



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Initial report submitted by India under article 35
of the Convention, due in 2011^{*}, ^{**}**

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* The present document is being issued without formal editing.

** The annexes to the present document are available for consultation in the files of the Secretariat.

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Glossary

Anganwadi Worker	Community based worker
Badte Kadam	Marching ahead
Beedi	A thin often flavoured Indian cigarette made of tobacco wrapped in tendu leaf
Gram sabha	Local self-government at village or small town level
Mandal	Association
Mela	Fair
Panchayat	Local government
Panchayat raj	It is a system of governance in which gram panchayats are the basic units of administration. It has three levels village, block and district.
Parishad	Council/assembly
Parivaar	Family
Rashtriya Swasthaya Bhima Yojana	National health insurance policy
Rashtriya Madhyamik Shiksha Abhiyan	Universalization of secondary education
Sabha	Assembly
Sambhav	Making Inclusion Possible
Shishu Grah	Crèche
Sarva Shiksha Abhiyaan	Education for All
Samiti	Committee
Uddhar	Rehabilitation
Viklang	Disabled
Zilla	District

I. Common Core Document

A. Demographic and economic profile of the country

1. India is the seventh largest country in the world covering an area of 3.3 million sq. km. It is the second most populous country; the largest democracy in the world and a rapidly growing economy. With 2.4 per cent of the world surface area, India supports and sustains 17.5 per cent of the world's population.

B. Constitutional, political and legal framework

2. India attained its independence on 15th August, 1947. The Constitution of the country, which was formulated by a Constituent Assembly representative of all sections of Indian society, was adopted on 26 November 1949 and came into force from 26th January 1950. The inclusiveness of the polity is ensured by adopting universal adult franchise which confers the right to vote on every citizen of India above the age of 18 years.

C. Rights regime

3. The Indian Constitution provides broad categories of fundamental rights. While Part III of the Constitution provides for fundamental rights, which are justiciable and courts can be approached for their enforcement, Part IV provides for Directive Principles of State Policy which are fundamental in the governance of the country; and it shall be duty of the State to apply these principles in making laws. The laws and schemes referred in this section provide equal opportunities and prohibit all discriminations against every citizen of India, which also includes persons with disabilities.

4. 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 in it the right to live with human dignity and all that goes with it, including the necessities of life, such as adequate food and clothing, shelter, clean environment and basic education.

5. Right to education

In further recognition of the indivisibility of rights, the 86th Constitution Amendment Act provides free and compulsory education for children between the age group of 6 to 14 years as a fundamental right. The measures to realize this right have been incorporated in the Right of Children to Free and Compulsory Education Act, 2009.

6. Right to information

The Right to Information Act was enacted in 2005 for citizens to secure access to information under the control of public authorities, and to promote transparency and accountability in the working of every public authority. The Act gave the citizen the right to seek information on all matters except those which were expressly prohibited by statute. The statute has both designated information officers who would be obliged to address the requests of the citizen.

7. Employment guarantee

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is a major scheme providing livelihood security to the rural poor. This programme was implemented from February 2006. The objective is to provide livelihood security to the people in rural areas by guaranteeing at least 100 days of wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. It provides that employment should be given within 15 days of application for work and if not, then, daily

unemployment allowance in cash has to be paid. It provides a social safety net for the vulnerable households, and an opportunity to combine growth with equity.

8. **Rural health care programme**

The National Rural Health Mission (NRHM) was launched in 2005 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. Immunisation programme is one of the key interventions under the NRHM for protection of children from preventable life threatening conditions. The Twelfth Plan focuses that the gains of the flagship programme of NRHM, which is to be strengthened under the umbrella of National Health Mission (NHM) which will have a universal coverage. A major component of NHM is proposed to be a Scheme for providing primary health care to the urban poor, particularly those residing in slums. NHM would give the States greater flexibility to make multi-year plans for system strengthening, and addressing threats to health in both rural and urban areas through interventions at Primary, Secondary and Tertiary levels of health care. From January 2012 workers in the unorganised sector have been brought under the cover of Rashtriya Swasthya Bima Yojana through which they are entitled to smart card-based cashless health insurance cover of 485 USD per family every year. The benefits of the scheme have been extended to building and other construction workers, the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) beneficiaries, street vendors, beedi workers and domestic workers.

9. **Remedies**

The institutional safeguards for the rights enshrined in the Constitution include an independent judiciary and separation of the judicial and executive functions. Legislation in India is subject to review by courts as per its constitutionality, and the exercise of executive power is subjected to different forms of judicial review. In the event of infringement of an individual's fundamental rights, the right to move the highest court in the land i.e., the Supreme Court, has been given as a fundamental right.

10. **General framework for the protection and promotion of human rights**

India is a Party to major human rights Conventions and is fully committed to the rights proclaimed by 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 (CRC). In 2005, India ratified the two Optional Protocols to the Convention on the Rights of the Child and recently, the Convention on the Rights of Persons with Disabilities.

11. **Legal framework for the protection of human rights at the national level**

In order to provide protection to the human rights through national institutions, the Protection of Human Rights Act 1993 was enacted by the Indian Parliament. This Act allowed the establishment of National and State Human Rights Commissions. The jurisdiction of these Commissions has been apportioned keeping in view the federal structure of the country. The National and State Commissions perform various functions for the protection of human rights. The Human Rights Commissions have the power to inquire and authority to take up and follow up actions on the findings; making suitable recommendations to the concerned government; approach the High Court or the Supreme Court for such directions, orders or writs as that Court may deem necessary; recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family, as the Commission if consider necessary.

12. Other than the National and State Human Rights Commissions (NHRC), dedicated Commissions to address their concerns have been established in order to address the concerns of other vulnerable groups.

13. The National Commission for Women (NCW) was set up by an Act of Parliament in 1990 to safeguard the rights and entitlements of women in the country. The NCW is responsible for the study and monitoring of constitutional and other laws relating to women, review of existing legislation and investigation of complaints concerning the rights of women. It looks into the complaints and takes suo motu notice on matters relating to deprivation of women's rights, thus, facilitating redressal of grievances. Sections 57 and 60 of the Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act of 1995 [hereinafter PWDA] provide for the appointment of a Chief Commissioner and Commissioners for persons with disabilities at the federal and state level. The Chief Commissioner and Commissioners have been empowered by Sections 59 and 62 respectively of PWDA to look into the complaints relating to "deprivation of rights of persons with disabilities (hereinafter PwDs); non-implementation of laws, rules and bye-laws, regulations, executive orders, guidelines and instructions made or issued by the appropriate government and the local authorities for the welfare and protection of rights of PwDs and take up the matter with the appropriate authorities".

14. 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.

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

16. Department of empowerment of persons with disabilities

The Ministry of Social Justice and Empowerment (MoSJE) in the Union Government is the administrative Ministry dealing with empowerment of disadvantaged and marginalized sections of the society including PwDs. In order to provide focus on issues related to disabilities, a separate Department was created under the Ministry named Department of Empowerment of Persons with Disabilities (DEPwD) in 2012 to provide a fillip to the growing needs and aspirations of the PwDs.

II. Structure, Methodology and Terminology

17. Structure

This initial report is being submitted to fulfil the obligation placed on State Parties under Article 35 (1) of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter UNCRPD). In accordance with para. A2.1 of the Reporting Guidelines, first a common core document has been drafted, which imparts general information on the country and "the general framework for the protection and promotion of human rights, disaggregated according to sex, age, main population groups and disability, as well as information on non-discrimination and equality, and effective remedies". Secondly, the treaty specific analysis has been undertaken. In order to enable the Committee to understand the ground situation, the UNCRPD has prompted changes which are being carried out; this part of the report also provides information on the manner in which the country has engaged with disability issues before the UNCRPD came into force. Subsequently the initiatives taken and proposed under specific articles of the UNCRPD have been reported.

18. Methodology

All concerned Ministries and Departments of the Government of India have contributed in the preparation of this document along with other stakeholders, including the national and state human rights Commissions and non-governmental organisations working in the field of human rights and related aspects. MoSJE which is the administrative ministry dealing

with disability rights invited inputs on the UNCRPD related initiatives from all concerned ministries that is Ministry of Home Affairs, the Ministry of Minority Affairs, the Ministry of Consumer Affairs, Food and Public Distribution, the Ministry of Health and Family Welfare (MoHFW), the Ministry of Housing and Urban Poverty Alleviation, the Ministry of Human Resource Development, the Ministry of Labour and Employment, the Ministry of Law and Justice, the Ministry of Panchayati Raj, the Ministry of Rural Development (MoRD), the Ministry of Statistics and Programme Implementation, the Ministry of Tribal Affairs, and the Ministry of Women and Child Development. Contributions were also invited from all State Governments and Union Territories. Contributions were also received from the National Human Rights Commission; the National Institutes; the National Trust; the Rehabilitation Council of India; and the Chief Commissioner of PwDs. On the basis of the inputs received and the independent collection of relevant material, a draft report was placed, which was intensively discussed at a National Consultation according to which all concerned ministries; state governments, disability rights advocates, representatives from organizations for PwDs and disability rights experts were invited. The Report was also made virtually available to enable stakeholders to provide their feedback. On the basis of the feedback received, the next draft of the report was prepared, which was presented to the Central Coordination Committee, which is the apex disability policy making body in the country established under the PWDA and consisting of concerned ministries and state governments with due representation of non- governmental organizations working in the field of disability.

19. Terminology

The report has primarily preferred to use the terminology of the Convention and consequently the nearly exclusive description of the subjects of the report is PwDs. However, at some points in the report whilst referring to various law and policy documents terms such as “handicapped”, “mentally retarded”, “differently-abled”, and “children with special needs” have been used. This usage is dictated by the original legislation, policy or rules that have been employed them. To underscore that this is not the preferred terminology of this report, whenever used, these terms shall be placed within quotes.

III. Treaty Specific Articles

Articles 1-4

20. Definition of persons with disabilities

<i>Statute</i>	<i>Section</i>	<i>Definition</i>
Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter PWDA)	2 (i)	Disability means- (i)blindness; (ii) low vision; (iii) leprosy-cured; (iv) hearing impairment; (v) locomotor disability; (vi) mental retardation; (vii) mental illness”. The statute then goes on to define each of the conditions on a severity scale.
	2 (t)	“person with disability means a person suffering from not less than forty per cent of any disability as certified by a medical authority”
Rehabilitation Council of India Act of 1992	2 (c)	handicapped means — (i) visually handicapped; (ii) hearing handicapped; (iii) suffering from locomotor disability; or (iv) suffering from mental retardation
Mental Health Act of 1987 “Mentally ill person means”	2 (l)	“a person who is in need of treatment by reason of any mental disorder other than mental retardation”.

<i>Statute</i>	<i>Section</i>	<i>Definition</i>
National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999	2 (j)	“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 conditions and includes a person suffering from severe multiple disability”
“person with disability means”	2 (h)	multiple disabilities means a combination of two or more disabilities as defined in clause (i) of section 2” of PWDA.

21. Long term as understood in Indian law

The question of 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.

22. The issue of duration also comes into play while providing certification to PwDs. The responsibility of determining who is a PwDs has been placed upon 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*”.

23. Administrative inclusion

The PWDA is an entitlements guaranteeing statute. It has therefore been vital to ensure that only rightful claimants obtain these entitlements. The disability certificate is issued by a designated Medical Board of three members as given in the PWD Rules, 1996. However, it was recognized that the disability certificate ensured that a PwD obtained the benefits guaranteed by the statute and other schemes. Consequently, from January, 2010, the rules have been modified to replace the Medical Board with a general practitioner in the district of the applicant’s residence, in case of visible disabilities such as amputations, complete paralysis and blindness. A specialist doctor can do so in other cases for multiple disabilities. However, in complicated cases, more than one specialist may be required.

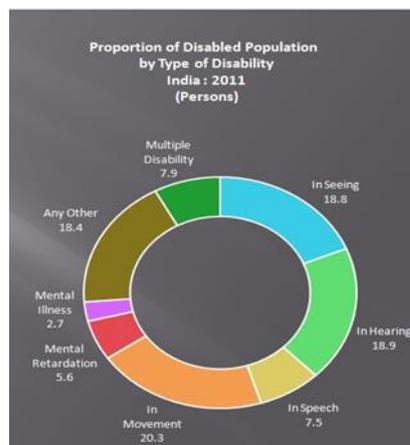
24. Counting of persons with disabilities

Whilst the definitions of PwDs have been constructed in laws and policies to settle entitlements; the counting of PwDs is undertaken to guide the planning process. In the 2011 Census, the following disabilities have been covered for enumeration (i) In seeing, (ii) In hearing (iii) In speech (iv) In movement (v) Mental Retardation (vi) Mental Illness, (vii) Multiple disabilities (viii) Any other.

Types of disabilities at all India level and percentage of disabled population by residence

Percentage of Disabled to total population
India, 2011

Residence	Persons	Males	Females
Total	2.21	2.41	2.01
Rural	2.24	2.43	2.03
Urban	2.17	2.34	1.98



25. Reasonable accommodation

Though disability does not incorporate the principle of reasonable accommodation, however the Indian Courts have relied upon a principle analogous to reasonable accommodation while addressing issues around the retention and relocation of workers who have acquired disability.

