget outlay of Rs. 2 lakh. 340 beneficiaries[[119]](#footnote-119) |
| Maharashtra | In October 2010, the Maharashtra State Govt. had launched a scheme where anyone marrying persons with disabilities will be awarded Rs 50,000. Any person who marries a person with 40% or above disability will be eligible. The government is of the opinion that the reward scheme will promote greater integration of people into mainstream society, and will be implemented across Maharashtra. Goa also has a similar marriage reward scheme. |
| Punjab | Marriage (Vivah Shayata Yojna): This scheme initiated by Social Welfare department. In this scheme monetary help of Rs. 25000 is given to a persons with disabilities couple who got married. Earlier this amount was Rs. 5000 but from 19.02.2009 it was increased to Rs. 25000.   * No. of beneficiaries  from this scheme in 2004-05: **90**   (Money spent: **29.79** Lac)   * No. of beneficiaries  from this scheme in 2005-06: **243**   (Money spent: **88 Lac**)   * No. of beneficiaries  from this scheme in 2006-07: **584**   (Money spent**: 116.90** Lac)   * No. of beneficiaries  from this scheme in 2007-08: **530**   (Money spent: **104.60** Lac)   * No. of beneficiaries  from this scheme in 2008-09: **524**   (Money spent: **120 Lac**)   * No. of beneficiaries  from this scheme in 2009-10: **262**   (Money spent: **137.50** Lac) |
| Puducherry[[120]](#footnote-120) | Incentive for the marriage between persons with disabilities and non-disabled persons Rs. 25,000/-( amount enhanced to 25,000/- ) to provide social security and to support the poor persons with disabilities to meet their marriage expenses and encourage non disabled to go for the marriage with the persons with disabilities.  In 2008-09, Rs.1,35,000 was spent for 6 beneficiaries. |
| Rajasthan | In 2008-09 Rajasthan incurred rupees 110 lakhs towards a Marriage Subsidy Scheme which benefitted 524 persons with disabilities.  In 2009 -10 amount incurred 150 lakhs persons benefitted 487. |
| Tamil Nadu | Incentive for marrying persons with disabilities: Marriage assistance is given to a person who marries a hearing impaired person as follows:(Total assistance is Rs.7000/–) Rs.5000/– in the form of National Savings Certificate, Rs.2000/– as cash towards marriage expenses. |

**D Family Planning Education & Reproductive Rights**

* 1. Access to family planning education, assistive reproduction and family welfare programmes is vital to ensure that persons with disabilities can exercise their reproductive rights with maximum support in order to enjoy their right to found a family. This principle is an inherent component of Article 23 of the CRPD. The Government of India has implemented various measures in law, policy and schemes to ensure access to such information.
  2. The Government of India has adopted various policies and programmes with respect to family planning education and enforcing reproductive rights of all target groups. These include the National Population Policy, 2000, family planning education schemes and family welfare schemes.

**E National Population Policy, 2000**

* 1. The National Population Policy, 2000 is an expression of the commitment of the government towards creating an informed choice and consent of citizens while availing of reproductive health care services. In addition the policy adopts a target free approach in administering family planning services. The policy aims to meet the reproductive and child health needs of the people, and address issues of child survival, maternal health, and contraception. The policy furthers the cause of awareness and outreach of reproductive and child health services by government, industry and the voluntary non-government sector. Persons with disabilities are beneficiaries of these policies as members of the general population.

**F Judicial Decisions**

* 1. **In Suchita Srivastava & ANR. vs Chandigarh Administration[[121]](#footnote-121):** the Supreme Court of India upheld the right to motherhood of a girl with intellectual disability who desired to keep her child. The Court took note of the CRPD *“in respecting the personal autonomy of mentally retarded persons with regard to the reproductive choice”* and further *stressed that “we must also bear in mind that India has ratified the Convention on the Rights of Persons with Disabilities (CRPD) on October 1, 2007 and the contents of the same are binding on our legal system.”*

**23.11** India is a common law country and the decisions of the Supreme Court of India are binding on all courts in the country. This ruling has special significance in relation to a pending case before the Bombay High Court where the court is required to pronounce upon the constitutional validity of forced hysterectomies. The Government of Maharashtra has been in its pre-CRPD petition asserting that its decision to grant permission for the hysterectomy of 17 girls with intellectual disability was guided by their best interest. In the wake of the Supreme Court decision in the Sucheta case as also the ratification of the CRPD by the country, it can be asserted that the Mumbai High Court should find such forced interventions impermissible.

**G Adoption & Custody of Children**

**Statutory Framework**

* 1. An integral component of the right to home and family is adoption of children. Adoption in India has existed as a very old tradition based on religious practices. However, now adoption has been institutionalized and legalized by the Government of India to protect the best interests of the child. In India adoption essentially involves two components- the legal capacity of the parents adopting and the best interests of the adopted child. Adoption in India is governed by a statutory framework which permits adoption on both religious and non-religious grounds. In addition, the Central Adoption Resource Authority which is the nodal agency for adoptions in India implements the inter-country and in-country adoption policies of the Government of India.
  2. Adoption for Hindus is governed by the **Hindu Adoptions and Maintenance Act 1956.** According to this legislation, only a Hindu male or female of sound mind is eligible to adopt a child. Adoption by people belonging to other religions is governed by the **Guardians and Wards Act, 1890**. Under this legislation, the character and capacity of the proposed guardian is taken into consideration before permitting guardianship of the child. Further, in 2001 an amendment to the **Juvenile Justice Act**, **1986** was enacted by the Government, wherein anyone willing and having the capacity to adopt, irrespective of religion or marital status could adopt a child orphaned, abandoned, neglected or abused through institutional or non-institutional methods.
  3. The Government of India has appointed the Central Adoption Resource Authority as the nodal agency to implement all policies and programmes with respect to the adoption of children. According to the **Guidelines Governing the Adoption of Children, 2011** issued by the Central Adoption Resource Authority, any prospective adoptive parent must not suffer from such mental or physical condition, which may prevent them from taking care of the child.
  4. Furthermore, the **Guidelines Governing the Adoption of Children, 2011** state that special care must be taken while addressing the adoption procedure of children with special needs and they must be given priority in the waiting list. Such children include children with disabilities who have physical and medical conditions. Further the **Guidelines for Adoption from India, 2006** state that the clearance for inter-country adoption of children with special needs must be given within 10 days of the application made to the Adoption Coordinating Agency. Furthermore, conditions with respect to the composite age of parents adopting the child with special needs may be relaxed if felt necessary.
  5. Adoption for Hindus is governed by the **Hindu Adoptions and Maintenance Act 1956.** According to this legislation, only a Hindu male or female of sound mind is eligible to adopt a child. Adoption by people belonging to other religions is governed by the **Guardians and Wards Act, 1890**. Under this legislation, the character and capacity of the proposed guardian is taken into consideration before permitting guardianship of the child. Further, in 2001 an amendment to the **Juvenile Justice Act**, **1986** was enacted by the Government, wherein anyone willing and having the capacity to adopt, irrespective of religion or marital status could adopt a child orphaned, abandoned, neglected or abused through institutional or non-institutional methods.
  6. The Government of India has appointed the Central Adoption Resource Authority as the nodal agency to implement all policies and programmes with respect to the adoption of children. According to the **Guidelines Governing the Adoption of Children, 2011** issued by the Central Adoption Resource Authority, any prospective adoptive parent must not have any such mental or physical condition, which may prevent them from taking care of the child.

**H Schemes and Programmes**

* 1. The Government of India and State Governments provide necessary support for adoption of children through its policies and programmes, while the Non- Governmental Organizations (NGO’s) provide actual assistance in the process of adoption. For this purpose, the Central Government has recognized the following agencies.

1. Indian Placement Agencies - 73 (in various states)
2. Foreign Placement Agencies Enlisted - 254 (in foreign countries)
3. Voluntary Co-ordinating Agency in India- 13 (in various states)
4. Scrutiny Agencies - 13 (in various states)

**I The Scheme of Assistance to Homes (Sisugreh) For Children to Promote In-Country Adoption**

**23.19** This scheme provides support for institutional care within the country for care and protection of infants and children up to 6 years of age who are either abandoned or orphaned/destitute and their rehabilitation through In-Country adoption. According to this scheme, grant in aids shall be provided to NGOs and institutions recognised by the Government for providing care and protection to destitute children. Children with disabilities are generically included in these schemes.

**J Custody of Children**

* 1. An important aspect of the right to home and family is the custody of children of parents who are divorced or separated. This aspect assumes stronger significance when one of the parents is a person with disability
  2. The law of custody of children is primarily governed by the **Hindu Minority and Guardianship Act, 1956** for parents who are governed by Hindu law and the **Guardians and Wards Act, 1890** for parents who belong to other religions. Both legislations take into consideration the physical and mental well-being of the person who might be appointed as a guardian of the child. Further, the guardian of a child is appointed only after taking into consideration the “best interest and well-being of the child”.

**FINDINGS**

* The subsisting laws of marriage, divorce, provide for mental disability and leprosy as a disqualifying ground.
* The Supreme Court of India has pronounced against an absolute right to marry but has however ruled that the grounds of disqualification should be disability neutral.
* The Supreme Court has upheld the reproductive rights of persons with intellectual disabilities.
* The subsisting laws of adoption, guardianship and custody disadvantage persons with disabilities.
* The Government of India has pronounced in favour of a child care allowance for mothers with disabilities but the custody laws do not take note of the support.

**Future Plan of Action**

* The Ministry of Law proposes to introduce an amending law whereby leprosy as a ground for divorce may be repealed from the Marriage Acts.
* The RPDB proposes no discrimination on grounds of disability in laws of marriage and divorce.
* Family planning education, family health programmes to be tailored to suit the special needs of persons with disabilities.
* RPDB proposes prohibition and criminalizing of the practice of forced sterilization and hysterectomies of persons with disabilities
* Adoption of policies and programmes to provide child-rearing support to persons with disabilities
* Institution of a national scheme to promote the adoption of children with disabilities and the protection and development of such children who are waiting to be adopted.

**ARTICLE 24 - EDUCATION**

|  |
| --- |
| *1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:*  *(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.*  *2. In realizing this right, States Parties shall ensure that:*  *(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;*  *(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live; (c) Reasonable accommodation of the individual’s requirements is provided;*  *(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;*  *(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.*  *3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate 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) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.*  *4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ 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. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.*  *5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.* |

**A Free and Compulsory Education from Directive Principle to**

**Fundamental Rights**

**24.1** In recognition of the close connection between nation building and education Article 45 of the Constitution of India directed the State to endeavour to provide free and compulsory education to all children upto the age of 14 years within a period of ten years from the commencement of the Constitution. In providing for the period of 10 years the founders accepted that the goal of universal education would be realized progressively**.**  Insofar as education was a subject which was within the jurisdiction of the States, there was variation in the manner in which the different States of the Union understood this obligation. Some of the States enacted Compulsory Education Statutes, which compelled parents to send their children to school and rendered the failure to do so punishable. Significantly, in several of these statutes the penal provision was rendered inapplicable when the child was not sent to school by reason of disability.

**B Evolving Philosophy on Education of Children with Disabilities**

**24.2** A seminal study[[122]](#footnote-122) on the education of children with disabilities both before and after Independence narrates how the first educational institutions for persons with disabilities were a part of a missionary effort. The education of children with disabilities has to a large extent been through voluntary enterprise both supported by and independent of the State. This study also highlights that even as the schemes and programs promoted special education, there were several Education Committee reports which recommended that the education of children with disabilities should be organized in regular schools. The competing pulls of general and special education resulted in the launch of the Integrated Education of Disabled Scheme in 1974 which subsisted along with the special school system of education.

**24. 3** The process of integration was carried further by the National Policy on Education (NPE), 1986 and the Programme of Action (1992) which envisaged some measures to integrate children with physical and mental impairment to mainstream educational institutions. The National Action Plan for Inclusion in Education of Children and Youth with Disabilities (IECYD) developed by the MHRD (November -2005) emphasizes the inclusion of children and young persons with disabilities in all general educational settings from Early Childhood to Higher Education. The goal of the Action Plan is –“to ensure the inclusion of children and youth with disabilities in all available general educational settings, by providing them with a learning environment that is available, accessible, affordable and appropriate.

**24.4** In 1994 the World Conference on Special Needs Education in Salamanca, Spain produced a statement and framework for action Ninety-two countries (including India) endorsed the Salamanca statement requiring that “ordinary schools should be equipped to accept all children, regardless of their physical, intellectual, emotional, social, linguistic or other conditions”. The declaration also states that “Educational policies at all levels, should stipulate that children with disabilities should attend their neighborhood school, that is, the school that would be attended if the child did not have the disability”. The Salamanca Declaration encouraged governments to design education systems that respond to diverse needs so that all students can have access to regular schools that accommodate them in child-centred pedagogy[[123]](#footnote-123).

**Fundamental Right to Education**

**24.5** The momentum to realize the goal of Universal Education was accelerated by the Supreme Court of India when it recognized the right to education as an integral component of the right to life[[124]](#footnote-124). By these interpretations the Indian Supreme Court transformed the directive principle on education to an implicit fundamental right. The process of transformation was completed by the Constitution (Eighty-sixth Amendment) Act, 2002 which inserted Article 21A which laid down that “ the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State, may by law, determine”. In furtherance of the right recognized by Article 21A of the Constitution, the Union Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009 (RTEA). This Act came into force from the 1st of April 2010.

**Right to Education Act, 2009 [RTEA]**

**24.6** Section 3(1) of the RTEA recognizes that “ every child shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education” The free nature of the education is stressed by section 3(2) which provides that “ no child shall be liable to pay any kind of fee or charge or expenses which may prevent him or her from pursuing and completing elementary education”. The State has been given a time period of three years to fulfil its responsibility of establishing neighbourhood schools in every part of the country. infrastructure related responsibilities under the Act. Section 8 ( c ) of RTEA mandates the government “ to ensure that no child from the weaker sections or disadvantaged groups are not discriminated against and prevented from pursuing and completing elementary education on any grounds”.

**RTEA and Education of Children with Disabilities**

**24.7** The education rights of children with disabilities were addressed in the proviso to Section 3 of RTEA as follows:

*“provided that a child suffering from disability as defined in clause (i) of section 2 of the PWDA shall have the right to pursue free and compulsory elementary education in accordance with the provisions of chapter V of the said Act”.*

By reason of this proviso children with disabilities were secured the right to free and compulsory education upto the age of 14 years. Insofar the definition of person with disability in PWDA does not include children with autism, cerebral palsy and learning disabilities, children with these disabilities fell out of the purview of both legislations.

**24.8** To remedy this inadvertent omission and to explicitly include persons with disabilities in the definition of children belonging to a disadvantaged groups an amendment to the statute was introduced in Parliament and awaits enactment after being duly scrutinized by the concerned Standing Committee. Insofar the process to replace the PWDA with a new legislation has been initiated, it is proposed that the RTEA provisions shall be mutatis mutandis be extended to children with disabilities and only those provisions be enacted which are particularly required for persons with disabilities .

**24.9** The legislative future of the right to education of persons with disabilities shall be shaped by the twin influence of the RTEA and CRPD the current state of the right is controlled by the PWDA, RTEA and Srava Shiksha Abhiyan the flagship programme of the Government of India to achieve the goal of universal education.

**Construction of Right to Education in Persons with Disabilities Act**

**24.10** Section 26 of the PWDA requires central state and local governments to ensure “ that every child with disability has access to free education appropriate environment up to till … the age of 18 years”; to promote the integration of students with disabilities in mainstream schools; “setting up of special schools in government and private sector for those in need to special education” and “ to equip the special schools … with vocational training facilities. “.This section of PWDA has been formulated to provide a menu of educational options for children with disabilities from special to inclusive.

**Implementation of RTEA in States**

**24.11** As already mentioned the RTEA does not explicitly provide for children with disabilities. There is a possibility to include children with disabilities in the definition of disadvantaged group by government notification and rules and thereby extend the benefit of inclusive education to them. A process which is greatly assisted by the fact that children with disabilities were within the purview of Sarva Shiksha Abhiyan the union government program on universal education which antedates the RTEA. This power has been utilized by a number of State Governments to include children with disabilities as follows:

1. State Governments of Himachal Pradesh, Kerala, Manipur and Andhra Pradesh include children with disabilities within the definition of “child belonging to disadvantaged group”, thereby extending all the benefits available to disadvantaged group to children with disabilities as well.
2. Since disabilities prevent children from access to school, the State Government and local Authority assumes duties and responsibilities to provide children with disabilities with appropriate and safe transportation arrangements so that they can attend school and complete elementary education.
3. The states of Kerala and Andhra Pradesh goes a step ahead when it comes to ensuring access to education for children with disabilities by making arrangements for Home Based Education of children who are severely disabled and cannot safely commute to neighbourhood schools.
4. The State Governments and Local Authorities shall provide children with disabilities with free special learning and support material.
5. For the purpose of establishing neighbourhood schools, the school mapping exercise and identification of children inter alia includes children with disabilities.
6. The School Management Committee that shall be constituted inter alia is required to monitor the identification and enrolment of and facilities for education of children with disabilities and ensure their participation in and completion of elementary education.

**24.12** Kerala, the Indian state which leads the literacy rates in the country has formulated one of the most progressive legal regimes for children with disabilities. The rules entitle children with disabilities to free education till they attain the age of 18 years; equipping and upgrading the existing special schools for children with severe disabilities and providing residential facilities in appropriate locations, offering vocational training facilities, providing health care at school level, formulating a restructured and relevant curriculum with various categories of disabilities and developing appropriate systems for their continuous and comprehensive evaluation. Besides it is mandated to maintain a record of all children including children with disabilities till they attain the age of 18 years and if education is discontinued, the cause of such discontinuance; the academic authority constituted for curriculum shall design training course for pre-service and in-service training of teachers for imparting education to children with disabilities in accordance with PWDA.

B Universalising Elementary Education: Schemes and Programs

**24.13** It is important to examine the literacy rates of persons with disabilities and the general population in order to obtain a realistic assessment of the extent of Government obligation under this article.

**Source:***Census 2001*

**24.14** **Table 24.1** shows that the literacy rate amongst persons with disabilities is lower when compared to the general population. Whereas the literacy rate of general population is 64.80% that for persons with disabilities is just 49%. The gender inequity prevailing in literacy in general population is also witnessed in persons with disabilities, albeit with a wider gap. Thus whilst for boys and men with disabilities the rate is 68% it is and 32% for women with disabilities. These figures are being duly noted in order to plan targeted programs to address the educational entitlements of persons and particularly women with disabilities. The government also takes cognizance of the low presence of persons with disabilities in higher education courses.

**24.15 Programmatic intervention for free and quality elementary education:** The Country has been addressing the provision of free and quality elementary education since past many years through the following schemes and programmes, that not only ensures quality education but also provides aids and support in terms of scholarships at various levels of education:

**Table 24.1 Elementary Education Schemes and Programmes in India**

|  |  |  |
| --- | --- | --- |
| *Scheme* | ***Objective*** | ***Coverage*** |
| SarvaShikshaAbhiyan (SSA) (Universal Education Programme) | aims to provide quality elementary education to all children in the age group of 6-14 years besides achieving community solidarity by bridging the social, regional and gender gaps through active participation of community in the management of schools. | * Universal Education * Targets geographical areas in districts and blocks with predominance of SC, ST, OBC, and minority populations |
| Mid Day Meal Scheme | * Improving the nutritional status of children in class I-VII * Encouraging poor children, belonging to disadvantaged sections, to attend schools more regularly and help them concentrate on classroom activities * Providing nutritional support to children of primary stage in drought affected areas during summer vacation. | * Covers government, local body, government aided schools, EGS/AIE centres throughout the country |
| Integrated Education of the Disabled Children (IEDC)(Presently covered under SSA, therefore replaced by IEDSS) | * eliminate discriminatory attitudinal barriers of students and teachers * to provide an inclusive education to special needs children * provides for facilities to students with disabilities including expenses on books and stationery, expenses on uniforms, transport allowance, reader allowance, escort allowance, hostel accommodation and actual cost of equipment. | Children with special needs in elementary stage |

**24.16 Sarva Shiksha Abhiyan(SSA):** (Universal Education Programme) is a flagship programme of Government to provide universal elementary education in a time bound manner through community owned school system. Three important aspects of UEE are access, enrolment and retention of all children in 6-14 years of age. A zero rejection policy has been adopted under SSA, which ensures that every child with special needs, irrespective of the kind, category and degree of disability, is provided meaningful and quality education.

**Table 24.2 Position of Children With Special Needs**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Total CWSN Identified | % CWSN Identified | CWSN Enrolled in Schools | % Enrolled in Schools | CWSN Enrolled in EGS/  AIE Centres | CWSN provided Home Based Education. | Total Coverage of CWSN | % CWSN covered against CWSN |
| 3042053 | 1.5 | 2595673 | 85.3 | 51565 | 138133 | 2780151 |  |

**Source:** *Annual Report 2009-10 Ministry of Human Resource and Development*

**24.17** Interventions for inclusive education adopts a three pronged approach of physical access, social access and quality of access in terms of early detection and identification, functional and formal assessment, appropriate educational placement, preparation of individualised educational plan, provision of aids and appliances, teacher training, resource support, removal of architectural barriers, monitoring and evaluation and a special focus on girls.

**24.18** The objective of SSA has further been facilitated through an induction of RTEA in the justiciable legal framework of the country, necessitated realignment of SSA and the approach and strategies contained therein with the provisions of RTEA. Consequently, the traditional incentive based approach replicating in SSA and numerous other schemes and programmes needs to be shifted to a modern entitlement based approach. The Government has set up a Committee in September 2009 to suggest on Implementation of RTEA and the resultant revamp of SSA.

**24.19** Under the SSA, during the household surveys and special surveys conducted by all States to identify children with special needs, 28.52 lakh children with special needs were identified of whom 23.17 lakh children with special needs (81.25% of those identified) are enrolled in schools. Further 91,058 children with special needs are being covered through EGS/AIE in 19 states/ UTs and 1,13,755 children with special needs are being provided home-based education in 25 States/ UTs. In all 88.43 % of the identified children with special needs in 2008-09 have been covered through various strategies.

**24.20** 6.48 lakh schools (56.37%) have been provided with barrier free access to ensure access to inclusive education. Enrolment of Children 29.57 lakh children identified and 24.77 lakh children (83.78% of those with Special Needs identified) enrolled in school by 2009-10.

**Box 24.1 NGO involvement**

877 NGO's across 31 States are involved in providing support to Inclusive Education. Arushi in MP, Spastics Society of Eastern India, Kolkata, Sri Ramkrishna Mission Vidyapeeth, Coimbatore and National Association for Blind, Mumbai are some of the renowned NGOs helping SSA.

**24.21** In a response to address and eliminate discriminatory attitudinal barriers of students and teachers, Government started centrally sponsored scheme for **Integrated Education of the Disabled Children (IEDC)** to provide an inclusive education to special needs children through the Department of Social Welfare in 1974, which was later on transferred to Department of Education in 1981.

**Teacher Training**

**24.22** According to the Annual Report 2009-10, under SSA 25.97 lakh teachers have been provided training through regular teacher training programmes, which include a 2-3 day capsule on inclusive education. 18.63 lakh teachers have been provided 3-5 days additional training for better orientation to Inclusive Education. 93,470 teachers have been trained in 26 States with Rehabilitation Council of India for 90 days and act as Resource Persons in districts/blocks 29 States have appointed 9,310 resource teachers and 1000 NGOs are involved in the programme in 29 States. 12.67 lakh (71.29%) children with special needs have been provided assistive devices.

**24.23** Teacher Preparation in Special Education (TEPSE) Scheme, aimed to launch special education teacher preparation programmes to prepare special teachers to teach children with disabilities in both special and inclusive settings by providing financial assistance to offer B. Ed and M. Ed degree courses with specialization in one of the disability area

**Table 24.3 State initiatives: *Schemes of various State Governments for Elementary Education***

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name of the State*** | ***Scheme*** | ***Details / eligibility*** | ***Amount of Scholarship*** |
| **Gujarat** | Scholarships for disabled students | Std., I to VII  Annual income of parents less than 50,000/- | Rs.100/- |
| Scholarships for students not residing in Hostels | Annual income of parents less than 50,000/- | Rs.1000/- |
| **Himachal Pradesh** | Scholarships | Class I to PG.  Scholarship offered to facilitate education if the person has more than 40% of disability and monthly income of his or her parents does not exceed Rs.5000/- per month. | Day scholars: Rs.150 to 450  Hostellers Rs.300 to 900 |
| **Jammu & Kashmir** | Scholarships | Children who belong to scheduled castes, other backward caste children with disabilities.  Scholarship given for 9 working months of academic year. | I to V std., Rs.50 p.m for boys.  Rs.75 p.m for girls |
| **Maharashtra** | Scholarships | 1 to IV std.,  V to VII std., | Rs.50/- p.m  Rs.75/- p.m |
| **Rajasthan** |  | I to VIII – students with disabilities whose parents are non-income tax payee | Rs.40/- class 1 to 4  Rs. 50/- class 5 to 8 |
| **Tamil Nadu** | Scholarships | I to V std.,  VI to VIII std., | Rs.250/-  Rs.750/- |
| **Uttar Pradesh** | Scholarships for disabled students | Class I to V  Class VI to VII | Rs.15/- p.m  Rs.20/- p.m |

**Source:***Compiled from information provided by State Governments to MoSJE*

**C Secondary and Higher Education**

**24.24** The Central Advisory Board of Education (CABE) is the highest advisory body to the Central and State government in the field of education. The committee report on the Universalization of Secondary Education (June, 2005) recommended that the guiding principle of Universal Secondary Education should be Universal Access, Equality and Social Justice, Relevance and Development, and Structural and Curricular Considerations. The CABE Committee Report on “Girls’ Education and the Common School System” has recommended making the curriculum flexible and appropriate to accommodate the diversity of school children including those with disability in both cognitive and non-cognitive areas.

**Table 24.4 Secondary Education Schemes and Programmes in India**

|  |  |  |
| --- | --- | --- |
| ***Scheme*** | ***Objective*** | ***Coverage*** |
| **Rashtriya Madhyamik Shiksh Abhiyan (RMSA)** | the objectives of making secondary education of good quality available, accessible, and affordable to all young persons in the age group of 15–16 years, removing gender, socio-economic, and disability barriers, making all secondary schools conform to prescribed norms, achieving a GER of 75 per cent in secondary education in a period of five years, providing universal access to secondary level education by 2017 and universal retention by 2020. | Government secondary schools throughout the country |
| **Inclusive Education for the Disabled at Secondary Stage (IEDSS)"** | to enable them to continue their education at the secondary stage in an inclusive environment in regular schools. | covers children with disabilities in the secondary stage from classes IX to XII |

**24.25** Since SarvaShiksha Abhiyan covered children with special needs in the elementary stage, the scheme of "Integrated Education for the Disabled Children” (IEDC) has been replaced by the scheme of "**Inclusive Education for the Disabled at Secondary Stage (IEDSS)**" with effect from 1st April, 2009 which is centrally sponsored scheme implemented through the State Governments.

**24.26** The components of the scheme include: (i) assessment of educational needs, (ii) provisions of student specific facilities, (iii) development of learning material, (iv) provision of support services like special educators, (v) provision of resource rooms, (vi) training of general school teachers to improve their capacity to teach children with special needs in an inclusive environment, and (vii) making secondary schools barrier free. Thus the scheme furthers the obligation of the CRPD that requires to provide reasonable accommodation to suit individual requirements.

**Scholarships**

**24.27 National Means-cum-Merit Scholarship (NMMS) Scheme** was launched in June 2008 with a provision to award 1 lakh scholarships every year to selected candidates at the rate of Rs 6,000 per annum (that is, Rs 500 per month) for study in Classes IX–XII. The total number of selected candidates in 2009–10 was 24,521 in 27 states/UTs and it was reported that eight states/UTs did not send their proposals. Presently over 75,000 students are availing of scholarship facilities under this scheme.

**24.28 KendriyaVidyalaya/NavodayaVidyalaya** 3% reservation is provided in admission to the Students and exempted from payment of Vidyalaya Vikas Nidhi and tuition free from 1.10.2009 who are suffering from the disability as defined in the PWDA.

**24.29 Upgradation of Merit of Schedule Tribe Students by Ministry of Tribal Affairs:** The objective of the scheme is to upgrade the merit of Scheduled Tribe students by providing remedial and special coaching in Classes IX to XII. The scheme provides for 100 per cent central assistance to the States / UTs. A package grant of Rrs.19500/- per student per year is provided and the States / UTs are not required to bear any financial burden. Besides the amount of scholarship, students with disabilities are also eligible for the following assistance:

**Box 24.2 Vocational Education through Polytechnics**

Kashmir Government Polytechnic, Srinagar is one of the Polytechnic among 50 Institutes in the country under MHRD (Ministry of Human Resource Development, Government of India, New Delhi) which imparts Vocational and Technical Education to Persons with Disabilities. The Polytechnic has introduced the scheme from the year 2001- 2002.

Under this scheme, the Institute is providing Formal as well as Non-formal Vocational and Technical Education to Persons with Disabilities. These programmes are aimed at promoting services for people with disabilities so that they are encouraged to become financially independent and productive members through opportunities in education, vocational and technical training, medical and socio-economic rehabilitation.

1. Reader Allowance of Rs.150/- p.m for blind students in classes IX to XII.
2. Transport allowance of Rs.100/- p.m for the students with disabilities if such as student does not reside in the hostel, which is within the premises of educational institution. The disability as per the said Act is defined as blindness, low-vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation, mental illness.
3. Special pay of Rs.150/- per month is admissible to any employee of the hostel wiling to extend help to a students with severe orthopedic impairment residing in a hostel managed by the educational or by the State Government / UT administration**,** who may need the assistance of a helper.
4. Escort allowance of Rs.100/- per month for students with severe orthopaedic impairment day scholars with lower extremity disability.

**Table 24.5 Schemes of various State Governments for Secondary Education**

|  |  |  |  |
| --- | --- | --- | --- |
| *Name of the State* | *Scheme* | *Details / eligibility* | *Amount of Scholarship* |
| **Goa** | Scholarships | Std., IX to XII | Rs.300/- p.m |
| Readers Allowance | Std., IX to XII | Rs.75/- p.m |
| Hostel allowance | Std., IX to XII | Rs.200/- p.m |
| **Gujarat** | Scholarship | Standard 8 to 12 and equivalent I.T.I | Rs.150/- p.m. Day scholar  Rs.2000/- student residing in hostels(for 10 months)  Rs. 1500/- student not residing in hostels |
| Reader allowance for students with visual impairment | Standard 8 to 12 and equivalent I.T.I | Rs.100/- p.m |
| **Himachal Pradesh** | Scholarship for students with disabilities of poor families | Class VI to VIII.,  Class IX to X  Senior Secondary | Day scholar Rs.200  Hostellers Rs.400  Day Scholars Rs.250  Hostellers Rs. 500  Day scholars Rs.300  Hostellers Rs.600 |
| **Jammu & Kashmir** | Scholarships | Children who belong to scheduled castes, other backward castes and children with disabilities.  Scholarship given for 9 working months of academic year. | VI to VIII std., Rs.100 p.m for boys.  Rs.150 p.m for girls  IX to X std., 150 p.m for boys  Rs.200/- p.m for girls. |
| **Kerala** | Scholarships for students with disabiiities | The students with disabilities studying in schools, colleges, professional and technical courses whose annual family income is below Rs.36,000/- and obtain at least 40% marks in the exam. | --- |
| **Madhya Pradesh** | Scholarships | IX std., onwards (day scholar)  (Hosteller) | Rs.85/- p.m  Rs.148/- p.m |
| **Maharashtra** | Scholarships | VIII to X std.,  Mentally retarded children upto the age of 18 years | Rs.100/- p.m  Rs.75/- p.m |
| **Rajasthan** | Scholarships | Class I to IV | Rs.40/- p.m |
| Class V to VIII | Rs.50/-p.m |
| IX onwards | Rs.85/- …148/- p.m |
| **Tamil Nadu** | Scholarships & Allowances | Ist to V std.,  VI to VIII std,  IX to XII std., | 250/- p.m  750/- p.m  1100/-p.m |
| Cash Awards | **Plus Two (12th Std.,)** | **Between** |
| First Prize | 6000/- to 4000/- |
| Second Prize | 4000/- to 2500/- |
| Third Prize | 3000/- to 1500/- |
| Readers Allowance for Students with Visual Impairment | IX to XII std., | Rs.750/- |
| **Uttar Pradesh** | Scholarships for students with disabilities | Class IX to XII  Class XII | Rs. 85/- p.m  Rs.125/- p.m |

**24.30 Higher Education:** Section 39 of the PWDA provides ‘All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three percent seats for persons with disabilities’. Section 39, thus makes it obligatory for government aided institutions to reserve 3% of the total seats for the persons with disabilities.[[125]](#footnote-125) However, the reservation under this Section was construed as reservation under employment/services and not one towards seats of admission in educational institutions. Consequently, educational institutions whilst denying admissions to persons with disabilities forwarded a reasoning that the reservation sought in the provision extended to posts in educational institutions and not seats for admission to students with disabilities. The Judiciary, however, took a firm stand and thwarted any such attempt to deny admission to persons with disabilities by reading the said provision in favour of students with disabilities and interpreted it to mean reservation of seats for admissions. The Statement of Objects and Reasons of the Act provides that one of the reasons for which the Act was enacted as a welfare legislation was to spell out the responsibility of the State towards the prevention of the disabilities, protection of rights, provisions of medical care, education, training, employment and rehabilitation of persons with disabilities.[[126]](#footnote-126)

**24.31** However various schemes and programmes have been initiated by bodies such as UGC, AICTE and various central educational institutions to encourage education of persons with disabilities at graduate and higher levels, by (i) providing enabling environment, (ii) human resource development, and (iii) promotion of the higher education for persons with disabilities.