26. General principles

A number of Indian Courts have referred to the values and principles of the UNCRPD even without legislation. Further, Principles (a) to (g) of UNCRPD are in accordance 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. The provisions of PWDA draw from principles (c) and (f) of UNCRPD. India has ratified the CRC. Also the extent of evolving capacity of the child does inform the enunciation of child rights in the country.

27. State obligations

The ratification of the UNCRPD by India is to advancement of the Constitutional principles. For effective implementation of the UNCRPD commitments, it is important to elaborate the subsisting laws, policies, plans, programs and the other initiatives, the country has taken relating to PwDs.

28. Persons with disabilities (equal opportunities protection of rights and full participation) act of 1995

India, as already stated, as a federal country and in the legislative division of power the subject of enacting a law relating to PwDs residing in the States vide item number 9 “relief to the disabled and unemployable”. A central legislation that has been enacted in 1995, by utilizing the powers, conferred under Article 253 of the Constitution, which enabled the Union legislature to make laws on matters included in the State list in order to give effect to international agreements. India was a signatory to the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region. In order to enforce the international commitment made in the country, the Union legislature enacted “The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation Act), 1995”. The PWDA provides education, rehabilitation, employment, non-discrimination and social security for PwDs. The broad provisions of the Act, chapter wise, are given as follows:

Table 4.1 Broad provisions of persons with disabilities act of 1995

Chapter	Sections	Title
I	1-2	Preliminary, Definitions

Chapter	Sections	Title
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

29. The PWDA is concerned with the socio-economic entitlements to PwDs. These rights have been guaranteed subject to economic capacity and development of the State. The vehicle of schemes and programmes that has been used to realize the rights are guaranteed by the statute. Along with launching their own schemes and programs, the State governments have assisted the implementation of the schemes and programs launched by the Union. The MoSJE by notification dated 30th April 2010 established a High Powered Committee having membership from civil society, Union Ministries, State governments and disability specific entities such as the National Trust, Rehabilitation Council of India and Chief Commissioner for Persons with Disabilities, to formulate a new Disability Rights Law for the country.

30. **The mental health act in 1987** (hereinafter MHA) only addresses the “persons with mental illness amongst PwDs. Section 2(1) of the MHA defines a mentally ill person as “*a person who is in need of care and treatment by reason of any disorder other than mental retardation*”. The statute of MHA provisions are annexed at [Annexure 1](#).

31. The right to liberty, integrity, living independently in the community are also the principles by which health care should be provided have come into play whilst evaluating the MHA on the UNCRPD touchstone. The process of amending MHA was initiated by the MoHFW based on the recommendation from the national consultation in January, 2010. Upon processing the inputs received, at five regional and one national consultations, the MoHFW decided that it was desirable to enact a new mental health law instead of amending MHA.

32. **National trust for the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities act in 1999 (NTA)**

In comparison to the PWDA, 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 protection was supposed to be provided by establishing a National Trust with a mandate to:

- (a) Enable and empower PwDs to live independently and as fully as possible within and close to their communities;
- (b) Strengthen the facilities to provide support to PwD to live within their own families;
- (c) Extend the support to registered organisations to provide, need based services during period of crisis in the family of PwD;
- (d) Deal with problems of PwDs, who do not have family support;
- (e) Promote measures for the care and protection of PwDs in case of the deaths of their parents or guardians;
- (f) Establish procedure for the appointment of guardians and trustees for PwDs who require such protection;
- (g) Facilitate the realization of equal opportunities, protection of rights and full participation of PwDs; and
- (h) Do any other act, which is incidental to the aforesaid objects.

33. The main activities of the National Trust, inter-alia, include training, awareness and capacity building programmes and shelter, care giving and empowerment. The National Trust is committed to facilitate equal opportunities, protection of rights and full participation of PwDs, covered under the Act. The National Trust provides funds for conducting training programmes for Government officials, professionals, parents and siblings.

34. The statute also made provision for setting up caretaking arrangements for persons with intellectual and developmental disabilities in the absence of their parents; it also focused on training them for self-advocacy and empowerment. It also required the appointment of authorities to consider whether a guardian was required at all and if so then which areas of the lives of PwDs should be subjected to the guardianship arrangement. The NTA, thereby for the first time made provision for limited guardianship in Indian law.

35. **The rehabilitation council of India (RCI)** 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. The Council is required to:

- (a) Determine minimum standards of education (Section 18);
- (b) Make recommendations to the Department regarding recognition of qualifications granted by Universities, etc., in India for rehabilitation professionals (Section 11);
- (c) Make recommendations to the Department regarding recognition of qualification by institutions outside India (Section 12);
- (d) Conduct Inspection in examinations (Section 15);
- (e) Register rehabilitation professionals/other personnel (Section 19) and
- (f) Determine privileges and professional conduct of registered persons (Section 20).

36. The RCI has undertaken the exercise to determine what kind of changes would be required in the statute to make the legislation in conformity with the UNCRPD. Amongst other changes the Council has proposed that it shall promote development of resources and materials in accessible formats and of universal design; apply the principle of reasonable accommodation with respect to PwDs in matters of training and evaluation; and promote the training of professionals and staff working with PwDs in the rights, recognized in the UNCRPD.

37. **The national policy for persons with disabilities in 2006** was formulated before the adoption of the UNCRPD. The Policy grounded its goal of inclusion on the values of equality, freedom, justice and dignity enshrined in the Constitution of India. The policy

chalked out the implementation strategies recognized in the PWDA and focused its attention on those issues which were not recognized by the law. 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.

38. **The twelfth five year plan (2012-2017)**

In order to ensure socio-economic development, India has a planning process by formulating goals and strategies for every five years. The Twelfth Plan focuses to look into three key aspects: (i) Recognition; to the extent, to which the development, competence and emerging personal autonomy of PwDs are enhanced through the realisation of the various agreed National and International Conventions and Programmes; (ii) Empowerment; in terms of denoting the rights of PwDs with respect their capacities and by the transfer of various legal rights; (iii) Protection; acknowledging that PwDs have “un-evolved” capacities as a consequence to their disabilities and thereby have the right to protection; on the part of parents, community and the State from abuse and from participation in activities, which are likely to cause them harm them. In all three cases, there are obligations on States to respect, protect and promote the right of the PwDs. The Plan also emphasizes on service delivery and generation of public awareness about disability rights. In the area of service delivery the challenges to be addressed include: making a large number of products, public services and information services accessible to PwDs, improving participation and completion rates of students with disabilities at various stages of education (elementary, secondary and tertiary), reducing disproportionate incidence of poverty among the PwDs, enhancing nutrition, health and housing at least upto a reasonable level; identifying exclusive implementing agencies for programmes meant for PwDs in States and strengthening existing agencies. The Twelfth Five Year Plan emphasized the need to adopt the strategy of: (i) Involvement of PwDs in evolving strategies of the government and involving organizations of PwDs and their representatives in the decision-making processes; and (ii) Inclusion of PwDs in the strategies and activities of all government programmes.

39. **National institutes**

The establishment of the seven National Institutes has contributed to the enhancement of specific research and interventions in the country:

- National Institute for the Physically Handicapped (IPH) set up in 1976;
- National Institute for the Orthopedically Handicapped established in Kolkata (NIOH) in 1978;
- The National Institute for Visually Handicapped (NIVH), established in Dehradun 1979;
- National Institute for the Hearing Handicapped (NIHH), established in Mumbai in 1983;
- National Institute for Mentally Handicapped (NIMH), established in Hyderabad in 1984;
- The National Institute of Rehabilitation Training and Research (NIRTAR), established in Cuttack in 1984; and
- National Institute for Empowerment of Persons with Multiple Disabilities (NIEPMD), established in Chennai in 2005.

40. Total number of beneficiaries of rehabilitation services provided by seven National Institutes was 10,19,799. Following table reflects the estimate number of OPD cases in these National Institutes:

<i>National Institutes</i>	<i>OPD cases during 2014-15</i>
National Institute for the Physically Handicapped	74 265
National Institute for the Orthopedically Handicapped	57 015

<i>National Institutes</i>	<i>OPD cases during 2014-15</i>
The National Institute of Rehabilitation Training and Research	39 546
National Institute for the Hearing Handicapped	36 306
The National Institute for Visually Handicapped	26 327

41. All these National Institutes have a broad mandate to undertake research to promote education, rehabilitation and empowerment of PwDs. Various research and development initiatives have also been undertaken by National Council for Educational Research and Training (NCERT), New Delhi; Department of Science & Technology; Indian Institutes of Technology; the Department of Electronics and Information Technology (DeITY). DeITY has developed a set of software and hardware products specifically for Braille Literacy in Indian Languages. The design and development unit of NIVH has produced more than 30 prototypes of devices including Braille devices for persons with visual disabilities. Further, the Department of Electronics and Information Technology has funded the following projects for PwDs:

(a) National Programme for Braille Literacy in Indian languages with the application of information technology and Development of High Speed Inter point Braille Embosser;

(b) 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;

(c) Design and development of Hand Held Scanner based on Hindi and English Text Reading Machine for visually impaired persons;

(d) Information technology for Internet Access and Rehabilitation for the Visually Impaired;

(e) Icon based education and communication systems for the people affected with cerebral palsy in Nepali language; and

(f) Project proposal on a Computational Analysis of speech impairments, in children and development of subsequent therapy.

42. **Respecting the right to participation**

In order to fulfil the commitments of Article 4(3) of UNCRPD, it is necessary to promote advocacy and civil society participation. The extent of respect accorded to the right to participation can be deduced from the manner of the text, proposed in the Rights of Persons with Disabilities Bill (RPDB). The committee widely consulted with PwDs and their organizations before putting up a working draft RPDB.

43. On the lines of the consultative process, adopted for formulation of the Twelfth Five Year Plan Document, the draft of this Country Report was deliberated at a National level Consultation. The inputs were provided by civil societies, State Governments and Union Ministries at this meeting to formulate the next draft which was presented to the Central Coordination Committee, which is the apex disability policy making body in the country.

Article 5 — Equality and non-discrimination

44. **Constitutional mandate of equality as applicable to disability rights**

Article 14 of the Indian Constitution provides that the State shall not deny any person equality before the law or equal protection of the law within the territory of India. This fundamental right in the Indian Constitution is in conformity with Clause (1) of Article 5 of the UNCRPD.

45. Disability as prohibited ground of discrimination

Articles 15 (1) and 16 (1) of the Indian Constitution prohibit discrimination against any citizen on the grounds of religion, race, caste, sex, place of birth or any of them, which also includes PwDs and this is in accordance with Article 5 (2) of UNCRPD.

46. Human rights conventions and constitutional jurisprudence

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 the international law and treaty obligations.

47. Affirmative action measures

The Constitution of India recognizes affirmative action as an integral part of the right to equality. The Indian Constitution is in accordance with Article 5 (4) of the UNCRPD, which clarifies those specific measures which are necessary to accelerate or achieve *de facto* equality of PwDs, i.e. non-discrimination.

48. Equality and non-discrimination in the disability legislation

India enacted the PWDA, 1995 in order to fulfil of its obligation as a signatory to the proclamation on the full participation and equality of persons with disabilities in the Asia and Pacific region, this pre-UNCRPD legislation was the first statute which recognized the rights of PwDs in the country. 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 gives 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 states that 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”.

49. There have been a number of judicial decisions that have enunciated and forewarned the principle of non-discrimination inherent in PWDA. These decisions have sought to discontinue of discriminatory practices against PwDs on grounds of equality under Article 14 of the Constitution and the right to life under Article 21 of the Indian Constitution. Thus, for example, all blind persons, who have fulfilled all other eligibility requirements, were held entitled to appear in the civil service selection examination and to write the exam in braille or with the help of a scribe. No PwD shall be denied promotion on ground of his disability, provided he discharges the higher functions of the promotional post.

Article 6 — Women with disabilities**50. Constitutional provisions**

Article 15 of the Constitution of India prohibits the State from discriminating on the basis of sex. The Article however contains a provision stating that nothing should prevent the State from making special provisions for women. Article 16 states that the State shall not discriminate on the basis of sex with regard to equality of opportunity 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 equal treatment of both women and men.

51. The status of women with disabilities in India: a demographic profile

Census 2011 has revealed that there are over 26.8 million PwDs in India, which constitutes 2.21% of the population. Among these about 15 million are men and 11.8 million are women. Thus, women with disabilities constitute 44% of the total disabled population.

52. **The national policy for persons with disabilities in 2006**

Even though the National Policy for PwDs, 2006 was finalized before the UNCRPD it endorsed the need for special attention to doubly disadvantaged groups by creating a separate section on Women with Disabilities. The National Policy aimed at the development of special programmes for education, vocational training, employment and other rehabilitation services to women with disabilities. It advocates that rehabilitation of women and girls with disabilities should 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 on giving financial support to women with disabilities so that they may hire services to look after their children.

53. **The twelfth plan of India**

The Twelfth Plan focuses to engender all programmes aimed at the differently-able. The problems and needs of the most vulnerable groups among the persons with disabilities such as women, homeless and those with severe/or multiple disabilities require special and intensified focus in the Twelfth Plan. The Steering Committee on Women's Agency and Child Rights emphasize on sensitisation and training of school teachers and Anganwadi Workers (AWWs), vocational training and assured employment for women with different abilities, and special rehabilitation services along with care provisions. The Committee also recommends provisions for light work and separate calculation of wage rate for rural women with special needs, who seek work under MGNREGA. Women with different abilities also require specific health focus. For this, under RSBY a special health card should be given to such women to facilitate regular medical check-ups. The Steering Committee also recommends that 100% subsidy under Total Sanitation Campaign (TSC) should be provided for construction of toilets in households, where are differently able women.

54. **The protection of women from domestic violence act in 2005**

In the context of violence and exploitation within the family, Section 3 of the Protection of Women from Domestic Violence Act, 2005 defines domestic violence as "any act omission or commission or conduct of the respondent shall constitute domestic violence in case it: (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse; (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person. Whereas "physical abuse" means any act or conduct, which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health. The Act provides for immediate and emergency relief to women facing domestic violence in the form of protection order, a coordinated implementation mechanism, consisting of protection officer, temporary custody order, monetary reliefs, compensation for emotional distress resulting from violence, shelter homes, that are mandated to provide better access to justice and other supportive services.

55. **Statutorily ensuring participation in governance**

The need to provide women with disabilities an opportunity to represent their own cause has been recognized in the PWDA. The statute mandates establishment of Central and State Coordination Committees as well as Executive Committees. All these Committees are required to have "*five persons as far as practicable being PwDs 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.

56. **Women specific redress**

The National Commission for Women and State Women Commissions, whenever approached have, redressed the grievances of women with disabilities.

57. Schemes and programmes for women with disabilities

The Government has schemes which promote entrepreneurship and employment besides providing child support.

Initiatives by the Central Government

<i>Particulars</i>	<i>Ministry/Institute</i>	<i>Provisions</i>
Child Care	Ministry of Personnel, Public Grievances and Pensions	16 US Dollars (Rs, 1000) per month shall be paid as special allowance for child care to women with disabilities for maximum two children or till the child is two years old. There will be an increase by 25% every time the Dearness allowance on the revised pay structure goes up by 50%.
Employment	National Scheduled Caste Finance Development Corporation (NSFDC)	1% rebate in the interest for women with disabilities under all its schemes including micro-credit scheme
	National Handicapped Finance and Development Corporation (NHFDC)	Special rebate of 2% on interest is given to women with disabilities in all the schemes of NHFDC.
	Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment	Scheme of assistance to disabled persons for purchase/fitting of aids and appliances (ADIP scheme), 25% of the budgetary allocation is earmarked for women Several Vocational Rehabilitation Centres (VRC) have been set up by the Government. One such VRC for Handicapped at Vadodara is exclusively for the disabled women
Awards		Seven National Awards for Empowerment of PwDs are reserved for women with disabilities

Article 7— Children with disabilities

Constitutional recognition to rights of children

58. 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.*”

59. It would be pertinent to mention that 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 2011 estimates the following percentage of children with disabilities.

Percentage of children with disabilities

<i>Age Group (years)</i>	<i>Children with disabilities (%)</i>
0-4	1.14

<i>Age Group (years)</i>	<i>Children with disabilities (%)</i>
5-9	1.54
10-19	1.82

60. Principles in governing child rights policy

<i>Child Rights Policy</i>	<i>Objective</i>
The National Policy for Children, 2013	The Policy takes special care of the children with disabilities and aims to provide, on a priority basis, health, nutrition, development, education, protection and participation, for them. This policy guides and governs all laws, policies, plans and programmes affecting children.
The National Charter for Children, 2003	The charter inter alia, aims to ensure that children with disabilities are helped adequately to lead a full life with dignity and respect, integrated into the mainstream, provided education, training, health care, rehabilitation, recreation and early intervention.
The National Plan of Action for Children, 2005	It 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, vocational training and other specialised rehabilitation services for children with disabilities.
The National Policy for Persons with Disabilities, 2006	<ul style="list-style-type: none"> • To ensure right to care, protection and security for children with disabilities; • To ensure the right to development with dignity and equality creating enabling environment, where children can exercise their rights, enjoy equal opportunities and full participation; • To ensure inclusion and effective access to education, health, vocational training along with specialized rehabilitation services to children with disabilities; and • To ensure the right to development as well as recognition of special needs and of care, and protection of children with severe disabilities.

61. PWDA provisions

PWDA makes special accommodations for children with disabilities. The Act requires each State 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 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 schools, primary health centres and by 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;

- ensure to provide free education in an appropriate environment to all children with disabilities;
- enrolment in mainstream schools to the extent possible, and also requirement of non-formal education be promoted;
- promote research for the development of aids, assistive devices and teaching materials for children with disabilities, and to envisage the setting up teacher training institutes to cater to needs of children with disabilities;
- provisions to ensure for transport facilities, removal of architectural barriers, supply of books and uniforms, grant of scholarships;
- setting up grievance redressal mechanisms reasonable accommodations in the examination system and curriculum to suit the needs of children with disabilities.

62. **Enactments for care and protection of children**

According to the Juvenile Justice (Care and Protection of Children) Rules, 2007 “community service” implies service, rendered to the society by juveniles in conflict with law in lieu of other judicial remedies and penalties. The “best interest of the child” is a paramount consideration under the Act, and governs all decisions related to children in need of care and protection; children in conflict with law include children with disabilities. For children in need of care and protection, the Act provides the establishment of Child Welfare Committees (CWC) that are exclusively responsible for their care and protection. Rehabilitation, restoration and social integration of these children is provided through non institutional and institutional care such as adoption, sponsorship, foster care, after care and through homes such as Children’s Homes which include units for Children with Special Needs and Specialized Adoption Agencies (SAA), for children below the age of six years.

63. ‘A programme for Juvenile Justice’, is a scheme providing services, mandated under the Juvenile Justice Act that was merged in 2009-10 in a Centrally Sponsored scheme, called the Integrated Child Protection Scheme (ICPS) to financially support the initiatives under the scheme *inter alia* including institutional services; specialized services for children with special needs; emergency outreach services for children in difficult circumstances through Childline; family based non institutional care, and Child Tracking System including a website for missing children.

64. The MHA envisages the setting up 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.

65. Recognising the problem of children sexual abuse, which requires stringent legal provisions, the Protection of Children from Sexual Offences Act, 2012 was enacted. The Act defines a child as any person below 18 years of age, and regards the best interests and well-being of the child ensuring the healthy physical, emotional, intellectual and social development of the child. It defines different forms of sexual abuse and conditions such as when the abused child is mentally ill. People who traffic children for sexual purposes, are also punishable under the Act. The Act also provides mandatory reporting of sexual offences and casts the police in the role of child protectors during the investigative process. The police is also required to bring the matter to the attention of the Child Welfare Committee (CWC) within 24 hours of receiving the report, for the safety and security of the child.

66. **Monitoring of child rights**

National Commission for Protection of Child Rights (NCPCR) was set up in 2007 as an independent statutory commission, with similar commissions envisaged at State level as State Commissions for Protection of Child Rights (SCPCRs). The NCPCR, SCPCR and Children’s Courts provides a forum for the speedy trial of legal matters relating to children. The Commission has the power to enforce compliance with laws, judicial decisions in area of child rights and can take various measures for the protection of children, including children with disabilities.

67. **Equality of treatment in schemes and programmes**

The **Sarva Shiksha Abhiyan (SSA)**, is the flagship programme of the government to provide universal and inclusive education to children in the 6-14 age group. 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 schools. The SSA provides up to 50 US Dollar per child for the inclusion of child with disability per year, with 16 US Dollar earmarked exclusively for engagement of resource teachers.

Article 8 — Awareness raising

68. **Statutory obligations under the PWDA and NTA**

Both the PWDA and NTA make provision for education and awareness raising programmes primarily around the prevention and early detection of disabilities. Section 25 (e) (g) and (h) of the PWDA provides awareness campaigns on general hygiene, health and sanitation; education of the public through schools and primary health workers and through television, radio and other mass media in disseminating information on the causes of disabilities and the preventive measures to be adopted. 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”. The Board of the Trust under Section 11 (2) (a) of NTA approves any programme “which promotes independent living in the community for PwDs by creating a conducive environment in the community”.

69. **Campaigns and awareness raising programmes**

National Trust envisioned “Badhte Kadam” in 2008 as a pan-India campaign to create awareness about the UNCRPD and the National Trust. Along with mass media and civil society partners, the National Trust used social networking websites to spread the “Badhte Kadam” message.

70. The campaign strategy was used to spread awareness on the disability question in the 2011 Census. A nationwide campaign “Count Us In” was undertaken for better and more comprehensive inclusion of PwD in census 2011. This campaign was carried out through rallies, radio stations, print and electronic media.

71. Before the ratification of UNCRPD, a large proportion of the awareness raising in the field of disability has been around prevention of impairments. After the ratification of the UNCRPD, the focus of the Union and the States shifted to the rights of PwDs. The Convention has been translated into the regional languages and training programmes on the Convention are being organized from the district to the national level. National Institutes have been undertaking various activities for awareness raising and training with regards to UNCRPD.

72. **International Day of Persons with Disabilities (IDPD)**

3rd December is commemorated as International Day of PwDs to foreground the concerns of PwDs in the public domain. On this day, pan-India events are organised addressing disability. Issues like prejudices, harmful practices and health related concerns pertaining to prevention of disability are focused through awareness programmes.

73. **Louis Braille bicentenary**

4th January 2009 was the bicentenary of Louis Braille. On that day, a special commemorative postal stamp and one rupee and 100 rupee coins were released by the Department for Economic Affairs. Braille books, published in Indian languages by National Book Trust, were also released on this occasion.

74. **National awards for the empowerment of persons with disabilities**

In recognition to the sincere and dedicated services rendered for the empowerment of the PwDs, the Government of India has been giving National Awards to outstanding individuals and institutions working in the field of disabilities, on IDPD since 1969. The

awards serve the purpose of empowering and inspiring PwDs and persons working in the disability sector. Both Central and State Governments distribute these awards on IDPD. The category of Best Accessible website was introduced in 2010. There are now 63 awards, comprising of a cash award up to 1666 US Dollars, a medal, a citation and a certificate.

75. **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” on disability. The portal is designed to provide all related information relating to different disability issues on one platform.

76. **Films and TV serials as means of awareness raising**

“We Care” Film Fest is an annual international festival of documentary films on disability issues. It is organized by the brotherhood with the support of National Trust and in association with the United Nations Information Centre for India and Bhutan, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Asian Academy of Film and Television.

Article 9 — Accessibility

77. **Legislative recognition of accessibility**

PWDA addresses the issue of physical accessibility by recognizing, how without it the other rights can be rendered nugatory. Section 30(b) of PWDA 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. The PWDA provisions have been implemented through government schemes and programmes.

78. The statutory commitment for accessibility was advanced in the National Policy for Persons with Disability (2006) has chalked out the accessibility as follows:

- “buildings, other places and transportation systems for public use to be made barrier free”;
- all schools to be completely disabled friendly by 2020;
- 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 the adoption and implementation related scrutiny to be granted to local self-government authorities;
- public transport to be made accessible for PwDs;
- railways that should make all coaches accessible to PwDs in a phased manner, and must make all its stations completely accessible for PwDs;
- safety standards and disabled-friendly environment must be enforced in public sector utilities; and
- provision for access audits to all public buildings.

79. **The National Building Code India 2005** incorporated detailed provisions for construction of buildings and made accessible design an inherent part of all plans. The enforcement of these codes and guidelines reside with the local authorities. To enable enforcement of these authorities, it is important that accessibility should be an integral part of the building bye-laws of the States. Ministry of Urban Development, has made provisions strictly as per National Building Code 2005 as barrier free structure for several buildings.

80. The Twelfth Plan envisages that adequate attention needs to be given towards providing adequate disable friendly space/ facilities in all modes of transport viz. rail, buses and airplanes. Efforts will be made to provide barrier free environment in important government buildings and to make government websites accessible to persons with disabilities. A National centre will be established to facilitate and support the development of universal design and barrier free environment. In order to promote implementation, the Central Government has floated a scheme which provides financial support to States for creating a barrier-free and accessible physical environment.

81. **Other administrative initiatives**

Carriage by Air of Persons with Disabilities and/or Persons with Reduced Mobility 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 PwDs, 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, exception, provision of braille brochures and verbal instruction for briefing.

82. The Ministry of Railways provides for fare concessions and other such benefits to PwDs. It has also made efforts to enable I “A1”, “A” and “B” category railway stations to be disabled friendly by provisions of various facilities like standard ramp with railing for barrier free entry, earmarking of at least one parking lot for two vehicles used by PwDs, provision of a non-slippery walkway from parking lot to building, provision of signage of appropriate visibility, provision of at least one drinking water tap and one toilet on the ground floor suitable for use by a PwD and “May I help you booth”.

83. All Metro Rail systems have disabled friendly and accessible stations, the facilities like escalators, ramps, lifts engraved paths, braille symbols, auditory signals and warning signals at appropriate places. The Bus Rapid Transit System project under Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is required to have level boarding and alighting to facilitate movement of PwDs. 20% of the buses, sanctioned under JNNURM are low floor (400 mm) to allow for step less entry from bus stations.

84. **Web accessibility**

In February 2009, it was announced that all government websites shall be made as the Web Content Accessibility Guidelines (WCAG) 2.0 compliant. The Ministry of Information Technology initiated this process by firstly rendering accessible those 50 government websites which have been identified as essential to all PwDs. The Government consulted all the stakeholders before formulating National Electronic Accessibility Policy 2010. The policy aims to render web sites, electronic infrastructure, public information, procurement and research to be accessible to PwDs. World Wide Web Consortium, India (W3C India) has also worked extensively towards sensitizing organizations and web developers, for the need of universal web design, through workshops and they have sets standards and guidelines (WCAG is a W3C developed set of guidelines) for the development of tools, technologies and web interfaces, accessible to PwDs.