**24.32** Higher Education for Persons with Special Needs (HEPSN) aims to create an environment at the higher education institutions including Universities to enrich higher education learning experiences of persons with disabilities by creating awareness about the capabilities of persons with disabilities, by constructing facilities to improve accessibility, purchase of equipment to enrich learning. There are three components of the scheme – Establishing of Enabling Units, providing Access and Special Equipment to augment Educational Services

**Box 24.3 University for Persons with Disabilities**

The U P legislature by a special Act established the Jagat Guru Ram Bhadracharya Handicapped University in 2001 to impart professional and technical education exclusively to persons with disabilities.    The University offers education, boarding, lodging and other facilities free of cost or at very nominal fees to students with disabilities.  The university offers graduate and post graduate courses in Hindi, English, Sanskrit, Sociology, Music, Fine arts, IT, dept. of special education, computer and information on sciences, vocational education   The university also offers distance education programmes which are recognized by the Distance Education Council of IGNOU, New Delhi. The Jagat University is offering higher and professional education to persons with disabilities.

**24.33** Upgradation of existing Polytechnics to integrate the physically challenged persons This Scheme has been formulated with aim to integrate physically persons with disabilities into maintaining at Technical and Vocational Education. 50 existing polytechnics have been selected for upgradation. 1250 disabled students will be registered for diploma level course every year. 5000 disabled students will be enrolled for short term technical and vocational courses.

**24.34** Visually - Challenged Teachers The scheme has been formulated to help visually challenged permanent teachers to pursue teaching and research with the help of a reader by using teaching and learning aids by way or providing Reader's Allowance and funds for purchase of Braille books recorded materials, etc.

**24.35** Besides the schemes, guidelines have been issued by UGC in respect of Persons with Disability to Universities and Colleges including reservation of 3% for the persons with disabilities in the appointment of Lecturers and in admissions of all courses, 5% relaxation in marks at master's level for physically handicapped for appearing in NET examination, relaxations in upper age limit up to 5 years to persons with disabilities in admissions, Circulars regarding Department of Disabilities Studies and taking steps to make the institutions barrier free, 5% marks relaxation in post graduate Ist year for on awardee who is a person with disability awardee under the scheme of Indira Gandhi Post Graduate Scholarship for single girl child, facilities for Cassette recorders for blind students.

**Scholarships in Higher Education**

**24.36** Under the Scheme of **National Scholarships for Persons with Disabilities**, the Ministry of Social Justice and Empowerment awards 500 new scholarships every year for pursuing post matric professional and technical courses of duration more than one year for which applications are invited in the leading newspaper and placed on website of ministry. However, in respect of students with cerebral palsy, mental retardation, multiple disabilities and profound or severe hearing impairment, scholarship are awarded for pursuing studies from IX Std. onwards.

**24.37** Students with 40% or more disability whose monthly family income does not exceed Rs. 15,000/-are eligible for scholarship. A scholarship of Rs. 700/- per month to day scholars and Rs. 1,000/- per month to hostellers is provided to the students pursuing Graduate and Post Graduate level technical or professional courses. A scholarship or Rs. 400/- per month to day scholars and Rs. 700/- per month to hostellers is provided for pursuing diploma and certificate level professional courses. In addition to the scholarship, the students are reimbursed the course fee subject to a ceiling of Rs. 10,000/- per year. Financial assistance under the scheme is also given for computer with editing software for blind/ deaf graduate and postgraduate students pursuing professional courses and for support access software for cerebral palsied students.

**24.38** Tuition Fee Waiver Scheme for Physically Handicapped Meritorious Students The proposed scheme is applicable to the students of all AICTE approved technical institutions offering Bachelors programmes in Engineering, Pharmacy, HMCT, Architecture and Applied Arts and Crafts, Diploma Programmes of three years duration in all disciplines. The waiver is limited to the tuition fee as approved by the State Level Fee Committee for self-financing institution and by the Government for Government and Government aided institution.

**24.39** GyanPrabha (Scholarship Scheme) is a scheme of National Trust to provide financial assistance for pursuing vocational training/professional courses leading to skill development and employment. Financial assistance to the tune of Rs.700 p.m. is provided. So far scholarship is provided to 29 beneficiaries. The scheme is being expanded to have wider coverage.

**24.40 Post Matric Scholarship for Scheduled Tribe Students by Ministry of Tribal Affairs:** The scheme provides 100 per cent financial assistance to Scheduled Tribe students whose family income is less than or equal to Rs.1.08 lakh per annum for pursuing post-matriculation recognized courses in recognized institutions. The scheme covers professional, technical as well as non-professional courses at various levels. The value of the existing scholarship includes maintenance allowance, reader charges of blind students, study tour charges, thesis typing/printing charges, book allowance to students pursuing correspondence course and compulsory non-refundable fees charges by the educational institutions.

**24.41 Scholarships granted by Central Wakf Council[[127]](#footnote-127)**

Under the educational scheme of the Central Wakf Council, it has been providing scholarship and ad-hoc grant to the students pursuing technical, professional and general degree courses on priority basis, to all such applicants who were verified/certified as students with disabilities. Only the remaining seats were awarded among the other categories.

**Table 24.6 Scholarship and other schemes of**

**State Government for Higher Education**

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name of the State*** | ***Scheme*** | ***Details / eligibility*** | ***Amount of Scholarship*** |
| **Bihar** | Mukhyamantri disability education loan scheme | Loan for persons with disabilities having 40% or more disability with an age group of 18 to 30 years for higher study in recognized educational institutions. | Loan upto Rs.5.00 lakhs at simple interest of 4%. |
| **Goa** | Scholarships | Graduation | Rs.400/- p.m |
|  | Post graduation | Rs.500/- p.m |
| Readers Allowance | Graduation | Rs.115/- p.m |
| Hostel allowance | Post graduation | Rs.150/- p.m |
| Graduation | Rs.260/- p.m |
| Post graduation | Rs.360/- p.m |
| **Gujarat** | Scholarships | Graduation | Day scholar : 250/-  Student not residing in hostel : 2500/-  Residing in Hostels: 3250/- |
| Post graduation | Day scholar : 300/-  Student not residing in hostel : 3000/-  Residing in Hostels: 4000/- |
| Engineering and Professional courses | Day scholar : 300/-  Student not residing in hostel : 3000/-  Residing in Hostels:4000/- |
| Reader allowance | Graduation, Post graduation, Engineering & Professional courses | Rs.100/- per month |
| **Kerala** | Scholarships to mentally retarded persons | Financial assistance provided to mentally retarded persons studying in private institutions | Financial assistance Rs.75/- for a period of 10 months .  School requisite allowance and dress allowance Rs.50/- & Rs.100/- |
| **Madhya Pradesh** | Scholarships for Day scholars | Graduation  Engineering & Professional Courses  Post graduation | Rs.125/-  Rs.178/-  Rs.170/- |
| Hostel allowance | Graduation | Rs.148/- |
| Engineering & Professional courses & Diploma & Degree | Rs.248/- |
| Post graduation | Rs.240/- |
| **Maharashtra** | Scholarships | Graduation and Post graduation courses in Medical & Engineering, agricultural and veterinary courses  Diploma courses in  Medical, Engineering, professional education, post graduation in Arts, Science & Commerce | Day scholars Rs.190/- p.m  Hostellers Rs.425/- p.m  Day scholars Rs.190/- p.m  Hostellers Rs.290/- p.m |
|  | Readers Allowance | * + Do- | Rs.100/- p.m |
| **Orissa** | Banishree | Scholarships to students with disabilities studying in recognized main stream school from primary level to university level including those pursuing technical and vocational education in recognized institutes. | --- |
| **Rajasthan** | Scholarships | Graduation | Rs.125/-…148/- |
| Engineering | Rs.178/-.. 248/- |
| Post graduation | Rs.170/-.. 240/- |
| **Tamil Nadu** | Scholarships & Allowances | Under graduates | 1500/- |
| Professional courses and Post Graduates | 1950/- |
| Readers Allowance for students with Visual Impairment | Graduation courses  Post graduate & Professional courses | Rs.1250/-  Rs.1500/- |
| Readers Allowance for students with Visual impairment | *Graduation courses*  *Post graduate & Professional courses* | Rs.1250/-  Rs.1500/- |
| **Uttar Pradesh** | Scholarships | Graduate and degree in professional and PG courses | Rs.170/- p.m |

**Source:***Compiled from information provided by State Governments to MoSJE*

**D Girls Education**

**24.42** It has been observed that the rural-urban and male-female divide found in other areas of socio-economic performances, have evidently crept into education of persons with disabilities as well. There are strong gender differences in educational attainment among persons with disabilities, with women and girls with disabilities having an illiteracy rate on average of 64 percent (against a male counterparts with an average of 43 percent), and as high as 73 percent for those with visual impairment. There are also strong locational differences as one would expect, with the total illiteracy rate prevalent in persons with disabilities for rural areas as high as 57 percent, against a rate of 37 percent in urban areas.

**Box 24.4 Dedicated Satellite Channel on Disability**

In order to make education available in all corners of the country for persons with disabilities, the EDUSAT Channel'NAVSHIKHAR' has been set up in collaboration with Indian Space &ResearchOrganization (ISRO) and Media Lab Asia (MLA) by RCI.  As on date more than 500studycentres / Institutions have been connected through this station for the benefitsof the students, trainees and parents of the persons with disabilities.

**24.43** Since children with disabilities especially girls, remain mostly invisible, such schemes can go a long way in visibilizing them and at the same time incentivising parents of girls with disabilities to educate them and reduce the gender gap in literacy prevailing amongst persons with disabilities

**Table 24.7 Showing Schemes and Programmes for Girls Education**

|  |  |  |
| --- | --- | --- |
| ***Scheme*** | ***Objective*** | ***Coverage*** |
| **National Programme for Education of Girls at Elementary Level (NPEGEL)** | Provides additional support for enhancing girls education over and above the investments for girls education under SSA, including gender sensitization of teachers, development of gender sensitive material and provision of need based incentives. | Educationally backward blocks (EBB) where rural female literacy is less than national average and gender gap is above the national average, blocks where SC/ST population is greater than 50% & female literacy is less than 10% and select urban slums. |
| **Kasturba Gandhi Balika Vidyalayas (KGBVs).** | sets up residential schools at upper primary level for girls belonging predominantly to SC, ST, OBC and minority community. | The hostels are set up in blocks where rural female literacy is less than 30% and in urban areas where urban female literacy is below national average. |
| **Mahila Samakhya (MS)** | To enhance the self-image and self-confidence of women  To create an environment where women can seek knowledge and information  which empowers them to play a positive and role in society. | Ten states of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Jharkhand, Karnataka, Kerala, Gujarat, Uttar Pradesh Uttaranchal |
| **Mahila Shikshan Kendras (MSKs)** | provides facilities of free education, free boarding and lodging, provision of books and stationery, stipend of Rs.100 per month, medical check ups, extracurricular activities such as games, theatre, singing, dancing, karate, yoga and exposure visits and vocational training in tailoring, handicrafts and herbal medicines. |  |
| **The National Scheme of Incentive to Girls for Secondary Education** | aims at promoting enrolment of girls from the weaker sections to ensure their retention at least till Class X, preferably till Class XII, reducing their dropout rates at the secondary and higher secondary stages, improving gender parity, and empowering girls. | girls belonging to SCs, STs, who pass the Class VIII examination, and to girls who pass from the KGBVs and join Class IX in government, government-aided, and local body schools. |

**24.44** Since already observed, women with disabilities face dual discrimination firstly on grounds of disability and secondly on grounds of gender, a special focus shall be initiated for empowering women with disabilities by providing skill training and enhancing learning. At the same time, a co-ordination shall be made at this point towards awareness raising about the various finance, scholarships or other grants and self-help schemes and programmes of government whose benefit could be availed of.

**E Learning with Special Modes**

**24.45 Facilitating learning through Augmentative and Alternative Modes:** The NIHH runs the Indian Sign Language Cell for development of teaching materials to teach Indian Sign Language (ISL), training of ISL interpreters, to train deaf persons to become sign language teachers, development of bilingual programme (sign and spoken language), sign language training for hearing staff at educational institutions, for hearing parents and family members and documentation of sign language vocabulary used in different regions of the country and their variations. The Institute's Model School for the Visually Handicapped provides education to the blind, low vision and visually impaired children.

**Box 24.5 Sense International (India)**

According to an estimate, there are 45,000 deaf blind in India including both children and adults. Sense International (India) is the first national non governmental organisation that was set up as a registered trust within India to identify and support the development of comprehensive services for deaf blind people. The organisation is based in Ahmedabad, and have been instrumental in setting up 40 services in 19 states, prior to which there was only one school in the whole country.

Based on the principle that every child is educable, Sense International (India) has Home Based Programme. Since children with severe disability might not be able to come to the centre or service, the field worker / teacher travels to the home of the child and imparts training to the child. They also teach the family members about how to take care of the child and how to communicate with the child.

Teachers training courses- The Hellen Keller Institute for the Deaf and Deafblind haspioneered deafblind education in India and Asia. However, in order to enhance the pool of professionally trained teachers in deafblindness, RCI has one year course on Diploma in Special Education/Deafblindness.

**F Continuing Education**

**24.46** It would be crucial to point out a difference between the mandate of the CRPD and current position of laws with regard to education in the country. Whereas the CRPD under Article 24 does not define ‘child’, the Convention on the Rights of the Child as well as the Indian Majority Act, 1875 defines a child as a person below eighteen years of age. Consequently, all schemes and programmes pertaining to children in the country are drafted on the basis of this age premise. Therefore, when the CRPD emphasis to provide primary *as well as* secondary education with reasonable accommodation in non-discriminatory manner; the mandate of the UNCRP casts broader obligation than that of Article 21A of the Indian Constitution which the Government takes note of and Section. 27 of PWDA addresses this issue when it inter-alia mandates to conduct special part-time classes for providing functional literacy for children in the age group of sixteen and above; impart non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation; imparting education through open schools or open universities; and conducting class and discussions through interactive electronic or other media. This will ensure lifelong learning and particularly targets groups that could not have been included in the RTEA.

**National Literacy Mission**

**24.47** The Government has been catering to the need of adult education in the past through the National Literacy Mission (NLM) which was set up in 1988. In order to promote Adult Education, particularly in 15-35 age group, through voluntary sector, the Department of School Education and Literacy, Ministry of Human Resource Development has been providing support to Voluntary Agencies. The scheme has two essential components one of which is Jan ShikshanSansthans (JSSs) that provide vocational skills to neoliterates. **Saakshar Bharat** was launched on 8 September 2009 in an endeavour to create a literate society through a variety of teaching–learning programmes for neo-literates of 15 years and above with specific objective of improving adult literacy especially among women, SC/ST and minorities in the country.

**24.48** It is proposed that JSSs and such voluntary Agencies providing adult education, shall be the eyes and ears in alerting the Government and agencies working in disabilities sector to the specific need of education, vocation, training of persons with disabilities and/or co-ordinate and facilitate imparting special vocational training and developmental skills in accordance with the need based approach towards persons with disabilities. Also Saakshar Bharat Mission needs to be tailored to add disability component. Partnerships shall be further developed to indulge the institutions and NGOs operational for persons with disabilities and identify those persons with disabilities who received certain initial education and subsequently dropped out or were all together missed in the initial actions.

**Findings**

* A range of educational options have been utilized by the country however these are not available to all persons with disabilities in all parts of the country
* The educational options have been created with the belief that a uniform system may not be useful to all persons with disabilities
* The various educational options have not been tested on the touchstone of outcomes outlined by article 24
* The SSA efforts and the RTEA Rules promise inclusion; for this promise to be normatively stable the RTEA and new rights law would need to be in harmony
* A number of States reported the presence of a special school in each district of the State but the connect between the special and the regular educational system was either absent or weak
* The scholarships by the Ministry of Tribal Affairs and Wakf Council point to the increased convergence between disability and other disadvantaged groups.
* The low presence of persons with disabilities in higher education brings home the fact that financial support whilst essential could not on its own ensure the inclusion of persons with disabilities

**Future Plan of Action**

In order to close the gap between the CRPD mandate and the situation on the ground the following initiatives have been proposed:

* Convergence between the special and general school systems
* Human Resource training to be so organized that educators can meet general educational demands and the particular needs of persons with disabilities
* The accessibility and other particular needs of children with disabilities shall be kept in view whilst establishing neighbourhood schools under the RTEA
* All modes of delivering education shall be continually evaluated on the basis of the outcomes outlined in the CRPD
* It is proposed to closely scrutinize the various educational schemes and programmes to assess how they could include children with disabilities.
* The feasibility of scholarships for secondary education shall be weighed to address the problem of dropping out
* Extend the National Scheme of Incentives with a higher deposit rate to girls with disabilities
* The equal opportunity support to persons with disabilities in higher education shall be strengthened.

**ARTICLE 25 - HEALTH**

|  |
| --- |
| *States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:*  *(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;*  *(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;*  *(c) Provide these health services as close as possible to people’s own communities, including in rural areas;*  *(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care; (e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;*  *(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.* |

**A Constitutional Provisions, Law & Policies**

**25.1** Article 47 of the Constitution of India lays down that “ the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health …among its primary duties…”. This article again finds inclusion in the directive principles segment of the Constitution. However, as in the case of education and employment, the Apex Court of the country has viewed right to medical care as also instant medical aid to be integral components of the right to life.

**25.2** When India formulated the first National Health Policy in 1983 with an aim to achieve `Health for All' by the year 2000 through creation of primary healthcare infrastructure; achieving health inter alia in terms of nutrition, drinking water supply and sanitation; active involvement and participation of voluntary organizations. The policy was a generic exposition on the health issues of the people in the country which included persons with disabilities. However, no explicit reference to the health care needs of persons with disabilities was made. The National Health Policy 2002 calls for ensuring a more equitable access to health services across the social and geographical expanse of the country with a strong primary health network in rural India. Priority has been given to preventive and curative initiatives at the primary health level through increased sectoral share of allocation.

**25.3** The Eleventh Five Year Plan went a step further when it envisaged an inclusive approach towards healthcare encompassing inter-alia equitable and comprehensive individual health care and promised special attention to the health of marginalized groups, such as adolescent girls, women of all ages, children below the age of three, older persons, the differently-abled, tribals, and Schedules Castes (SCs).

**25.4** It is proposed that the constitutional mandate on health care be given a statutory manifestation. The Ministry of Health has been deliberating on a National Health Bill since 2009. This legislation aims to establish an overarching framework which will address people’s right to health and health care; obligation of government and private actors; norms and guidelines of health care providers; and monitoring and justice mechanism. The enactment of this legislation is aimed at strengthening the health care entitlements of all including persons with disabilities.

**B Affordable Health**

**25.5 Affordable Health care:** Although the Country has progressed steadily in terms of enhancing life expectancy, reducing infant mortality and maternal mortality, stabilizing population, declining total fertility over these years, there are inequities prevailing in the form of rural-urban divide, gender imbalances, and state achievements. It is observed that these imbalances prevail not just cross-sectionally but also within the disability sector. There has been an attempt to address these issues through various policy and programmatic interventions.

**25.6** The health care sector in India comprises of a government sector that provides publicly financed and managed curative, preventive and primitive health services from primary to tertiary level throughout the country free of cost to the people; and a fee-levying private sector that plays a dominant role in the provisioning of curative care. The provision of health care by the public sector is a responsibility shared by the state government, Central Government and local governments. General health services are the primary responsibility of the states with the Central Government focusing on medical education, drugs, population stabilisation and disease control. The private sector in India has a dominant presence in all the submarkets—medical education and training; medical technology and diagnostics; pharmaceutical manufacture and sale; hospital construction and ancillary services; and finally, the provisioning of medical care.[[128]](#footnote-128)

**25.7** **Figure 25.1**shows that in 2004, 71% of health spending came from out-of-pocket expenditure whereas government contribution to health care was only 20%.

**Figure 25.1 Health Expenditure in India (2004) by Source of Financing**



**Source:***National Health Accounts 2009*

**25.8** The CRPD requires provisioning of free or affordable health care to persons with disabilities on an equal basis with others, however public spending on health in the country accounts for around 1 per cent of the GDP. Thus, the criterion of equality and non-discrimination may be of little assistance to persons with disabilities. The Government is concerned about the fact that the ratio of public spending on health in the country is among the lowest in the world, and reiterates its commitment to achieving a target of increasing public spending on health to 3 per cent of the GDP[[129]](#footnote-129). **Figure 25.2** shows that the share of public spending in total health spending has been steadily increasing in recent years. This enhanced expenditure would also benefit persons with disabilities especially as a matter of public policy priority is accorded to disadvantaged groups in Government spending.

**Figure 25.2 Trend in Central Government Health Budget**



**Source:** *Compiled from Expenditure Budget Source: Compiled from RBI Study of Budgets Volume 1: Government of India 2001-02 to 2009-2010. 2001-02 to 2008-09. Note: 2001-02 to 2008-09 is Accounts, 2009-10 is RE*

**25.9 Providing health care in proximity to community:** Since the National Health Policy 2002 underscored an urgent need to revitalize and scale up access to basic health services in rural areas, in a programmatic response the National Rural Health Mission (NRHM) was launched in 2005 to revamp the basic health care delivery system and health care infrastructure for providing quality health care in rural areas. The focus is on a synergy of essential heath determinants such as nutrition, sanitation, hygiene and safe drinking water. It seeks to address the inter-State and inter-district disparities in defined time-bound goals and thereby seeks to improve access of rural people, especially poor women and children, to equitable, affordable, accountable and effective primary healthcare. Given the fact that 75% of persons with disabilities in India live in rural areas, they are beneficiaries of this intervention. However, in so far as persons with disabilities have some particular health needs induction of a disability-specific dimension into NRHM would be in order.

**C Early Identification and Intervention**

**25.10** The CRPD mandates State Parties put in place an entitlement based regime that inter alia, provides for programmatic intervention for early identification and intervention to prevent further aggravation of disability. India has a stressed upon on early identification and prevention. However, as the subsequent paragraphs of this report elaborate this concern revolves around prevention of primary disability rather than preventing the aggravation of primary disability.

**25.11** India’s health policy has been based on the traditional medical model of disability prevalent across the world. Section 25 of PWDA was informed by this medical model. This section provides that within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall-

**(a)** Undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;

**(b)** Promote various methods of preventing disabilities;

**(c)** Screen all the children at least once in a year for the purpose of identifying "at-risk" cases;

**(d)** Provide facilities for training to the staff at the primary health centers;

**(e)** Sponsor or cause to be sponsored awareness campaigns and is disseminated or cause to be disseminated information for general hygiene. Health and sanitation,

**(f)** Take measures for pre-natal, parental and post-natal care of mother and child;

**(g)** Educate the public through the pre-schools, schools, primary health Centers, village level workers and Anganwadi workers;

**(h)** Create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;

**25.12** This statutory provision has been the basis of funding and resource allocation for prevention and early detection. The statutory provision has been reinforced by recent order of the Bombay High Court where the Court directed the state government to make it mandatory to conduct tests on babies to check for disabilities and also maintain a data of such tests. This will inherently lead to early identification and intervention.

**25.1 Table Depicting Schemes for Prevention of Disability**

|  |  |  |
| --- | --- | --- |
| ***Scheme*** | ***Goal/Objective*** | ***Achievements*** |
| National Programme for the Control of Blindness (NPCB) | To reduce prevalence of blindness. | In 2007–08, as against a target of 50 lakh cataract operations, 54.05 lakh operations were carried out. In the following year, 58.1 lakh cataract operations were conducted as against the target of 60 lakh. Under National Programme for Control of Blindness, number of cataract operation performed have registered a significant increase from about 22 lakh operations in 2007-08 to 59 Lakh cataract operations in 2009-10.[[130]](#footnote-130) |
| Polio Eradication Programme | to eradicate polio from India by immunizing every child under 5 with the Oral Polio Vaccine (OPV) | In 2002, India registered 1,613 polio cases which has recently been brought down to 685 cases per year. |
| National Leprosy Control Programme | to arrest the disease activity in all the known cases of leprosy. | the country achieved the goal of elimination of leprosy as a public health problem, defined as less than 1 case per 10,000 population, at the National Level in the month of December, 2005.  The year 2009-10 started with 0.86 lakh leprosy cases on hand as on 1st April 2009, with PR 0.72/10,000. Till then 32 States/ UTs had attained the level of leprosy elimination. A total of 510 districts (80.9%) out of total 630 districts also achieved elimination by March 2009[[131]](#footnote-131). |
| Prevention and Control of Deafness | The objectives in the Eleventh Five Year Plan will be to prevent avoidable hearing loss; identify, diagnose, and treat conditions responsible for hearing impairment; and medically rehabilitate all hearing impaired. |  |
| National Mental Health Programme (NMHP) | Aimed inter alia at prevention and treatment of mental and neurological disorders and their associated disabilities. | To increase the availability of trained personnel required for mental health care, 7 regional institutes have been funded against the 11 to be undertaken during 11th Plan for production of clinical psychologists, psychiatrists, psychiatric nursing and psychiatric social workers. Further, support has been provided to 9 institutes for 19 PG departments during the year 2009- 10 for manpower development. Under the Programme, an amount of Rs. 408 crore has been approved for manpower development and another Rs.150 crore is under approval for the revised district mental health programme in the states.[[132]](#footnote-132)  The mid-term appraisal of the 11th Five Year Plan indicates that the expenditure under the programme has been very low, 20.81 per cent and 33.26 per cent respectively of the approved outlays for 2007-08 and 2008-09. It has been proposed to decentralize the Programme and synchronize with National Rural Health Mission for optimizing the results. |

**Scheme of Financial Assistance for Corrective Surgery and Rehabilitation of Polio Affected Children**

**25.13** Even as attention is accorded on prevention of Polio through vaccination, there still exist a large number of children with physical impairments caused by polio. The Ministry of Social Justice and Empowerment provides financial support through the NGOs under ADIP scheme for undertaking corrective surgeries of children acquiring impairment by reason of polio. These corrective surgeries are aimed at preventing further impairments whilst assisting in the physical, social and psychological rehabilitation of children with disabilities.

**Box 25.2 Corrective surgery for Cleft lip**

Corrective surgery for Cleft lip and Palate in the North –East India- In convergence with ‘Smile train’ and ‘Operation Smile’ more than 1094 surgery were done during 2009-10 in collaboration with MMC Kuntal Goswami Memorial Trust and Shritsti Hospital Ltd., Dibrugarh.

**25.14** Under the Scheme of Corrective Surgery and Rehabilitation, existing Polio affected children in the age group of 3-18 years in the country which is the ideal age group for benefiting from corrective surgery, will be covered.

**D Reproductive Health Insurance**

**25.15 Maternal and Early Childhood Care: Janani Suraksha Yojana (JSY)** under NHRM is a safe motherhood intervention scheme implemented with the objective of reducing maternal and neo-natal mortality by promoting institutional delivery among the poor pregnant women, the number of beneficiaries increased from 7.39 lakh in 2005-06 to about 1 crore in 2009-10, registering an increase of 10 lakh during 2009-10[[133]](#footnote-133). Women with disabilities are covered by the scheme by reason of their gender. However, there is no explicit inclusion of women with disabilities in the scheme.

**Box 25.1 Pilot programme**

The pilot programme comprising of capacity building of PHCs, CHCs, and district hospitals, IEC as well as provision of supplies for treatment and rehabilitation of hearing disorders launched in 25 districts of 10 states and one UT, will be expanded to 203 districts covering all the states/UTs by 2012 in a phased manner by including about 45 new districts each year.

**25.16 Informed Consent:** Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002 vide Rule 2.3 cast a duty on the physicians towards their patients to neither exaggerate nor minimize the gravity of a patient’s condition and should ensure that the patient, his relatives or responsible friends have such knowledge of the patient’s condition as is in the best interest of the patient and the family. Rule 3 further requires all physicians to be frank with the patient and his attendants in every consultation. In the formulation of this ethical guideline, the patient and the family are perceived as one unit. Such a formulation is used in both ethics and law to provide for situations when the patient is not in a position to consent. For the guideline to be in conformity with the CRPD, medical administrators would need to administer it for persons with disabilities on an equal basis with others.

**Box 25.3: Creating Awareness on reproductive health**

AYJNIHH has gathered evidences to appropriately address the issue with reference to prevention of AID-HIV and sexuality education with support of UNDP. Under Genetic project, the Institute offers and provides genetic counselling services to the persons with hearing impairment free of cost. Also under HIV-AIDS project, Institute has created awareness about sexually transmitted diseases, reproductive health and healthy sexual life to all the clients attending the Institute as well as schools for hearing impaired.

**25.17** The more problematic questions around informed consent have arisen in the review of the Mental Health Act of 1987 which permits compulsory care and treatment for persons with mental illness. Is the procedure for compulsion in infringement of the requirement of informed consent? This question is being is presently deliberated upon in the context of the proposed Mental Health Care and Treatment Bill and the RPDB.

**25.18** The **Rashtriya Swasthya Bima Yojana (RSBY)**, which is a health insurance scheme was launched on 1st October 2007, provides coverage to workers in the unorganized sector who come in the category of Below Poverty Line (BPL) with a total assured sum of Rs. 30,000 per family per annum. Of the estimated premium of Rs.750 per family, the Government of India contributes 75 per cent and the remaining 25 per cent comes from the state governments.

**25.19** Twenty-five states are in the process of implementing RSBY and till February 2010, more than 1.25 crore biometric enabled smart cards have been issued for providing health insurance cover to more than 4 crore people, from any empanelled hospital throughout the country. Around 4.5 lakh persons have already availed hospitalization facility. The scheme is now being gradually extended to the non-BPL category of workers as well Persons with disabilities who work in the unorganized sector benefit from the scheme. However, no express allocation has been made for workers with disabilities.

**25.20** Many state governments have initiated health insurance schemes for the BPL population and unorganized workers. Some of the no schemes are the Arogyasri Yojana (Andhra Pradesh), Kalainger Insurance Scheme for Life-Saving treatments (Tamil Nadu), Suvarna Arogya Suraksha Scheme (Karnataka), and Mukhya Mantri BPL Jeevan Raksha Kosh (Rajasthan). The focus of these schemes is to cover identified tertiary care diseases which involve catastrophic expenditure and are not covered under any other pre-existing health programmes.

**25.21 Niramaya Scheme[[134]](#footnote-134) is a path breaking health insurance scheme dedicated specifically to the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities.** It envisions delivering a comprehensive cover which will

* Have a single premium across age band
* Provide same coverage irrespective of the type of disability covered under the National Trust Act.
* Insurance cover upto Rs.1.0 lakh.
* All persons with disabilities will be eligible and included and there will be no ‘selection’.[[135]](#footnote-135)

**25.22** The insurance includes costs of medical tests, hospitalization, operations, physiotherapy, speech therapy, and occupational therapy. Persons with family income of not more than Rs.15,000 per year need not pay any amount under the scheme. They have to register their names in the form being supplied by the Mission for Elimination of Poverty in Municipal Areas (MEPMA) and the National Trust, which would also pay the premium to the insurance company on behalf of the persons suffering with disability.

**25.23** Persons with disabilities whose family income exceeds Rs. 15,000 per year can also avail the services being offered under the scheme by paying a nominal premium of Rs. 250 per year. Those with a history of disabilities for a long time can also can register their names with the National Trust and get the benefits.[[136]](#footnote-136)

Table 25.2 Benefit Chart for Insured person under ‘Niramaya’ – Health Insurance Policy **(Reimbursement only)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Section*** | ***Sub section*** | ***Details*** | ***Sub limit*** | ***Overall limit of section*** |
| **I** | **Over all Limit of Hospitalization** | |  | **1,00,000/-** |
|  | A | Hospitalization | 1,00,000/- |  |
|  | B | Corrective Surgeries for existing Disability including congenital disability | 50,000/- |  |
|  | C | Surgery to prevent further aggravation of disability | 15,000/- |  |
|  | D | Post operative care including therapies for 6 months | 15,000/- |  |
| **II** | **Overall Limit for Domiciliary Hospitalization** | |  | **20,000/-** |
| **III** | **Overall Limit for Out Patient Treatment** | |  | **15,000/-** |
|  | A | OPD treatment including the pathology, diagnostic tests | 10,000/- |  |
|  | B | Regular Medical checkup for non-ailing disabled | 5,000/- |  |
|  | C | Ongoing Therapy to reduce impact of disability, disability and disability related complications | 7,500/- |  |
|  | D | Dental Preventive Dentistry | 7,500/- |  |
| **IV** | **Transportation costs(to be considered with in limit of IPD or OPD)** | |  | **1,500/-** |
| **V** | **Alternative Medicine (to be considered within limit of IPD or OPD)** | |  | **2,000/-** |
| **OVERALL LIMIT OF THE COVERAGE FOR A PERSON:Rs.1,00,000/-** | | | | |

**FINDINGS**

The examination of existing laws and policies results in the following findings:

* Health care in the country has been primarily geared to undertake primary prevention of disability.
* Secondary prevention has been limited to corrective surgeries.
* Persons with disabilities are generically covered in the health care and insurance schemes.
* Specific provision of health services has not received requisite attention.
* The concerns of women with disabilities especially for reproductive health have been specifically addressed only for women with hearing handicapped or blindness.
* The question of informed consent especially for persons with mental illness is still fraught in controversy.

**Future Plan of Action**

* The Government takes note about the vulnerability of persons with disabilities and their higher needs to health care, therefore, seeks to revisit and rework various laws, policies, schemes and programmes in the existing system for the inclusion of persons with disabilities and redraft or promulgate laws and policies through the lens of disability.
* There already exists a very strong foundational commitment towards the prevention and early detection of disability; however what needs to be immediately addressed is the disability specific intervention in treatment and rehabilitation. The Government is well aware of its national and international obligations and seeks to closely revisit and rework the law, policy and programmes to realign them in consonance with the CRPD. Whereas some of the programmes and schemes are in harmony with the mandate of the CRPD; a subsequent relook to include disability specific intervention in various policies laws and programmes has been necessitated to attain outcomes in accordance with the CRPD.
* **Providing Health care services in proximity to community:** In order to attain the goal of inclusive growth, it is also proposed to introduce **National Urban Health Mission** which along with NRHM will form **Sarva Swasthya Abhiyan.** NUHM will be launched based on health insurance and PPP will provide integrated health service delivery to the urban poor. Initially, the focus will be on urban slums. Besides, Sarva Swasthya Abhiyan aims for inclusive growth by finding solutions for strengthening health services and focusing on neglected areas and groups. Since these are in formulation stage, the Government is aware towards the specific needs of persons with disabilities in terms of health care and is committed to include disability specific in the future schemes and programmes.
* **Induction of disability specific component in existing schemes for early childhood**

1. **Navjaat Shishu Suraksha Karyakram** (NSSK- New Born Care Programme) is a two-day training programme for care providers on basic new born care and resuscitation, launched in September 2009. Besides, 651 Nutrition Rehabilitation Centres have been set up across states for treatment of sick and severely malnourished children and this would be expanded to more districts.
2. **Integrated Child Development Scheme (ICDS)** is the world’s largest early childhood development programme. Launched on 2nd October 1975, is a Centrally-sponsored Scheme implemented through the State Governments/UT Administrations to improve the nutritional and health status of children in the age-group 0-6 years for proper psychological, physical and social development of the child; and thereby reduce the incidence of mortality, morbidity, malnutrition and school dropout through effective co-ordination of policy and implementation amongst the various departments.

**(c)** The ICDS programme shall be a catalyst to augment the obligations sought to be achieved in terms of the CRPD. All the essential components are already present in this programme and these shall be modified to explicitly include the disability specific component. For instance, nutrition and health education has a long term goal of capacity-building of women. It can be so formulated that women, especially in the age group of 15-45 years, are alerted on their own health, nutrition and development needs as well as that of their children and families; and be apprised of the symptoms to avert further damage to health.

* Similarly the immunisation element of the programme providing for immunization of pregnant women and infants, seeks to protects children from six vaccine preventable diseases-poliomyelitis, diphtheria, pertussis, tetanus, tuberculosis and measles; and thereby prevent child mortality, disability, morbidity and related malnutrition.
* The programme also serves for nutrition, including supplementary feeding and growth monitoring. As of now the programme is addressing vitamin A deficiency and control of nutritional anaemia and health Check-ups including health care of children less than six years of age, antenatal care of expectant mothers and postnatal care of nursing mothers. Further, referral services are provided for. i.e. during health check-ups and growth monitoring, sick or malnourished children, in need of prompt medical attention, are referred to the Primary Health Centre or its sub-centre. Particularly significant is the fact that anganwadi worker has also been oriented to detect disabilities in young children. Health worker enlists all such cases in a special register and refers them to the medical officer of the Primary Health Centre/ Sub-centre. However, it may be suggested that at this point some co-ordination mechanism ought be set up for further specialized referrals to specialist institutions to arrest the onset or curative or preventive measures for disabilities.
* The anganwadi workers also provide for non-formal Pre-school education which ensures daily three hours of natural and stimulating environment, with emphasis on necessary inputs for optimal growth and development of the child. Since this serves as an early learning process for child before joining formal education, a coordinated and integrated input needs to be provided at this juncture for the right kind of intervention for child with disability and also at the same time sensitize the parent and community towards capacity building and inclusion. This will turn out to be the first point of mainstreaming the child as well as the parent and at the same time the anganwadi worker shall be provided with special training and be sensitized further.
* **Shortfall Human Resources:** Whereas the CRPD stipulates health professionals to provide care of the same quality to persons with disabilities, however the country encounters a shortfall of health care human resource. The Government is concerned about the constraints and gaps in the present health care system and therefore envisions to ensure availability of quality health care on equitable, accessible and affordable basis across regions and communities with special focus on underserved population and marginalized groups and establish comprehensive primary healthcare delivery system and well-functioning linkages with secondary and tertiary care health delivery system[[137]](#footnote-137).
* Further, there has been a persistent outcry that persons with disabilities encounter discrimination when it comes to various health insurance schemes and life insurance. RSBY as well as the State Government run schemes requires to be tailored to include persons with disabilities and bridge the existing gap in insurance coverage to persons with disabilities. Prohibition of discrimination against persons with disabilities in terms of health insurance and life insurance remains an area of immediate concern where the laws and policies need to be realigned in accordance to the mandate of the CRPD.
* Thus, a fully developed comprehensive strategy requires a matching allocation of resources and emphasizing towards assimilating this condition by focusing on physical rehabilitation through a) early detection and intervention through drug or non-drug therapies helps in minimization of impact of disability; b) counseling & medical interventions which inter alia provides for including counseling, strengthening capacities of persons with disabilities and their families, physiotherapy, occupational therapy, psychotherapy, surgical correction and intervention, vision assessment, vision stimulation, speech therapy, audio logical rehabilitation and special education and c) provision of aids & appliances. At the same time, it needs to be ensured to have a wide coverage in all the districts in the country by active involvement and participation of State Governments, local level institutions, NGOs including associations of parents and persons with disabilities.

**ARTICLE 26 - HABILITATION & REHABILITATION**

|  |
| --- |
| *1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:*  *(a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;*  *(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.*  *2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.*  *3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.* |

**A Envisioning attainment of optimum independence**

**26.1** Section 2 (w) of the PWDA defined rehabilitation as *“a process aimed at enabling Persons with Disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels”.*

Section 66(1) required that “*the Appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities”.* This rehabilitation could be undertaken through non-governmental organizations as sub section (2) of section 66 permitted Appropriate Governments and local authorities *“to grant financial assistance to non-governmental organizations”.* In recognition of the fact that rehabilitation would require public private partnership, Section 66 (3) required Appropriate Governments and local authorities to consult while formulating rehabilitation policies *“non-governmental organizations working for the cause of persons with disabilities”.*

**26.2** The statutory vision of PWDA was further amplified in the National Disability Policy which envisioned the development of medical, educational and social rehabilitation programmes with the assistance of medical and rehabilitation professionals and participation of persons with disabilities, their families, legal guardian and communities. The process of providing rehabilitation was envisaged both through state level centres and community based strategies. The policy also contemplated establishment of “mental health care homes” or “custodial care institutions” for severely mentally ill persons and persons with intellectual disability.

**B Institutional support to ensure habilitation and rehabilitation**

**26.3** The Seven National Institutes provide expert support develop human resources; provide rehab services; and undertake research and development as depicted in table 26.1

**Table 26.1 National Institutes**

|  |  |  |
| --- | --- | --- |
| ***National Institute*** | ***Goals/Objectives*** | ***Schemes/Programmes/Activities*** |
| National Institute for the Visually Handicapped, (NIVH), Dehradun | To undertake or sponsor the training of trainers and rehabilitation professionals, to conduct, sponsor, co-ordinate or subsidies research into biomedical engineering leading to the effective evaluation of special appliances/instruments or suitable surgical or medical procedures or the development of new special appliances/instruments. | * Diploma and degree level courses in special education orientation and mobility. * Short term training programs to improve capacity of institutions and individual providing services to general public and persons with disabilities in particular. * Conducts vocational training courses in the disciplines of such as Light Engineering, Computer Operation and Programming Skills, Physiotherapy, Executive Secretary ship, Braille, Short-hand (Tamil and Hindi), FM Broadcasting & voice based advertising Call Centre Operation. * Rehabilitation is provided through visual assessment and treatment, training in adjustment in blindness, training in independent living skill and provision of assistive devices. |
| Ali Yavar Jung National Institute for the Hearing Handicapped, (AYJNIHH), Mumbai | To develop manpower, research, clinical services, outreach & extension services, socio-economic rehabilitation services, material development and collection of information, documentation and dissemination of information for physically handicapped. | - Runs graduate and post-graduate courses in the field of hearing impairment, speech language pathology and audiology  - Runs short term courses in Indian sign language  - Provide comprehensive diagnostic, therapeutic, educational and vocational services |
| National Institute for the Orthopedically Handicapped (NIOH), Kolkata | To develop manpower for providing services to the Orthopedically Handicapped population | * Runs Graduate courses in Physiotherapy, Occupational Therapy, Prosthetics and Orthotics. It runs a Post-graduate Diploma Course in Disability Rehabilitation and Management. Besides, other Diploma and Certificate Courses are run in the field of multipurpose rehabilitation, Prosthetics and Orthotics. * It provides services in the area of rehabilitation, restorative surgery, aids & appliances and vocational training to the persons with disabilities. |
| Swami Vivekananda National Institute for the Rehabilitation and Training (SVNIRTAR), Cuttack | Human resources development, implementation of service delivery programmes, research and outreach programmes. | * Undertakes, sponsors and coordinates the training of personnel such as Doctors, Engineers, Prosthetics, Orthotics, Physiotherapists, Occupational Therapists, Multipurpose rehabilitation therapists and such other personnel for rehabilitation of the physically handicapped. * Conducts Graduate and Post graduate courses in Physiotherapy, Occupational Therapy, Prosthetics and Orthotics and also Short Orientation Courses, Continuing Medical Education (CME) Programmes, Workshop and Seminars in the field of Rehabilitation. * Provides services such as Surgical Correction of Orthopedically Deformities, Physiotherapy, Occupational Therapy and Speech Therapy; fitting of Artificial Limbs and supplies Mobility Aids and Appliances such as Wheelchairs and Tricycles etc. at the Institute and through camps |
| Pt. Deendayal Upadhayaya Institute for the Physically Handicapped, (PDUIPH), Delhi | To develop trained manpower for rehabilitation of orthopedically disabled persons, provide outreach services and conduct research. | - Long term graduate level courses –Bachelor of Physical Therapy (BPT), Bachelor of Occupational Therapy (BOT), Bachelor of Prosthetics & Orthotics (BPO).  - The Institute is providing compressive rehabilitation services in the form of assessment, physical therapy, occupational therapy, speech therapy, social psychological and vocational counseling and dissemination of information to generate awareness and to empower the persons with disabilities.  - The Institute has a prosthetic & orthotic workshop for fabrication of aids and appliance, which caters to fitment services to person with disabilities in the Institute as well as through camps. |
| National Institute for the Mentally Handicapped, (NIMH), Secunderabad | To prepare human resources equipped to deliver services through quality models of rehabilitation, based on life cycle needs. The institute is an apex body having tripartite functions of training, research and services in the field of mental retardations in the country. | Diploma, Graduate and Post Graduate courses in the field of mental retardation community-based rehabilitation, rehabilitation therapeutics, early intervention and rehabilitation psychology. B.Ed program in special education M.Phil program in Special Education (mental retardation).  The rehabilitation of persons with mental retardation is provided through Early Intervention Services, Physiotherapy/Ortho, Biochemistry, Speech & Audiology, Psychological Assessment, Behaviour Modification, Parent Counselling and vocational assessment services etc. The Institute also develops models for rehabilitation and care |
| National Institute for Empowerment of Persons with Multiple Disabilities, (NIEPMD), Chennai. | Objective of the Institute is to serve as a National Resource Centre for empowerment of persons with multiple disabilities, provide need based comprehensive rehabilitation through team approach facilitating inclusion, ensuring empowerment of persons with multiple disabilities and their families by substantiating field based research and development of human resources | -Three long term Diploma courses namely Diploma in Education (Special Education) in Cerebral Palsy, Deaf-blind and Autism Spectrum Disorder  - Conducts parent training programme to upgrade their knowledge and practices in management of children with multiple disabilities  - Early intervention services, physiotherapy, occupational therapy, special education, psychological intervention, audiology & speech pathology and sensory intervention |

**26.4** The **XIth Five Year Plan** has acknowledged the pivotal role of National Institutes in the empowerment of persons with disabilities and has therefore planned to strengthen their operation as Centres of Excellence whilst undertaking the tasks of training professionals; capacity building; and technology transfer and research.

**26.5** To execute the plan commitment, the MoSJE has set up a Committee to study and make recommendations for strengthening the seven National Institutes. The terms of reference of the Committee inter alia include a review existing of the goals, activities of the National Institutes; assessment of their strengths and weaknesses; feasibility of the governance structure; and the existing level of International Collaboration of each Institute. The committee is required to suggest procedures for the promotion of international collaboration and to identify possible foreign institutions or agencies suitable for such collaboration.

**26.6** Whereas the Committee[[138]](#footnote-138) appreciates the fact that the byelaws formulated by NIs provide for goals and objectives which are quite comprehensive, encompassing training, research, service delivery, rehabilitation, technology development and dissemination, networking, material development and documentation; there exists lack of any formal vision and mission statement, lack of adequate staffing and structural lacunae. Consequently, the Committee suggests to reformulate a Vision and Mission statement for NIs. It has made several recommendations inter alia, identifying an urgent need to upgrade the National Institutes to bring them at par with the universities and medical colleges in the country and thereby facilitate collaboration with significant national and international institutions; focus on product research and development.

**26.7** In addition to the institutes under MSJE, National level institutions are functioning under the Ministry of Health & Family Welfare operational in the field of rehabilitation as follows:

**Table 26.2 National Institutes under Ministry of Health and Family Welfare**

|  |  |  |
| --- | --- | --- |
| ***Institution*** | ***Mission/Objectives*** | ***Activities*** |
| National Institute of Mental Health and Neuro Sciences, Bangalore | * Evolve strategies to offer diagnostic and therapeutic facilities to all corners of India in the field of Mental Health and Neurosciences utilizing the advances in information technology and to be the nodal center. * Establish training facilities and impart knowledge in the field of Mental health and Neurosciences to all the developing countries by Institutional and Distance Learning. * Establish state-of-the-art diagnostic and therapeutic facilities in neurological disorders with special reference to genetically transmitted disorders * Develop strategies for Disaster Management and psychological rehabilitation | Academic multi disciplinary research  Patient care in the areas of Mental Health and Home Science |
| All India Institute of Physical Medicine and Rehabilitation, Mumbai | Is committed to providing rehabilitation services to persons in all categories of locomotor and associated disabilities. | |  |  | | --- | --- | | -Quality services to persons with physical disabilities through mutually complementary interventions by the rehabilitation disciplines. - Academic activities including short term and long term Degree, Diploma and Certificate courses. - Research and development activities undertaken both at the Institute and community levels. | | |  |  | |
| All India Institute of Speech and Hearing, Mysore | To impart professional training, render clinical services, conduct research and educate the public on issues related to communication disorders such as hearing impairment, mental retardation, voice, fluency and phonological and language disorders. | Manpower generation in the field of Speech Language Pathology and Audiology through various Diploma, Degree and Doctoral Courses  • Conducting research both in the areas of basic sciences of speech, language and hearing  as well as in the areas of its application for effective communication.  • Providing clinical services to persons with communication disorders along with developing modules for providing services to different levels of the society.  • Public education towards identifying communication disorders in the community. |
| Central Institute of Psychiatry, Ranchi | It is a premier mental health institute, a hospital and educational institution |  |

**C Reaching out closest to the community through Community Based Rehabilitation**

**26.8** Since 75% of persons with disabilities belong to the rural areas one of the biggest challenge of providing rehabilitation services is to reach the unreached. It is increasingly realised that accessibility is a critical element in the process of rehabilitation. It is necessary that habilitation and rehabilitation facilities be provided closest to the community. Without a barrier free environment and assistive devices, many other services (vocational training, education, placement), lose their effectiveness. In acknowledgement of this reality, the country has developed community based rehabilitation along side of institution based rehabilitation.

**26.9** The Government has encouraged the development of the CBRs by providing grants-in-aids to NGOs. Evaluations of schemes based on CBR have reported considerably greater effectiveness than non-community based interventions for rehabilitation. Community based rehabilitative measures in comparison to institutional rehabilitation programme[[139]](#footnote-139), it not only benefits the direct recipient of the services (i.e., the person with disability) but also their families as well as the larger social group and or the community to which the recipient belongs.

**26.10** **Regional and District-level Centres for Persons with Disabilities: Composite Regional Centers:** The CRCs have been established with the support of the Central Government to facilitate the creation of the required infrastructure for capacity building at central, state, district and village levels.

* These Centres also engage in awareness generation, training of rehabilitation professionals, service delivery.
* These CRCs also help in the process of sharing with the State government innovative knowledge developed by National Institutes and Training Centres, DDRCs . The CRC’s undertake capacity building, strengthen and upgrade rehabilitation services to reach the unreached

**26.11 Ongoing CRCs:** At present, there are six CRCs functioning at Sundernagar (Himachal Pradesh), Srinagar (Jammu & Kashmir), Lucknow (Uttar Pradesh), Guwahati (Assam), Patna (Bihar) and Bhopal (Madhya Pradesh).

**26.12 Establishment of Two New Composite Regional Centres (CRCS):** Keeping in view the location of existing CRCs and other rehabilitation Institutions of the Central Govt. (i.e. Ministry of Social Justice & Empowerment & Ministry of Health & Family Welfare) as well as number/percentage of persons with disabilities in South & West Zones of the country, it has been decided to set up two new CRCs one in Kozhikkode, Kerala and the other at Ahmedabad, Gujarat. The establishment cost of these CRCs is Rs.26.37 crores. The SFC in its meeting held on 28.02.2011 has recommended the proposal for establishment of the CRC at Ahmedabad (Gujrat).

**26.13 District Disability Rehabilitation Centers (DDRCs):** One of the significant means of implementing the DDRS[[140]](#footnote-140) is through the setting up of DDRCs in collaboration with the state governments by the National Institutes, DRCs, Artificial Limbs Manufacturing Corporation(ALIMCO)and local NGOs/autonomous agency and facilitating agency[[141]](#footnote-141)in unreached and un served districts of the country in a phased manner. These centres are to provide services for prevention and early detection; referral for medical intervention and surgical correction; fitment of artificial aids and appliances; therapeutic services such as physiotherapy, occupational and speech therapy; provision of training for acquisition of skills through vocational training; and job placement in local industries.199 DDRCs have been sanctioned out of which 182 are functional and are providing rehabilitation services to persons with disabilities. 100 new DDRCs are going to be set up by 2012, out of which 50 DDRCs are to be set up during by 2011 and remaining number during the next financial year.

**26.14 Peer Support Systems:** Sahyogi (Care givers Training and Deployment Scheme)- This scheme was started from 2001-02 through which 2800 caregivers were trained. However, since the caregivers switched to other more remunerative career, the scheme was not very successful. During the year 2008-09, the scheme has been modified by setting up of Care Giver Cell (CGC) in selected NGO Centre. 26 CGC have been sanctioned in which 183 Caregivers have been trained, deployment of over 100 caregivers have also been done (including 10 at Asha Kiran Home, Delhi).

**26.15** **Gharunda Scheme-** Group Home and Rehabilitation Activities under National Trust for Disabled Adults was launched on 16th December, 2008 to provide “Life long shelter and care facilities” to persons with autism, cerebral palsy, mental retardation and multiple disabilities by empanelled service providers. The scheme ensures prescribed minimum quality of care services on payment basis. The scheme is at present, sanctioned for Bhubneshwar, Bangalore, Kolkata and Hoogly, West Bengal and Raipur and Chattisgarh.

**26.16** **National Alliance on Access to Justice for Persons with Mental Illness (NAAJMI**) : In recognition of the professional driven outlook prevailing in the mental health field, NAAJMI was formed 2008.This alliance has provided voice to the perspective of persons with mental illness and thereby extended peer support to its members.

**26.17 Training and development of professionals and staff:** The Rehabilitation Council of India a body established under the Rehabilitation Council of India Act, 1992 addresses rehabilitation of persons with disabilities by developing, standardizing and regulating training programmes/courses at various levels in the field of rehabilitation and special education. Thus, RCI acts as a regulator and monitor of services given to persons with disabilities; standardizes syllabi; and maintains a Central Rehabilitation Register of all qualified professionals and personnel working in the field of rehabilitation and special education.

**26.18** Professionals 1995 and 39614 personnel were registered in the Central Rehabilitation Register (CRR) taking the total number of registration to 59609 as on 31.03.2011. The Council standardizes course curricula/ training programme for the categories of rehabilitation professionals covered under the RCI Act. The course curricula/training programmes are reviewed and updated from time to time. 52 regular and 9 distance mode i.e., 61 long term / short term Courses are in operation.

**26.19** In order to update the knowledge of professionals and personnel in the area of disabilities, the Council sponsored 85 Continuing Education Programme and 16 workshops in 2009-10. The Council also makes recommendations to the Ministry regarding recognition of Universities/ Institutions imparting professional education in the area of disabilities.

**26.20 National Trust activities:** The National Trust is supporting a number of innovative project for development of technologies for habilitation and rehabilitation of person with developmental disabilities. This includes Neuro-Sensory Park, a project sanctioned for setting up of three Neuro sensory Parks by Tropical Health Foundation of India, Kerala and Vocational Training Centre (VTC) and Sensory Garden, a project to National Association for the blind, Nasik for setting up of vocational training centre and Sensory Garden.

**26.21** Samarth is a “**Centre Based Scheme (CBS)**” for Residential Services which provides both Short Term (Respite Care) and Long Term (Prolonged Stay), effective from the financial year 2005-06. The objective interalia includes providing permanent care for abandoned and destitute persons with disabilities, or those persons with disabilities whose family support is gradually diminishing or senior citizens with disability, supporting Registered Organizations and Local Level Committees in the development of a range of service delivery systems which respond more closely to the needs of persons with disabilities in their own communities, providing rehabilitation & relief to persons with disabilities   whose families are unable or unwilling to support them    any longer. In addition to residential facilities, the services include early intervention, special education or integrated school, open school, pre-vocational and vocational training, employment oriented training, recreation, sports etc.

**26.22 Schemes and Programmes Strengthening habilitation and rehabilitation:** The Ministry has various schemes for implementing and encouraging rehabilitative measures for persons with disabilities. The following table depicts two major schemes for rehabilitation of persons with disabilities that makes significant contribution towards the promotion and strengthening of habilitation and rehabilitation including health, employment, education and social service and to ensure availability of assistive devices and technologies:

**Table 26.3 Major Schemes and Programmes for the Rehabilitation of Persons with Disabilities**

|  |  |  |
| --- | --- | --- |
| ***Type of Scheme*** | ***Scheme*** | ***Objective*** |
| Umbrella Scheme | Deendayal Disabled Rehabilitation Scheme (DDRS) | Financial assistance is provided to voluntary organizations to make available services necessary for rehabilitation of persons with disabilities including early intervention, development of daily living skills, education, skill-development oriented towards employability, training and awareness generation. |
| Specific scheme | Scheme for providing physical rehabilitation to Persons with disabilities: Scheme of assistance to disabled persons for purchase/fitting of Aids/Appliances (ADIP scheme) | The main objective of the Scheme is to assist the needy persons with disabilities in procuring durable, sophisticated and scientifically manufactured, modern, standard aids and appliances that can promote their physical, social and psychological rehabilitation, by reducing the effects of disabilities and enhance their economic potential. The aids and appliances supplied under the Scheme must be ISI certified. |

**26.23 Deendayal Disabled Rehabilitation Scheme Guidelines:** The DDRS guidelines, applicable since 1.4.2009, include 19 model projects covering various services provided by voluntary agencies which can be supported through grant-in-aid. The services provided include:

**i)** programmes for pre-school and early intervention

**ii)** special education,

**iii)** vocational training and placement

**iv)** community based rehabilitation

**v)** manpower development

**vi)** psycho-social rehabilitation of persons with mental illness

**vii)** rehabilitation of leprosy-cured persons, etc.

**Table 26.4 Details of outlay and expenditure for the first four years of the**

**XI Plan (2007-11) and outlay for 2011-12 are as below:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | ***Cumulative for 2007-11*** | | | ***2011-12*** *(Rs in crore)* |
| **11th Plan Outlay**  **(2007-12)** | **Outlay** | **Expend.** | **% Expend. with respect to outlay** | **Outlay** |
| 500.00 | 336.00 | 278.82 | 83% | 120.00 |

**Source :** *Status Paper on XII Five Year Plan Working Group on Empowerment of*

*Persons with Disabilities by MoSJE, New Delhi 24-05-2011*

**Table 26.5 Financial & Physical Progress under DDRS Scheme**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ***Year*** | ***Financial Outlay/Achievement***  ***(in Rs. crores)*** | | ***Physical achievement*** | |
| ***BE***  ***outlay*** | ***Expenditure*** | ***No. of***  ***NGOs***  ***assisted*** | ***No. of***  ***beneficiaries***  ***(in lakhs)*** |
| 2007-08 | 70 | 70.3 | 687 | 1.9 |
| 2008-09 | 70 | 64.7 | 592 | 1.9 |
| 2009-10 | 76 | 61.5 | 445 | 1.1 |
| 2010-11 | 90 | 82.3 | 530 | 2.3 |

**Source :** *Status Paper on XII Five Year Plan Working Group on Empowerment of*

*Persons with Disabilities by MoSJE, New Delhi 24-05-2011*

|  |
| --- |
|  |

**26.24 ADIP:** From the year 2007-08 in order to ensure coverage throughout the country, a new approach of district-wise allocation of funds to organize disability camps for distribution of aids and appliance has been adopted. The procedure has been further strengthened by involving Red Cross Societies, District Disability Rehabilitation Centers and State Govt. Corporations/bodies.

**Table 26.6 Details of outlay and expenditure for the first four years of the**

**XI Plan (2007-11) and outlay for 2011-12 are as below:(Rs in crore)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | ***Cumulative for 2007-2011*** | | | ***2011-12*** |
| **XI Plan Outlay**  **(2007-12)** | **Outlay** | **Expend.** | **%Expenditure. with respect to outlay** | **Outlay** |
| 500.00 | 309.00 | 246.33 | 79.72% | 100.00 |

**Source :** *Status Paper on XII Five Year Plan Working Group on Empowerment of*

*Persons with Disabilities by MoSJE, New Delhi 24-05-2011*

**26.25 Schemes and Policies for the rehabilitation of persons who acquire disability in armed forces[[142]](#footnote-142):** Department of Ex-Servicemen Welfare in Ministry of Defense is the apex wing that was newly created on September, 2004 with an objective to give focused attention to the welfare programmes for ex-servicemen and their dependents including pension benefits, re-employment and rehabilitation. It formulate various policies for the welfare and resettlement of ESM in the Country. This Department has two Divisions- Resettlement and Pension Division. The Government has initiated several schemes for the rehabilitation of persons who acquired disability during their service, war times or for reasons attributable to their service to the Army. The following table gives a glimpse of the same:

**Table 26.7 Schemes/Programmes for Economic Rehabilitation of War Disabled**

|  |  |
| --- | --- |
| ***Scheme/Programme*** | ***Benefit*** |
| Re-employment | The Central and state Government provide a number of concessions to ex-servicemen for their re-employment in Central/state government posts. /these include reservation of posts/relaxation in age and educational qualifications, exemptions form payment of application/examination fees and priority in employment to the disabled ESM and dependents of deceased service personnel. |
| Educational Grants | Rs.300/- to the wards of disabled (attributable/non-attributable) and peace time causalities housed in 35 War Memorial Hostels to enable them to pursue their studies. |
| Medical Facilities | War Disabled and war widows have been exempted from contribution from membership to Ex-Servicemen Contributory Health Scheme (ECHS) which is otherwise could be availed free on membership contribution |
| Disability Pension | A person relieved from or retired from service on account of disease or injury attributable to or aggravated by military service, is entitled to disability pension where the disability is 20% or more. The quantum factors in the time period of service at the time of invalidment and degree of disability. Where the disability is 100% pension amount is Rs.2600/- p.m. for Commissioned Officer, /rs.1900/- for JCOs and Rs.1550 for Other Ranks. Those individuals who are retained in service despite disability are paid one time compensation in lump sum. |
| War Injury Pension | Those personnel who sustain injury or disability during war or war like situation, where the disability acquired is 20% or more but the individual is retained in service, he has an option for lump sum compensation JCO and Rs.3100/- |
| Ex-Gratia Award in cases of disability of cadets (direct) | -monthly ex-gratia Rs.1275/-, ex-gratia disability award @ Rs.2100/- p.m for 100% disability  - Constant Attendant Allowance of Rs.600/- p.m. for 100% disability on recommendation of the Invaliding Medical Board |
| Allotment of oil production Agencies | Ministry of Petroleum and Natural Gas has reserved 8% of the Oil Product Agencies i.e. LPG Dealership, Petrol Pumps, Kerosene Distributorship etc. for disabled soldiers with 20 per cent or above disability attributable to military service |
| Coal Tipper Scheme | Disabled soldiers interalia can be sponsored by DGR for attaching one tipper truck in their name with an ESM Coal Transport Company on a deposit of Rs.85,000/-. The company pays them Rs.3000/- p.m. for a period of five years after which the deposit is returned. At present 436 war widows and disabled soldiers are availing the benefit of this scheme. |

**Table 26.8 Schemes of Various State Governments**

|  |  |  |  |
| --- | --- | --- | --- |
| ***State*** | ***Scheme*** | ***Details*** | ***Quantum*** |
| Andhra Pradesh | Financial assistance to persons with disabilities | Under the scheme, a subsidy not more than 3000/- is granted to persons with disabilities whose parents/guardians income is less than Rs.11000/- per annum. |  |
| Goa | Financial assistance to persons with severe disabilities | Interest of this deposit is used by the beneficiary for livelihood. | An amount of Rs.20,000/- in fixed deposit for 10 years |
| Gujarat | Insurance scheme for the family members of persons with disabilities | The claim will be passed to the extent of 100% in case of permanent disability due to accident or death. | Under the scheme, the beneficiary who is the person with disability having an annual income of Rs.250,000/- is entitled to a compensation of upto Rs.1.00 lakh. |
| Himachal Pradesh | Disability Relief Allowances | Persons with disabilities having 40% of disability or above and whose income does not exceed Rs.6000/- individually and Rs.11,000/- (along with family) per annum are provided. | Disability Relief allowance @ 330/- per month. At present 28,867 persons with disabilities are being benefited under the scheme. |
| Kerala | Distress Relief Fund for persons with disabilities | Applicant whose annual income does not exceed Rs.12000/- shall be eligible, the financial assistance is provided for medical treatment including operation person who acquired disability due to accidents for any other purpose not covered by any existing scheme. | Maximum amount of relief Rs.2000/- which can be extended upto Rs.5000/-. |
| Maharashtra | Sanjay Gandhi Niradhar Anudan Yojana | Financial assistance is granted to persons with disabilities. |  |
| Orissa | Madhubabu pension scheme | To provide Sustenance Allowance to persons with disabilities of years of age and above with |  |

**Source :** *Compilation from information provided by State Governments to MoSJE, New Delhi*

|  |
| --- |
| **Box 26.1 Help Line of Gujarat Government**  The Gujarat State government has started a helpline however it also caters to the queries of the disabled persons. It provides the following information on one phone call :   * Details of the benefit available from the government * Names and addresses of the schools and organizations functioning in the field of disability * Information about the disability identity card * Scholarship details for the disabled * Details of benefits available under Sant Surdas Yojana * Various Schemes of Government of India * Counselling for the employment of the disabled * Details of benefits available under Maharshi Ashtavakra Yojana   Besides getting application forms for all schemes |

**FINDINGS**

* The PWDA definition of rehabilitation and the attendant schemes and programmes are in accord with the CRPD .
* Whilst CBR is the preferred mode of addressing the rehabilitation and rehabilitation concerns of persons with physical and sensory disabilities; the institutional option has been accorded preference for persons with intellectual and psychosocial disabilities.
* Peer support exists primarily as an initiative of persons with disabilities and disabled people’s organizations.
* The expertise of experience has not been recognized in the existing law and policy.
* There is a proposal to accord due recognition to peer support and experiential expertise in the RPDB.