85. **Judicial interventions for accessibility**

The intervention of Courts through public interest litigations — a non-adversarial mode of adjudication of rights has also resulted in expeditious and focussed initiatives for the realization of rights. For instance, *Indian Labour Journal, 2013* states that Indian judiciary has also upheld the rights for reasonable accommodation of the disabled employees. In its judgement in the case of Syed Bashir-ud-din Qadri vs. Nazir Ahmed Shah and Others, the Supreme Court said that the doctrine of reasonable accommodation would require the provision of aids and appliances to enable a disabled person in employment to carry out his duties effectively.

Article 10 — Right to life

86. Constitutional provisions

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*”. Right to life in India is perceived as “not restricted to ‘*mere animal existence*’ but means a right to live with human dignity, right to free and compulsory education, right to privacy, right to healthy environment, right to health and right to medical treatment”.

87. Right to life and pre-convention disability related laws

The MHA, the RCI Act, the PWDA and the NTA were enacted 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 PwDs. However, these legislations provide the rights to education, health and employment. They thus accord recognition of the expanded version of the right to life, as enunciated by the Supreme Court of India.

Article 11 — Situations of risk and humanitarian emergencies

88. Legal and institutional mechanism on disaster management in India

The Disaster Management Act, 2005 defined disaster to include mishaps or accidents due to man-made causes, besides natural calamities. The Act provides the setting up Disaster Management Authorities at the National, State and District levels. These are the permanent bodies responsible for disaster management in India. The Disaster Management Authorities at all levels are statutorily required to formulate “Disaster Management Plans” which *inter alia*, include measures to be taken for the prevention of disasters or the mitigation of their effects and measures, to be taken for preparedness and capacity building, to effectively respond to any threatening disaster situations or disaster.

89. **The national disaster response force** has been set up for the purpose of specialized response to a threatening disaster situation or disaster. Ten battalions of National Disaster Response Force comprising 144 specialized teams, trained in various types of natural, man-made and non-natural disasters have been set up.

90. Policies and schemes on disaster management in India

The current approach to policy making is one of disaster preparedness as opposed to that of calamity relief. National Disaster Management Authority (NDMA) has developed National Guidelines on Minimum Standards of Relief in consultation with various stakeholders including state governments, State Disaster Management Authorities, Panchayati Raj Institutions, non-government organizations, academic & research institutions, universities, specialists and humanitarian professionals from various sectors. Identification of vulnerable groups and addressing their special needs is recognised as one of the important considerations in the guidelines. The National Policy on Disaster Management, 2009 emphasize on encouraging mitigation measures based on technology, traditional wisdom and environmental sustainability, and mainstreaming disaster management into the developmental planning process. The policy focuses on the vulnerable groups, elderly persons, women, children, differently able who are exposed to higher risks on account of disasters.

91. Mainstreaming in preparedness measures

The Disaster Preparedness Plan for People with Disabilities involves collection of accurate data on location of PwDs in towns and villages at risk of (natural) disasters. Under this plan, identification of family or neighbours of PwDs shall be undertaken so that they can be provided space in the same shelters. Under the Disaster Preparedness Training for PwDs programme, members of “disaster task forces” in villages are being trained on how to help PwDs during natural calamities. The communities will be trained in the various aspects of response such as first aid, search and rescue, management of community shelters, psycho-social counselling, distribution of relief and accessing support from government/agencies.

92. **Mainstreaming in relief measures**

Mainstreaming the needs of PwDs becomes necessary through provision of food, drinking water, sanitation, clothing, access to relief camps and management of relief camps. In order to ensure access to amenities at relief camps for PwDs, the relief camps should be made disabled-friendly and ensure sufficient lighting in shelter areas/camps, so that obstacles can be easily seen by those with low vision; installation of handrails for stairs, and ramps for buildings will be built in a phased manner.

93. **Mainstreaming in rehabilitation measures**

To rehabilitate PwD, provisions for physiotherapy for improving the ability of a person with physical impairment to move (exercise, positioning, strengthening, etc) and occupational therapy/ADL to help a PwD learn new ways to complete daily activities (dressing, eating, using implements etc.) should be encouraged. Identification of vocational training skills and provision of training through VRCHs is also being undertaken.

94. **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 during 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 identification of persons with pre-disaster mental illness and PwDs has been given importance. Such persons shall be referred to and followed up through secondary and tertiary health service sector.

95. **Mainstreaming needs of women and children with disabilities**

Special needs of women and children with disabilities have been addressed. Education and training of health services personnel in provision of sensitive services for the needs of girls and women with disabilities is one of the vital initiatives. For children with disabilities facilitation of special educators for and topics of inclusion related to disaster management (search and rescue, first aid etc.) in special schools has been undertaken.

Article 12 — Equal recognition before the law

96. **Equal recognition as persons before the law**

Article 14 of the Indian Constitution guarantees that “all PwDs enjoy equality before the law or equal protection of the laws within the territory of India”. Thus Indian law recognizes PwDs as subjects of rights and persons before the law. The Indian Constitution also approves reasonable classification which has been employed to determine the legal capacity of PwDs.

97. **Legislations on legal capacity**

India has two legislations, which address the question of guardianship or substituted decision making for PwDs. These two legislations are the MHA and the NTA. The MHA allows the appointment of a guardian of the person and the manager of property once it is determined that a person is living with mental illness and is unable to manage oneself or property due to the reason of his/her condition.

98. The NTA has a more flexible system of appointing guardians. Section 13 of the NTA requires the appointing authority to consider whether the individual person with intellectual, developmental or multiple disabilities requires a guardian and if yes whether such guardian should substitute for the PwDs in all areas of life or should such be appointed only for those purposes for which the PwD may require support. The appointment of guardians is undertaken through local level committees consisting of the District Magistrate; representative from a registered disability organizations; and a PwD.

99. Indian law has also made arrangement in particular contexts. Thus Order XXXII of 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.

100. Access to bank loans, financial credits

The discrimination encountered by PwDs especially persons with visual impairment have been remedied by a Circular of the Reserve Bank of India which states “banks have to therefore ensure that all the banking facilities, ATM facility, Net Banking facility, locker facility, retail loans, credit cards etc are invariably offered to the visually challenged persons without any discrimination”.

Article 13 — Access to justice

101. Constitutional guarantees on access to justice

The right to obtain legal representation is guaranteed under Article 22 (1) of the Constitution which states that No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

102. Article 39A of the Constitution of India mandates that the State shall secure the operation of the legal system promote justice on the basis of equal opportunity and shall in particular provide free legal aid by suitable legislation or schemes or any other way to ensure the opportunities for securing justice, these will not be denied to any citizen by reasons of economic or other disabilities.

103. Statutory rights to legal aid

In furtherance of this constitutional commitment, the Legal Services Authority Act of 1986 was enacted. Section 12 (d) of this Act entitles free legal aid to PwDs and persons with mental illness. Section 91 of the MHA of 1987 makes provisions for the right to legal representation and legal aid for persons with mental illness in proceedings under the Act. The National Legal Services Authority through Legal Services to the Mentally Ill Persons and Persons with Mental Disabilities Scheme, 2010, has developed a mechanism to provide legal aid to persons with psychosocial and intellectual disabilities.

104. Public interest actions

A number of issues concerning PwDs have been brought before the higher judiciary using this mechanism. Supreme Court of India has released the rules of locus standi and permitted public spirited individuals to file cases on behalf of disadvantaged constituencies.

105. Physical access

At present, the Supreme Court of India is accessible along with other Courts.

106. Sensitization courses in judicial academies

Pursuant to the orders of the Delhi High Court, training to judicial officers has begun to be imparted in matters relating to PwDs in the Delhi Judicial Academy. National Judicial Academy deals with disability, as a part of its training on judicial remedies for the vulnerable groups.

107. Procedural accommodation in legal process

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 families of the PwDs communicate with them, and then attempt to understand whether the individual can be made to understand the proceedings. In order to aid such an understanding, the courts are under an obligation to provide appropriate interpretation facilities.

108. The admissibility of evidence is dealt with in the provisions of the Indian Evidence Act, 1872. 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 answers 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, as by writing or by signs, provided such writing must be written and the signs are made in open Court.

109. **Grievance redressal in agencies other than courts**

Commissioner's office has been an accessible and expeditious site of dispute resolution for PwDs. 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 PwDs are not discriminated against. During 2013, the Office of the Chief Commissioner for Persons with Disabilities (CCPD) received 25,991 complaints, including those in the Mobile Courts. Out of them, 24,875 have been disposed of and 1,116 were under process.

Table 13.1 Grievance redressal by CCPD's Office

<i>S.No</i>	<i>Year</i>	<i>Cases, carried forward from previous year</i>	<i>Cases, received during the year</i>	<i>Cases disposed of during the year</i>
1.	2012-13	975	1 190	1 023
2.	2013-14	1 142	1 139	1 072
3.	2014-15	1 203	2 164	1 842

110. **National Human Rights Commission** has advocated for law and policy advancing the rights of PwDs. It has also intervened to facilitate the discharge and rehabilitation of the under trials, who are mentally frail or ill. The NHRC has also been monitoring the care and treatment of the persons with mental illness at the mental hospitals in few states. PwDs can also approach State Human Rights Commissions to obtain redress of their grievances. The National Commission for Women, State Commission for Women, NCPCR and SCPCR provide redressal to the grievances for the women and children with disabilities.

Article 14 — Liberty and security of person

111. **Liberty under the Constitution**

Article 21 of the Constitution of India states that “no person shall be deprived of his life or personal liberty except according to procedure established by law”. Over time personal liberty was expanded to include the right to privacy and other rights essential for 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.

112. The right to life and liberty is available on an equal basis to the PwDs, it is ensured by the constitutional protection of Article 14 of the Indian Constitution, which guarantees the right to equality between any citizens in the eyes of the law. Article 21 of the Constitution of India (process and right to liberty) been activated in relation to PwDs in the context of compulsory commitment to mental hospitals and in criminal proceedings.

113. **Statutory amendments in advancement of the right to liberty**

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

(a) The amended legislation requires the Magistrate or Court to seek the opinion of a Psychiatrist or clinical Psychologist before concluding that the accused is of an unsound mind or is a person with mental retardation;

(b) The Magistrate or Court is to postpone the trial only if the prosecution is able to establish a prima facie case against the accused;

(c) If the accused is found to be of a person with mental retardation, who is incapable of entering defence, then the Magistrate or Court is required to close the enquiry or not to hold the trial as the case may be and release of the accused or his/her transfer to a residential facility which provides care and appropriate education and training;

(d) When an accused is found to be of an unsound mind, the Court or Magistrate has been given liberal powers of bail, provided that a friend or relative undertakes regular outpatient psychiatric treatment from the nearest medical facility and prevent the accused from injuring self or others.

Article 15 — Freedom from torture or cruel, inhuman or degrading treatment or punishment

114. Constitutional jurisprudence on freedom from torture or cruel, inhuman or degrading treatment or punishment

India is a signatory of the UN Convention against Torture. 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 International Covenant on Civil and Political Rights (ICCPR), and guarantees 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. The Indian Supreme Court has thus utilized Article 21 to prevent cruel and inhuman practices (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 PwDs by finding the chaining of "mentally challenged persons" to be illegal and placing an absolute prohibition on such acts.

115. Section 81 of the MHA lays down that no mentally ill person shall be subjected during treatment any indignity (whether physical or mental) or cruelty. Section 17 of NTA read with Rule 17 to the National Trust Rules, 2000 defines various acts of abuse and neglect on the part of the guardian of a PwD (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.

Article 16 — Freedom from exploitation, violence and abuse

116. Constitutional jurisprudence

Articles 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 PwDs. The question of violence and abuse of PwDs has primarily come into light when the conditions of particular institutions, housing PwDs, have been investigated.

Article 17 — Protecting the integrity of the person

117. Constitutional recognition of the right to integrity

The constitutional basis of this article as all other civil political rights recognized in the UNCRPD arises from Articles 21 and 14 of the Constitution. The two fundamental rights mandate that any intervention which impacts upon the physical or mental integrity of PwDs, should occur with their consent.

118. Statutory recognition of the principle of consent

Section 81 (2) of MHA does not permit a person with mental illness to be used for research, unless, “such research is of direct benefit for diagnosis or treatment”, or upon consent of the person in writing. 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 then the treatment can be obtained or provided with the consent of a friend or a guardian.

Article 18 — Liberty of movement and nationality**119. Constitutional provisions relating to liberty of movement and nationality**

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.

120. Statutory provisions and rules for issuance of a passport

Section 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 Division of the Ministry of External Affairs (MEA) 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 MEA operates 720 special counters to facilitate the issue of passports to PwDs.

121. Legal provisions in relation to entry and stay in country

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 under 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 for 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 PwDs.

122. The Constitution of India includes PwDs generically within the universal categories of person and citizen; it does not even mention disability in the prohibited grounds specified in Articles 15 and 16. In India, births are recorded under the Registration of Birth and Death Act, 1969. There is no discrimination in granting the certificates 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.

Article 19 — Living independently and being included in the community**123. Constitutional jurisprudence**

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 the right to life for all. The Supreme Court has clearly stated 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 him to live and develop and develop as a human being".