**Future Plan of Action**

* Strengthen the partnership between expert and persons with disabilities.
* The experiential expertise of persons with disabilities and peer support shall be accorded due recognition in rehabilitation related policy, law, schemes and programmes.
* Explore and create alternatives to institutional care for persons with intellectual and psychosocial disabilities.

**ARTICLE 27 - WORK AND EMPLOYMENT**

|  |
| --- |
| *1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:*  *(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;*  *(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;*  *(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;*  *(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;*  *(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;*  *(f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one’s own business;*  *(g) Employ persons with disabilities in the public sector;*  *(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;*  *(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace; (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;*  *(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.*  *2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.* |

**A Equality of Opportunity in Work and Employment**

**27.1** The significance of work and employment has been acknowledged in the Constitution of India when Article 39 of the Directive Principles mandated the State to direct its policy towards securing *“that the citizens, men and women equally, have the right to an adequate means of livelihood*”; that *“there is equal pay for equal work for both men and women”* ; and that *“the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter into avocations unsuited to their age or strength”.* Article 41 requires that the *“State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work…”* and Article 42 requires that *“the State shall make provision for securing just and humane conditions of work…”.*

**27.2** These obligations were placed in that part of the constitution which is non-justiciable but fundamental in the governance of the country. It may be noted that the division between fundamental rights and directive principles in the Indian Constitution followed the classical division between civil-political and social-economic rights. The social economic rights were recognized as directive principles along with the caveats of economic capacity and progressive realization. This distinction between the two parts of the constitution has been progressively collapsed by the Indian Supreme Court’s expanded interpretation of the right to life. The Court has included the right to livelihood as an integral component of the right to full and meaningful existence.

**27.3** Article 16(1) of the Constitution, deriving from Article 14; provides for *“equality of opportunity for all citizens in matters relating to employment under the State.”* Whilst Article 14 provides for formal and substantive equality, it allows for affirmative action measures consistent with the spirit of the legislation as well as any reasonable distinction, exclusion or preference on grounds of an inherent requirement of the job. At the same time it is worthwhile to note that the Country’s judiciary has been thwarting any attempt to discriminate on the grounds of disabilities.

**Source:***Census 2001*

**Figure 27.2 Percentage of Non Workers in persons with disabilities**

**27.4** It needs to be observed that of the total population of persons with disabilities, merely 34% form the workers group whereas, the rest remaining 66% are non-workers. This is suggestive of the fact that an improvement in this position requires groundwork in terms of providing quality and accessible education, health care, nutrition, information and creation of conducive environment along with promotion of employment opportunities needs to be made.

**27.5 Affirmative Action:** In furtherance of the affirmative action as well as Directive Principles of State Policy of the Indian Constitution, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide Sec.32[[143]](#footnote-143); Government identify posts in the establishments which can be reserved for persons with disabilities and periodically review[[144]](#footnote-144) the list of posts.

**27.6** Accordingly, Section 33 of PWDA provides that every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disabilities of which one per cent each shall be reserved for persons suffering from (i) blindness or low vision, (ii) hearing impairment and (iii) locomotor disability or cerebral palsy; in the posts identified for each disability. The PWD Act has come into force only in 1996. However, it was much before in November, 1977 that reservation for persons with disabilities was introduced in case of direct recruitment to Groups ‘C’ and ‘D’ posts. It was extended to the cases of promotion to Group ‘C’ and ‘D’ posts in 1989. With the enactment of the Act, reservation for persons with disabilities was made applicable in identified Group ‘A’ and ‘B’ posts also in case of direct recruitment.

**27.7** Various concessions are given to persons with disabilities. The relaxation in age limit is provided irrespective of the fact whether the post is reserved or not, provided the post is identified as suitable for persons with disabilities. Apart from age relaxation, they get exemption from payment of application fee and examination fee and relaxation in eligibility standards.

**27.8 Equality of Opportunity through open competition:** The right to equality enshrined in Article 14 and the right to equality of opportunity in matters of employment under Article 16 of the Constitution accords similar opportunity to persons with disabilities. Despite there being affirmative action vide Sec.33 of PWDA, there is nothing which prevents a person with disability from acquiring a position through open competition. This will ensure equal opportunity and participation to persons with disabilities in Government jobs and is in line with the fundamental rights guaranteed to every citizen under Articles 14 and 16 of the Constitution. It has been held that the rules allowing for the relaxation of medical norms apply to candidates in the reserved as well as the general quota.[[145]](#footnote-145) Without such relaxation, the entry of persons with disabilities would be limited to 3% even when more than 3% persons with disabilities are available for appointment.

**27.9** **Prohibition of Discrimination in recruitment, continuance of employment and career advancement:**In recognition to the fact that the right to livelihood is an integral part of the right to life, there has been a catena of judicial decisions prohibiting discrimination on the grounds of disability or what was perceived as a denial of employment opportunity, career advancement and growth. The Bombay High Court in *Ranjit Kumar Rajak vs State Bank of India (WP No. 576 of 2008 decided on 8th May, 2009)* decided that where an individual, who was otherwise fit to perform the job for which he was recruited, could not be refused appointment by a State Bank on grounds of medical disability, merely because the employer feared that the employee may claim higher medical expenses.  The standards of medical fitness, the Court ruled have to be assessed on the basis of the duties and functions to be discharged by the employee.  The fact that such an employee may seek higher medical support to continue to perform his duties can be no basis for refusing employment; such medical support would have to be reasonably accommodated by the employer.

**27.10** Where separate notifications were issued by the Office of the Chief Commissioner for Persons with Disabilities, the Central Government and the State Government, pursuant to Sec.32[[146]](#footnote-146) of the PWDA thereby clearly identifying the post of Conductor to be reserved for persons with disabilities, it was held that refusal of appointment to the post of conductor on the grounds of orthopaedic disability does not meet the standards of fairness of any person of ordinary prudence.[[147]](#footnote-147) Using the same principle, it was held that visual[[148]](#footnote-148) and hearing impaired candidates cannot be refused appointment as Swechhasevi Sikshya Sahayaks in primary and upper primary schools in the States if there are resolutions, circulars and notifications issued by the concerned state government which specifically provide for their appointment.[[149]](#footnote-149)

**27.11** Article 23 of the Constitution of India prohibits “trafficking in human beings and beggar and other similar forms of forced labour” and The Bonded Labour System (Abolition Act, 1976) has abolished the system of bonded labour and every bonded labour has been “freed and discharged from any obligation to render any bonded labour”

**B Safeguarding Right to Work and Employment**

**27.12** Section.47[[150]](#footnote-150) of PWDA inter-alia prohibits establishments from dispensing with or reducing the rank of any employee who acquires disability during service. Judiciary, as is evident from a catena of decisions, has been vigilant in preventing the denial of any right recognized by the legislature in favour of such of those persons who acquired disability during the course of employment. In the landmark case of Kunal Singh v. Union of India, it was held that Section. 47 is of mandatory nature. It has been a well found judicial proposition that a provision of a social beneficial enactment, particularly an enactment which seeks to provides for equal opportunities, protection of rights and full participation of the persons with disabilities; ought to be construed in such manner that advances the purpose and object of the Act rather than the one which obstructs the object and paralyses the purpose of the Act.[[151]](#footnote-151) This principle has found wide judicial support in India[[152]](#footnote-152) thereby protecting the rights of persons with disabilities.

**27.13** With respect to the term ‘course of employment’, Secion.47 does not require that the person must suffer the disability ‘during the course of employment’ and is entitled to protection even where disability is acquired during the period of service but outside the course of employment.[[153]](#footnote-153) For instance, when a person met with an accident while returning from duty, it was held that the injury was in the course of employment.[[154]](#footnote-154) When disability is acquired while in employment, it is not necessary that it should be acquired while performing work. It is also not necessary that the employment should be the cause of disability.[[155]](#footnote-155) Where a disability occurs partially as a result of the duties being performed, the Court has also taken a more favourable approach towards the affected person.[[156]](#footnote-156)

**27.14 Just and favourable conditions of work:** In the Bhagwan Dass case it was reiterated that Sec. 47 is mandatory in nature.[[157]](#footnote-157) What the law permits to persons with disabilities is no charity or largess but their right as equal citizens of the country.[[158]](#footnote-158) Employers are duty bound to continue the petitioner on leave till such time as he stands superannuated and pay him wages and salaries accordingly, even when he is held to be 100% incapacitated, and it is not enough to just grant invalid pension if the person is still in the time period during their service.[[159]](#footnote-159) The language of Section 47 is plain and certain casting obligation on the employer to protect an employee acquiring disability during service, even if the employee is unaware and asks for retirement.[[160]](#footnote-160) The employer should provide for adequate safeguards to remedy the situation by giving them alternate job or by compensating them in some form for the all round loss they suffered for no fault of theirs.[[161]](#footnote-161) In such cases, it does not matter if disability is acquired before or after the requisite qualifications for the post were obtained- the disability should be in existence at the time of applying for the post, and has nothing to do with attaining the qualifications.[[162]](#footnote-162) Once a post is reserved for persons with disabilities and a suitable candidate is duly selected, their services cannot be terminated on the ground that they are unfit to impart that particular post.[[163]](#footnote-163)

**27.15 Attaining safe and healthy working conditions:** There are a large number of central statutes which address the issue of wages, social security, labour welfare, occupational safety, and health besides industrial relations. These primarily apply to the organized sector, India does not have an overarching law on occupational safety and health covering all sectors of the economy and makes it obligatory for all employers to observe occupational safety standards. Hence the Mid Appraisal Report of the Eleventh Five Year Plan expressed a need for an umbrella legislation covering different aspects of Occupational Safety and Health. The government prepared a Comprehensive National Policy on Safety, Health, and Environment at the Workplace in February 2009 after intensive and wide consultations and deliberations. This policy would also be applicable to persons with disabilities even as their concerns have not been expressly outlined.

**27.16 Trade Union Rights:** The issue of participation of persons with disabilities in Trade Union activities or of trade unions taking up the issues impacting on persons with disabilities is still within the realm of sensitization and awareness. In advancement of this objective, AYJNIHH raises awareness among Trade unions on rights of persons with disabilities in various forums. It organized Worker’ Education Programme in leading industries which yielded positive results. Such programmes were organised at NTPC National Thermal Power Corporation and Rashtriya Chemicals and Fertilizers (RCF), Bhabha Atomic Research Centre (BARC), Tata Institute of Fundamental Research (TIFR) and Shipping Corporation of India(SCI) in Mumbai during 2007-08.

**27.17** The Workmen’s Compensation Act (WCA), 1923 provides that in case personal injury is caused to a workman by accident arising out of or in the course of his employment, his employer shall be liable to pay compensation[[164]](#footnote-164). Such compensation is determined by the workman’s wages at the time of debilitation, and is also dependent on additional multipliers that include expected income and extent of injury, and whether disability is total or partial.[[165]](#footnote-165)Section 4 of the WCA provides a manner for calculating the amount of damages to be paid, and the percentage of total disability suffered is an important criterion in determining the quantum of compensation paid.[[166]](#footnote-166) The loss of earning capacity on account of the disablement resulting out of the injury suffered in the course of employment is a factor employed by courts in coming to a conclusion on the amount of compensation to be fixed. [[167]](#footnote-167) There must exist a causal connection between the disease or disablement and the occupation[[168]](#footnote-168), and in a majority of cases involving disablement arising out of employment, the Courts have granted a liberal interpretation of the provisions of the Workmen’s Compensation Act, 1923[[169]](#footnote-169) and taken into account the wages of the workman at the time, expected future earnings, and loss of earning capacity to award compensation to the disabled workman. [[170]](#footnote-170)

**C Law and Programmes for Employment**

**27.18 Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA):** MGNREGA is an enactment that aims to enhance the livelihood security of people in rural areas by guaranteeing 100 days of wage employment in a financial year to a rural household whose adult members volunteer to do unskilled manual work. MGNREGA mainly provides unskilled manual work.  Traditionally these works have been designed such that they are mainly suitable for young able bodied couples working together in a project.  As it stands the statute permits persons with disabilities to register under the statute however there is no obligation in the legislation to provide employment to persons with disabilities. The scheme in its design did not differentiate between men and women and non-disabled and persons with disabilities. However, with subsequent evaluation, this monolithic structure is starting to be suitably adapted for persons with disabilities.

* West Bengal requires that the work productivity indicators should be different for persons above 60 years of age.
* Uttar Pradesh suggests dedicated work places for women workers.
* Andhra Pradesh has expanded the work guaranteed to 150 days for families with persons with disabilities.
* The Government of Andhra Pradesh has upgraded its rural standard schedule of rates by 30% for the labor component in the case of persons with disabilities. These special rates will be allowed only when all the persons in the company are persons with disabilities.
* Andhra Pradesh has successfully modified both the nature of work and the productivity demands for persons with disabilities.

**27.19** Though there is no reservation for persons with disabilities under MGNREGA, but in the spirit of the provisions of PWDA the Ministry of Rural Development specifically monitors the coverage of the persons with disabilities. In the year 2011-12, 9,99,211persons with disabilities were registered, 16,436 were given work under the scheme, creating 1,21,121person days[[171]](#footnote-171).

**27.20** The necessity of  specific schematic interventions for persons with disabilities is demonstrated by the above table which depicts gap between the number of persons registered and the number of persons provided work under MGNREGA. For example, Kerala has registered 19,108 persons but provided work to only 3,169, whilst Tamil Nadu has registered 48,382 and provided work to 38,771 persons with disabilities.

**27.21 Programmatic entitlements** There is a statutory obligation vide sec.40[[172]](#footnote-172) of the PWDA that requires Government to provide at least three percent of reservation to persons with disabilities in all poverty alleviation programmes. Consequently, both Ministries of Rural Development and Urban Affairs and Employment provide for the same in various umbrella schemes for promoting wage employment among urban and rural poor respectively. These include:

**Table 27.1 Schemes and Programmes for employment among Rural and Urban poor**

|  |  |  |
| --- | --- | --- |
| ***Schemes*** | ***Objective*** | ***Coverage*** |
| Swarnjayanti Gram Swarozgar Yojana (SGSY) (Rural Self Employment Scheme) | aims to bring assisted poor families above  the poverty line by supporting income-generating activities through a combination of bank credit and government subsidy. | Rural poor ( the benefits, 50 per cent are reserved for SCs/STs, 15 per cent for minorities, and 3 per cent for persons with disabilities) |
| Sampoorna Grammeen Rozgar Yojana (SGRY) (Rural Wage Employment Scheme) | the development of infrastructure in rural areas and provide wage employment to rural poor. About 100 crore man days of wage-employment is envisaged to be generated every year. It provides wages in terms of cash and food grains. 5 | Rural poor (Guidelines provide that preference shall be given to the parents of children with disabilities or adult children of persons with disabilities who are desirous of working for wage employment) |
| Swarna Jayanti Shahari Yojana (SJSRY) | aims to encourage urban self-employment through subsidy and loan for skill development training | Individuals and community throughout the country |
| Prime Minister’s Employment Generation Programme (PMEGP) | It is a credit linked subsidy programme with objectives   1. To generate employment opportunities in rural as well as urban areas through setting up of new self-employment ventures/projects/micro enterprises; 2. To bring together widely dispersed traditional artisans/rural and urban unemployed youth and give them self-employment opportunities to the extent possible, at their place; and 3. To provide continuous and sustainable employment to a large segment of traditional and prospective artisans and rural and urban unemployed youth in the country, so as to help minimize distress migration of rural youth to urban areas. | Individuals and entrepreneurs throughout the country (guideline therein provides that where a beneficiary therein is a person with disability, contribution by such person shall be 5% of total project which is 10% for general ) |

**27.22 National Rural Livelihood Mission(NRLM)** An overview of the implementation of SGSY over the last ten years throws up a mixed picture. it has also brought into focus shortcomings like vast regional variations in mobilisation of rural poor, insufficient capacity building of beneficiaries, insufficient investments for building community institutions, weak linkages with the banks leading to low credit mobilization, lack of repeat financing and lack of dedicated manpower to implement the programme. Furthermore, several states have not been able to fully utilize the funds received under SGSY[[173]](#footnote-173). Based on the lessons of the implementation of SGSY, it was proposed to restructure SGSY into National Rural Livelihood Mission.

**27.23** The most vulnerable households like the Particularly Vulnerable Tribal Groups (PVTGs), single women, women headed households, persons with disability, landless, migrant labour, etc would receive a special focus. NRLM will ensure adequate coverage of vulnerable sections of the society such that 50% of the beneficiaries are SC/STs, 50% are women, 15% are minorities and 3% are persons with disabilities.

**27.24** Since the Mission activities shall also include persons with disabilities, it is proposed to seek a convergence between MoRD and MoSJE so that states are enabled to design specific strategies tailored to meet the training and capacity building of persons with disabilities and skill development in furtherance of the obligations contained in the Convention.

**27.25 Vocational training:** 20 Vocational Rehabilitation Centres for Handicapped (VRCs) have been established by DGE&T, Ministry of Labour & Employment to evaluate residual capacity of persons with disabilities to unfold their social, economic, psychological and vocational potentialities. There are seven Skill Training Workshops (STWs) that have been added to seven VRCs fir skill upgradation of unemployed youths with disabilities. Besides, 11 Rural Rehabilitation Extension Centres (RRECs) have been set up in 11 blocks under five VRCs to provide services to persons with disabilities in rural areas.

**27.26** Skill Development Initiative (SDI) on Modular Employable Skill (MES) has been developed in consultation with Industry, State Government and Experts in the area of Vocational Training. MES aims at achieving minimum skill set and allows skills upgradation and lifelong learning opportunities to persons intending to enter into labour force and those already in the work force to enhance their employability. Under SDI scheme 98 trades have been identified for persons with disabilities.

**27.27** Recently, a National Skill Development Policy has been formulated in February, 2009 that inter alia envisions skill development to promote inclusivity and reduce economic and social divisions among Indian workforce. The Policy makes an explicit mention of persons with disabilities. It recognizes the low participation of persons with disabilities in the work sector and consequently aims to expand the employment specific facilities as well as training efforts by strengthening and scaling up Vocational Rehabilitation Centres.

**27.28** The Department of Adult Independent Living is a dedicated department of National Institute for the Mentally Handicapped which functions for developing human resource in the area of vocational training to persons with mental retardation, developing service models and employment and taking up research and developmental activities.

**27.29** NIEPMD has been providing vocational training to persons with disabilities for promoting their vocational skills. The Institute has trained 34 mothers in tailoring areas and they were given loan through Indian Bank, Kovalam to start their business[[174]](#footnote-174).

**D The National Abilympics Association of India**

**27.30** The National Abilympic Association of India was formed in May 2001 at the behest of the MoSJE and MoHRD with the aim to formulate, initiate and implement policies to propagate Abilympics in the country, promote and organise meets for competition in vocational and living skills. This simultaneously creates awareness raising about the vocational skills and over the years a large number of institutions and persons with disabilities are showing interest to participate. NAAI was head quartered at Amar Jyoti Rehabilitation & Research Centre, Delhi. NAAI has enabled the participation of Indian Contingent in the 6th and 7th International Abilympics.

**27.31** 7th IA were held at Shizouka, Japan November 13 - 18, 2007 -During the 7th IA India an Indian contingent of 29 participants won 3 Silver (Desktop Publishing, Photography and Embroidery), 1 bronze (Photography) medal and a Certificate of Excellence (Mechanical Assembly). The silver and bronze medal winners were given a cash award of Rs. 75,000/- and Rs. 50,000/- respectively. This participation was largely as a result of the support from the Ministry of Social Justice & Empowerment. The 8th AI was held in Seoul, South Korea from 25-30th September,2011. The Indian team for the 8th International Abilympics consisted of 15 contestants, 3 Judges 7 officials and escorts, all of whom came from various parts of the country. The contestants took part in a total of 18 events. 4 contestants took part in more than one event. India won one bronze medal (embroidery) and three special prizes (Computer programming, computer assembly and dress making – basic course).

**27.32** Sub-Regional, Regional, the First and Second Nationals and the 6th International Abilympics were also organized. The 3rd National Abilympics were held from October 22-24, 2010 at Jabalpur, Madhya Pradesh.

|  |
| --- |
|  |

**27.33 Special Employment Exchanges:** The Ministry of Labour of India has responsibility for vocational training and economic rehabilitation of persons with disabilities. Within the Ministry this responsibility is delegated to the Directorate General of Employment and Training. Both the National Council of Vocational Training (NCVT) and the Apprenticeship Training Scheme (ATS) reserve an unspecified number of places for persons with disabilities. There have been special employment exchanges for persons with disabilities. The National Employment Service through 23 Special Employment Exchanges assists persons with disabilities (specifically) in obtaining gainful employment and another 914 exchanges (Employment Exchanges) that cater to persons with disabilities as well as people without such special needs. Financial assistance is provided in the case of the Special Employment Exchanges and the Employment Exchanges.[[175]](#footnote-175)

**Box 27.1 Call Centre for Persons with Disabilities**

‘Euroable’ claims to be India’s first call centre manned and operated by persons with disabilities. This state-of-the-art call centre was set up by Eureka Forbes in association with the National Society for Equal Opportunities for the Handicapped (NASEOH). All the youths are in the age group of 19-22.

**27.34** Special Employment Exchanges 42, 38 Special Cells for Persons with Disabilities, 20 Vocational Rehabilitation Centres for Handicapped (VRCs) and 11 Rural Rehabilitation Extension Centres for Handicapped (RRECs) have been functioning across the country with an objective to assist persons with disabilities for the registration, submission and placement for employment. These agencies also provide vocational guidance, career counseling and render assistance for self-employment and entrepreneurship development among persons with disabilities.

**Table 27.2 Statistics on Job –Seekers who are persons with disabilities**

**at All India Level during 2002-2006**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ***Year*** | ***Registration*** | ***Placement*** | ***Live Register*** | ***% of Placement to Registration*** | ***% of Placement to Live Register*** |
| 2002 | 11.6 | 1.0 | 110.6 | 8.6 | 0.9 |
| 2003 | 10.9 | 1.0 | 109.9 | 9.2 | 0.9 |
| 2004 | 10.8 | 1.0 | 113.0 | 9.3 | 0.9 |
| 2005 | 10.9 | 1.1 | 109.6 | 10.1 | 1.0 |
| 2006 | 12.9 | 1.2 | 108.6 | 9.5 | 1.1 |

**Source:** *Report of Ministry of Labhour & Employment to MoSJE*

**Table 27.3 Special Employment Exchanges in States**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| ***State, Year*** | ***Registration*** | ***Placement*** | ***Submission*** | | ***Vacancy notified*** | | ***Live Register*** | | |
| Gujarat, 2009-10 | | 3314 | | 207 | | 13424 | | 413 | 21116 |
| Kerala, 2008-09 | | 643 | | 281 | | 6367 | | --- | 9609 |

**E Strategizing on Employment**

**27.35 Promoting Employment in Public Sector:** Bharat Petroleum Corporation Limited (BPCL) is a leading public sector company at present has staff strength of 13928, where 218 are persons with disabilities of which 45 belong to management cadre. BPCL’s efforts in ensuring inclusive employment opportunities through its recruitment, training, appraisal and other human resource management techniques are exemplary.[[176]](#footnote-176)

**Box 27.2 Hiring of hearing impaired by Mirakle Couriers**

Mirakle Couriers is the only privately run, for-profit organization in India that employs only hearing-impaired people. The company hires such young men and women from underprivileged sections, trains them and puts them on a career path. The company is run like any other – salaries are comparable with the rest of the industry and the workforce is given every right that a blue- or white-collar employee deserves. Their list of clients includes Mahindra & Mahindra, The Aditya Birla Group, Victory Art Foundation, JSW Group, Indian Hotels Company, Godrej & Boyce and Essel

**27.36** **NABARD i.e. the National Bank for Agricultural and Rural Development**, which is considered an Apex Development Bank for the promotion and development of agriculture, small scale industries, rural crafts are concerned. It has the total staff strength of the Bank, as on 31 March 2010, stood at 4,770 of which 849 belonged to Scheduled Castes (18%) and 398 to Scheduled Tribes (8%) (Table 5.2). The staff strength of ex-servicemen employees stood at 101 and 99, respectively, each constituting 2 per cent of the total staff strength.[[177]](#footnote-177)

**27.37** **Promoting opportunities for self employment and entrepreneurship**

Government has been promoting the self employment of persons with disabilities by providing vocational training and loan on concessional rates through National Handicapped Finance and Development Corporation (NHFDC), established under the Ministry of Social Justice and Empowerment functions as an apex institution for channelising the funds to persons with disabilities through the State Channelising Agencies (SCAs) nominated by the State Government(s). It has several schemes in place to provide financial aid to persons with disabilities.

**27.38** Financial assistance is provided to Parents Association for the Mentally Retarded Persons to set up an income generating activity for the benefit of mentally retarded persons. The nature of income generating activity will be such that it involves the mentally retarded persons directly and income will be distributed among the mentally retarded persons. The quantum of loan, rate of interest, repayment period etc. remains the same as for schemes implemented through the SCA.

**27.39** Recently a circular[[178]](#footnote-178) was issued by the Reserve Bank of India whereby all the NBFCs were categorically told that there shall be no discrimination in extending products and facilities including loan facilities to the physically/visually challenged applicants on grounds of disability and that they may also advise their branches to render all possible assistance to persons with disabilities for availing of the various business facilities. Further the NBFCs were advised that they may include a suitable module containing the rights of persons with disabilities guaranteed by the law and international conventions, in all the training programmes conducted for their employees at all levels. Further, NBFCs may ensure redressal of grievances of persons with disabilities under the Grievance Redressal Mechanism already set up by them.

**27.40** The National Trust organises job fairs and ability Melas: These provide an interface between employers and persons with disabilities leading to placements. It also provides an opportunity to both sets of people to look at emerging trends and needs. An integral part of the Mela, for the first time this year, was the Job Fair, in which potential employers came face to face with a number of enthusiastic job applicants. The National Trust receives applications from applicants, and holds a two-day orientation workshop with them. The Job Fair is for persons with the four disabilities that National Trust focuses on (autism, mental retardation, cerebral palsy, and multiple disabilities), Vocational Rehabilitation Centre (VRC) stall responded to employment-related queries from candidates across other disabilities.

**27.41** Under SNAP, during the year 2009-10, Rs.50,000/- each were allocated to various NGOs and Institutions across 26 States in the country to conduct and organize Job Fair Melas. Of these job fairs were organized in the States of Assam, Bihar, Gujarat, Jharkhand, Madhya Pradesh, Orissa, Pondicherry, Harayana, Tripura, Uttar Pradesh, Uttaranchal and West Bengal. Apart from National Trust NGOs play an important role in promoting employment opportunities for people with disabilities in India.

**27.42 National Centre for the Promotion of Employment of Disabled People (NCPEDP)** advocates and promotes equality for persons with disabilities in all spheres of life, through education, communication, appropriate training and a barrier-free environment for gainful employment. The key objective of this organisation is the promotion of employment in organised and unorganised sectors.

**27.43 Ability Foundation,**  established in 1995, .offers range of services both to the employers and jobseekers, designed to promote equitable employment opportunities thereby sensitising employers about the need to offer unbiased, equal opportunity employment, placing candidates with disability on par with others. It also works with qualified persons with disabilities to enhance their employment opportunities in accordance to current market needs. It also offers employment oriented soft skills through National Centre for Information & Communication Technology (NCICT) that imparts state-of-the-art computer education and offers holistic and comprehensive job-oriented training to graduates with disabilities in the form of spoken English, mathematics and preparing for aptitude tests, training in personality development, techniques of communication and facing interviews.

**27.44 Enable India** trains and counsels persons with disabilities and prepares them to join the mainstream workforce as confident individuals. It works towards making persons with disabilities a part of every corporate hiring plan thereby dispelling both sympathy and apathy towards persons with disabilities and building awareness for the creation of a supportive environment. Enable India has goals to empower persons with visual, physical and hearing impairment, rehabilitate persons with disabilities through supplemental education, extensive training and providing assistive aids designed for daily living, education and for the work place; enable employment and thus make persons with disabilities a part of the workforce and enjoy successful jobs and careers.

**Table 27.4 Schemes of Self Employment by various State Governments**

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name of the State*** | ***Scheme*** | ***Details / eligibility*** | ***Quantum of loan*** |
| Madhya Pradesh | Assistance for self employment | Train handicapped person can get a loan for self employment upto Rs.10,000/- | Urban areas @ 4% interest subsidy at 33.3% subject to Rs.3000/-. |
|  | Rural areas : subsidy rate is 50% with maximum of Rs.5000/- |
| Bihar | Mukhyamantri disability self employment loan scheme | Grant of loan to the age group of 18 to 65 years for self employment for persons with disabilities having 40% or more disability. | Loan upto Rs.1.5 lakh @ simple interest of 1.5 lakh |
| Tamil Nadu | Assisting for self employment | Assist PDs to avail loan from nationalized banks for self employment ventures including setting up of bunk-stalls | Subsidy equal to 1/3rd of loan amount or Rs.3,000/- whichever is less is sanctioned by the government. |
|  |  | Bunk stall subsidy of Rs.5,000/- or 1/3rd of the loan amount |
| Chandigarh | “UMEED” and Praytan | Self financing projects for employment of disabled persons | ---- |
| Rajasthan | Akshat Kousal Yojana | Skill development programme | ---- |
| Orissa | Niyukti Mela | Niyukti Mela for skill up-gradation and self employment for persons with disabilities |  |
| Trade identification and training | Provides for skill up-gradation, training through various institutions CIPET, NIIT, Bhubaneswar & TCTD. | --- |
| Gujarat | Swayam Sidda for Blind Women | to enable women with visual impariment between age group of 18-60 years to become self-dependent through economic, social and cultural rehabilitation, with the aid of funds from Christofel Blind Mission. The applicant should possess blindness certificate and be a resident of Gujarat. | A micro-credit of Rs.15,000 in 36 equal installments and an interest at 6% per annum on returnable basis while in special cases upto Rs.25,000/- could be awarded. |
| Himachal Pradesh | Financial assistance in the form of subsidy. | To ensure self employment opportunities, financial assistance in the form of subsidy is provided in addition to loans by the HP Minority Finance and Development Corporation | Subsidy payable shall be 20% of the project cost or Rs. 0.10 lakhs whichever is less. |
| Maharashtra | Subsidized loan scheme |  | Maximum Rs.25,000/- as loan with 20% subsidy. |

***Source:*** *Compiled from information provided by State Governments to MoSJE*

**27.45** **National Trust Schemes for self employment:ARUNIM** (Association of Rehabilitation under National Trust initiative of Marketing) is a marketing federation set up by National Trust in September 2008, for undertaking marketing initiatives of products made by persons with disabilities and build capacities. Its mission is to facilitate enterprises that can offer products and services to cater to the domestic and overseas markets while ensuring self sustenance and equality especially for people with developmental disabilities.