124. Reasonable restrictions on the right to residence

Ensuring of public safety or maintenance of public order is upheld as a reasonable restriction on the right to residence under Article 19 (1) (e) of the Constitution. The mandate of Article 19 UNCRPD is reinforced by the aforementioned constitutional jurisprudence, insofar as it recognizes the individual's right to live at a place of his or her choice.

125. Law and policy initiatives for community living

Though PwDs in India primarily reside with their families, however, various factors makes them end up living in institutions. The various parliamentary and court committees examining the conditions of psychiatric and other institutions, found that inmates who were staying in institutions because of their families had failed to come back to them.

126. This social reality has attempted to address in the NTA which envisages that the Trust will "support any program which promotes independent living in the community for persons with disabilities". The Trust has also permitted to set up residential hostels and residential homes, foster family care or day care service for PwDs". This dual policy in NTA has also been adopted in the National Disability Policy which both endorses Community Based Rehabilitation 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. Whilst law and policy have opted for a mixed residential policy for PwDs, non-governmental initiatives have put in place some innovative community living options.

127. In the backdrop of these deliberations, the 3% reservation for PwDs in Indira Awas Yojna, demonstrates the significance accorded to the fact that PwDs live in the community.

128. Community Based Rehabilitation (CBR)

In recognition to the fact that 75% of persons with disabilities belong to the rural areas, Section 48 (b) of the PWDA provides that "the appropriate Governments and local authorities shall promote and sponsor research, inter alia, in the area of rehabilitation including community based rehabilitation". India has encouraged the development of the CBRs by providing grants-in-aids to NGOs. Community based rehabilitative measures in comparison to institutional rehabilitation programme, not only benefits the direct recipient of the services (i.e., the PwD) but also their families as well as the larger social group and or the community to which the recipient belongs.

129. CBR India Network, is a part of Asia Pacific CBR Network an initiative of World Health Organization (WHO). It has been formed to support the development and dissemination of CBR as a strategy for inclusive development to promote the needs and rights of every PwD in India, especially children, women and persons from remote areas of India. The manner in which CBR can contribute in the realization of the CRPD was discussed at the First World Congress on CBR in November, 2012.

Article 20 — Personal mobility

130. Constitutional jurisprudence and legal provisions

Article 19 (1) (c) of the Constitution of India recognizes that all citizens have the freedom of movement throughout the territory of India. For PwDs this freedom has meaning only when provision is also made for aids and appliances, which allow such movement to happen. Section 42 of PWDA obligates the governments to make schemes to provide aids and appliances to PwDs.

Facilitating personal mobility

131. **Railways:** In order to assist PwD to travel by public transport at affordable costs, concessions are extended, which, in some cases, is also given to the person travelling with PwD. On production of certificate from government doctor or a registered medical practitioner, PwDs can avail such travelling concessions. As per the Order of Ministry of Railway, concessions are available for the PwDs depending upon type of disability and class of travel. Annexure 2 comprises details of such concessions.

132. **Bus:** Concessions are provided for persons with physical impairments and visual impairments.

133. **Transport allowance:** India has issued orders to grant a transport allowance to visually and orthopedically impair which shall be at double the rate of the allowance, provided to the non-disabled employees of the organization. Various State Governments also provide conveyance allowance to employees who are PwDs. PwDs who are owners of motorized vehicles and having an income up to 400 US Dollar 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 25 litres for more than 2 horse power vehicles to go to the place of duty and back to their residences.

134. **Driving licences:** The issuance of driving licence to persons with hearing impairment has been subject for discussion. The National Association of the Deaf moved the Delhi High Court, to determine whether a person with hearing impairment who had an international licence was entitled to right to a driving licence in India. It however ruled that persons with a hearing level up to 60db in the better ear were entitled to a driving licence for a private vehicle and that persons with a hearing level up to 40db were entitled to a licence for a commercial vehicle.

135. Facilitating access to quality mobility aids, devices, assistive technologies and forms of live assistance at affordable cost- Artificial Limbs Manufacturing Corporation of India (ALIMCO)

Government of India has established ALIMCO with the motto of restoration of dignity. It is an ISO 9001: 2000 certified company, and is reputed to be the largest manufacturing organization of artificial limbs and rehabilitation aids in entire South Asia. The products are so priced, that they are affordable to the common man. ALIMCO manufactures products, which aid people with orthopaedic, visual and hearing disabilities. For the people with orthopaedic disability, it has categorized its products into two categories: rehabilitation aids and mobility aids.

136. Scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids/Appliances (ADIP) Scheme

The main objective of this Scheme is to assist the needy PwDs in procuring durable, sophisticated and scientifically manufactured, modern, standard aids and appliances with ISI specifications that can promote their physical, social and psychological rehabilitation, by reducing the effects of disabilities and enhance their economic potential. The scheme is implemented through implementing agencies such as the NGOs, National Institutes and ALIMCO. The MoSJE and MHRD have signed Memorandum of Understanding (MoU) which has developed a Cost Sharing Scheme (60% by MoSJE and 40% by Ministry of Human Resource Development) in order to provide aids and appliances to children and schools. Under this scheme, ALIMCO conducts assessment and distribution camps across the country in association various State implementing agencies for provision of aids and appliances to children with special needs in 6-14 age group. ALIMCO has been sole implementing agency under ADIP-SSA since 2004.

Amount of assistance on the basis of total income

<i>Total Income</i>	<i>Amount of Assistance</i>
Up to 250 USD per month	Full cost of aid/appliance
250 US Dollar-333 US Dollar per month	50% of the cost of aid/Appliance

- For visually impaired, assistive devices such as Smart Cane, Braille, Watch Quartz, and Smartphone with screen reading software, magnifier, tablets, daisy players etc., have also been included.
- For Leprosy affected, Assistive Daily Living (ADL) kit and 34 optional devices as per requirement have been notified.
- Kits for intellectual and developmental disabilities for various age groups have been notified.
- Cochlear Implant: provision of cochlear implant for 500 children per year with learning disability with a ceiling of 10,000 US Dollar per unit included.

137. **Technology development projects in mission mode:** With a view to provide suitable and cost effective aids and appliances through the application of technology and to increase the employment opportunities and integration in society of the persons with physical disabilities, the above scheme was started during 1990-91. Under the scheme, suitable Research and Development projects are identified and funded for developing aids and appliances. The scheme is implemented through the Indian Institute of Technologies.

Article 21 — Freedom of expression and opinion and access to information**138. Constitutional jurisprudence**

The right to freedom of expression and opinion is critical for the enjoyment of other human rights by PwD. Article 19 (1) (a) of the Constitution of India states that all citizens shall have freedom of speech and expression. However, reasonable restrictions may be put by the Constitution 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) of Constitution of India.

139. The above interpretations are equally extendable to PwDs to enable them to exercise their rights under Article 21 of the UNCRPD and Article 19 (1) (a) of the Indian Constitution, they provide the required information through appropriate means of communication.

Schemes to facilitate access to information

140. **The University Grants Commission (UGC)** requested all Universities to extend facilities of cassette recorders for Blind students; provide facilities to persons with disabilities; take steps to make institutions barrier free; and provide Braille books and Talking books.

141. 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 feeds, has been made mandatory for all news broadcast by Ministry of Information & Broadcasting.

142. Recognizing and promoting the use of sign languages

A number of the accessibility initiatives have already been taken to promote sign language. A website called www.deafsigns.org to use video instructions went online to promote Indian Sign Language so that deaf persons can better understand. The signs are displayed in

short through continuously repeated video files. This gives any user who accesses the site, an easy way to learn gestures that are necessary for visual communication. UNCRPD has been translated into sign language and is available on the website.

143. **Promoting braille development**

National Institute for the Visually Handicapped is perceived as a corner stone in Braille Development. NIVH has been extensively involved in the standardization of Bharti Braille, a system that corresponds to all the official languages of the country and notation systems for Mathematics and Science. It has also contributed to Braille contractions and abbreviations and shorthand systems for many Indian languages. For popularization of Braille, several steps have been taken such as, short term training courses and distance education modules. In order to consolidate and regulate standards of Braille production, design of Braille appliances including braille conversion software, the Government has recently established the Braille Council of India drawing its membership from across the sectors with adequate representation of the blind persons in them. The Braille Development Unit serves as a Secretariat of Braille Council of India.

144. Scheme for modernization of 10 existing and establishment of 15 new Braille Presses to augment production of Braille pages has been launched for which an amount of 0.64 million US Dollar has been released for implementing the Scheme.

145. The MoSJE has set up ROSHNI, the National Resource Centre for Augmentative and Alternative Communication in 2011 to involve persons who need augmentative and alternative communication and undertakes training and research and development. It has developed software, Indian Picture Symbol for Communication to design and print various types of communication displays and reading material. Sanyog, developed by Indian Institute of Technology, Kharagpur, in collaboration with Indian Institute of Cerebral Palsy, Kolkata is a language processing software with intelligent word-prediction in English, Hindi and Bengali.

Article 22 — Respect for privacy

146. **Constitutional regime**

Article 22 of the UNCRPD recognizes the right of PwDs for the protection of their private life, reputation and honor *qua* the right to privacy. The Indian Supreme Court has read the right to privacy into the right to life and personal liberty under Article 21 of the Constitution of India.

147. Mental Health Act, 1987: The only statutory provisions addressing the issue of privacy for PwDs is stated in Section 81 (3) of the MHA which states that no letter or other communication, sent by or to a mentally ill person shall be intercepted detained or destroyed. Section 13 (1) of the MHA 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 in an examination that the patient is not receiving proper care and treatment then he may report the same to the Licensing Authorities, without breaching the obligation of confidentiality.

Article 23 — Respect for home and the family

148. **Constitutional mandate on the right to marry**

Family is an integral component of the social fabric of a society. Even as the expanded interpretation of Article 21 of the Indian 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.

149. In India, marriages are governed by religious personal laws or by Special Marriage Act. Depending upon the law, opted, the marriage and consequences such as divorce,

maintenance, guardianship, trusteeship, adoption etc. are regulated either by the religious personal law or the secular civil law.

150. **Statutory provisions for marriage and divorce**

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 and that is not reasonable to expect the petitioner to stay with the respondent is the standard formulation to permit divorce.

151. **Family planning education and reproductive rights**

The National Population Policy, 2000 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. PwDs are beneficiaries of these policies as members of the general population.

152. Further the Supreme Court of India has upheld the right of motherhood of a girl with intellectual disability who desires to keep her child. The Court took note of the UNCRPD “*in respecting the personal autonomy of mentally retarded persons with regard to the reproductive choice*”.

153. **Adoption and custody of children: statutory framework**

The procedure for adoption of Indian children, both in-country and inter-country, is governed by guidelines governing Adoption of Children, 2011. The process of adoption is completed by a legal order under the Juvenile Justice Care and Protection of Children Act, 2000, or the Hindu Adoption & Maintenance Act 1956. India has appointed the Central Adoption Resource Authority as the nodal agency in the country to provide non-institutional care services to orphan, abandoned and surrendered children.

154. The guidelines, governing Adoption of Children, 2011 expedites the rehabilitation of children with special needs through adoption. Special software on such children, residing under protection of adoption agencies, has been developed as part of the web based Management System on Adoption — CARINGS. The guidelines governing the Adoption of children, 2011, also states 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.

155. **Adoption schemes and programmes**

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) |

156. **The scheme of assistance to homes (Sisugreh) for Children to promote in-country adoption**

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. Children with disabilities are generically included in these schemes.

157. **Custody of children**

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 a strong significance when one of the

parents is a PwD. 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.

Article 24 — Education

158. Evolving philosophy on education of children with disabilities

Article 45 of the Constitution of India directs the State to endeavour to provide free and compulsory education to all children up to the age of 14 years within a period of ten years from the commencement of the Constitution. The other policies related to education for children are:

<i>The National Policy on Education (NPE) (1986) and Program of Action (1992)</i>	<i>Stressed the need for integrating children with special needs with other groups</i>
National Curriculum framework (NCERT, 2005)	Commitment to inclusive education
National Policy on Education (NPE), 1986 and the Programme of Action (1992)	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 on the inclusion of children and young PwDs in all general educational settings from Early Childhood to Higher Education

159. 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”. The literacy rate amongst PwDs is lower when compared to the general population. Whereas the literacy rate of general population is 74.04% that for PwDs is about 40%. The Twelfth Plan has proposed several social, educational and employment provisions for the self-reliance of PwDs. Education plays a pivotal role in socio-economic empowerment of PwDs.

160. Elementary education

Right to education and children with disabilities

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 ... the age of 18 years”; to promote the integration of students with disabilities in the mainstream schools; “setting up special schools in government and private sector for those in need to special education” and “to equip the special schools ... with vocational training facilities. “The PWDA provides multiple educational options for children with disabilities.

161. The educational rights of children with disabilities were addressed in the proviso to Section 3 of Right of Children to Free and Compulsory Education Act (RTE), 2009 “*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 provision children with disabilities secured the right to free and compulsory education upto the age of 18 years. Children with disabilities such as autism, mental retardation and cerebral palsy have been included under the RTE Act and following amendments to the RTE Act were made under Right of Children to Free and Compulsory Education (Amendment) Act, 2012:

- (i) Including children with disabilities within the meaning of “children belonging to disadvantaged group”;

(ii) Including children with autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities as per the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 to pursue free and compulsory elementary education under the RTE Act;

(iii) Clarifying under Section 3(1) that every child of the age of six from fourteen years, including children belonging to disadvantaged groups and weaker sections, shall have the right to free and compulsory education in a neighbourhood schools till completion of elementary education;

(iv) Incorporating a provision that “a child with ‘multiple disabilities’ referred to in clause (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, and a child with ‘severe disability’ referred to in clause (o) of section 2 of the same Act will also have the right to opt for home-based education”.

162. Children With Special Needs (CSWN) are being provided with assistive devices and barrier free access. 3.301 million CSWN (81.26%) requiring aids and appliances under Sarva Shiksha bhiyan (SSA), have been provided assistive devices through various modes. SSA programme ensures that every child in the age group of 6-14 years with special needs, irrespective of the kind, category and degree of disability, is provided meaningful and quality education.

163. Schools are being made more disabled friendly by incorporating barrier free features in their designs. Another recent initiative of SSA has been to provide disabled friendly toilets. So far, 82.33% schools have been equipped with ramps and handrails and 14.82% schools have been provided with disabled friendly toilets under SSA.

164. **Teacher training under SSA**

According to the Ministry of Human Resource Development (MHRD) Annual Report 2013-14, under SSA in 2013-14, 3.2 million teachers have been approved by MHRD for in-service training and 0.2 million teachers for induction training. The Teacher preparation in Special Education (TEPSE) Scheme is meant for assisting Department of Education to launch special education teacher preparation programmes to prepare special teachers to teach children with disabilities in both special and inclusive settings. The scheme provides financial assistance to offer B.Ed. and M.Ed. degree course with specialization in one of the disability areas. As per the Annual Report of Ministry of Human Resource and Development, 2013-14, 43 “Special Awards” have been earmarked for the teachers of following categories:

- Teachers with disabilities working in regular schools;
- Special teacher or trained general teachers who have done outstanding work for Inclusive Education.

Each award carries with it a certificate of merit, a cash award of 416 US Dollar and a Silver Medal. 16 teachers for promoting education of children with disabilities in integrated/inclusive education in schools were awarded with the National Award.

165. **Status of education of children with disabilities through open schooling**

The National Institute of Open Schooling an autonomous organization under MHRD provides education to CSWN through 85 Special Accredited Institutions for the Education of Disadvantaged located in different states. Special provisions are made for the examination of learners with disabilities. Computers with adapted hardware are allowed. Where required, examinations are conducted at the residence of learners.

166. **Secondary education**

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.

Secondary education schemes and programmes in India

<i>Scheme</i>	<i>Objective</i>	<i>Coverage</i>
Rashtriya Madhyamik Shiksha Abhiyan (RMSA)	the objectives of making secondary education of good quality available, accessible, and affordable to all young people 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

Scholarships

167. **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 in Classes IX-XII. Some State Government also provide scholarships to students with disabilities from standard I to VIII i.e. up to 14 years.

168. **Kendriya Vidyalaya/Navodaya Vidyalaya**

Under this 3% reservation in admission and exemption from payment of Vidyalaya Vikas Nidhi and tuition fee is provided to students with disabilities, covered in the PWDA.

169. **Upgradation of merit of ST Students**

The objective of the scheme is to upgrade the merit of ST students by providing them remedials and special coaching in classes from IX to XII. It targets 3% disabled SC/ST students.

Various allowances under the upgradation of merit of ST students scheme

<i>Category</i>	<i>Allowances</i>	<i>Amount (US Dollar)</i>	<i>Duration</i>
For Blind student	Reader Allowance	3.33	Monthly
For Disabled student	Transport Allowance	1.66	Monthly
For any employee of hostel to help handicapped student	Special Pay	3.33	Monthly
Severely Handicapped day scholar student	Escort Allowance	1.66	Monthly
Mentally retarded	Extra Coaching	3.33	Monthly

170. **Higher education: reservation of seats under PWDA**

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 per cent seats for PwDs”. Section 39, thus makes it obligatory for government aided

institutions to reserve 3% of the total seats for the PwDs. The Judiciary has taken a firm stand for admissions of students with disabilities in educational institutions, and provision has been extended to posts in educational institutions. University Grants Commission has issued instructions to all universities and colleges for providing 3% reservation (horizontally) in admission for PwD students, reservation of 3% for the PwDs in the appointment of Lecturers and in admission of to courses, relaxation of 5% for NET admission, and relaxation in upper age limit upto 5 years to PwDs in admissions.

171. Schemes and programmes by UGC:

- **Higher Education for Persons with Special Needs (HEPSN):** Aims to create an environment in the higher education institutions including Universities to create awareness about the capabilities of PwDs by constructing facilities to improve accessibility, purchase of equipment, to enrich learning through establishment of Enabling Units, providing access and special equipment to augment educational services;
- **Financial Assistance to Visually-Challenged Teachers (FAVCT):** The scheme is formulated to help visually challenged permanent teachers to pursue teaching and research with the help of a reader by using teaching and learning aids.

172. Upgradation of existing polytechnics to integrate physically challenged persons

This Scheme has been formulated with the aim to integrate physically PwDs into maintaining technical and vocational education. 50 existing polytechnics have been selected for upgradation and each polytechnic is allowed to admit 25 students in diploma programmes whereas under non-formal programmes (up to six months duration) about 100 students are provided vocational training. In the polytechnics, the enrolment of PwD students during the year 2013-14 was as under:

<i>Course</i>	<i>Number</i>
Formal courses in diploma	1 199
Non-Formal courses in diploma	1 472
Total	2 626

173. Indira Gandhi National Open University (IGNOU)

IGNOU has been established by an Act of Parliament in 1985. Open and Distance Learning system in the Indira Gandhi National Open University (IGNOU) set up the National Centre for Disability Studies in 2006. IGNOU provides several diploma and certificate courses for PwDs. The measures taken by IGNOU, to ensure the involvement of persons with disabilities in the higher education and various courses offered by IGNOU, are annexed at [Annexure 3](#).

174. Establishment of equal opportunity cells in universities

To make colleges and universities more responsive to the needs and constraints of the disadvantaged social groups, the Commission has financed Institutions to establish Equal Opportunity Cells to see the effective implementation of policies and programmes for disadvantaged groups and to provide guidance and counselling in academic, financial, social and other matters.

175. National mission on education through information and communication technology

The Mission launched by Ministry of Human Resource Development has been envisaged for the benefit of all the learners in Higher Education Institutions. In order to facilitate the PwD students, the focused interventions have been incorporated in the Mission are Unicode font to provide support in various languages and for visually impaired students.

176. National scholarships for PwD

Under this scheme, the MoSJE awards 500 new scholarships every year for pursuing post matriculation, professional and technical courses of more than one year duration. With

respect to students with cerebral palsy, mental retardation, multiple disabilities and people with profound or severe hearing impairment, scholarship are awarded for pursuing studies from IX standard onwards.

177. Students with 40% or more disabilities whose monthly family income does not exceed 250 USD are eligible for scholarship. The scholarship is provided to the students pursuing Graduate and Post Graduate level courses; pursuing diploma and certificate level professional courses. In addition, the students are also reimbursed with the course fee. 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 palsy students.

178. GyanPrabha scholarship scheme

Under the scheme, financial assistance is provided to the disabled to pursue vocational training/professional courses leading to skill development and employment for PwDs. The scheme was launched in to provide financial assistance with the monthly family income limit of 250 US Dollar and condition of minimum 50% marks for renewal of the scholarship for every year has been waived.

179. Scholarship and other schemes of State Governments for higher education

Various state governments extend scholarships to PwDs for Graduation, Post-Graduation and Engineering and Professional courses that range from 2 US Dollar to 25 US Dollar per month. Besides these Readers Allowance from 1.61 US Dollar to 26 US Dollar per month and Hostel allowance is offered ranging from 1.61 US Dollar to 3.87 US Dollar per month is for graduation, post-graduation and professional courses.

180. Facilitating learning through augmentative and alternative modes

The NIHH runs the Indian Sign Language Cell for the development of teaching materials to teach Indian Sign Language (ISL), training of ISL interpreters, to train deaf persons to become sign language teachers, sign language training for hearing staff at educational institutions, for hearing handicapped parents and family members and documentation of sign language vocabulary used in different regions of the country and their variations.

Article 25 — Health

181. Constitutional provisions, law and policies

Article 47 of the Constitution of India lays down that “the State shall regard rise in the level of nutrition and the standard of living of its people and the improvement of public health among its primary duties.” Though this article is a directive principle, the Supreme Court of India has viewed right to medical care and medical aid to be integral components of the right to life.

182. When India formulated the first National Health Policy in 1983 with an aim to achieve ‘Health for All’ by the year 2000 the policy was a generic exposition on the health care needs of the people in the country which included PwDs. 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.

183. The Twelfth Five Year Plan adopted an inclusive approach towards healthcare 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, persons with disabilities, tribes, and schedule castes. The emphasis on primary prevention of childhood disability and early intervention through NRHM and ICDS will be strengthened in the Twelfth Plan along with community based management and inclusion of children with different abilities.

184. Affordable health

General health services are the primary responsibility of the States along with the Central Government focussing on medical education, drugs, population stabilisation and disease control.

185. Providing health care in proximity to community: National Rural Health Mission 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 the synergy of essential health determinants such as nutrition, sanitation, hygiene and safe drinking water and thereby seeking to improve access of rural people, especially poor women and children, towards equitable, affordable, accountable and effective primary healthcare.

186. Early identification and intervention

India has stressed on early identification and prevention of disabilities. Various disability prevention programs and their achievements are annexed at [Annexure 4](#). Section 25 of PWDA 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:

- Undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- Promote various methods of preventing disabilities;
- Screen all the children at least once a year for the purpose of identifying “at-risk” cases;
- Provide facilities for training to the staff at the primary health centers;
- Sponsor or cause to be sponsored awareness campaigns is disseminated or cause to be disseminated information for general hygiene, health and sanitation is undertaken,
- Take measures for pre-natal, parental and post-natal care of mother and child;
- Educate the public through the pre-schools, schools, primary health centers, village level workers and anganwadi workers; and
- Create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and on the preventive measures to be adopted.

187. Rashtriya Bal Swasthya Karyakaram

The issue of up-scaling early intervention programme of National Trust in collaboration with Ministry of Health and Family Welfare is being taken up under their Rashtriya Bal Swasthya Karyakaram.

188. Creating awareness on reproductive health

NIHH has gathered evidences to appropriately address the issue with reference to prevention of AIDS-HIV and 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, the 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 the hearing impairment.

189. Aspiration

This scheme is an early intervention scheme, launched by National Trust in 2007 with an aim to work with children of 0-6 age group with developmental disabilities and make them ready for the mainstream and special schools. National Trust funds 79 organisations and number of beneficiaries are 1580.

190. Scheme of financial assistance for corrective surgery and rehabilitation of polio affected children

MoSJE provides financial support through the NGOs under ADIP scheme for undertaking corrective surgeries of children acquiring impairment due to polio and assisting in the physical, social and psychological rehabilitation of children with disabilities.

191. 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 scheme covers women with disabilities generically; there is no explicit inclusion.

192. The Rashtriya Swasthya Bima Yojana (RSBY)

Twenty-five states are in the process of implementing RSBY and more than 12.5 million biometric enabled smart cards have been issued for providing health insurance cover, to more than 40 million people, from any empanelled hospital throughout the country. The scheme is now being gradually extended to the non-BPL category of workers as well PwDs who work in the unorganized sector, so that they benefit from the scheme.

193. Niramaya scheme is a health insurance scheme dedicated specifically to the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities under the National Trust Act. The Insurance cover is up to 1612 US Dollar. Persons whose family income exceeds 250 US Dollar per year has to pay a nominal premium of 4 US Dollar per year.

194. 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 they 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 his family. It further required all physicians have to be frank with the patient and his attendants in every consultation.

Article 26 — Habilitation and rehabilitation

195. Law and policy

Section 2 (w) of the PWDA defined rehabilitation as “a process aimed at enabling PwDs to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels”. Section 66(1) of the PWDA 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*”.

196. 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 PwDs their families, legal guardians and communities. The policy also contemplated the establishment of “mental health care homes” or “custodial care institutions” for severely mentally ill persons and persons with intellectual disability.

197. Institution based habilitation and rehabilitation

The Seven National Institutes under DEPwD, provide expert support and develop human resources; provide rehabilitation services; and undertake research and development. [Annexure 5](#) outlines the Rehabilitation activities of National Institutes under DEPwD and National Institutes under MoHFW are at [Annexure 6](#). The Twelfth Five Year Plan recognises the pivotal role of National Institutes in empowerment of PwDs and therefore aims to strengthen their operation as Centres of Excellence.

198. Composite Regional Centers (CRCs)

The CRCs have been established with the support of the Central Government to facilitate the creation of the required infrastructure for the capacity building, awareness generation, training of professionals, service delivery and sharing innovative knowledge developed by National Institutes and Training Centres with State Governments. CRCs are functional at central, state, district and village levels.

199. Rehabilitation efforts for persons with mental illness

The National Mental Health Programme, has allocated 78 million USD (Rs 470 crore) for human resource development through 11 Institutions of Excellence across the country.

These centres are being established by upgrading and strengthening identified mental health institutes, mental hospitals and departments of psychiatry.