**27.46** **Uddyam Prabha (Incentive Scheme)** is a scheme of National Trust to promote economic activities for self employment of Persons with Disabilities through interest incentive upto 5% for BPL and 3% for other on loans upto Rs.1 lakh for 5 years. So far, incentive could be sanctioned to only one applicant. Efforts are being made to promote the scheme. The scheme is being expanded to have wider coverage.

**Box 27.4 AYJNIHH Initiative**

AYJNIHH takes up the issues pertaining to reservation of jobs for persons with disabilities with government and public sectors to fill the backlog vacancies reserved. It has launched the website titled [www.jobsfordeaf.nic.in](http://www.jobsfordeaf.nic.in) to enable the persons with hearing impairment to register online for employment, upload bio-data. It also creates awareness among private sector employers and conducts “Employers Meet” with the Chamber of Commerce and Industry.

**27.47**  **Encouraging Employment in Private Sector :** It is widely acknowledged that barring a few exceptions the overall response of the private sector towards persons with disabilities has been dismal. In order to remedy this situation, a number of strategies have been looked into and time again. The National Policy for Persons with Disabilities, which was adopted in 2006 also lays down that pro-active measures will be taken to provide incentives, awards, tax exemptions etc. to encourage employment of persons with disabilities in private sector.

**Box 27.3: BPO for persons with disabilities**

Vindhya e-info media is a BPO, over 90% of whose work force consists of persons with disabilities. The official language in Vindhya is sign language and the work space is completely accessible. In case there is a requirement found, efforts are even made to find residences for the employees in areas near the office. Begun in 2006 in Bangalore, this company of 200 employees seeks to expand to various other cities and employ 5000 people by 2020.

**27.48** In order to encourage employment of persons with disabilities, the Central Government has launched a scheme w.e.f. 1.4.2008 to incentivize private sector. Under the scheme government reimburse the employer’s contribution for Employees Provident Fund (EPF) and Employees State Insurance (ESI) for 3 years, for physically challenged employees employed in the private sector on or after 01.04.2008, with a monthly salary upto Rs.25,000.

**27.49** The total expenditure of Annual Plans 2008–09 and 2009–10 was Rs.5.50 crore against the allocation of Rs.30 crore, which accounted for 18.33 per cent of the total Plan expenditure for the scheme. A provision of Rs.8 crore has been made in Annual Plan 2010–11 anticipating full utilization. The scheme however has met with a lukewarm response and not many private employers have come forward to avail the aforesaid benefit.

**27.50** ITC Welcome Group is a hospitality chain in India that has a progressive employment policy in place. Currently, they have over 154 persons with disabilities working with them in all of their departments and 138 through their supply chain. Their staff is trained in sign language and the old hotels’ accessibility ratings have been as high as 85% while the newer ones are of universal design. The chain has compiled a book on how to employ persons with disabilities for the rest of the industry. With the help of this book many other hotel and restaurant chains have begun employing persons with disabilities.

**FINDINGS**

* A three point strategy has been adopted for the employment of persons with disabilities. These are employment in public sector; incentivizing private employers and encourage self-employment.
* It is realized that a very strong foundational groundwork is to be made in terms of providing education, vocational training, skills, removing barriers, adequate and accessible dissemination of information so as to make right to work and employment executable.
* At present, persons with disabilities are primarily included in affirmative action measures. Non-discrimination and reasonable accommodation measures have been provided upon court orders.
* The concerns of workers with disabilities are not taken up in the course of the matter be it in industrial safety or industrial relations.
* Whilst examples of dedicated programmes for women with disabilities exist; they are not as yet the norm.
* Barring some notable exceptions, the strategy of special employment exchanges has not yielded commensurate returns for persons with disabilities. For instance in Rajasthan, following outcomes were achieved in placement of Persons with Disabilities through special employment exchanges: During 2006-269 persons with disabilities were placed of which 188 OH, 51 HI and 30 VH candidates; during 2007-56 placements were achieved of which 36 OH, 12 HI and 08 VH and 2008-27 persons with disabilities got placement wherein 17 OH, 06 HI and 04 VH candidates got placed. In Kerala during the year 2008-09; there were 9609 registered and additionally got registered during the year, of which placement was sought for 281 persons.
* MGNREGA data shows the difference between real and nominal inclusion of persons with disabilities. It is found that where reasonable accommodation is provided, persons with disabilities can be inducted into the work force on an equal basis with others.
* The skill development and vocational rehabilitation centres are steps which promote the employment of persons with disabilities inconsonance with the CRPD.

**Future Plan of Action**

* Persons with disabilities shall be fostered as human resource so that they can be productively engaged in commercial operations and full benefit of identification and reservation of posts can be derived by them.
* Reservations shall be extended to other disabilities.
* More dedicated programmes for women with disabilities
* Private sector needs to be sensitized to rework their employment strategies in terms of persons with disabilities and the induction of persons with disabilities in a few micro level enterprises and traditional vocations needs to change and human resource policies formulated in accordance with the qualifications of persons with disabilities.
* The National Council for Vocational Education and Training would regularly review their training courses so that they remain in harmony with the changing industry and market requirements.

**ARTICLE 28 - ADEQUATE STANDARD OF LIVING AND SOCIAL PROTECTION**

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| --- |
| *1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.*  *2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:*  *(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;*  *(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;*  *(c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;*  *(d) To ensure access by persons with disabilities to public housing programmes;*  *(e) To ensure equal access by persons with disabilities to retirement benefits and programmes.* |

**A Constitutional Provisions**

**28.1** Article 38 (1) of the Constitution of India requires that *“the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life”.* Article 38 (2) mandates that *“the state shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations”.* Articles 39(a) and 41 of the Constitution of India require that the State should within the limits of its economic capacity make effective provision for securing the right to work, to education, and to public assistance in case of unemployment, old age, sickness, and disablement. These articles of the Constitution admit to the various obligations placed on the state by Article 28 of the CRPD.

**28.2** Social protection in India has been largely mediated through waged employment in the organized sector. Such employment ensures security of tenure; regularity of income; pension and other superannuation benefits. These benefits however do not extend in the same measure to workers in the informal economy. The workers in the informal economy comprise of: (i) the workers in the unorganized sector as well as; (ii) the workers employed in an informal capacity in the organized sector. Persons with poor bargaining positions which include persons with disabilities tend to enter the economy from this route. Consequently, the Government of India is engaged in enhancing the economic security of workers in the unorganized sector.

**28.3 Bharat Nirman** is a time bound plan of action for strengthening rural infrastructure, launched by the Government in 2005 in partnership with the State Governments and Panchyats. Phase I of the plan was implemented in the year 2005-06 to 2008-09. Phase II is implemented from 2009-10 to 2011-12. It has six components: water supply, housing, irrigation, electrification, telecommunication connectivity and roads. The various initiatives launched under this programme are of special significance to assess the fulfilment of responsibilities under Article 28 of the CRPD.

**B Right to Food**

**28.4** The **Annapurna scheme** aims at providing food security to meet the requirement of those Senior Citizens who though eligible have remained uncovered under the National Old Age Pension Scheme (NOAPS). Under the Annapurna Scheme, 10 Kg. of food grains per month are to be provided 'free of cost' to the Beneficiary. The number of persons to be benefited from the Scheme will, in the first instance, be 20% of the persons eligible to receive pension under NOAPS in States/Union Territories.

**28.5** In line with the present approach of guaranteeing a floor level for economic rights a **Food Security Bill**, which shall ensure public provisioning of food is presently under deliberation. The proposed legislation makes special provision for persons from disadvantaged segments which include persons with disabilities. The Preamble of the aforesaid Bill inter alia makes an explicit mention of this Convention and the obligation to adequate nutrition for persons with disabilities.

**28.6** **Nutritional Programme for Adolescent Girls** identifies girls (age group 11-19 years) who are under 35 kgs of weight.6kg of free food grains are provided per beneficiary per month to the adolescent girl for a period of three months. Those who do not do not show any improvement in nutritional status is investigated by Anganwadi Workers and referred to doctor for investigation and treatment, but they continue to receive free food grains for the next three months.[[179]](#footnote-179) Insofar as low weight is contra indicated for children with disabilities, a number of girls with disabilities may be benefitting from this programme. However, there is no specific allocation for girls with disabilities.

***Box 28.1 Emergency Feeding Programme in Orissa***

This programme, aims at providing food security during distress conditions to old, **infirm** and persons belonging to BPL households. . The Scheme is being implemented by Government of Orissa in eight districts covering around 2 lakh beneficiaries.  Under this scheme cooked food containing, inter-alia, rice- 200gms, Dal (pulse)- 40 gms, vegetables- 30 gms is provided in the diet of each EFP beneficiary daily by the State Government.[[180]](#footnote-180)

**C Right to Housing**

**28.7 Indira Awaas Yojana:** With a view to meeting the housing needs of the rural poor, Indira Awaas Yojana (IAY) was launched in May 1985 as a sub-scheme of Jawahar Rozgar Yojana. Under the scheme allotment of the house is done in the name of the female member of the households or in the joint names of husband and wife. A minimum of 60 % of funds are to be utilized for construction of houses for the SC/ST people. Further, 60% of the IAY allocation is meant for benefiting SC/ST families, 3% for physically handicapped and 15% for minorities. 5% of the central allocation can be utilized for meeting exigencies arising out of natural calamities and other emergent situations like riot, arson, fire, rehabilitation etc.

**28.8** The Indira Awaas Yojana at first accorded 3% reservation only to persons with physical disabilities. However the 2010 revised guidelines extend the benefit of the scheme to both persons with physical and mental disabilities. Persons with disabilities are at present fifth in the order of priority in the category of persons entitled to obtain benefit of the scheme. The scheme is primarily meant for persons who are below the poverty line.

**28.9** In order to ensure that there is fairness in allocation the gram sabhas are required to maintain a list of beneficiaries identified during preceding year and current year including details of SC/ST, women beneficiaries and physically/ mentally challenged persons under Indira Awaas Yojana.

**28.10** **Interest Subsidy Scheme for Housing the Urban Poor (ISSHUP)** An amount of Rs 1,378 crore has been provided in the Eleventh Plan, of which only Rs 132 crore (10 per cent) has been utilized during 2009–10 (no expenditure was incurred during the first two years).

**28.11 Valmiki Ambedkar Awas Yojana (VAAY)** is a centrally sponsored scheme to ameliorate the conditions of the Urban Slum dwellers living below poverty line. The Scheme is shared on a 50:50 basis with States and envisages an annual subsidy of Rs. 1000/- crores from the Ministry of Urban Development and Poverty Alleviation to be matched by an equal amount of long term loan from HUDCO to be availed against usual State Government Guarantee.

**28.12** A new National City Sanitation Project under the title of “Nirmal Bharat Abhiyan” is an integral sub component of this scheme. The implementation of Awaas Yojana (VAMBAY) be dovetailed and synergised with other existing programs such as National Slum Development Programme (NSDP) and Swarna Jayanthi Shahari Rozgar Yojana (SJSRY). The availability of drinking water, sanitation, and drainage facilities is to be ensured under these programmes. On an average 25% of the funds under the Scheme will be spent for providing water and sanitation facilities including approximately 20% of the amount for community sanitation project- Nirmal Bharat Abhiyan. The scheme provides for reservation of 5% for physically and mentally disabled and handicapped persons and others.[[181]](#footnote-181)

**28.13** The **Swadhar Scheme** was launched in 2002 by the MoHRD to address the specific vulnerability of women in difficult circumstances through a Home-based holistic and integrated approach.

**28.14** The implementing agencies can be the Social Welfare/Women and Child Welfare Department of State Government, Women’s Development Corporations, Urban Local Bodies, reputed Public/Private Trust or Voluntary Organizations who are willing to take up the responsibility of rehabilitating such women. The scheme extends to women with intellectual disabilities (but does not include women with mental illness) who are without any support of family or relatives.

**Table 28.1 Preferential allotment of land and houses by State Governments**

|  |  |
| --- | --- |
| Andhra Pradesh | A.P. State Housing Corporation provides for preferential allotment of ground floor of all the flats under Indiramma scheme for persons with disabilities, that the designing of all such flats and houses to be changed to make them disabled friendly, houses shall also be sanctioned to adult unmarried person with disability treating them as separate unit. |
| Assam | In order to give effect to the benefits of provisions of Section 43 of PWDA envisaging formulation of schemes in favour of Persons with disabilities for preferential allotment/settlement of land for house, setting up of business, setting up of special recreation centres, establishment of special schools, establishment of research centres and establishment of factories by entrepreneurs’ with disabilities.  Further, it is also decided by the Government that the existing 25% of concession over the estimated due premium fixed as per rules in force in the matter of payment of premium on the new settlement of Government land as well as on conversion of annual patta / short lease into period patta now available to the persons belonging to SC., ST etc. be extended to the persons with disabilities as defined by competent authority. NO. RSS.860/2005/57 dated Dispur 4th Jan, 2010. |
| Kerala | The Kerala Housing Board is giving preferential allotment to persons with disabilities by reserving 1% of house sites, house or flat. They also insist the allotment on the ground floor and on the road access as per circular No.18059/B2/2001/LSGD dt.19-12-2001, Government have already issued directions to all Local Self Government Bodies to formulate schemes such as preferential allotment of land at concessional rates for house, setting up of business, setting up of special recreation centres, preferential allotment of shops and bunks, establishment of special schools, establishment of research centres, establishment of factories by entrepreneurs with disabilities etc. exclusively for the persons with disabilities as part of their annual plan schemes. |
| Maharashtra | Under Maharashtra Housing and Area Development Board, there is 2% reservation for persons with disabilities in allotment of tenaments.  Department of Urban Development has issued directions to all Municipal Corporations and other institutions to allot land to persons with disabilities at concessional rates to build house, commencement of business, recreation centre, schools for children with disabilities, research centre and factory. |

**D Right to Improvement of Living Conditions**

**28.15 Total Sanitation Campaign [TSC] :** Total Sanitation Campaign is a comprehensive programme to ensure sanitation facilities in rural areas with the goal of eradicating the practice of open defecation.  TSC was initiated in 1999 when the Central Rural Sanitation Programme was restructured making it demand driven and people centred.   TSC gives strong emphasis on information, education and communication, capacity building and hygiene education.  It follows the principle of low or no subsidy where a nominal subsidy in the forms of incentives is given to rural households for construction of toilets.  The key intervention areas are individual household latrines, school sanitation and hygiene education, community sanitary complex and angan wadi toilets. Community sanitary complex is an important component of TSC.  Primarily these complexes are to be constructed only when there is a lack of space in the village for construction of household toilets.  Toilets are to be constructed in all types of government schools, primary, upper primary, secondary and higher secondary schools and angan wadis.

**28.16** School toilets design are to be developed, reviewed and standardized to address quality and cost concerns and more importantly to comply with bench marks set for “child friendliness, gender responsiveness and to provide access opportunities to children with special needs”

**Table 28.2 Total Sanitation Campaign**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| S.No. | Component | Amount earmarked as person of the TSC project | Contribution percent  GOI | State | Beneficiary |
| 1 | IEC and start up activity including motivational awareness and education campaigns upto 15%. | Upto 15% | 80 | 20 | 0 |
| 2 | (i)Individual latrines for BPL/disabled household  (ii) Community sanitary complexes | Actual amount required for full coverage | 60 | 20 | 20 |
| 3 | Individual household latrines for APL | Nil from the project | 0 | 0 | 100 |
| 4 | Institutional toilets including school and Angan wadi | Actual amount required for full coverage | 70 | 30 | 0 |

There is a special provision for housing latrines for physically handicapped.

**28.17 Prime Minister Gram Sadak Yojana:** The Pradhan Mantri Gram Sadak Yojana launched in December, 2000 provides all weather access to unconnected habitations.  The primary objective of the scheme is to provide connectivity by way of an all weather road [with necessary culverts and cross drainage structures which is operable throughout the year].   To the eligible unconnected habitations in the rural areas, in such a way that all unconnected habitations with a population of 1000 persons and above are connected in three years and all unconnected habitations with a population of 500 persons and above by 2007 in respect of the hill states and the desert areas as well as the tribal areas, the objective would be to connect habitations with the population of 250 persons and above.  The unit for this programme is a habitation and not a revenue village or a Panchayat.

Even as this scheme is for the benefit of all persons in rural areas, its utility for persons with disabilities cannot be overemphasized as inaccessible terrains doubly disadvantage them.

**28.18 Jawaharlal Nehru National Urban Renewal Mission (JNNURM)** According to the 2001 census, India has a population of 1027 million with approximately 28per cent or 285 million people living in urban areas. Urban economic activities are dependent on infrastructure, such as power, telecom, roads, water supply and mass transportation, coupled with civic infrastructure, such as sanitation and solid waste management. In consideration of this scenario JNNURM aims encourage reforms and fast track planned development of identified cities. Focus is to be on efficiency in urban infrastructure and service delivery mechanisms, community participation, and accountability of ULBs/ Parastatal agencies towards citizens.

**E Right to Clean Water**

**28.19** The **National Drinking Water Mission** was introduced in 1986. In 1999, the unit was narrowed down to habitations and a new target of universal coverage of 15 lakh habitations was set by the end of the Tenth Plan. According to the DDWS, the number of ‘slipped-back habitations’ that had to be ‘re-covered’ in the Bharat Nirman period (2005–10) had grown to 4,19,034. The Eleventh Plan re-set the goal to ‘provide clean drinking water for all by 2009 and ensure that there are no slip-backs by the end of the Eleventh Plan’.

**28.20 Accelerated Rural Water Supply Programme**

**(a)** This is to supplement the efforts of the state government in providing access to safe drinking water to rural habitation of the country.  While implementing the rural water supply scheme, the following norms may be adopted for providing potable drinking water to the population. 40 litres per capita per day for humans.

**(b)** A rural habitation not having any safe water source with a permanently settled population of 20 households or 100 persons whichever is more may be taken as the unit of coverage with funds under the ARWSP.

**(c)** DDP areas and SC/ST habitations with less than 100 persons can be covered under ARWSP.

**(d)** The state/UTs are required to earmark or utilize at least 25% of the ARWSP funds for drinking water supply to the SCs and another minimum 10% for the STs where the percentage of SC/ST population in a particular state is considerably high warranting earmarking utilization of more than stipulated provisions additional funds can be utilized.  The state governments may list out SC/ST habitations separately and their coverage may be monitored as a distinct component of the programme.

**(e)** The scheme requires women to be involved in all stages of rural water supply scheme at least 30% of the hand pump mistries are required to be women of the local areas habitations.  There should be women caretakers for hand pumps in the habitations. Certificate of satisfactory of the schemes are to be obtained from women groups in the habitations.  Prominent women from the habitation are required to be represented in the village level water monitoring committees.

**28.21** Under Bharat Nirman, one of the essential components thereof is providing water supply in rural areas. While prioritizing the addressal of the water quality problem, arsenic and fluoride affected habitations have been accorded priority followed by iron, salinity, nitrate and other contaminants. To ensure that habitations once provided with drinking water supply infrastructure do not slip back and face drinking water problem, sustainability of drinking water sources and systems has been accorded high priority. To achieve drinking water security at village/ habitation level, conjunctive use of water i.e. judicious use of rainwater, surface water and ground water is promoted.

**28.22** Against 55,067 un‐covered habitations to be covered during the Bharat Nirman period, 54,440 habitations have been covered during Phase-I. During 2009-10, 251 habitations out of 586 targetted habitations were covered . **In 2010-11, 366 habitations** including 25 uninhabited / unpopulated habitations in Rajasthan and 2 disputed in Uttarakhand, **have been reported as covered upto 31.03.2011 against the target of 376 habitations.[[182]](#footnote-182)**

**F Right to Social Protection**

**28.23 Pension Schemes:** The insurance and social security schemes providing for disability pension and pension for elderly, particularly exists for persons with disabilities which is not available to the non-disabled population.

**28.24** In accordance to Article 41 of the Constitution of India that directs the State to provide public assistance to its citizens in case of unemployment, old age, sickness and disablement and in other cases of undeserved want within the limit of its economic capacity and development, the **National Social Assistance Programme (NSAP)** came into effect from 15th August, 1995. NSAP comprises of the following components besides Annapurna Scheme:

**Table 28.3 Components of NSAP**

|  |  |  |
| --- | --- | --- |
| **Scheme** | **Scale of Central Assistance** | **Conditions of Eligibility to Avail Benefits** |
| Indira Gandhi National Old Age Pension Scheme | Rs.200/- p.m | applicant shall be 60 years of age or higher belongs to a BPL household according to criteria prescribed by the Government of India  Pension is credited where feasible into a post office or public sector bank.  A matching contribution is also provided by the State Governments. |
| Indira Gandhi National Widow Pension Scheme(IGNWPS) | Rs.200/-p.m | The age of the widow shall be between 40 to 64 years  the applicant must belong to a household BPL according to criteria prescribed by the Government of India. |
| Indira Gandhi National Disability Scheme (IGNDPS) | Rs.200/- p.m | 1. The age of the disabled should be between 18 to 64 years and the applicant must belong to a household BPL according to criteria prescribed by the Government of India and the applicant should be suffering from severe or multiple disabilities as defined in Persons with Disabilities Act and the National Trust Act. 2. A person with severe disability is a person with 80% or more of one or more disabilities and person with multiple disability as a combination of two more disabilities to define in clause (i) of section 2 of Persons with Disabilities Act. |
| National Family Benefit Scheme (NFBS) | Rs.10,000/- lump sum | 1. households below the poverty line on the death of the primary bread winner in the age group of 18 to 64 years i.e. more than 18 years of age and less than 64 years of age. |

**28.25** For all pension schemes of NSAP, the states are urged to contribute at least an equal amount so that a pensioner receives at least Rs.400 a month. In February 2009, IGNWPS was started to provide pension of Rs 200 per month per beneficiary to BPL widows in the age group of 40–64 years. The estimated number of beneficiaries under IGNWPS is 45 lakh. States are in the process of identifying eligible beneficiaries under the scheme. IGNDPS was also started in the same month for BPL persons with severe or multiple disabilities (in the age group of 18–64 years) at the rate of Rs 200 per month per beneficiary. It is estimated that 15 lakh beneficiaries will be covered under this scheme; 24.30 lakh beneficiaries have been covered so far under IGNWPS and 5.23 lakh under IGNWPS.

**28.26** For the purpose of National Family Benefit Scheme, the household includes spouse, minor children, unmarried daughters and dependent parents.  In case of death of an unmarried adult, the household would include minor brothers/sisters and dependent parents. It needs to be considered whether unmarried sons with disabilities should also be included and whether adult siblings with disabilities should be included if they are unemployed.

**Table 28.4 Disability Pension Schemes of various State Governments**

|  |  |  |  |
| --- | --- | --- | --- |
| ***State*** | ***Scheme*** | ***Details*** | ***Quantum*** |
| Andhra Pradesh | Pension for persons  with disabilities | Pensions are being sanctioned to persons with disabilities irrespective of age who are below poverty line. | Rs.500/- per month |
| Chandigarh | Disability Pension | Persons having 40% or more disability | Rs.500/- p.m. |
| Goa | Dayanand Social Security Scheme | Available to all persons with disabilities. | Rs.750/- per month |
| Jammu & Kashmir | Pensions for Physically  Challenged persons | Persons with disabilities who have 40% and above certified by the Medical Board and with no source of income. | Rs.400/- per month |
| Jharkhand | Swamy Vivekanand Nishakt Swavlamban  ProtshanYojana | Welfare scheme for all persons with disabilities above 5 years of age. | Rs.200/- per month. |
| Kerala | Disability Pension |  | Rs.200/- per month available to persons with disabilities. |
| Orissa | Disability Pension | is given to visually impaired and person with locomotor disability of 5 years age and above. | Rs.100/- per month |
| Rajasthan | Disability Pension | Persons with disabilities of 8 years and above and have disability | Rs.100/- per month. Couple Rs.150/- per month. |
| Sikkim | Subsistence Allowance | Persons with disabilities are provided with subsistence allowance. | Rs.200/- per month per beneficiary. |
| Uttar Pradesh | Maintenance allowance / grant-in-aid for persons with disabilities | The handicapped persons whose income is not more than Rs.225/- p.m | Maintenance allowance of Rs.100/- per month. |

**Source:** *Compiled from the information provided by State Government Reports to MoSJE*

**Insurance Schemes:**

**28.27** **Organized sector:** Most workers under the organized sector are covered under the Institutionalized social security provided through **Employees Provident Fund Organization (EPFO)**, and the Employees State Insurance Corporation (ESIC). The EPFO is one of the largest provident fund institutions in the world in terms of members and volume of financial transactions that it has been carrying on. The EPFO caters to: (i) every establishment that is engaged in any one or more of the industries specified in the Act or any activity notified by Central Government, employing 20 or more persons, (ii) all cinema theatres employing five or more persons, other than those under the control of Central/State/local government that provide equivalent/better benefits of social security, and co-operative societies employing less than 50 persons and working without the aid of power, and (iii) any other establishment seeking coverage under the scheme voluntarily.

**28.28 Employees’ State Insurance Corporation (ESIC)** implements an integrated need based social insurance scheme that protects the interest of workers in the organized sector in contingencies such as sickness, maternity, temporary or permanent physical disablement, and death due to employment injury resulting in loss of wages or earning capacity. The Act also guarantees medical care to workers registered as Insured Persons (IPs) and their immediate dependents. The wage ceiling for coverage under the ESIC scheme has been enhanced from Rs. 10,000/- to Rs. 15,000/- with effect from 1st May, 2010.

As on 31.03.2006, 429.53 lakh persons were members of the Employees’ Provident Fund, while 323.89 lakh persons were members of the Pension Fund.[[183]](#footnote-183)

**28.29 Rajiv Gandhi Shramik Kalyan Yojana:** The ESI Corporation introduced a scheme of unemployment allowance with effect from 1.4.2005 under which insured persons covered under the ESI Scheme for three years or more who lose their jobs due to closure of factory establishment or retrenchment or permanent disability, are provided unemployment allowance in cash equal to 50% of their wage upto one year. During this period, the insured person and his family are also eligible for medical care. Those insured persons who undergo training at Vocational Training Centres run by the Ministry of Labour & Employment, Govt. of India are also paid fee charged by the institution as well as expenses on their travel.

**Unorganized Sector**

**28.30** Whereas the organized sector has fairly systematic schemes for employee insurances, for the unorganized sector the Government has promulgated schemes and programmes to provide insurance coverage to certain extend. Again even in terms of organized sectors and schemes like ESIC, the emphasis has been on acquired disability and the consequent protection coverage to the person and the family thereafter.However, steps have been initiated to safeguard the interest of unorganized workers by enactment of the Unorganized Workers Social Security Act, 2008. The Act provides for constitution of National Social Security Board which will recommend formulation of social security schemes for unorganised workers/categories of unorganised workers from time to time. Accordingly, the National Board was constituted in 2009.

**Table 28.5 Insurance Schemes for the Unorganised Sector**

|  |  |  |
| --- | --- | --- |
| **Scheme** | **Objective** | **Coverage** |
| Aam Admi Bima Yojana (AABY) | insurance to the head of the family of rural landless households in the country is provided against natural as well as accidental death and in the case of partial or permanent disability. | The benefits under the scheme include Rs. 30,000 in case of natural death and Rs. 75,000 in case of death due to accident. In case of partial disability due to accident, the insurance cover is Rs. 37,500/-. Children of beneficiaries of AABY studying in classes 9th to 12th, including ITI course, are eligible to a scholarship @ Rs. 300/- per quarter per child for a maximum period of 4 years under Shiksha Sahyog Yojana |
| Janshree Bima Yojana | insurance cover of Rs 20000 in case of natural death, Rs 50000 in case of death or total permanent disability due to an accident, and Rs 25000 in case of partial disability. The premium for these benefits is Rs 200 per beneficiary, of which 50% of the premium, that is, Rs 100 is contributed from the ‘Social Security Fund’ and 50% contributed by the beneficiary/State Government/nodal agency. | available to persons in the age group of 18 to 60 years and living below or marginally above the poverty line. The scheme is extended to a group of 25 members or more. |

**28.31** Whereas since inception of the ABY, 13.05 crore persons have been covered under the scheme till March, 2010; the limited reach of such schemes’ benefits to the unorganized workers and the absence of direct link between a beneficiary and LIC have been the major drawbacks of these schemes.

**28.32** The ageing of population and the consequently descending infirmities and disabilities remains an unavoidable phenomenon. India has formulated a **National Policy on Older Persons in 1999**. The policy envisioned provision of a whole range of systems to be put in place in terms of financial securities in the form of pension, tax reliefs, savings instruments; health care and nutrition; assistance through voluntary organizations; protection of life and property and so on. Since the impending old age may or may not be accompanied with certain forms of disabilities, it is imperative to establish right kind of networks that cater to need based requirements of a person in order to arrest the disadvantages flowing from infirmity due to old age. In this regards the **Integrated Scheme for Older Persons** is being implemented since 1992 to improve the quality of life of senior citizens by providing basic amenities like food, shelter, medi-care, and entertainment facilities. It would be worthwhile to maintain a specific record of beneficiaries who are persons with disabilities or have acquired disabilities and co-ordinate the services in accordance with their specific needs.

**28.33** Further, the State Governments and UT Administrations needs to be encouraged to rationalize the amount of pension and unemployment allowance for persons with disabilities.

**Table 28.6 Provision of Unemployment allowance by various State Governments**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of the State** | **Scheme** | **Details / eligibility** | **Quantum** |
| Madhya Pradesh | Unemployment allowance | Disabled who is a graduate or post graduate for 2 years or till they get employment whichever is earlier. | Graduate Rs.150/-  Post graduate Rs.250/- |
| Tamil Nadu | Unemployment allowance | Unemployed visually handicapped persons for a period of 10 years or upto age of 40 years or till they get employment whichever is earlier.  Provided they have been in the live registers of employment exchange for minimum period of one year. | Graduates or post graduates Rs.450/-  P.U.C/HSC/Undergraduates Rs.375/-  10th std., and below: Rs.300/- |
| Tripura | Unemployment allowances to the blind persons | It is given to unemployed fully blind persons | Rs.1,000/- per head per month |
| Chandigarh | Unemployment allowance | Granted to disabled persons depending upon their qualifications | Rs.150/- to 400/- |
| Gujarat | Sant Surdas scheme | PDs having more than 75% disability and living below poverty line are eligible | Monthly pension of Rs.400/- is paid for person having 75% disability, 18 to 40 years age group and  Rs.200/- age group of 0 to 18 years. |
| Kerala | Unemployment allowance | Persons having an annual family income of Rs.12000/- or less are eligible. | --- |
| Sikkim | Unemployment allowance | Educated Persons with disabilities are given unemployment allowance | Rs.200/- per month for a period of 2 years or till they are employed whichever is earlier. |

**FINDINGS**

* Even as Section 40 of the PWDA lays down that “appropriate governments and local authorities shall reserve not less than 3% in all poverty alleviation schemes for the benefit of persons with disabilities”. It was found that persons with disabilities were not explicitly named in each scheme.
* In some schemes, reservation for persons with disabilities is not accompanied with disabilities specific accommodation. Thus, for example, 20% contribution is sought from the beneficiary even for the construction of a disability friendly toilet.
* Some schemes have been devised only for persons with a particular disability. Thus, for example, the Swdhaar Scheme has been restricted to women with intellectual disabilities and women with mental illness have been expressly excluded.

**Future Plan of Action**

* The criteria devised for identifying a below poverty line (BPL) family do not include disability as a determinative criteria whereby the presence of a person with disability of a family results in the family being categorized as BPL.  The conversion cost of obtaining goods and services are doubled for persons with disabilities and to that end to forge and inextricable connection between disability and poverty may be in order.
* Section 40 of PWDA has allocated a 3% reservation for persons with disabilities in poverty alleviation programmes. For this inclusion to be meaningful to persons with disabilities, it is proposed that persons with disabilities shall be expressly named and disability specific accommodations made in all programmes.
* Some of the programmes requiring such explicit naming and customizing are outlined below:
  1. It is proposed that the recommendation of making a disability accessible home be rendered mandatory for all those beneficiaries who have a person with disability as a member of the household. If any additional cost needs to be incurred to fulfil the accessibility mandate then additional resources may be provided for the same.
  2. Even as no design specification are imposed on the beneficiaries of the IAY scheme, it has been suggested that the barrier free concept may be incorporated in the houses meant for the physically challenged, with a view to facilitating their smooth and free movement in the house.
  3. It is proposed that the data on the toilets constructed for persons with disabilities will be examined to determine whether additional support needs to be provided for the building of disability accessible toilets. It will also be considered whether such support may be provided even to Above Poverty Line families who have a person with disability as a member of the family. Also the desirability of providing a disability accessible design for toilets in the rural areas would need to be considered.
  4. Insofar as persons with disabilities are disadvantaged by reason of their impairments and social stigma from obtaining access to water supply a dedicated part of the budget ARWSP shall be earmarked to extend water supply to persons with disabilities.
  5. The role accorded to women in ARWSP shall also be explicitly extended to women with disabilities.
  6. The Swadhaar Scheme may be modified to include women with other impairments who are at an equal disadvantage.
  7. The disability component shall be explicitly incorporated in JNNURM.

**ARTICLE 29 - PARTICIPATION IN POLITICAL AND**

**PUBLIC LIFE**

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| *States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:*  *(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:*  *(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;*  *(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;*  *(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;*  *(b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:*  *(i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties; (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.* |

**A Constitutional Provisions on Political Representation**

**29.1** The Preamble to the Indian Constitution declares India to be a sovereign democratic republic. This essentially means that every citizen has the right to vote and to stand for election. This principle of adult suffrage has been further enunciated in **Article 326** of the Constitution which states that, “The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.”

**B Statutory Provisions Electoral Rights**

**29.2** Thus, whilst persons having physical disabilities entitled to exercise their right to vote and stand for elections, for persons with mental disabilities, legislative sanction has been executed by way of Sections 16(1)(b) and 16(2) of the **Representation of the People Act, 1950.** The former section provides that a person shall be disqualified from registration in an electoral roll if he “is of unsound mind and stands so declared by a competent court”. Section 16(2) makes provisions for striking a person’s name from an electoral roll if he is declared to be of unsound mind after he has been registered on such roll. In addition, Section 62(2) of the **Representation of the People Act, 1951** expressly provides that any person subject to the disqualifications under Section 16 of the 1950 Act shall be disentitled to vote. Further, similar to Article 326, Articles 102(b) and 191(b) of the Constitution provide that the seat of a Member of Parliament and Legislative Assembly shall become vacant if s/he becomes of unsound mind as declared by a competent court.

**C Facilitating the Electoral Rights of Persons with Physical and Sensory Disabilities**

**29.3 Assistance in voting:** Section 2(c) of the **Representation of the People Act, 1951** allows the central government to make rules providing for, “the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability.” Section 21(2)(g) of the **Presidential and Vice-Presidential Elections Act, 1952** allows the government to regulate, “the place and hours of polling, the manner in which votes are to be given both generally and in the case of illiterate voters or voters not conversant with the language in which ballot papers are printed or voters under physical or other disability and the procedure as to voting to be followed at elections.”

**29.4** Section 25 and Section 27G of the **Conduct of Elections Rules, 1961** provide that if an elector is unable  through  illiteracy, blindness or other physical infirmity  to record  his vote on a postal ballot paper and sign the declaration, he shall  take the same to an officer competent to attest his signature and request the officer to record his vote and sign his declaration on his behalf, for different types of elections. Section 21.2 of the**Handbook for Returning Officers (at Elections Where Electronic Voting Machines are Used) (2009)** endorses the same.

**29.5** Section 32, Section 40A, Section 49D(f) and Section 49P(f) of the **Conduct of Elections Rules, 1961** provide that the presiding officer shall regulate the number of electors to be admitted at any one time inside the polling station and shall not exclude therefrom persons accompanying a blind or infirm elector who cannot move without help, for different categories of elections. Section 7 and Section 5.5 of the **Handbook for Presiding Officers (at Elections Where Electronic Voting Machines are Used) (2009)** reiterate this.

**29.6** Section 40(1) and Section 49N(1), Section 49(3)(e) of the **Conduct of Elections Rules, 1961** further provide that in the event a person owing to  blindness  or other physical infirmity is unable to recognise the symbols  on the ballot  paper/ ballot unit of the voting machine or to record his vote thereon 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 the vote on the ballet paper on his  behalf, provided that before any person is permitted to act  as  the companion  of an elector on any day under this rule, the person  shall be  required to declare that he will keep secret the vote recorded  by him  on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day[[184]](#footnote-184)..

**29.7** Section 6.2 of the **Handbook for Presiding Officers (at Elections Where Electronic Voting Machines are Used) (2009)** requires Presiding Officers to ensure that physically challenged electors are given priority for entering the polling station, without having to wait in the queue for other electors and if required, form a separate queue for them. Section 6.4 of the Handbook directs officers to give special care to electors with speech and hearing impairment as in the case of other persons with disabilities .

**29.8** Section 2.1(p) of the**Handbook for Returning Officers (at Elections Where Electronic Voting Machines are Used) (2009)** states that the list of polling stations should be drawn up, as far as possible, to avoid inconvenience to the old and persons with disabilities . It further stipulates that the polling stations should be set up in the ground floor of a building and ramps should be provided to ease entry of physically challenged persons.

**29.9** It has also been mandated that the voters can ask for a dummy ballot sheet in Braille from the Presiding Officer of the booth, which will contain serial number, candidate’s name and the party's name. With this, such person will be able to note the desired candidate’s serial number and push the correct button on the EVM.

**29.10** Disability rights activists have imaginatively used courts to obtain their constitutional rights. Thus a letter written by Disability Rights group was registered as a writ in April 2004 just before the Lok sabha elections caused the Supreme Court to take up the accessibility demands of persons with disabilities like provision of ramps, separate queues as well as Braille sheets in the Electronic Voting Machines. It was submitted by the Election Commission that in every election after 2004, these enabling measures shall be implemented.

**29.11** In its Order of October 5th, 2007 in Disabled Rights Group v. CEC and another the Supreme Court issued directions to the EC to ensure that laggard states too take the necessary measures. Any non-conformity with the same should be reported to the respective State Governments for corrective measures. Concurrently, the polling officials should be sensitized about the needs of the disabled and wide publicity should be given to these measures so as to ensure that the disabled population is made aware of it and comes out to exercise its franchise.

**29.12** Similar instructions were given by the Hon’ ble High Court of Bombay on the 2nd of April, 2009. Consequently, the Election Commission took the prescribed steps for elections conducted subsequently, both to the State Legislative Assemblies as well as to the Lok Sabha.

**29.13** The persons with disabilities form a sizeable numbers when considered as a vote bank. The major political parties like the congress, Bhartiya Janta Party and the CPIM recognized this. They included person with disabilities in their respective manifestoes giving voice to their concerns and issues and address in them. Some of the key issues in the manifestoes of:

**D Political Manifestoes**

**Indian National Congress**

**29.14 *Inclusion of disability in the Manifesto for the 15th Lok Sabha Elections, 2009:*** The Indian National Congress will ensure a comprehensive cover of social security to all persons who are at special risk including (i) single-woman headed households; (ii) disabled and the elderly; (iii) urban homeless; (iv) released bonded workers; (v) members of primitive tribal groups; and (vi) members of designated “most backward” Dalit communities.

The Indian National Congress is deeply committed to ensuring equality of opportunity and full participation of persons with disabilities, including the blind, in all sectors of life. To begin with, a comprehensive review of laws and programmes will be undertaken and the shortcomings noticed in their implementation will be removed.[[185]](#footnote-185)

**Bharatiya Janata Party[[186]](#footnote-186)**

**29.15 *Care of the Disabled Integrating the Differently Abled:***   
Disabled people constitute five per cent of India’s population. Years of neglect has delayed their integration into the social mainstream. Their welfare and rehabilitation is integral to NDA’s vision of a caring society and a responsive government.

**The BJP will:**

* Ensure and implement the right for education and vocational training for the disabled.
* Ensure disabled-friendly access to public utilities, public buildings, and transport.
* Ensure maximum economic independence of the disabled by creating more income generation models for the disabled.
* Facilitate establishment of an Institute of Vocational Training for the Disabled in every district with public-private partnership.
* Provide special incentive for the adoption of a disabled child.
* Support voluntary organizations working for the care of the disabled.

#### 29.16 Communist Party of India (Marxist)[[187]](#footnote-187)

Differently abled People:

* Strengthening of the Persons with Disabilities Act
* Properly implementing reservations provided for persons with disabilities in public sector employment, poverty alleviation, programmes and education
* All buildings, public places, transport, information and other avenues to be fully accessible and barrier free to people with disabilities
* Ensuring free provision of aids and equipments for differently abled people by the Government

**Communist Party of India**

**Rights of People with Special Needs**

* Implement the Persons with Disabilities Act 1995 effectively giving adequate opportunities to build their capacities and also makes schools and other premises accessible to all.
* There is an emerging need to combat HIV/AIDS/STD etc. and ensure medical care, human treatment and security to the victim

**29.17** Viklang Manch (federation of the disabled persons), is a countrywide forum for the disabled comprising of people with disabilities representing all categories of disabilities. The federation members are quite very in advocating disability rights and fighting for the redressal of grievances of disabled people in the state. Nothing About Us Without Us is their motto. They are active in Jharkand, Madhya Pradesh, Orissa, Karnataka and Gujarat.

**FINDINGS**

* Disability Advocacy coupled with Judicial Activism and Administrative Receptivity has resulted in altering the electoral landscape for persons with disabilities.
* The activism is at present limited to persons with physical and sensory disabilities.
* The mention of disability rights in the manifestoes of all major political parties shows the rising political presence of persons with disabilities in the country.
* The Emergence of VIklang Manchas is evidence of the rising political consciousness amongst persons with disabilities.

**Future Plan of Action**

* To extend this advocacy and political conscientisation to persons with intellectual developmental and psycho social disability.

**Article 30 - Participation in Cultural Life, Recreation, Leisure and Sports**

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| *1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:*  *(a) Enjoy access to cultural materials in accessible formats;*  *(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;*  *(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.*  *2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.*  *3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.*  *4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.*  *5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:*  *(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;*  *(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;*  *(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;*  *(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;*  *(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.* |

**A Constitutional Provisions**

**30.1** **Article 29(1)**of the Constitution of India recognizes *“that any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same”*

This right accords considerable support to persons with disabilities to assert the rights recognized in Article 30 (2) (4) of CRPD.

Insofar as the advancement of culture does not depend upon the interaction between state and the citizen above, it is significance that Article 51A of the Indian Constitution makes it the duty of every citizen of India *“to value and preserve the rich heritage of own composite culture “and” to strive towards excellence in all spheres of individual and collective activity”*

**30.2** **The National Policy for Persons with Disabilities** elaborates that to ensure equal opportunities to persons with disabilities with reference to Sports, Recreation and Cultural activities, following steps will be taken:

**(i)** Make places for recreation, cultural activities and sports, hotels, beaches, sports arenas, auditoriums, gym halls, etc. accessible.

**(ii)** Travel agencies, hotels, voluntary organizations and others involved in organizing recreational activities or travel opportunities should offer their services to all, taking into account the special needs of persons with disabilities.

**(iii)** Identification of talent amongst persons with disabilities in different sports shall be made with the assistance of local NGOs.

**(iv)** Formation of Sports organizations and Cultural societies for persons with disabilities will be encouraged. There will be mechanism to support the participation of persons with disabilities in national and international events.

**(v)** A national award for excellence in sports for persons with disabilities shall be instituted.

**30.3** These goals outlined in the National Policy has resulted in formulation of various schemes which are discussed below. The effort has always been to ensure that persons with disabilities are provided an environment which is conducive to their intellectual growth and overall wellbeing. The Government is mindful of the fact that Sports, Films and Theatre are an important means of removing social apathy towards the rights of persons with disabilities and to ensure their holistic growth. It is therefore essential that all necessary steps be taken to ensure equal participation by persons with disabilities in the cultural, sports and recreational life of the community.

B Participation in Cultural Life

**30.4** **Access to cultural materials in accessible formats:** Participation in Cultural Life has a multitude of facets and is possible in myriad numbers of ways. One of the most important ways of ensuring participation is accessibility to libraries. It has been the constant endeavor of the Government to make libraries accessible to persons with disabilities.

**30.5** The Eleventh Plan, mentions development of Public Libraries, including Rural Public Libraries with a provision for handicapped and under-privileged in District Libraries. It also states a National Library Mission will be set up. National, State/District Libraries will develop special collections and technological support for visually challenged and hearing impaired people.

**30.6** **Digital Library of India** is a programme carried out by [Indian Institute of Science](http://en.wikipedia.org/wiki/Indian_Institute_of_Science), [Bangalore](http://en.wikipedia.org/wiki/Bangalore) with support of Department of Information and Technology and in partnership with the [Million Book Project](http://en.wikipedia.org/wiki/Million_Book_Project). It is proposed to create the Digital Library with a free-to-read, searchable collection of one million books, predominantly in Indian languages, available to everyone over the Internet. One of the goals of the Digital Library of India is to provide support for full text indexing and searching based on OCR (optical character recognition) technologies where available. The availability of online search allows users to locate relevant information quickly and reliably thus enhancing student's success in their research endeavors. Since the library will be freely available 24x7, it will be significant in bridging the divide of time and space. The library will be particularly important for persons with disabilities.

**30.7** The collection in library is primarily restricted to educational materials. Voluntary agencies for example, several blind organisations have maintained a more comprehensive collection in their libraries.

**30.8** **Access to television programmes, films, theatre, monuments and other cultural activities:** The Ministry of Culture has rolled out Successive Five Year Plans focusing on preservation and development of heritage sites and monument complexes. Major strategies included (i) involvement of university departments of History and Archaeology in survey of heritage sites; (ii) modernization of galleries, digital documentation of antiquities, publication of catalogues, museum guides, and picture postcards by the Archaeological Survey of India (ASI)[[188]](#footnote-188) and so on. There are at present 24 grant-in-aid schemes which are being implemented directly by the Ministry, which includes the new schemes approved during the XI Plan and also new schemes proposed in the Mid-Term Appraisal exercise carried out by the Ministry.

**30.9** While these Schemes do not explicitly take on board persons with disabilities, the Government is mindful of the special needs of the persons with disabilities and specific museums have been provided funds for facilitating access to persons with disabilities. For instance, the India Museum, Kolkata has earmarked certain funds for the purchase of computers and wheel chairs for the persons with disabilities.

**30.10** **Films:** Films in India are an intrinsic part of culture, personifying the aspiration and dreams of common people through larger than life characters. Indian film industry is the largest in world in terms of number of films produced and is well known for the portrayal of everyday emotion, action, drama, comedy, music and dance. Films therefore, have always been crucial to sensitize and raise issues found in the contemporary society.

**30.11** **The Board of Film Certification** is the body that grants certificates to films before they release and is therefore the only body that regulates the content of films in India. With regard to specifically safeguarding and recognizing the interests of the disabled, The Board of Film Certification has a set of guidelines one of which mandates that while granting certificates to films, The Board must ensure that scenes showing abuse or ridicule of physically and mentally handicapped persons are not presented needlessly.

**30.12** Depiction of persons with disabilities in films somewhat replicate the common beliefs and stereotypes prevalent in the society. However, movies such as Sparsh, Koshish, Khamoshi the musical, Black, Jagriti, Guzaarish and Taare Zameen Par have brought to fore the emotions, rights and needs of persons with disabilities; Lagaan remains a classic example of character named ‘Kachra’ and the dual discrimination faced by him both on account of disability and caste and his subsequent inclusion in the village.

**30.13** In addition to mainstream Hindi movies, there are a host of regional movies that aim to bring to light the difficulties faced by people living with disabilities. There are Tamil movies like Sethu where the protagonist delivered a convincing performance on the life of a mentally challenged person, and the movie itself focuses on the plight of the inmates in a mental asylum. Movies like Devathirumangan, Perzhagan and Anjali further have been critically acclaimed.

**30.14** In Malayalam cinema too there have been movies such as Vasantiyum Lakshmiyum Pinne Njanum wherein the character is disabled and his problems are compounded by his poverty and illiteracy. The movie traces how he overcomes all odds to achieve the love and understanding of his father.

**30.15** Marathi movie *Shwaas* (The Breath) captures the subtle human emotions and the agony of a child and his grandfather upon learning that the child suffers from retinoblastoma, a rare retinal cancer and the only way to the life of child is an operation that would result in his losing the eyesight. The highlights of the movie remains in insistence of doctors to take the informed consent of the child, the difficulty to explain him that he would turn blind, the positive and supportive role played by the medical fraternity was widely acclaimed. The movie won the 2003 National Film Award for Best Film and the 2003 National Film Award for Best Child Artist. The movie was India’s official entry to Oscars in 2004 and ranked 6th in the [Academy Award for Best Foreign Language Film](http://en.wikipedia.org/wiki/Academy_Award_for_Best_Foreign_Language_Film) category. However, it is acknowledged that much remains to be done to induct accessible formats of films in India for persons with disabilities.

**30.16** There have been various initiatives by civil society in raising awareness and maturity with respect to issues relating to disability rights through films and documentaries. However, no proper information is available about all the films made on various issues of disabilities. There are nearly 40 films (both Hindi and regional) and 50 documentaries which are hardly available to the audience, including NGOS and Professionals espousing and working towards disability rights.

**30.17** It is here that efforts such as We Care Film Fest and Ability Fest assist in raising awareness. We Care Film Fest is organized by Brotherhood in association with The National Trust, Tamanna Welfare Society and Asian Academy of Film and Television and others. The aim of the Fest is to create awareness about disability issues through films and to foster integration by spreading the message of ability. Ability Fest - India International Disability Film Festival is a bi-annual event, organised by Ability Foundation. This presents a unique and inspiring showcase of extraordinary films from around the world dealing with the issues relating to the disabled.

**30.18** The Government has been an active and ardent supporter of sensitizing people of the rights and needs of the persons with disabilities through the media. It is particularly important to note that in today’s day and age media is one of the most effective means of engaging persons with disabilities in dialogue. The State and Central Governments have been granting tax exemptions to persons with disabilities on a variety of issues. Particularly with respect to films, various States grant exemptions on payment of Entertainment Tax for films or documentaries dealing with the issues faced by persons with disabilities and disability rights.

**Box 30.1 Professional Dance Theatre**

Ability Unlimited is the world’s first professional dance-theatre in India to train persons with disabilities in classical dance on wheel chair. It has adopted innovative choreographic techniques and special therapeutic methodology. After the artistes are fully trained, they are provided with a platform for public performances that integrate arts with career opportunities and training. The Government supports novel learning experience that fosters the creativity and talent amongst persons with disabilities

C Barriers in terms of Intellectual Property Rights

**30.19** Article 30(3) requires States Parties to take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

**30.20** Whereas Intellectual Property Rights create a trident relationship between the work, its creator and public; it requires a reconciliation of differing philosophies so as to accommodate the rights of persons with disabilities. Particularly, digital rights management or security reasons create barriers by closed systems that prevent individuals from adapting devices to make them accessible, or from attaching assistive technology so they can access the devices.

**30.21** For instance for commercial exploitation of the publishers’ rights, the publishing companies sell the print rights (visual access) for the book to one distributor and the audio rights (spoken) to another, a barrier is created. Thus even though the book reader is technically capable of reading the book to the blind person, the same being protected by IPR cannot be read out aloud. This illustrates how IPR creates barriers in equal accessibility and means of recreation.

**30.22** Under the present legal copyright regime in India, the conversion and use of the printed material in its converted form requires the permission of the copyright holders. Whereas Section 52(a)(i) of the Copyright Act, 1957 allows reproduction of a copyrighted work for private use including research, such an exclusion does not include conversion and use of printed material for recreational purposes or for use of persons with disabilities in accessible formats.

**30.23** There is a growing need to expand and extend the scope of exceptions under the Indian Copyright Act, 1957 so as to enable persons with disabilities to access copyrighted works in accessible formats. Since persons with disabilities need access to copyright material in specialized formats for instance Braille text, talking text, electronic text, large print and sign language for persons with aural impairment, there needs to be an exemption to allow production of such copies.

**30.24** **The Copyright (Amendment) Bill, 2010** proposes to include within the Statute a separate compulsory licensing provision to allow for the publication of copyrighted works in formats for the benefit of the persons with disabilities. Additionally, an amendment is proposed to be made to Section 52 wherein the reproduction, issue of copies or communication to the public of any work in a format, including sign language, specially designed only for the use of persons suffering from a visual, aural or other disability that prevents their enjoyment of such works in their normal format is exempted from copyright law provisions.

**Box 30.2 Creation of Cross Disability Community**

Inclusive Planet –Centre for Internet & Society is an initiative aims to create India’s largest cross disability community and thereby provide products and services through a portal that will have channels to cater to persons with disabilities and their support group, in terms of medical information, legal information, policy information, news, shopping, service provider listings, career listings, career guidance, medical expert panel, social networking (blogs, forums and chat), and entertainment.

D Tourism

**30.25** Over the past few years, the Ministry of Tourism has been actively espousing the cause of Universal Design and Accessible Tourism. The Ministry of Tourism has brought out guidelines for the classification of apartments, hotels, timeshare resorts and guest houses. The accommodation provider needs to give information if the accommodation has facilities for persons with disabilities. The Ministry has made it mandatory that all tourist facilities that are being created with Central Government financial assistance should be barrier free.

**Initiative of the Ministry of Tourism to ensure accessibility of Hotels**

**30.26** As per the Tourism Ministry’s Hotel Classification System, all 4 and 5 star deluxe hotels should have incorporated accessibility by January 2004. The Hotel Association of India took the initiative of formulating a comprehensive set of guidelines to make hotels more accessible and comfortable for the persons with disabilities. The guidelines relate to the provision of facilities in parking and approach areas, lobby, public areas, lifts, rooms and bathrooms and undertaking of special fire prevention measures. The Guidelines however, are restricted only to high-budget hotels. The Tourism Ministry is looking to have a policy and guidelines for making budget hotels accessible also.

**30.27** According to the recently revised guidelines for project approval and classification / reclassification of hotels, it is mandatory that classified hotels should have at least one dedicated room for guests who are persons with disabilities with wheelchair, suitable low height furniture, low peep hole, cupboard with sliding doors etc. The room is also required to be wheelchair accessible with sliding door, suitable fixtures like low wash basic, low heath toilet, grab bars etc.

**30.28** Further, the public restrooms of classified hotels are required to be unisex, wheelchair accessible with suitable fixtures of low height, grab bars etc. Free accessibility to be provided in all public areas and at least one restaurant in five star and deluxe hotels should have ramps with anti-slip floors at the entrance. The hotels are advised to have rooms to be located at the lowest level and closest to the elevator and also sensitize all staff members regarding the special requirements of persons with disabilities. With a view to generate awareness and also recognize the contribution, the Ministry of Tourism has instituted an award to the hotels which provide best facilities to guests who are persons with disabilities.

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| **Box 30.3 Goa Tourism**  Municipal Councils have issued directives to all the Hotels and Restaurants in their jurisdiction to keep Menu cards in Braille script. Also the department has collected information in respect of various Hotels and Restaurants who provide Barrier Free Environment to the Tourists & Senior Citizens of Goa. With the help of TTAG, GTDC & Tourism department, with an object to motivate others who could not reach to this goal, this Tourist Guide is one of the few initiatives by the department. |

**30.29** In seeking to tap its full potential as a tourist destination the Government has launched the “Atithi Devo Bhavah” Programme which aims at sensitizing key stakeholders towards tourists. It aims at creating awareness about the effects of tourism and encourages preservation of our rich cultural heritage. It also seeks to instill a sense of responsibility towards tourists. This Programme should also bring within its ambit the need for sensitizing all stakeholders on disability and accessibility issues.

**30.30** On March 09, 2011 The Ministry of Social Justice and Empowerment approved a grant of Rs. 5 crore to the Archaeological Survey of India (ASI) to make five of its World Heritage Sites -- the Taj Mahal, Agra Fort, Fatehpur Sikri, Sun Temple - Konark, and Jami Masjid Champaner-Pavgadh and 25 other ticketed monuments accessible to persons with disabilities. The Ministry of Social Justice and Empowerment is required to use the funds in order to make access pathways, ramps, toilets, tactile maps, Braille signage, and modifications in ticket counters.

**30.31** The *Qutub Minar* in New Delhi is the first completely accessible heritage monument in the country. It wouldn’t have happened without the active support of *Svayam* and the Archaeological Survey of India. Braille information plates describing the history of the monument, facilitated by National Federation of the Blind, were mounted in December 2001 at the Safdarjung Tomb after an access audit by *Samarthyam.*

**Box 30.4 Journey without Barriers**

‘Journeys without Barriers’(JwB) is an accessible tourism venture, which has Himalyas on Wheels as one of the sister organisation based in Ladakh and not only creates jobs for the local people with disabilities, but also facilitates travel for persons with disabilities who cherish to visit the Himalayas and many other parts of the country.

**30.32** The Government has been collaborating with NGOs to raise awareness. On August 12, 2011, the Union Minister of tourism has flagged of a “Beyond Barriers Incredible India Tour” by wheel-chair based persons in New Delhi. The Tour involves visits to 28 State Capitals and 40 cities covering an approximate distance of 16,000 kms in 81 days by a group of volunteers on wheel chairs. The group will visit at least two tourist destinations in each state and conduct an access audit in collaboration with local NGO working in the disability sector and State Tourism Department. They will also meet Disability Commissioner of every state and sensitize them about the importance and need of barrier free tourism for all.

E Sports

**30.33** In the area of Sports, a mood of optimism seems to prevail especially after the recently concluded Commonwealth Games. For the first time, the **Commonwealth Games 2010** hosted in Delhi saw Sports persons with disabilities compete in the same arena as mainstream sports. As a result of a Co-operative Agreement between the Commonwealth Games Federation (CGF) and The International Paralympic Committee (IPC) athletes with a disability also got a good opportunity to showcase their world-class sporting skills. The final medals tally for each country included the wins arising out of the paralympic sports events. This has definitely increased awareness of the general public in the participation of persons with disabilities in sporting events.

**30.34** **Paralympic Committee of India** (PCI) is a non-partisan, non-profit, secular organisation. dedicated for the development and upliftment of Physically Challenged Sports & Wheelchair Athletes with the aim and objectives *inter alia* to promote and contribute to the development of sport opportunities and competitions, from the start to elite level; to develop opportunities for athletes with a severe disability in sport at all levels and in all structures; to promote the self-governance of each Paralympic sport federation as an integral part of the national sport movement, whilst at all times safeguarding and preserving its own identity.

**30.35** In the Year 2005, the Government recognized Paralympic Committee of India at par with Indian Olympic Association (IOA). From 2006 PCI started affiliating State Bodies & Federations and this paved way for the uplifting of Para Sports in India. PCI has been instrumental in India participating at various International Meets like Para Asian Games, World Competitions and IWAS World Games.

**30.36** The **‘Scheme of Sports & Games for the Disabled’** is a Central Sector Scheme being introduced by the Ministry of Youth Affairs & Sports in 2009-10 during the XI Plan Period. The objective of the Scheme is broad-basing participative sports among the persons with disabilities. Competitive sport among the high performing disabled sportspersons, their participation in national and international competitions, training and equipment and other support including training the trainers, is funded, separately, by assisting the Paralympic Committee of India, Special Olympics Bharat and the All India Sports Council for the Deaf under the Scheme of Assistance to National Sports Federations.

**30.37** The Scheme of Sports & Games for the Persons with Disabilities has the following components:-

**(i)** Grant for sports coaching and purchase of consumables & non-consumable sports equipment for Schools

**(ii**) Grant for Training of Coaches

**(iii)** Grant for holding District, State & National level competitions for the disabled.[[189]](#footnote-189)

**30.38** A new scheme is being introduced from 2009-10 to provide focused support to the physically and intellectually challenged.  The scheme will cover special coaching and training requirements of the target groups, organizing competitions at district level, state and national level, participation in international competitions, and other need based specialized support.  At present, the NSFs dealing with sports for disabled are being assisted under the general NSF scheme.

**30.39** Considering huge and ever-increasing youth population in India, and to achieve the goals set for the Tenth Plan, the National Youth Policy 1998 was replaced by a New National Youth Policy-2003 with four thrust areas, viz. (i) Youth Empowerment; (ii) Gender Justice; (iii) Inter-sectoral Approach; and (iv) Information and Research Network. The policy accords priority to the following groups of young people including (i) Rural and Tribal Youth; (ii) Out-of-School Youth; (iii) Adolescents, particularly female adolescents; (iv) Youth with disabilities; and (v) Youth under especially difficult circumstances like victims of trafficking, orphans, and street children.[[190]](#footnote-190)

**30.40 Nehru Yuva Kendra Scheme** was started in 1972 by the then Ministry of Education with the objective of providing the non - student rural youth an opportunity to help him grow and involve in the nation-building-activities. In 1987, all the existing Kendras under the NYK scheme were re-organized into an autonomous body that was formed by a resolution of Department of Youth Affairs. As a result of this endeavour, Nehru Yuva Kendra Sangathan(NYKS) was formed. It has since grown to have Kendras in 501 districts of India with a network of about a quarter (0.25) million youth clubs in as many villages. Nehru Yuva Kendra Sangathan has been working in various fronts of youth development with a variety of youth programmes of the Ministry of Youth Affairs and certain special programmes in coordination and cooperation of other ministries.

**30.41** **Panchayat Yuva Krida Aur Khel Abhiyan (PYKKA**): The Ministry of Sports implementing   four   Centrally   Sponsored   Sports   Infrastructure Development Schemes during the Xth Five Year Plan period, which were transferred to the State Sector w.e.f. 1.4.2005 viz., the Scheme of Grants for the  Creation of Sports Infrastructure,  the Scheme of Grants to  Rural Schools for  the purchase of sports equipment and the development of play grounds; the Scheme of Grants for the promotion of Games & Sports in Universities and Colleges; and the Scheme of Grants for the Installation of Synthetic Playing Surface.

**30.42** Under these erstwhile centrally sponsored schemes, financial assistance was being provided to State Governments, educational institutions and NGOs for the creation of sports facilities on a cost sharing basis. With the closure of these schemes, there has been no provision for providing financial assistance to State Governments, Educational Institutions and NGOs for the creation of sports infrastructure. Given the fact that less than 5% of the population has access to sporting facilities and organized sports, the need for promoting sports infrastructure at the grassroots level in a phased but time bound manner has been repeatedly emphasized in various fora.

**30.43** Keeping these factors in view and with the objective of promoting mass participation in sports and widening the seedbed of talent, the Government has launched a national programme titled ‘Panchayat Yuva Krida aur Khel Abhiyan’ (PYKKA) for the first time for the creation of basic sports infrastructure in all village and block panchayats of the country over a period of 10 years and organizing sports competitions at block, district, state and national levels. All the 2,50,000 village and block panchayats and equivalent units will be covered during this period.