Schemes and programmes

200. To implement the rehabilitation measures for persons with disabilities, DEPwD has devised the following schemes:

201. Deendayal Disabled Rehabilitation Scheme (DDRS)

This is an umbrella scheme with the main objective to provide financial assistance to the voluntary organizations to make available services necessary for rehabilitation of PwDs including early intervention, development of daily living skills, education; skill-development and training oriented approach towards employment. Under the Deendayal Disabled Rehabilitation Scheme, admissible Grant-in-Aid is released to eligible implementing agencies including voluntary organizations, for their projects relating to rehabilitation of PwDs aimed at enabling PwDs to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels. There are 18 model projects, 66 manpower categories comprising 48 technical, 4 technical (part-time) and 14 non-technical categories. One of the significant means of implementing DDRS is through the setting up of DDRCs i.e. District Disability Rehabilitation Centres in collaboration with the State Governments by the National Institutes. These centres provide services for prevention and early detection; referral services 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. 251 DDRCs are functional and are providing rehabilitation services to PwDs. 693 NGO's have been provided financial grant under the DDRS during 2014-15. For improving transparency, and simplifying the application procedure, under the two important schemes of the Department namely DDRS and ADIP, an on-line system, developed by National Informatics Centre, has been introduced.

202. Scheme of Assistance to persons with disabilities for Purchase/Fitting of Aids/Appliances (ADIP)

Under the scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids/Appliances (ADIP Scheme), grant-in-aid are released to various implementing Agencies (National Institutes/Composite Regional Centres/Artificial Limbs Manufacturing Corporation of India (ALIMCO)/ District Disability Rehabilitation Centres/State Handicapped Development Corporation/other local bodies/NGOs) to assist the needy disabled persons in procuring durable, sophisticated and scientifically manufactured, modern, standard aids and appliances to promote their physical, social and psychological rehabilitation of PwDs by reducing the effects of disabilities and enhance their economic potential. On an average about 2.50 lakh PwDs are benefitted under the scheme per year. 50 special camps were held under ADIP Scheme during 2014-15. (Annual Report, 2014-15, Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment). The Department has also, in collaboration with Technology Information, Forecasting and Assessment Council (an autonomous body under the Department of Science and Technology), launched a dedicated web portal "Swavlamban.Info" to act as repository of information on aids and appliances.

203. 36 mega camps for distribution of aids and assistive devices were organized for a year-long (from June 2014 to June 2015), covering 15 states in which assistive devices costing 4.4 million US Dollar were distributed to 39,813 beneficiaries under ADIP Scheme. 47,358 beneficiaries have been provided with aids and assistive devices under ADIP-Special camps (till June 2015).

204. Rehabilitation schemes of national trust

Samarth is a "Centre Based Scheme (CBS)" for Residential Services which provides both Short Term (Respite Care) and Long Term (Prolonged Stay), effective from 2005-06. The objective *inter alia* includes providing permanent care for the abandoned and destitute PwDs, or those PwDs whose family support is gradually diminishing or senior citizens with

disabilities by providing rehabilitation and relief to PwDs. 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.

205. Peer support systems

Sahyogi (Care givers Training and Deployment Scheme) through which 2800 caregivers were trained. In 2008-09, the scheme has been modified by setting up of Care Giver Cells (CGC) in selected NGO Centre.

206. Gharunda scheme

Group home and Rehabilitation Activities under National Trust for Disabled Adults was launched in 2008 to provide “Lifelong shelter and care facilities” to persons with autism, cerebral palsy, mental retardation and multiple disabilities by empanelled service providers.

207. Innovative projects of National Trust

The National Trust is supporting a number of innovative projects for development of technologies for betterment of quality of life of persons with developmental disabilities. A multi-media kit for training of parents of children with multiple disabilities including deaf blind has been developed by Commonwealth Educational Media Centre for Asia, New Delhi and Voice & Vision Mumbai. The kit contains information regarding the rights and privileges available to PwDs.

208. Training and development of professionals and staff by RCI

In order to ensure quality rehabilitation services, the RCI registers professionals who meet specified standards. Major Activities (2013-14) of RCI include introduction of four new courses and revision of fourteen existing courses. 493 Institutes and 10 Open Universities, has been sanctioned with the capacity to offer RCI-approved courses across the country. RCI organized Summit of Mind with the Department, in February 2014.

209. Schemes and policies for the rehabilitation of persons who become disabled in armed forces

Department of Ex-Servicemen Welfare in Ministry of Defence was created in September, 2004 with an objective to give focused attention to the welfare programmes including pension benefits, re-employment and rehabilitation for ex-servicemen and their dependents. The Department formulate various policies for the welfare and resettlement of ESM in the Country. The Government has initiated several schemes for the rehabilitation of persons who became disability during their service, war times or for reasons attributable to their service to the Army. [Annexure 7](#) outlines the activities of the department.

Article 27 — Work and employment

210. Equality of opportunity in work and employment

The Constitution of India acknowledges the significance of work and employment in Article 39 of the Directive Principles which mandated the State to ensure “*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 ...*”.

211. As per the 2011 census, of the total population of PwDs, 25% constitutes the workers group whereas the remaining 65% are non-workers.

212. Section 33 of PWDA provides that every appropriate Government shall appoint in every establishment such percentage of vacancies not less than 3% for persons or class of

PwDs of which one per cent each shall be reserved for persons with (i) blindness or low vision, (ii) hearing impairment and (iii) locomotor disability or cerebral palsy; in the posts identified for each disability. The PWDA has come into force only in 1996 however, reservation for PwDs was already introduced in case of direct recruitment to Groups “C” and “D” posts in November, 1977. 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. Department of Personnel and Training (DoPT) have issued consolidated instructions on reservation to PwD in posts/services under the Central Government. Department of Personnel Training has been continuously monitoring implementation of Section 33 of PWD Act. They have been taking up the matter with all Central Ministries/Departments to fill up the vacancies meant for PwDs through special recruitment drive.

213. Various concessions are given to PwDs. The relaxation in age limit is provided irrespective of the fact whether the post is reserved or not, and the post is identified to be suitable for PwDs. Apart from age relaxation, PwDs get exemption from payment of application fee and examination fee and relaxation in eligibility standards.

214. 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 PwDs. The reservation provided in Section 33 of PWDA, in no way prevents a PwD from acquiring a position through open competition. This ensures equal opportunity and participation of PwDs in government jobs and is in line with the fundamental rights guaranteed to every citizen under Articles 14 and 16 of the Constitution of India.

215. Safeguarding right to work and employment

Section 47 of PWDA inter-alia prohibits establishments from dispensing or reducing the rank of any employee who acquires disability during service. Legally, the courts are 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.

216. With respect to the term “course of employment”, Section 47 of PWDA 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 also outside the course of employment.

217. Just and favourable conditions of work

As per the Section 47 of the PWDA 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 under their service. Section 47 casts obligation on the employer to protect an employee acquiring disability during service, even if the employee is unaware and asks for retirement. Once a post is reserved for PwDs and a suitable candidate is duly selected, their services cannot be terminated on the ground that they are unfit to impart that particular post.

218. 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. The percentage of total disability suffered, workman’s wages at the time of debilitation, loss of earning capacity on account of the disablement are some of the important criteria considered by Courts whilst determining compensation.

219. Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA): The disabled or differently-able persons defined under the PWDA Act, 1995 (1 of 1996) as persons with disabilities, the severity of which is 40% and above are considered as special category of vulnerable persons for the purposes of MGNREGA. The disabled persons as defined in the National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) are also to be considered as

disabled for the purpose of inclusion in MGNREGA. The differently able persons should be given preference for appointment as mates for MGNREGA works and as workers for providing drinking water, to manage crèches etc. at the work sites. They are paid wages equal to other persons employed in MGNREGA works. As per the 2012-13 Annual Plan of Ministry of Rural Development 3,16,692 PwDs were covered under MGNREGA.

220. Programmatic entitlements under Section 40 of the PWDA provide that “the appropriate Governments and local authorities shall reserve not less than three per cent in all poverty alleviation schemes for the benefit of PwDs.” Annexure 8 outlines the subsisting schemes for rural and urban poor.

221. National Rural Livelihood Mission (NRLM)

The most vulnerable households like the Particularly Vulnerable Tribal Groups, single women, women headed households, PwDs, landless, migrant labour, etc would receive a special focus. NRLM will ensure adequate coverage of vulnerable sections of the society such as 3% are PwDs.

222. Vocational training

20 Vocational Rehabilitation Centres for Handicapped (VRCs) have been established by Ministry of Labour & Employment to evaluate residual capacity of PwDs to unfold their social, economic, psychological and vocational potentialities. There are seven Skill Training Workshops that have been added to seven VRCs for 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 PwDs in rural areas. National Action Plan for Skill Training of persons with disabilities has been launched by which 2.5 million PwDs will be skill trained by the year 2022.

223. **Skill development initiative 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 skills set and allows skills upgradation and lifelong learning opportunities for PwDs.

224. **National skill development policy** has been formulated in February, 2009 by the Ministry of Labour & Employment. It aims at increase in productivity of workforce both in the organized and the unorganized sectors, seeking increase in participation of youth, women, disabled and other disadvantaged sections and to synergize efforts of various sectors and reform the present system.

225. 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 people with mental retardation, developing service models and employment and taking up research and developmental activities.

226. **The National Abilympics Association of India** was formed in May 2001 at the behest of the MoSJE and MoHRD. It was aimed to formulate, initiate and implement policies to propagate Abilympics in the country and to promote and organize meets for competition in vocational and living skills. The 8th AI was held in Seoul, South Korea on 25-30th September, 2011 and India won one bronze medal and three special prizes.

227. National Institute for Hearing Handicapped takes up the issues pertaining to reservation of jobs for PwDs with government and public sectors to fill the backlog vacancies reserved. It has launched the website titled www.jobsfordeaf.nic.in to enable the persons with hearing impairment to register online for employment and upload bio-data. It also creates awareness among private sector employers and conducts “Employers Meet” with the Chamber of Commerce and Industry.

228. Special employment exchanges

The Ministry of Labour has the responsibility for vocational training and economic rehabilitation of PwDs. Both the National Council of Vocational Training and the Apprenticeship Training Scheme reserve an unspecified number of places for the PwDs. The National Employment Service through 23 Special Employment Exchanges assists

PwDs (specifically) in obtaining gainful employment and another 914 exchanges (Employment Exchanges) that cater to PwDs as well as people without such special needs.

229. Employment in public sector

Bharat Petroleum Corporation Limited is a leading public sector company at present has staff strength of 13928, where 218 are PwDs and of them 45 belong to management cadre.

230. Promoting opportunities for self-employment and entrepreneurship

Government has been promoting the self-employment of PwDs by providing vocational training and loan on concessional rates through National Handicapped Finance and Development Corporation (NHFDC). NHFDC was established under the Ministry of Social Justice and Empowerment and it functions as an apex institution for channelising the funds to PwDs through the State Channelising Agencies nominated by the State Governments. National Handicapped Finance and Development Corporation distributed 16.9 million US Dollar as loan to 14,703 beneficiaries belonging to the PwDs for self-employment ventures. NHFDC organized 2 mega camps and 11 job fairs.

231. 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.

232. A circular 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 PwDs for availing of the various business facilities.

233. **The National Trust** organizes job fairs and ability Melas: These provide an interface between employers and PwDs leading to placements. 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 responding to employment-related queries from candidates across other disabilities.

234. **Uddyam Prabha (Incentive Scheme)** is a scheme of National Trust to promote economic activities for self-employment of PwDs through interest incentive upto 5% for BPL and 3% for other on loans upto 0.01 million US Dollar for 5 years.

235. Encouraging employment in private sector

The National Policy for PwDs, which was adopted in 2006 also lays down that pro-active measures which will be taken to provide incentives, awards, tax exemptions etc. to encourage employment of PwDs in private sector. The Indian Labour Journal, 2013 states that “Scheme of Incentives to Employers in the Private Sector for Providing Employment to Persons with Disabilities” was launched only in 2008. Under the Scheme, Government provides the employer’s contribution for Employees Provident Fund (EPF) and Employees State Insurance (ESI) for 3 years, for employees with disabilities employed in the private sector with a monthly salary upto 416 US Dollar.

236. A job portal for persons with disabilities for facilitating employment of PwDs has been developed.

Article 28 — Adequate standard of living and social protection

237. Constitutional provisions

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.

238. **Right to housing**

Section 43 of the PWDA requires that "The appropriate Governments and local authorities shall by notification frame schemes in favour of PwDs, for the preferential allotment of land at concessional rates for- (a) House; (b) Setting up business; (c) Setting up special recreation centers; (d) Establishment of special schools; (e) Establishment of research centers; and (f) Establishment of factories by entrepreneurs with disabilities.

239. **Indira Awaas Yojana (IAY)**

With a view to meet the housing needs of the rural poor, IAY was launched in May 1985, primarily meant for persons who are below the poverty line. 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. The IAY at first accorded the benefit of 3% reservation to persons with physical disabilities only. However the 2010 revised guidelines extend the benefit of the scheme to both persons with physical and mental disabilities. During 2013, 42,142 houses have been given to physically challenged persons.

240. **Nirmal Bharat Abhiyan**

It is a new National City Sanitation Project. 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 the reservation of 5% for persons with physical and mental disabilities and others.

241. 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. 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.