**30.44** The scheme will not only contribute to public health and social inclusiveness, but also stimulate the economic activities within the sports sector, as it would lead to an exponential growth in the demand for sports instructors, coaches, sports equipment and consumables and sports events and related support services. Promotion of indigenous games and the expansion of the talent pool through the identification and nurturing of rural sports talent, are some of the major benefits of the scheme.[[191]](#footnote-191)

**30.45** Annual Competition Grant for organizing tournaments at block level, district level, state level and national level as per details given below: (i) Rs. 50, 000 per annum to each block panchayat for organizing block level competitions. (ii) Rs. 3 lakh per annum to each district for holding district level competitions. (iii) Rs. 10 lakh per annum to each State and Rs. 5 lakh to each UT per annum for holding State/UT level competitions. (iv) Rs. 50 lakh per annum for holding national level competitions. Annual competition grant is a 100% central grant.

**30.46** Prize Money at Rs. 25,000 Rs. 15,000 and Rs. 5,000 as 100% Central grant to first three village panchayats at the block level tournaments (all 6,373 blocks) and at Rs. 50,000, Rs. 30,0000 and Rs. 10,000 as 100% Central grant to the first three block panchayats at the district level tournament (all 607 districts).

**30.47** Sports, at the grass-roots level is therefore being promoted primarily through the **Nehru Yuva Kendra** and **Panchayat Yuva Krida Aur Khel Abhiyan** schemes. These schemes are instrumental in changing the lives of the many rural youth who have are suffering from any kind of disability.

**30.48** **Blind Cricket** is governed by the World Blind Cricket Council (WBCC) since 1996. The Association for Cricket for Bind in India was set up in 1996. George Abraham is the founder of the registered voluntary body. Its objectives are to use competitive cricket to teach the blind to look at life positively, gain in confidence and strive to be winners rather than dependents; and to use the game as a medium to transmit the message of ability and talent to the society. The ACBI organised the first two Blind Cricket World Cups in 1998 and 2002.

**30.49** The first national level blind cricket tournament was started by SCORE—a not-for-profit organisation—in 1990. Named Challenge Cup, teams from all over the country participated in this tournament. National Institute for the Visually Handicapped (NIVH), Dehradun, developed the audio ball made of hard plastic with ball bearings inside. It is now accepted as the international standard.

**30.50** **NIHM** has associated with Special Olympics for persons with mental retardation both at local and national level and has been organizing programmes various leisure activities for children and persons with mental retardation such as dance, music festival, picnics.

**30.51** **NIEPMD** for the first time organised Southern regional sports for persons with multiple disabilities with the objective of exploring hidden talents and potentials of persons with multiple disabilities. 342 participants form 5 states of Southern India participated at the sports meet. A total of 225 events were conducted.

**Table 30.1 Award of Pensions to Winners in International Sports Events and their Coaches**

|  |  |  |
| --- | --- | --- |
| Category of meritorious sportspersons | Existing rates (Rs/PM | Enhanced Rates  (Rs/PM) |
| No. of pension of pension  Gold medallists of the Asian/  Commonwealth Games | 3500 | 7000 |
| Silver and Bronze medallists of the Asian/  Commonwealth Games | 3000 | 6000 |
| Gold Medallists of Para-Olympic Games | 2500 | 5000 |
| Silver medallists of Para-Olympic Games | 2000 | 4000 |
| Bronze Medallists of Para-Olympic Games | 1500 | 3000 |

**30.52** At present 476 sports persons are receiving this pension. The pension awarded to winners of para-Olympic games is lower than the amount granted to winners of other events.

**30.53** The Government has also instituted a Scheme of special awards to medal winners in International Sports event and their Coaches. The Special Awards will be given for winning medals and titles in prestigious international sports events held during the preceding year (from 1st January to 31st December of the year) of the Award for (i) Olympics, Asian Games and Commonwealth Games disciplines (ii) Chess. The cash award for medal winners is as follows: Gold Medalist in Olympic games Rs.50,00,000; silver Medalist Rs.30,00,000; and Bronze Medalist Rs. 20,00,000. The special awards are not available for winning medals in closed events like Para-Olympics Special Olympics, Championships for Handicapped, Paraplegias, Deaf, Dumb, Blind, Veteran events, events for different age groups (except for junior group).

**30.54** The Government takes serious note of the differential treatment meted out in the quantum of pension, awards and recognition to sportsperson participating in disability-specific sporting event as compared to other sporting events which gives out wrong signals that disability-specific sporting events are considered inferior to the other events. This is a serious implication that needs to be addressed at the earliest.

**30.55** It needs to be stressed that steps are being taken in the direction of reducing inequality in recognition of sporting talents. Until 2001, the Arjuna Awards did not account for the contribution made to the field of disability sports. However, since 2002, there is a separate Arjuna Award for sportspersons who have excelled in the physically challenged category or the Paralympics. This is in accordance with **The National Policy for Persons with Disabilities.** The benefits arising from the grant of the award are for the first time at par with the Olympic Games, Asian Games and other mainstream sporting events.

**30.56** **National Playing Fields Association of India (NPFAI):** The Sports Ministry has further taken note of the fast disappearing open spaces that are so essential for children to play on. In an effort to conserve playing spaces for children, the Ministry has signed an MOU with Fields in Trust, UK, for the formation of the National Playing Fields Association of India (NPFAI) in February 2009. The main objective of the NPFAI is to develop, promote, protect and expand playing fields and open spaces in the country. The Association is also eager to accommodate the needs of the persons with disabilities in its policies and is noted to have already initiated efforts in the direction of enabling open spaces for all.

**Table 30.2 State Initiatives: Sports**

|  |  |
| --- | --- |
| ***State*** | ***Details*** |
| Andhra Pradesh | The State has a special Olympic Bharati (SOB) to encourage and promote confidence and to inculcate to encourage the habit on living par with other people SOB, AP made a programme to train people in organizing games and sports competition for the disabled (community coaches training) for 3 days. |
| Assam | * Special Olympic programme is to bring joy of sports to persons with intellectual disabilities and for life transforming experiences for Athletes, Coaches and volunteers are alike. * 500 Intellectually Impaired Children along with coach attended the National coaching camp on Cricket, Athletics and Eye screening camp organized by Special Olympic Bharat, Assam Chapter at Nehru Stadium, Guwahati, Prerona Jorhat and BTC, Lakhimpur. * 4 Intellectually Impaired Children along with one coach attended the National Level championship camp on Athletics organized at Anantapur, Andhra Pradesh by Special Olympic Bharat and achieved two gold medal and one bronze medal. |
| Gujarat | * Youth services and Cultural Activities dept., organizes a state level volley ball tournament for persons with disabilities every year with the co-operation of The Society for Physically Handicapped, Ahmedabad. Expenditure of Rs.2.40 lakh was incurred towards holding the tournament in 2008-09. 115 players with disabilities participated in the tournaments. * All the players who rank first, second or third in national level sports competitions and tournaments for the persons with disabilities honoured by presenting fabric for blazer. * The scheme of celebrating ‘Umang Utsava’ has launched from 2008-09 children with disability. Two regional level competitions, one at Surat and the other at Rajkot were organized in the field of dance, drama and literature in 2008-09. 219 persons with disabilities have participated in these competitions. |
| Orissa | The state government has made provision for the state award to the outstanding persons with disabilities |

**Source:** *Compiled from information provided by State Governments to MoSJE*

**FINDINGS**

* Films on persons with disabilities and enabling access to archaeological sites and monuments has been the bull work of governmental intervention on recognizing the cultural rights of persons with disabilities
* The Ministry of Culture has been fostering cultural diversity by having dedicated schemes and progrmames for women, scheduled tribes; on Buddhist; Tibetan studies and on the cultural activities of the north-east. The Ministry as yet not supported any scheme or programme for advancing disability culture.
* Public libraries are supported in the provisioning of educational materials.
* The government has initiated steps to amend the Copy Right Act of 1957 in order to remove the legal barrier to accessing materials.
* The Ministry of Tourism has incorporated accessibility norms in the services to be provided by 4 and 5 Star deluxe hotels.
* The Commonwealth Games, 2010 was an integrated event of disability and mainstream sports.
* The dedicated scheme of Sports and Games for persons with disabilities has foregrounded the sports entitlements of persons with disabilities. The inclusion of persons with disabilities in community life is further enhanced by PYKKA.
* The pension scheme awards pension at lower rates to sports persons with disabilities and the winners of medals in International Disability events are not entitled to the special awards granted to winners of mainstream international sports events.

**Future Plan of Action**

* The diversity Enhancement Initiatives of Ministry of Culture shall include disability culture
* The Cultural Functions Grants Scheme whereby the Ministry of Culture supports particular group to hold its own event or festival shall be extended to persons with disabilities.
* The inequity in the pension rates shall be corrected.
* Persons with disabilities obtaining medals at Disability sporting events shall be entitled to special awards on an equal basis with others.
* It is the Government’s view that in addition to the already promulgated **Scheme of Sports & Games for the Disabled** other Schemes specifically addressing sporting issues in India should be extended to accommodate the needs of the persons with disabilities wishing to participate in sports.

**ARTICLE 31 - STATISTICS AND DATA COLLECTION**

|  |
| --- |
| *1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:*  *(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;   (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.*  *2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties’ obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.*  *3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.* |

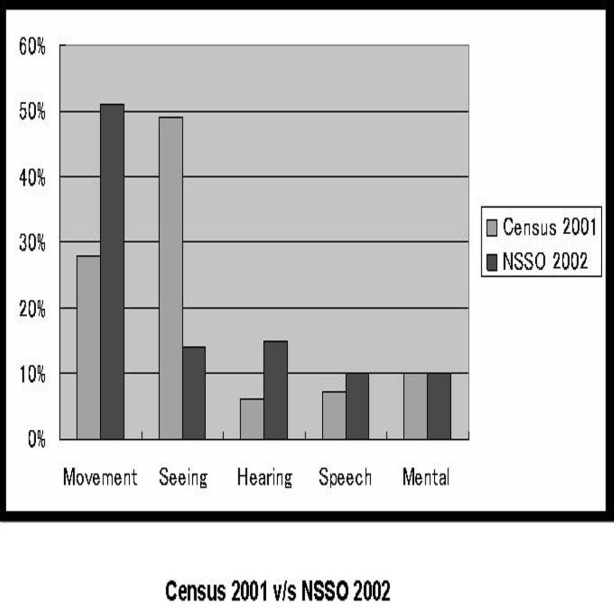
**31.1 Introduction :** Article 31 recognizes that there is a crucial link between disability, equality and poverty with the importance of comparable data on disability that is important for the planning, implementation, monitoring, and evaluation of inclusive policies.

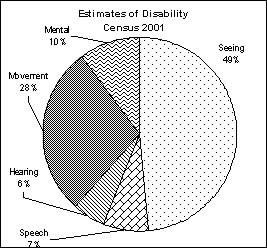
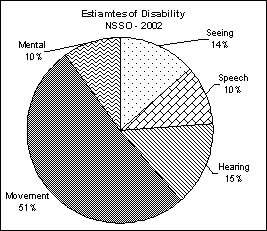
**31.2 Census in India:** The Census 2001 included for the first time post-independence the question on disability in order to get the disability statistics in India. The figure that emerged was persons with disabilities being only 2.13% of the Indian population.

**Table 31.1 Disability Data as per Census and NSSO**

|  |  |
| --- | --- |
| ***Disability data as per Census India 2001 %*** | ***Disability data as per National Sample Survey Organisation (NSSO) 2002 - %*** |
| Disability specific Data | Disability specific Data[[192]](#footnote-192) |
| Movement 28 | 51 |
| Seeing 49 | 14 |
| Hearing 6 | 15 |
| Speech 7 | 10 |
| Mental 10 | 10 |

**[[193]](#footnote-193)Disability data comparison between Census 2001 and NSSO 2002**



**Disability question asked in India Census 2001**

**Question**

If the person is physically/mentally disabled, give appropriate code number: 1. In Seeing, 2. In Speech, 3. In Hearing, 4. In Movement, 5. Mental.

**31.3 Analysis :** In the Census 2001 and NSSO 2002 the definitions of disability differ. The Census of India [[194]](#endnote-1)2001 does not include the definition under the Persons with disabilities act 1995; Census uses its own version of the definition. In the Census 2001 document it justifies its version of the definition as "the concepts and definitions of disabilities coupled with measuring its extent and its types contained in the PWD Act, 1995 were found to be extremely difficult to canvass even in normal circumstances assuming people had time, were willing and forthcoming to share this information and there was an expert investigator to elicit this information."

**31.4** On the other hand, National Sample Survey Organization defines disability as "a person with restrictions or lack of abilities to perform an activity in the manner or within the range considered normal for a human being. It excludes illness/injury of recent origin resulting into temporary loss of ability to see, hear, speak or move"

**31.5** Different definitions of disability has led to different conclusions about the nature and magnitude of disability in the country with misleading conclusions.

**31.6** The process of enumeration of Census 2001 had its own set of problems. Many enumerators did not ask the question on disability. The figure that finally emerged was 2.13%

**31.7** The Census of 2011 is the 15th edition, seventh census after independence. The challenge this time around was to have better enumeration. The question of the 2001 did not adequately cover all the disabilities.

**31.8** The World Bank report[[195]](#footnote-194), analysed the disability question of Census 2001 in India and the question asked in other countries. According to the report, the method of using an impairment based questionnaire yields a low percentage. Countries that have asked similar questions have disability in the range of one to three percent.

**31.9** The other form of questioning based on The International Classification of Functioning, Disability and Health (ICF). ICF is World Health Organisation’s (WHO) framework for measuring health and disability. ICF acknowledges that every human being can experience a decrement in health and thereby experience some degree of disability. Under the ICF Model disability and functioning are outcomes of interactions between health conditions (diseases, disorders and injuries) and contextual factor.

**31.10** The Washington Group on Disability Statistics was formed as a result of the United Nations International Seminar on Measurement of Disability that took place in New York in June 2001 to formalize a scientific way to use ICF based questions in the census.

**31.11 Washington Group Census Questions:** At the **6th Annual Meeting of the WG** in Kampala, Uganda in 2006, test results were reported and the short set of questions on disability was endorsed by the 23 countries and 5 international agencies in attendance.[[196]](#footnote-195)

|  |
| --- |
| **Box 31.1 The next questions ask about difficulties you may have doing certain activities because of a HEALTH PROBLEM.**  1. Do you have difficulty seeing, even if wearing glasses?[[197]](#footnote-196)  2. Do you have difficulty hearing, even if using a hearing aid?[[198]](#footnote-197)1  3. Do you have difficulty walking or climbing steps?  4. Do you have difficulty remembering or concentrating?  5. Do you have difficulty (with self-care such as) washing all over or dressing?  6. Using your usual (customary) language, do you have difficulty communicating, (for example understanding or being understood by others)?  Each question has four response categories: (1) No, no difficulty, (2) Yes, some difficulty, (3) Yes, a lot of difficulty and (4) Cannot do it at all. The severity scale is used in the response categories in order to capture the full spectrum of functioning from mild to severe. |

**31.12** Efforts were made to collect information on disability at the Census of India 2011, the Census Commission in collaboration of disability organizations and activists headed by NCPEDEP modified the 2001 census question to cover as many disabilities as possible.

**31.13** The disability sector has not chosen the Washington Group Question -based on the ICF question despite the ongoing international discussions on the same.

* The disability sector felt that it was appropriate to list types of disabilities in the Census questionnaire as the Government designs programmes and schemes according to disabilities listed the Act. therefore, we should get the data according to the Acts.
* This can be easily understood by the grassroots people who go for data collection and the general public who answer these questions.
* The reason for respondents not choosing the ICF-based question could be due to more practical issues related to Indian culture. For example, asking questions about self-care etc. especially to women respondents and the fact that Census questions are generally answered by one person for all members of the family.

**31.14** The questionnaire after consultation nationwide was thus formulated after consensus

**2011 Disability Question in Census Type of Impairment:***\* Seeing  
\* Hearing and /or Speech  
\* Movement  
\* Mental Retardation  
\* Mental Illness  
\* Multiple  (More than one)  
\* Any other*

**31.15** The question was moved to number 9 in the priority list right after name, age, sex, religion etc. Since disability is a sensitive subject, the principle objective while preparing set of instructions was to make the enumerator’s job as easy as possible. The definitions, concepts and the Instructions were designed in such a manner that the question was canvassed appropriately without hurting the feelings of the informant and improving the chances of netting the disability characteristics of the population. The enumerators were instructed to obtain the response to this question for every member of the household from the main respondent who answered other questions.

**31.16** **Publicity:** A systematic publicity campaign was launched through print and electronic media that helped in creating atmosphere where census enumerators could canvass the question on disability effectively with relative ease. There were 30 second videos to be aired in prime time on all TV channels government owned and private in collaboration with NGOS, [Arushi and Trinayani], The Census used television / radio, print media and internet.

**31.17** A film on ‘Get Yourself Counted’ has been made for regional language television channels. The issue got covered on television talk shows, among other things. Handbills, posters, and leaflets in local languages were distributed in villages and to enumerators.

**31.18** Public Private Partnership: The Census Organization was not alone in its endeavor to sensitize the general public about the importance of the Census of India 2001 and seeking their cooperation. Other Union Ministries, international organizations and certain NGOs of repute, particularly those working for the welfare of disabled also put in intensive efforts to ensure that people come forward and provide correct information in respect of the questions concerning disability.

**FINDINGS**

* The Importance of data to planning has been understood and a proactive movement to get counted is in evidence in the country.
* The focus of collecting statistical information has been limited to the Census.

**Future Plan of Action**

* Disability disaggregated data to extend to all development programms.
* Critical evaluation of the success and features of 2011 Census operations.

**Article 32 - International Co-operation**

|  |
| --- |
| *1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:*  *(a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;*  *(b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;*  *(c) Facilitating cooperation in research and access to scientific and technical knowledge;*  *(d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.*  *2. The provisions of this article are without prejudice to the obligations of each State Party to fulfill its obligations under the present Convention.* |

**32.1** Article 51 (b) of the constitution of India lays down that the State shall endeavor to: “*maintain just and honourable relations between nations*”. Article 253 of the Constitution gives power to Parliament to make any law to give effect to International agreements. These two provisions in the Constitution assist India to fulfill its obligations under this article. It is this commitment to assume its responsibility in the comity of the nations which has impelled India.

**32.2** An effective implementation of the obligations mandated under this Article requires unprecedented co-ordination internationally and co-operative confidence building amongst the State Parties. Article 32(1)(d) entails international cooperation in terms of providing technical and economic assistance including facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

***32.3(a)Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;*** Danish International Development agency (DANIDA) which is under the Ministry of Foreign Affairs of Denmark has extended support to strengthen general health system by targeting certain specific groups. One of these groups is the disability and with regard to this DANIDA has played a major role in funding activities that fight disability and leprosy. [[199]](#footnote-198)

**32.4 DFID India and disability[[200]](#footnote-199):** DFID India is probably the most proactive country office in addressing disability issues. Although disability was not specifically mentioned in the CAP, exclusion was identified as one of the major barriers to poverty reduction. It is within this context that initiatives on disability are located. Despite being at an early stage the key features of DFID India’s response to disability are:

1. Inclusion of disability indicators in log frame agreements with the government Disability indicators are included in the agreement for the Sarva Shiksa Abhiyan education programme. The indicator emphasises the need for improved educational achievement for schedule tribe and caste children and disabled children and particularly girls within these groups. The emphasis is innovatory because it focuses on the most marginalised and those who are multiply disadvantaged. Disabled people are also included in the log frame for the multi-donor Reproductive and Child Health Programme. The programme requires states to identify groups with the worst health outcomes and channel resources accordingly. There will be triangulation of monitoring including community monitoring, which is accorded equal status.
2. INGO Partnerships Agreement Programme (IPAP) DFID India has established its own partnership agreements with selected UK NGOs who have Programme Partnership Agreements with DFID headquarters. Each INGO partner is to act as a nodal point for a particular excluded group such as children and scheduled castes and tribes to facilitate networking, build capacity and administer grants. Voluntary Service Overseas (VSO) is the nodal agency for disability. The INGO Partnership is at an early stage but so far VSO has assisted DFID, by organising a roundtable meeting where the Secretary of State met key disability stakeholders.
3. Poorest Areas of Civil Society (PACS) Programme The PACS programme is designed to build the capacity of civil society in India’s poorest districts. DFID has adopted a ‘hands off’ approach and flexibility and responsiveness are built into the programme. CSOs submit an initial concept note and then if that is accepted the managing agency, an NGO, works with them to develop a full proposal. The proposal can still be adjusted within the first three months and again after a year. Monitoring is participatory and non-threatening. The programme originally had a sectoral thematic design, but this has been dropped in favour of a holistic approach. The programme is encouraging real capacity building approaches. One informant described PACS as ‘a marvellously thought-out programme.’ Disability was not originally included in the PACS but the programme has recognised that poverty cannot be addressed without talking about disability. Currently four disability organisations are receiving PACS funding and proposals are being developed with others, including DPOs.
4. Implementing DFID’s corporate diversity agenda DFID India has also been proactively seeking to implement the corporate diversity www.disabilitykar.net strategy. Disability is seen as a priority area. DFID India has been working with a local DPO to ensure that its recruitment processes are open and inclusive. Efforts have been made to ensure the accessibility of the office.
5. Tsunami response Disability perspective to be included in Social-Equity Audits of post-tsunami relief programmes.

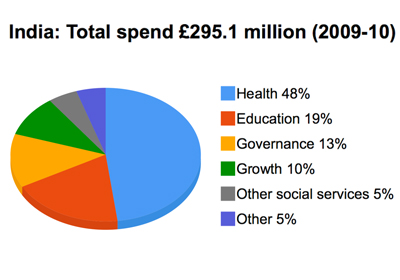


Image Source[[201]](#footnote-200)

**32.5** The European Union has been discharging a prominent role in projects such as “Capacity building of disaster risk reduction actors in mainstreaming disability issues in India”. This is funded by the European Commission Directorate General for Humanitarian Aid (ECHO)[[202]](#footnote-201) for 15 months which is in turn implemented by Handicap International[[203]](#footnote-202).[[204]](#footnote-203)

* 1. The World Bank and International Monitoring Fund efforts at mainstreaming disability development is effectuated through their country specific Poverty Reduction Strategy Process. The ongoing projects and programmes of the World Bank in India such as MUTP (Mumbai Urban Transport Project), watershed development in Karnataka, inter-state highway project between Chennai and Hyderabad, Uttar Pradesh Sodic Land Reclamation Project and poverty empowerment programs have references to child and women development but do not expressly refer to persons with disability.

**32.7** DRF encourages and promotes, the respect for the general principles stated in the Convention on the Rights of Persons with Disabilities (Article 3) and Article 4(3) the need to ensure the full participation of persons with disabilities in all spheres of life, including the development of national and international laws, policies and programs. DRF supports Disabled Persons Organizations to take the lead in advocating for the human rights of persons with disabilities at local and national levels, utilizing the mechanism of the Convention on the Rights of Persons with Disabilities (CRPD).

1. Chaitanya Vikalangula Hakkula Vedika to strengthen the rights of PWDs, especially women, and reduce discrimination by popularizing the CRPD at the village level
2. DISAI Society (Disability Initiatives In Sustainable Action India Society); fiscal sponsor Jagruthi Education and Social Upliftment Society to move disability rights forward by building the capacity of up to 100 DPOs in nine districts in coastal Andhra Pradesh to address the CRPD.
3. Ganjam District Orthopedically Handicapped Welfare Association (GDOHWA) to raise the awareness of key decision makers and service providers in Ganjam District and in Orissa about the CRPD and to increase DPO participation in decision-making.
4. Network of Persons with Disabilities Organization to strengthen DPOs in three states (Andhra Pradesh, Orissa and Chhattisgarh) by providing state and district trainings for disability leaders and community organizers on the CRPD.
5. [Parivaar](http://disabilityrightsfund.org/grantee/asia/india/2009/parivaar.html) to enable persons with intellectual disabilities to maintain their full legal capacity and make their own decisions. In conjunction with Inclusion International and Canadian Association for Community Living, Parivaar will develop and demonstrate local systems for supported decision-making at two pilot sites in Bangalore and Dehradun. The project is supported by the National Trust of the Government of India.

**32.8**(b) ***Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;***

**32.9** UNICEF has been helping Ramakrishna Mission Blind Boys Academy in Kolkata to produce Braille version of the Convention on the Rights of Child (CRC) and also other Braille productions.[[205]](#footnote-204) UNESCO, on the other hand, has concentrated its monetary assistance on inclusive education and the WHO’s initiatives in starting the Community-Based Rehabilitation (CBR) model in India has borne fruitful results in the prevention of leprosy[[206]](#footnote-205) and blindness. [[207]](#footnote-206)

**32.10** Besides International Organisation, co-operation has been achieved amongst different Nation States. For instance, the United States Agency for International Development funds programs that focus on healthcare issues polio eradication, HIV/AIDS, child survival and infectious diseases and thus directly and indirectly targeting disability.[[208]](#footnote-207)In particular, USAID has focussed on employment opportunities and has provided financial support for women and children to participate in various international conferences on disability.[[209]](#footnote-208)

**32.11** Article 32(1)(b) and (c) of the Convention suggests measures of cooperation by facilitating and supporting capacity-building, including exchange and sharing of information, experiences, training programmes and best practice as well as facilitating research and access to scientific and technological knowledge.

* 1. ***(b) Facilitating cooperation in research and access to scientific and technical knowledge;*** The Jaipur Foot, even today remains the most significant contribution of India to the disability sector on the global map. Offered by the Bhagwan Mahaveer Viklang Sahayata Samiti (BMVSS) Jaipur, set up in 1975.[[210]](#footnote-209) has the credentials of being the largest organisation in the world for the physically challenged. It provides artificial limbs, callipers, crutches, ambulatory aids like wheelchairs, hand paddled tricycles and other aids and appliances **for no services or monetary obligation in return. As on march 31st, 2009, the assistance provided by the BMVSS stands at 11,00,070 including artificial limbs, callipers, tricycles, hearing-aids, crutches and polio corrective surgeries to about 22 countries. [[211]](#footnote-210) The Samithi also provides training in educating people with regard to making of the Jaipur Foot. For instance four Iraqi Nationals benefited from such training and the embassy of Iraq has requested for a bigger training programme in order to help the war victims.[[212]](#footnote-211) The Jaipur Foot has also gone a long way in restoring livelihood for those affected in the civil war ravaged country of Sri Lanka. [[213]](#footnote-212) The highest denomination of Jaipur foots that has gone from BMVSS is to Afghanistan with 3, 051 so far. A total of 16, 783 Jaipur foot have been sent over to various foreign countries, ranging from Pakistan to Zimbabwe. The quick response of the Indian Government in providing the Haiti earthquake victims[[214]](#footnote-213) with Jaipur foot stands as a testimony to India’s cooperation in mainstreaming disability with development through self-help as well as assistance from other nations and organisations, particularly the UN.**
  2. ***(c) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies :*** In furtherance of inter-country co-operation, India renewed her MoU with Mauritius in November, 2007 with regards to co-operation between the countries in the field of Social Defence including inter alia disability. The MoU reiterated the desire of both States to co-operate and collaborate for programmes and policies in the area of social defence and social security for the overall development of weaker sections in society including persons with disabilities. The MoU recognises that whilst Ministry of Social Justice and Empowerment remains nodal agency for policies and programmes for empowerment of persons with disabilities, the seven National Institutes remain focal point for human development, capacity building, training, research, documentation and exchange of best practices in the field of disability.

**32.14** Under this MoU, both the States agreed to collaborate inter alia in the following areas:

1. Conducting training programmes for human resource development viz teachers and care givers in inclusive education, special education, home based education, care services for disabled and senior citizens
2. Granting fellowships for training and attachment of scholars, care givers, service providers from Mauritius for prevention, detection, rehabilitation, vocational training, assessment, fitting and production of assistive devices for all types of disabilities
3. Pooling in resources for preparation of manuals and modules for training in areas of disability and social defences
4. Facilitating exchange of officers and experts between the two countries in various areas of disability and social defence
5. Holding joint workshops, seminars, symposia in human resource and programme development, curricula, modules and undertaking documentation in the field of social defence and disability for creation of data support for intervention planning
6. Sharing of information and exchange of best practice and mutual use of data base
7. Commissioning joint research project to widen the scope of understanding and creating evidence based inputs for policy development and planning
8. Promoting networks of civil society in the field of social defence and disability

**32.15** The aforementioned proposed activities shall be carried out through modalities such as facilitating Institutions working in the field of disability to assess the facilities available and prepare a Plan of Action for implementation; Officers and experts of the two Government shall hold joint discussions to identify areas of human resource, capacity building, training, networking, documentation; the National Institute for various disabilities shall formulate and organize training programmes for various categories of functionaries in areas of rehabilitation, training and education of persons with disabilities.

**32.16** Thus the MoU signed between India and Mauritius can serve as a classic model of international co-operation and such other MoU s may be entered into to fulfill the obligations of the Convention.

**FINDINGS**

* Funding by international bodies and other aid sources continues to remain a centre point of most of the international co-operation, little has been achieved in the areas of cooperation in research, cooperation.
* There is not as much stress on cooperation in research, exchange of information and areas of joint development of technologies.

**Future Plan of Action**

* Proactive efforts shall be made to ensure that cooperation is not restricted to fund support.
* Insofar as India as amongst the early countries to formulate legislations which implement the mandate of the CRPD, the possibility of sharing that experience with countries which have a similar legal system shall be explored.

**ARTICLE 33 - NATIONAL IMPLEMENTATION AND MONITORING**

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| --- |
| *1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.*  *2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.*  *3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.* |

**A Coordination Mechanisms**

**Central and State Coordination Committees**

**33.1** The PWDA along with the Constitution and other relevant laws is the existing vehicle of implementation. The **Central and State Coordination Committees** are established by sections 3 and 13 of PWDA respectively. The Central Coordination which is headed by the Minister of Social Justice and Empowerment has amongst its members “five persons, as far as practicable, being persons with disabilities to represent non governmental organizations or associations which are concerned with persons with disabilities”. These members are to be nominated by the central government and each member is required to represent a different disability. The government is required to ensure that at least one of the members nominated is a woman. Secretaries of Other relevant ministries; directors of the national institutes; and representatives of the state and union territories are the other members of the Committee.

**33.2** This Committee has been envisaged “to serve as the national focal point on disability matters and is required to facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities”. Without prejudice to the generality of this requirement the Central Coordination Committee had been visualized to perform all or any of the following functions namely:

* Review and coordinate the activities of all Departments of Government and other Governmental and Non-Governmental Organizations which are dealing with matters relating to persons with disabilities;
* Develop a national policy to address issues faced by persons with disabilities;
* Advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
* Take up the cause of persons with disabilities with the concerned authorities and the international organizations with a view to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies;
* Review in consultation with the donor agencies their funding policies from the perspective of their impact on persons with disabilities;
* Take such other steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions;
* Monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities.
* To perform such other functions as may be prescribed by the Central Government.

**33.3** This Central Coordination Committee is supported by a Central Executive Committee who is required to implement the decisions of the Committee. In order to ensure implementation at the state level, a State Coordination and Executive Committee have also been established.

**33.4** These coordination committees were constituted keeping in view the multi-sectoral interventions required to realize disability rights. Hence every sector who was considered to have a role to play was nominated on the body. However the very strength of the design has proven to be its weakness. The comprehensiveness of the membership has made the body operationally ponderous and this deficiency has prevented it from being as effective an entity as originally envisaged.

**B Central Commissioner of Persons with Disabilities**

**33.5** The task of national monitoring is at present being performed by a multiplicity of players. The Central Commissioner of Disability has been charged under section 58 of the PWDA to:

* Coordinate the work of the Commissioners
* Monitor the utilization of funds disbursed by the Central Government
* Take steps to safeguard the rights and facilities made available to persons with disabilities
* In addition to these functions the Chief Commissioner has also been empowered to look into complaints with respect to matters relating to:
* Deprivation of rights of persons with disabilities;
* Non implementation of laws, rules, bye-laws, regulations, executive orders, guidelines, or instructions made or issued by the appropriate government or local authority for the welfare and protection of rights of persons with disabilities.

**C State Commissioners of Persons with Disabilities**

**33.6** There is provision in the PWDA for appointment of Commissioners at the State level with powers analogous to that of the Chief Commissioner of Disability. The Commissioners operate under the direction and superintendence of the Chief Commissioner but the appointment of the Commissioner is the responsibility of the State Government. Whilst a number of States have diligently made these appointments others have appointed officers having dual charge that is they perform the role of Commissioners along with other administrative duties. The failure to appoint officers holding exclusive responsibility as Commissioners of Disability has lessened the efficacy of the institution in some States. In other States the accessibility of the Commissioners Office has significantly contributed to its efficacy as both monitor and redresser of grievances.

**D National Human Rights Commission**

**33.7** In addition to the Chief and State Commissioners offices, the task of monitoring is also being undertaken by the National Human Rights Commission. This Commissioner which was established in consonance with the Paris Principles has a demonstrated interest in the rights of persons with disabilities. The Commission has a dedicated Rapporteur on Disability who keeps a proactive watch on the ground level situation relating to the rights of persons with disabilities. The suitability of the Commission to perform the role of the national monitor, at least in this interim period has been greatly assisted by the fact that the Commission as a human right institution was actively associated with the process of drafting the CRPD. The NHRC reports has been proactively seeking that concerns of persons with disabilities be addressed in existing laws and policies. Thus, the conclusions ought be addressed the inclusion of persons with disabilities in the National policy on relief, rehabilitation of the displaced; obtained a deletion of the term “ able bodied” in the NREGA to assure that persons with disabilities could benefit from the compulsory employment program.

**E State Human Rights Commission**

**33.8** Other than the National Commission there are State Human Rights Commissions with analogous responsibilities at the State level. There are two kinds of difficulties associated with the State Human Rights Commissions. One, that all States have not established such Commissions and two that even they exist and intervene for persons with disabilities, they have not maintained segregated data in relation to their intervention for persons with disabilities. In order to obtain some idea on the functioning of State Human Rights Commissions, the work of the Andhra Pradesh Commission was studied by going through their files individually. The data shows that the Commission has primarily been approached by persons with disabilities in employment matters and has been able to provide relief in at least some cases.

**F National Commission for Women**

**33.9** The National Commission for Women has been the other body which has intervened for the rights of persons with disabilities. The Commission has especially taken the lead in ushering structural reforms as well as providing individual relief to women with psychosocial disabilities living in institutions. The State Commission for Women like the SHRC’s are not uniformly present and if they have intervened for women with disabilities, they have again not maintained segregated data of their intervention.

**G National Commission for Protection of Child Rights**

**33.10** The National Commission is a national level to protect and advance child rights. The Commission has been specially mandated by the statute to especially focus on children in vulnerable circumstances. Children with disabilities are perceived as children who require such like special attention from the Commission. In order to ensure that this mandate is duly executed, it is required that one of the members who person the Commission is an expert in disability rights.

**FINDINGS**

* There is a multiplicity of authorities with different strengths and weaknesses undertaking national monitoring and assisting implementation
* The System of Coordination Needs Strengthening
* The representation of persons with disabilities is lower than the CRPD Standard.

**Future Plan of Action**

* A democratically elected Disability Rights Authority needs to established at the Centre and States
* Disability Desks in each Ministry need to be created to assist in coordinated implementation.

1. The Report stated ‘eight basic principles of the Convention’ to be (i) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons with disabilities; (ii) non-discrimination; (iii) full and effective participation and inclusion in society; (iv) respect for difference and acceptance of disabled people as part of human diversity and humanity; (v) equality of opportunity; (vi) accessibility; (vii) equality between men and women; and (viii) respect for the evolving capacities of children with disabilities and respect for their right to preserve their identities. There is an urgent need to review all the four disability legislations and to amend them suitably to bring them in consonance with UNCRPD. [↑](#footnote-ref-1)
2. Planning Commission of India, XI Five Year Plan Report, *Available at:* <http://uncrpdindia.org/achievements/eleventh-plan/chapter-6/> [↑](#footnote-ref-2)
3. Ministry of Social Justice and Empowerment, Office Memorandum, F. No. 02-05/2011- DD. III. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. D.No. 13-01/2007-DD-III dated 3rd May, 2008 [↑](#footnote-ref-5)
6. D.O.No. 13-01/2010-DD-III dated 30th Jan, 2010 [↑](#footnote-ref-6)
7. AIR 2010 SC 1576 [↑](#footnote-ref-7)
8. AIR 2010 SC 1253 [↑](#footnote-ref-8)
9. (2009) IILLJ 475 Del [↑](#footnote-ref-9)
10. AIR 1991 SC 1003 [↑](#footnote-ref-10)
11. (1993) IILLJ 452 SC [↑](#footnote-ref-11)
12. Article 39, Constitution of India. [↑](#footnote-ref-12)
13. Accessed at http://wcd.nic.in/wdvact.pdf [↑](#footnote-ref-13)
14. Section 2(a) , **The Protection of Women from Domestic Violence Act, 2005** [↑](#footnote-ref-14)
15. **Prevalence rate** is the proportion of people in a population who have disability at a specified point in time, or over a specified period of time. [↑](#footnote-ref-15)
16. Vocational rehabilitation of the handicapped person is a process which enables him to secure suitable employment which he could retain and advance a permanent base with an ultimate aim of integrating or re-integrating him in the society. [↑](#footnote-ref-16)
17. Report of the Committee on the Rights of Persons with Disabilities Bill, 2011 ( June 2011) [↑](#footnote-ref-17)
18. Clause 7, Rights of Persons with Disabilities Bill,2011 [↑](#footnote-ref-18)
19. Gerison Lansdown, Evolving Capacity of the Child, UNICEF Innocenti Research Centre. [↑](#footnote-ref-19)
20. Ministry of Women and Child Development, Sub Group Report on Child Protection in the Eleventh Five Year Plan (2007-2012), available at wcd.nic.in/wgchil**protection**.pdf. [↑](#footnote-ref-20)
21. , National Plan of Action for Children, Ministry of Women and Child Development website at <http://wcd.nic.in/NAPAug16A.pdf>. [↑](#footnote-ref-21)
22. Gaurav Jain v. Union of India, (1997) 8 SCC 114; Mathew Varghese v. Rosamma Varghese, 2003 131 TAXMAN 646. [↑](#footnote-ref-22)
23. Report of the Steering Committee on Empowerment of Women and Development of Children for the Eleventh Plan (2007-2012), available at <http://planningcommission.nic.in/aboutus/committee/strgrp11/str11_wcd.pdf>. [↑](#footnote-ref-23)
24. Childline India website at [http://www.childlineindia.org.in/CP-CR-downloads/ national\_policy\_ for\_children .pdf](http://www.childlineindia.org.in/CP-CR-downloads/%20national_policy_%20for_children%20.pdf). [↑](#footnote-ref-24)
25. Ministry of Women and Child Development website at <http://wcd.nic.in/nationalcharter2003.htm>. [↑](#footnote-ref-25)
26. Ministry of Women and Child Development website at <http://wcd.nic.in/NAPAug16A.pdf>. [↑](#footnote-ref-26)
27. Ministry of Women and Child Development website at <http://wcd.nic.in/childprot/children.htm#p3>. [↑](#footnote-ref-27)
28. Ministry of Women and Child Development website at <http://wcd.nic.in/publication/ar201011e.pdf>. [↑](#footnote-ref-28)
29. Ministry of Women and Child Development website at <http://wcd.nic.in/publication/ar201011e.pdf>. [↑](#footnote-ref-29)
30. Ministry of Women and Child Development website at <http://wcd.nic.in/publication/ar201011e.pdf>. [↑](#footnote-ref-30)
31. Ibid. [↑](#footnote-ref-31)
32. Ministry of Women and Child Development, Sub Group Report on Child Protection in the Eleventh Five Year Plan (2007-2012), available at wcd.nic.in/wgchil**protection**.pdf. [↑](#footnote-ref-32)
33. Ibid. [↑](#footnote-ref-33)
34. Other details of this initiative have been reported under Article 21. [↑](#footnote-ref-34)
35. <http://www.karmayog.org/message/upload/3532/1/Radio%20Show%20on%20Disability%20Issues%20by%20Trinayani.pdf> [↑](#footnote-ref-35)
36. http://www.nyks.org/regprog.html [↑](#footnote-ref-36)
37. access website at :http://www.ccdisabilities.ni.cin/index.php [↑](#footnote-ref-37)
38. (access website at:http://nixi.in [↑](#footnote-ref-38)
39. *Francis Corlie Mullin v Administrator*, *(Union Territory of Delhi*, (1981) 1 SCC 608;AIR 1981 SC 746. [↑](#footnote-ref-39)
40. *Bandhu Mukti Morcha v. Union of India*,(1984) 3 SCC 161;AIR 1984 SC 802;*Charles Sobharaj v.Supdt.Central Jail Tihar*,1978 CriLJ 1534. [↑](#footnote-ref-40)
41. *Unnikrishnan v. State of Andhra Pradesh*, [1993]1 SCR 594. [↑](#footnote-ref-41)
42. *Kharak Singh v.State of U.P*., 1963 CriLJ 329. [↑](#footnote-ref-42)
43. *M.C. Mehta v. Union of India* [↑](#footnote-ref-43)
44. *Consumer Education and Resource Centre Vs Union of India,* (1995) 3 SCC 42*.* [↑](#footnote-ref-44)
45. *Paschim Baga Khet Mazoor Samiti Vs State of West Bengal*, (1997) 1 SCC 388. [↑](#footnote-ref-45)
46. Abortions are legal in India till 20th week of pregnancy subject to the Medical Practioner’s opinion. [↑](#footnote-ref-46)
47. CN Ray, A Note on the Disaster Management Bill, 2005, *Economic and Political Weekly*, 4877 (2005) [↑](#footnote-ref-47)
48. Section 2(d), Disaster Management Act, 2005 - ‘catastrophe, mishap, calamity or grave occurrence in any area arising from natural or man made causes or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of property or damage to or degradation of environment and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area’ [↑](#footnote-ref-48)
49. Section 2(e), Disaster Management Act, 2005- ‘continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary and expedient for prevention of danger or threat of any disaster; mitigation or reduction of risk of any disaster or its severity or consequences; capacity building; preparedness to deal with any disaster; prompt response to any threatening disaster situation or disaster; assessing the severity or magnitude of effects of any disaster; evacuation, rescue and relief; rehabilitation and reconstruction’ [↑](#footnote-ref-49)
50. Section 12, Disaster Management Act, 2005. [↑](#footnote-ref-50)
51. Section 44, Disaster Management Act, 2005. [↑](#footnote-ref-51)
52. Ministry of Home Affairs, Government of India, Strengthening Disaster Management in India, *Available at*<http://ndmindia.nic.in/DM-Booklet-080211.pdf>. [↑](#footnote-ref-52)
53. Section 42, Disaster Management Act, 2005. [↑](#footnote-ref-53)
54. Ministry of Home Affairs, Government of India, Strengthening Disaster Management in India, *Available at*<http://ndmindia.nic.in/DM-Booklet-080211.pdf> [↑](#footnote-ref-54)
55. Section 46(I) and 48 (I), Disaster Management Act, 2005. [↑](#footnote-ref-55)
56. Ministry of Home Affairs, Government of India, Disaster Management – the Development Perspective, X Five Year Plan Document, (2002); Planning Commission of India, Report of the Working Group on Disaster Management, (2006). [↑](#footnote-ref-56)
57. Conference on Minimum Standards for Food, Water Supply, Sanitation & Hygiene, Health Services & Medical Cover and Phsycho-Social Support in Disaster Relief, (2010) <http://www.sphereproject.org/component/option,com_docman/task,doc_view/gid,446/Itemid,203/lang,english/> [↑](#footnote-ref-57)
58. On perusal of Draft Guidelines on Minimum Standards of Relief. [↑](#footnote-ref-58)
59. *Ibid*. [↑](#footnote-ref-59)
60. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 23. [↑](#footnote-ref-60)
61. World Bank, Report of the Online Forum on Disabled and Other Vulnerable People in Natural Disasters, 20 (2006) [↑](#footnote-ref-61)
62. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 15. [↑](#footnote-ref-62)
63. International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, 25 (2005). [↑](#footnote-ref-63)
64. *Ibid* at 24. [↑](#footnote-ref-64)
65. Draft Guidelines on Minimum Standards of Sanitation. [↑](#footnote-ref-65)
66. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 25. [↑](#footnote-ref-66)
67. 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 (United Nations Convention on Persons with Disabilities). [↑](#footnote-ref-67)
68. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 23. [↑](#footnote-ref-68)
69. *Ibid* at 33. [↑](#footnote-ref-69)
70. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 29. [↑](#footnote-ref-70)
71. *Ibid.*  [↑](#footnote-ref-71)
72. National Disaster Management Authority, Psycho-social Support and Mental Health Services in Disasters, 48 (2009). [↑](#footnote-ref-72)
73. Government of India – UNDP, Mainstreaming Disability in Disaster Management- aToolkit, 43, 45. [↑](#footnote-ref-73)
74. National Disaster Management Authority, National Disaster Management Guidelines – Role of NGOs in Disaster Management, (2010) [↑](#footnote-ref-74)
75. *Ibid* at 16. [↑](#footnote-ref-75)
76. <http://www.disabilityindrr.org/BROCHURE_SouthAsia.pdf> [↑](#footnote-ref-76)
77. <http://legalservicesindia.com/article/article/category-wise-analysis-of-awarded-cases-related-to-compensation-to-the-bhopal-gas-victims-750-1.html> [↑](#footnote-ref-77)
78. <http://www.ndtv.com/article/india/cabinet-approves-additional-compensation-for-bhopal-gas-tragedy-victims-67208>; <http://www.thehindu.com/news/national/article477138.ece> [↑](#footnote-ref-78)
79. International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, 22 (2005). [↑](#footnote-ref-79)
80. *Ibid.*  [↑](#footnote-ref-80)
81. General Guidelines, Disability Checklist for Emergency Response, *Available at:* <http://www.handicap-international.de/fileadmin/redaktion/pdf/disability_checklist_booklet_01.pdf> [↑](#footnote-ref-81)
82. *See* CBSE, Towards a Safer India- Education in Disaster Management; UNCRD-SEEDS, Disaster Education in India –a Status Report, (2008); Geo Hazards Society, The Tibetan School Shake-out, (2009),<https://www.kmcgov.in/KMCPortal/jsp/DisasterMgmt.jsp>; <http://www.egovamc.com/UEVRP/6Manuals_&_Guidelines/MOCK_DRILL_MANUAL_FINAL_VERSION.pdf>;. [↑](#footnote-ref-82)
83. International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, 28 (2005). [↑](#footnote-ref-83)
84. International Centre for International Rehabilitation, Disability Rights Monitor – Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand, 22 (2005). [↑](#footnote-ref-84)
85. Circular DBOD No Leg. BC.91/09.07.005/2007-08 dated June 4th 2009. [↑](#footnote-ref-85)
86. Ref.No ICBK/HYD-NOR/NOV/01 dated 20th Nov 2010. [↑](#footnote-ref-86)
87. (1986) 2 SCC 401 [↑](#footnote-ref-87)
88. (1978) 3 SCC 544 [↑](#footnote-ref-88)
89. S. P. Gupta v. Union of India, 1981 (Supp) SCC 87, Bandhua Mukti Morcha v. Union of India and others 1984 3 SCC 161. [↑](#footnote-ref-89)
90. AIR 1957 Ker 7 [↑](#footnote-ref-90)
91. This was what occurred in Re Sankaralingam, AIR 1957 Mad 24, where a teacher from a deaf and dumb school was brought forward to aid the individual with disability understand proceedings. [↑](#footnote-ref-91)
92. **Our Achievements, Office of The Chief Commissioner for Persons with Disabilities**

    **Ministry of Social Justice and Empowerment, Government of India, Available at** <http://www.ccdisabilities.nic.in/page.php> [↑](#footnote-ref-92)
93. Section 61, Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. [↑](#footnote-ref-93)
94. Section 62, Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. [↑](#footnote-ref-94)
95. **Our Achievements, Office of The Chief Commissioner for Persons with Disabilities**

    **Ministry of Social Justice and Empowerment, Government of India, Available at** <http://www.ccdisabilities.nic.in/page.php> [↑](#footnote-ref-95)
96. **All India Indian Overseas Bank v. Union Of India** JT 1996 (10) SC 287 [↑](#footnote-ref-96)
97. Kharak Singh v. State of U.P AIR 1963 SC 1295. [↑](#footnote-ref-97)
98. Govind v. State of M.P. AIR 1975 SC 1378. [↑](#footnote-ref-98)
99. A K Gopalan vs State of Madras AIR 1950 SC 27 [↑](#footnote-ref-99)
100. Maneka Gandhi vs Union of India AIR 1978 SC 597 [↑](#footnote-ref-100)
101. AIR 2004 SC 978. [↑](#footnote-ref-101)
102. <http://www.swabhiman.org/Domestic%20%20Violence.pdf> [↑](#footnote-ref-102)
103. <http://www.swabhiman.org/Domestic%20%20Violence.pdf> [↑](#footnote-ref-103)
104. [↑](#footnote-ref-104)
105. AIR 1996 SC 114. [↑](#footnote-ref-105)
106. (1996) 2 SCC 549. [↑](#footnote-ref-106)
107. “*Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one’s head but right to all the infrastructure necessary to enable them to live and develop and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right…. Want of decent residence therefore frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself*”. [↑](#footnote-ref-107)
108. *State of Maharashtra* v. *Saleem Hasan Khan*, AIR 1989 SC 1304; *N.B. Khare* v. *Delhi*, AIR 1950 SC 211. [↑](#footnote-ref-108)
109. *Prem Chand* v. *Union of India*, AIR 1981 SC 613. [↑](#footnote-ref-109)
110. *N.B. Khare* v. *Delhi*, AIR 1950 SC 211. [↑](#footnote-ref-110)
111. C K Prahlad “The Fortune at the Bottom at the Pyramid”- <http://www.jaipurfoot.org/01_org_profile_howitwaseash.asp> [↑](#footnote-ref-111)
112. <http://www.jaipurfoot.org/05_icamps_whatwedo.asp> [↑](#footnote-ref-112)
113. <http://acharya.iitm.ac.in/projects/nib.php> [↑](#footnote-ref-113)
114. <http://acharya.iitm.ac.in/projects/vikas.php> [↑](#footnote-ref-114)
115. <http://www.handicappedpeople.com/> [↑](#footnote-ref-115)
116. “Communication” includes languages, display of text, Braille, tactile communication, 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. [↑](#footnote-ref-116)
117. http://himachal.nic.in/finance/ES\_201011/EconomisSurveyEng1011.pdf [↑](#footnote-ref-117)
118. See AR 2009, p. 4 for district-wise data. [↑](#footnote-ref-118)
119. See AR 2009, p. 4 for district-wise data. [↑](#footnote-ref-119)
120. http://yanam.gov.in/schemes/wcd.pdf; http://yanam.gov.in/schemes/social.pdf [↑](#footnote-ref-120)
121. [Civil Appeal No. 5845 of 2009, Decided on Aug 28, 2009.] [↑](#footnote-ref-121)
122. Mithu Alur *Invisible Children A Study of Policy Exclusion* ( 1998) [↑](#footnote-ref-122)
123. http://www.ecdgroup.com/download/gn1ssfai.pdf [↑](#footnote-ref-123)
124. Mohini jain vs State of Karnataka (1992) 3 SCC 666; Unnikrishnan vs State of AP ( 1993) 1SCC 645. [↑](#footnote-ref-124)
125. Master J. Rajkumar v. The Secretary, Education Department (4-37) [↑](#footnote-ref-125)
126. State Council of Education Research and Training v. Ravi Dwivedi, AIR 2008 Del 97 [↑](#footnote-ref-126)
127. **F.No. 13(2)/95-CWC** [↑](#footnote-ref-127)
128. Annual Report to the People on Health, September, 2010; Ministry of Family Welfare [↑](#footnote-ref-128)
129. a recommendation of the National Commission on Macroeconomics and Health, endorsed by the NRHM and the Working Group on Health Care Financing including Health Insurance for the XIth Five-Year Plan and reiterated in the Eleventh Five-Year Plan document (2007–12) as well. [↑](#footnote-ref-129)
130. Annual Report on health submitted September, 2010 Ministry of Health and Family Welfare [↑](#footnote-ref-130)
131. NLEP Progress Report for the year 2009-10 for the year ending on 31st March, 2010 [↑](#footnote-ref-131)
132. Annual Report September 2010 Ministry of Health and Family Welfare. [↑](#footnote-ref-132)
133. Annual Report to the People on Health, Ministry of Health and Family Welfare, Government of India, September, 2008. [↑](#footnote-ref-133)
134. The scheme was introduced in 2008. [↑](#footnote-ref-134)
135. Accessed at http://www.thenationaltrust.co.in/nt/index.php?option=com\_content&task=view&id=111&Itemid=168 [↑](#footnote-ref-135)
136. Niramaya, An Insurance Scheme For The Disabled,The Hindu **(**Apr 13, 2011), accessed at <http://www.hindu.com/2011/04/13/stories/2011041355140500.htm>. [↑](#footnote-ref-136)
137. RFD Result Framework Document for Department of Health and Family Welfare, 2011-12 [↑](#footnote-ref-137)
138. Report of the Committee on Strengthening of National Institutes, Baswan Committee Report July 2011; (Constituted vide letter No. 22-44/2008-NI of 25.10.2010 of MoSJE, New Delhi) [↑](#footnote-ref-138)
139. According to one report recounting the experience of implementing CBR programmes exclusively for the visually impaired persons in India(on a sample basis) a group of 8 field workers, 2 itinerant teachers and one supervisor could cover 200 visually impaired persons in population of 2,00,000 within a period of two years. Further the per capita cost of such services was less than Rs.1500 which is considerably lower than any institutional programmes could be. (from the visual impairment site information:[](last visited on 17.8.2011)) [↑](#footnote-ref-139)
140. For details of the Scheme, refer table. [↑](#footnote-ref-140)
141. <http://nirtar.nic.in/ddrc.htm> [↑](#footnote-ref-141)
142. http://mod.nic.in/welfareschemes/welcome.html [↑](#footnote-ref-142)
143. 32. Appropriate Governments shall--

     (a) Identify posts, in the establishments, which can be reserved for the persons with disability;

     (b) At periodical intervals not exceeding three years, review the list of posts identified and up-date the

     list taking into consideration the developments in technology. [↑](#footnote-ref-143)
144. As per provisions u/s 32 of the PwD Act, an Expert Committee was constituted on 30.12.2010 to review and identify posts in Ministries/ Departments & PSUs in Central Govt. suitable for reservation for PwDs. The Committee is expected to submit report by 30.09.2011. [↑](#footnote-ref-144)
145. Secretary (Education) and Ors. V. Mr. Mukesh Chand and Anr., 154 (2008) DLT 499 [↑](#footnote-ref-145)
146. Ibid note 4. [↑](#footnote-ref-146)
147. K. Sudalai v. The Secretary to Government of Tamil Nadu Transport Department, The General Manager Tamil Nadu State Transport Corporation Ltd. (Madurai Division) and The District Employment Officer, (4-34) [↑](#footnote-ref-147)
148. Orissa Association for the Blind and Ors. V. State of Orissa & Ors., 98 (2004) CLT 716. [↑](#footnote-ref-148)
149. Smt. Ghanakeshi Sahu v. Director, Elementary Education and Ors., 99(2005) CLT 27. [↑](#footnote-ref-149)
150. **47. (1)** No establishment shall dispense with or reduce in rank, an employee who acquires a disabilityduring his service.

     Provided that, if an employee, after acquiring disability is not suitable for the post he was holding,could be shifted to some other post with the same pay scale and service benefits.

     Provided further that if it is not possible to adjust the employee against any post, he may be kept on asupernumerary post until a suitable post is available or he attains the age of superannuation, whicheveris earlier.

     **(2)** No promotion shall be denied to a person merely on the ground of his disability:

     Provided that the appropriate Government may, having regard to the type of work carried on in anyestablishment, by notification and subject to such conditions, if any, as may be specified in suchnotification, exempt any establishment from the provisions of this section. [↑](#footnote-ref-150)
151. AIR 2003 SC 1623 [↑](#footnote-ref-151)
152. G.M., T.N.State Transport Corporation ltd. v. Udayasuriyan, 2008 (118) FLR 815 (4-32); G.Selvarajan v. The Presiding Officer (4-31); Union of India v. Mohd. Kahn; Ms.Anubha Bhargava v. UOI and Ors. (2-19) [↑](#footnote-ref-152)
153. Union of India v. Mohd. Mobin Khan [↑](#footnote-ref-153)
154. Id.3 [↑](#footnote-ref-154)
155. E. Natarajan v. State of Tamil Nadu (2006) 2 MLJ 165 (4-30) [↑](#footnote-ref-155)
156. Ms. Anubha Bhagavav. UOI [↑](#footnote-ref-156)
157. Bhagwan dass- AIR 2008 SC 990 [↑](#footnote-ref-157)
158. Ibid. [↑](#footnote-ref-158)
159. Devki Nandan (Dr.) v. Union of India and Ors. [↑](#footnote-ref-159)
160. Ibid note 12. [↑](#footnote-ref-160)
161. Anandi Bihari and Ors. V. R.S.R.T. Corporation. And Ors., 1998 III LLJ (Supp) 1209; Narendra Kumar Chandla v. State of Haryana [1994]1SCR657 [↑](#footnote-ref-161)
162. Krishan Kumar v. Secretary, Govt. of NCT of Delhi and Ors. (2-17) [↑](#footnote-ref-162)
163. Govt. of NCT of Delhi v. Bharat Lal Meena and Anr. 100 (2002) DLT 157; Krishan Kumar v. Secretary, Govt. of NCT of Delhi and Ors. (2-17); K. Vellikannu v. Tamil Nadu State Transport Corporation (4-35); Kunal Singh; Bhagwan Dass [↑](#footnote-ref-163)
164. Section 3, Workmen’s Compensation Act, 1923 [↑](#footnote-ref-164)
165. Section 4, Workmen’s Compensation Act, 1923 [↑](#footnote-ref-165)
166. Tamil Nadu Cement Company v. N. Jayapalan, (1994) 1 LLJ 838 (Mad) [↑](#footnote-ref-166)
167. Ibid. [↑](#footnote-ref-167)
168. S.N. Mishra, Labour & Industrial Laws 369 (Central Law Publications, 2009). [↑](#footnote-ref-168)
169. Sections 4 and 5 of the Workmen’s Compensation Act, 1923 deal with the methods of calculating the amount of compensation to be paid, and the method to determine what the wages of a workman are. [↑](#footnote-ref-169)
170. National Insurance Co. Ltd. v. Mubasir Ahmed (2007) 1 LLJ 1035 (SC) [↑](#footnote-ref-170)
171. Status Paper on XIIth Plan by Working Group on Empowerment of Persons with Disabilities Ministry of Social Justice and Empowerment 24-5-11. [↑](#footnote-ref-171)
172. 40. The appropriate Governments and local authorities shall reserve not less than three per cent in all

     poverty alleviation schemes for the benefit of persons with disabilities. [↑](#footnote-ref-172)
173. National Rural Livelihoods Mission Framework for Implementation Ministry of Rural Development, Government of India [↑](#footnote-ref-173)
174. Based on information provided by NIEPMD to MoSJE vide No. NIEPMD/Admin.GC/2009-10/6433 [↑](#footnote-ref-174)
175. India Country Profile March 2003 ILO [↑](#footnote-ref-175)
176. Realising UNCRPD learning from Inclusive Practices Case Studies in Education and Employment UNNATI. [↑](#footnote-ref-176)
177. NABARD Annual Report 2009-10 [↑](#footnote-ref-177)
178. **RBI/2010-11/391  
     DNBS.CC.PD.No.208/03.10.01/2010-11** [↑](#footnote-ref-178)
179. Accessed at <http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=159&Section=Welfare%20Schemes&ParentID=0&Parent=1&check=0>. [↑](#footnote-ref-179)
180. Accessed at http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=160&Section=Welfare%20Schemes&ParentID=0&Parent=1&check=0. [↑](#footnote-ref-180)
181. http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11\_v3/11v3\_ch11.pdf [↑](#footnote-ref-181)
182. Department of Drinking Water and SanitationRajiv Gandhi National Drinking Water Mission available at http://t www.bharatnirman.gov.in/page2.html [↑](#footnote-ref-182)
183. http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11\_v2/11v2\_ch4.pdf [↑](#footnote-ref-183)
184. Section 34.1 of the**Handbook for Returning Officers (at Elections Where Electronic Voting Machines are Used) (2009),** Section 1.3of the **Handbook for Presiding Officers (at Elections Where Electronic Voting Machines are Used) (2009),** as well asSection 29.1 and Section 29.2 of the **Handbook for Returning Officers (For Elections to the Council of States** and **State Legislative Councils) (1992, reprinted 1996)** endorse the same [↑](#footnote-ref-184)
185. Source: <http://www.aicc.org.in/new/> [↑](#footnote-ref-185)
186. Source: <http://www.bjp.org/images/pdf/election_manifesto_english.pdf> [↑](#footnote-ref-186)
187. http://sites.google.com/site/accessibleelections/election-2009/CPIMarxistLokSabhaElection2009DifferentlyAbledRighttoLivewithDignity.pdf [↑](#footnote-ref-187)
188. http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11\_v2/11v2\_ch2.pdf [↑](#footnote-ref-188)
189. http://www.yas.nic.in/writereaddata/mainlinkfile/File779.pdf [↑](#footnote-ref-189)
190. http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11\_v2/11v2\_ch2.pdf [↑](#footnote-ref-190)
191. http://yas.nic.in/writereaddata/linkimages/7464328574.pdf [↑](#footnote-ref-191)
192. *Source:Census India 2001* [↑](#footnote-ref-192)
193. *Source:National Sample Survey Organisation 2002*  [↑](#footnote-ref-193)
194. [↑](#endnote-ref-1)
195. People with Disabilities in India: From Commitments to Outcomes, The World Bank, July 2009. [↑](#footnote-ref-194)
196. Development of an Internationally Comparable Disability Measure for Censuses; Washington Group on Disability Statistics (WG); 5th May 2008) [↑](#footnote-ref-195)
197. The inclusion of assistive devices was considered for two domains only, seeing and hearing, as limitations in these domains can often be overcome with the use of glasses or hearing aids. [↑](#footnote-ref-196)
198. [↑](#footnote-ref-197)
199. http://www.danidadevforum.um.dk/NR/rdonlyres/5974E25C-5674-49AC-8538-C160D41AE259/0/IndiaLeprosyCaseStory.pdf [↑](#footnote-ref-198)
200. Source: Thomas 2005c [↑](#footnote-ref-199)
201. http://www.dfid.gov.uk/Where-we-work/Asia-South/India/ [↑](#footnote-ref-200)
202. The European Commission's Humanitarian Aid department (ECHO) was set up to provide rapid and effective support to the victims of crises outside the European Union. ECHO's disaster preparedness programme (DIPECHO) targets vulnerable communities living in the main disaster-prone regions of the world. [↑](#footnote-ref-201)
203. Handicap International works in partnership with relevant stakeholders towards an inclusive, barrier free and rights based society. [↑](#footnote-ref-202)
204. http://www.disabilityindrr.org/ [↑](#footnote-ref-203)
205. http://www.unicef.org/infobycountry/india\_51776.html?q=printme [↑](#footnote-ref-204)
206. http://www.whoindia.org/en/Section3/Section122\_1699.htm [↑](#footnote-ref-205)
207. http://www.adb.org/documents/Conference/Disability\_Development/ind.pdf [↑](#footnote-ref-206)
208. http://pdf.usaid.gov/pdf\_docs/PDACF599.pdf [↑](#footnote-ref-207)
209. http://pdf.usaid.gov/pdf\_docs/PDACF599.pdf [↑](#footnote-ref-208)
210. http://www.jaipurfoot.org/01\_org\_whoarewe.asp [↑](#footnote-ref-209)
211. Ibid [↑](#footnote-ref-210)
212. http://www.thaindian.com/newsportal/feature/iraqi-nationals-learn-to-make-jaipur-foot\_100433428.html [↑](#footnote-ref-211)
213. http://www.thaindian.com/newsportal/health1/jaipur-foot-for-sri-lankan-amputees\_100333597.html [↑](#footnote-ref-212)
214. http://news.rediff.com/report/2010/feb/03/india-delivers-aid-money-to-haiti-jaipur-foot-low-cost-housing-next.htm [↑](#footnote-ref-213)