242. **National Rural Drinking Water Programme (NRDWP)**

The NRDWP, 2009 is flagship programme of the GoI under which the financial and technical assistance is provided to State Governments for the provision of safe drinking water facilities in all rural habitations of the country. The goal of the NRDWP is to cover all rural households with safe and adequate drinking water supply, giving priority to those habitations, where drinking water sources have chemical (Arsenic and fluoride) contamination, or where sufficient quantity of safe drinking water is not available. One of the essential components of Bharat Nirman, a programme for building rural infrastructure, is on providing drinking water supply facilities in rural areas. The focus under NRDWP is shifting from the provision of handpumps to provision of piped water supply in more habitations with a view to reduce the burden of collecting and fetching drinking water on women, children and PwDs.

243. **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. The key intervention areas are individual household latrines, school sanitation and hygiene education, community sanitary complex and anganwadi toilets. 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". There is a special provision for latrines in the household for persons with physical disabilities. An incentive amount is provided to all persons with physical disabilities for construction of disabled friendly latrines.

244. As far as Right to Food is concerned, the schemes namely Annapurna and Nutritional Programme for Adolescent Girls are being implemented by the Ministries of Rural Development and Women and Child Development and are targeted at senior citizens and adolescent girls respectively.

245. Right to social protection

As per the National Policy for Persons with Disabilities, Section 52 provides that for the PwDs, following steps will be taken to provide adequate Social Security:-(i) A system of regular review of the policies of tax relief granted to the persons with disabilities will be put in place so, that the necessary income tax and other tax relief remain available to PwDs. (ii) State Governments and UT Administrations will be encouraged to rationalize the amount of pension and unemployment allowance for PwDs. (iii) Life Insurance Corporation of India has been providing insurance cover to persons with specific type of disabilities.

246. Pension schemes

In accordance to Article 41 of the Constitution of India that directs the states 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. In February 2009, under NSAP — the Indira Gandhi National Disability Pension Scheme (IGNDPS) was added. IGNDPS was started for BPL persons with severe or multiple disabilities (in the age group of 18-64 years) at the rate of 3 US Dollar per month per beneficiary. With effect from year 2012, the amount of pension under IGNDPS has been increased to 6 US Dollar per month and upper age limit was been increased to 79 years. Hence, IGNDPS is applicable to persons with severe or multiple disabilities between the age group of 18-79 years and belonging to household living below poverty line (BPL) as per criteria prescribed by Government of India. The number of beneficiaries covered under this scheme during 2012-13 was 7,43,806.

247. Insurance schemes in 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).

248. Employees' State Insurance Corporation (ESIC) Section 46 of the ESIC Act envisages following social security benefits:

- Temporary disablement benefit (TDB): From day one of entering insurable employment & irrespective of having paid any contribution in case of employment injury. Temporary Disablement Benefit at the rate of 90% of wage is payable, as long as disability continues;
- Permanent disablement benefit (PDB): The benefit is paid at the rate of 90% of wage in the form of monthly payment depending upon the extent of loss of earning capacity as certified by a Medical Board;
- Medical care is also provided to permanently disabled insured persons and their spouses on payment of a token annual premium of 2 US Dollar;
- Other benefits include vocational rehabilitation to permanently disabled insured person and physical rehabilitation in case of physical disablement due to employment injury.

249. Rajiv Gandhi Shramik Kalyan Yojana

The ESI Corporation introduced a scheme of unemployment allowance with effect from 2005 under which insured persons are covered under the ESI Scheme for three years or more, and 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 are also paid fee charged by the institution as well as expenses on their travel.

250. Unorganized sector

To safeguard the interest of unorganized workers, Unorganized Workers Social Security Act, 2008 was enacted. Section 3 of the Act provides that Central Government shall formulate and notify suitable welfare schemes for unorganized workers on matters relating to life and disability cover. Section 5 of the Act also provides the 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. Annexure 9 reflects insurance schemes for the unorganized sector for PwDs.

Article 29 — Participation in political and public life

251. Constitutional provisions on political representation

The Preamble of 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 the 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.”

252. However pursuant to Article 102 (1) (b) of the Constitution “a person may be disqualified for being chosen and for being a member of either house of Parliament on the ground of unsound mind only after being so declared by a Competent Court”. Article 191 (1) (b) makes a similar provision for State Legislative Assemblies and Councils.

253. Statutory provisions on electoral rights

Under Section 16 (1) (b) of the Representation of the People Act, 1950 a person may not be disqualified from registration in an electoral roll if such person “is of unsound mind and stands so declared by a Competent Court”. Under Section 16(2) a person’s name may be removed from an electoral roll if he is so declared by a Competent Authority, after being registered on the electoral roll.

254. Facilitating the electoral rights of persons with physical and sensory disabilities

The Central government has been empowered to any consultation with the Election Commission Rules that regulate “the manner in which votes are to be given both generally and in the case of illiterate voters under physical or other disability 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.”

255. Rule 25 and Rule 27G of the Conduct of Elections Rules, 1961 provide that if an elector is unable due to 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. Rule 32, Rule 40A, Rule 49D(f) and Rule 49P(f) of the Conduct of Elections Rules, 1961 provide that persons accompanying a blind or infirm elector who cannot move without help cannot be excluded from entering polling station. Further, Presiding Officers are required to ensure that physically challenged electors are given priority for entering the polling station, without having to wait in the queue for other electors.

256. Where 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 should permit the elector to take with him a companion, who is not a minor to the voting compartment for recording the vote on the ballot paper on his behalf.

257. 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 PwDs. 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”.

258. Rights activism

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 PwDs like provision of ramps, separate queues as well as Braille sheets in the Electronic Voting Machines. Concurrently, the Supreme Court ordered that the polling officials should be sensitized about the needs of the PwDs and wide publicity should be given to these measures so as to ensure that the PwDs population is made aware of it and should come out to exercise its franchise. To ensure easy accessibility for PwDs, DEPwD made arrangements for providing tricycles at polling stations during Lok Sabha and Legislative Assembly elections in Delhi, Lucknow, Varanasi, Kanpur and Allahabad. A handbook was prepared for providing Officers for guidance. This initiative was appreciated by all concerned and efforts of the Government were lauded.

259. That PwDs are coming of age politically can also be deduced from the emergence of Viklang Manchs (Federation of the Disabled persons) which are forums of PwDs active in the rural areas of the country. These forums show how disability rights advocacy are no longer an urban phenomenon.

Article 30 — Participation in cultural life, recreation, leisure and sports

260. Constitutional mandate

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*” 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*”.

261. The National Policy for PwDs, 2006 commits to ensure to PwDs have equal opportunities in Sports, Recreation and Cultural activities and to realize this goal, the policy undertakes to:

- (i) Make places for recreation, cultural activities and sports, hotels, beaches, sports arenas, auditoriums, gym halls, etc. accessible;
- (ii) Require 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 PwDs;
- (iii) Identify with the assistance of local NGOs talent amongst PwDs in different sports;
- (iv) Encourage the formation of Sports organizations and cultural societies for PwDs. There will be mechanism to support the participation of persons with disabilities in national and international events;
- (v) Institute a national award for excellence in sports for PwDs shall be instituted.

Participation in cultural life

262. Libraries

A high level Committee to be called as National Mission on Libraries has been constituted by the Ministry of Culture in April, 2012. Participation of PwDs 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. There has been the constant endeavor by the Government to make libraries accessible to PwDs.

263. **Films**

To safeguard and recognize the interests of the person with disabilities, the Central Board of Film Certification has a set of guidelines one of them 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.

264. **Monuments**

In 2011, the Ministry of Social Justice and Empowerment (MoSJE) approved a grant of 0.83 million USD 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 PwDs. The funds are to be used to make access pathways, ramps, toilets, tactile maps, Braille signage, and modifications in ticket counters for PwDs. The ASI has also brought out the publication on World Heritage Properties, in Braille.

265. **Barriers in terms of intellectual property rights**

Under the present legal copyright regime in India, the conversion and use of the printed material in its converted form requires 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 PwDs in accessible formats. The Copyright (Amendment) Act, 2012 has introduced exceptions to copyright for physically challenged and compulsory license provision to make accessibility of work in all formats. India is Party to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. This was adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in Marrakesh, on June 27, 2013.

266. **Tourism**

The Ministry of Tourism (MOT) has set up a system for implementation of minimum standards for accessibility of facilities and services for the PwDs to be available in the hotels right from the project implementation stage. The Ministry of Tourism approves hotel projects and classifies operational hotels, convention centres etc. as per guidelines, laid down for this purpose. Provision has been made in the guidelines to keep the requirements of the differently able persons. The MOT has now made mandatory that classified hotels should have at least one dedicated room for the differently abled guest with wheel chair accessibility, suitable low height furniture, low peep hole, cupboard with sliding doors and low cloth hangers etc. The room is also required to have audible and visible (blinking light) alarm system. The bathroom is required to be wheelchair accessible with sliding door and suitable fixtures like low washbasin, low height toilet, and grab bars etc.

267. Public restrooms of classified hotels are required to be unisex, wheelchair accessible, with suitable fixtures of low height, grab bars etc. Free accessibility has to be provided in all public areas and at least one restaurant in 5 Star and Star Deluxe hotels should have ramps with anti — slip floors at the entrance. The hotels are advised to have the rooms for the differently able guests to be located at the lowest level and closest to the elevator. They are also advised to sensitize all staff members of the hotel regarding the special requirements of the differently able persons so as to enable them to handle such guests with care. With a view to generate awareness and also to recognize the contribution, the MoT instituted an award to the hotels which provide best facilities for the differently able guests.

268. **Organizations promoting disability sports**

The Government has been collaborating with NGOs to raise awareness. On August 12, 2011, the Union Minister of Tourism flagged off a “Beyond Barriers Incredible India Tour” by wheel-chair based persons in New Delhi. The Tour involved visits to 28 State Capitals and 40 cities in 81 days by a group of volunteers on wheel chairs.

269. Paralympic committee of India

In the Year 2005, the Government recognized Paralympic Committee of India (PCI) at par with Indian Olympic Association (IOA). From 2006, PCI started affiliating State Bodies & Federations and this paved way for uplifting Para Sports in India. PCI is 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. PCI has been instrumental in India's participation at various International Meets like Para Asian Games, World Competitions. For the first time, the Commonwealth Games 2010 hosted in Delhi saw sports PwDs compete in the same arena as mainstream sports. As a result of a Co-operative Agreement between The Commonwealth Games Federation and The International Paralympic Committee athletes with disabilities also got an opportunity to showcase their world-class sporting skills.

270. National Playing Fields Association of India (NPF AI)

The Sports Ministry has signed an MOU with Fields in Trust, UK, for the formation of the National Playing Fields Association of India (NPF AI) in February 2009. The main objective of the NPF AI is to develop, promote, protect and expand playing fields and open spaces in the country.

271. Indian Spinal Injuries Centre has established sports facilities for people with spinal cord injuries (wheelchairs users) to have them provided the opportunities to participate in various sports activities like wheelchair rugby, wheelchairs basketball, wheelchair tennis and lawn tennis to increase their functional level and physical capacity to be active.

272. National Institute of Mental Health 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, etc.

273. National Institute for Empowerment of Persons with Multiple Disabilities 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.

274. Schemes and programs to promote disability sports

The Ministry of Youth Affairs & Sports, Department of Sports is implementing the schemes aimed at promotion and development of sports among PwDs.

275. Scheme of assistance to National Sports Federation

Assistance is provided to National Sports Federations for conducting National Championships and International Tournaments in India, participation in international tournaments abroad, organizing coaching camps, procuring sports equipments and so on. Annual report of Ministry of Youth Affairs and Sports, 2014-15 provides the following details of funds released to National Sports Federations:

Assistance to national sports federations (US Dollar)

<i>Name of Federation</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>
All India Sports Council for Deaf, New Delhi	0.09	0.14	0.005
Paralympic Committee of India, Bangalore	0.29	0.23	0.33
Special Olympic Bharat	0.11	0.45	0.32

276. The "Scheme of sports and games for the disabled"

The Ministry formulated a scheme for promotion of sports and games among disabled in 2009. Broad-basing participative sports among the persons with disabilities. The scheme has components of grants for sports coaching and purchase of consumables and non-consumables sports equipments for schools, grant for training of coaches and grant for

holding district, state and National level competition for persons with disabilities. During 2014-15, grants to 35 schools were provided under the Scheme till December 2014. 42350 persons with disabilities participated in competitions conducted at district and state levels during 2014-15 (as on December 2014) under the Scheme.

277. Expenditure incurred during last three years under the Scheme of Sports & Games for Persons with Disabilities is stated below:

<i>S. No.</i>	<i>Year</i>	<i>Expenditure incurred (US Dollar)</i>
1	2012-13	1.08
2	2013-14	1.16
3	2014-15	0.60

278. Scheme of Pension to Meritorious Sportspersons was launched in the year 1994. Sportspersons who are Indian citizens and have won gold, silver and bronze medals and have attained age of 30 years as well as have retired from active sports career are eligible for life pension.

279. **The Association for Cricket for Blind in India (ACBI)** was set up in 1996 with an objective to use competitive cricket to inculcate positive outlook and confidence in blind. The ACBI organised the first two Blind Cricket World Cups in 1998 and 2002. 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 per the international standard.

280. **National sports meet for the blind**

The Indian Blind Sports Association was established in April 1986 through the initiative of the Blind Relief Association, Delhi (BRA), a premier organization for the blind in India. The objective was to promote national-level sports activities for the blind. The Association is recognized by the Indian Olympic Association, and affiliated to the International Blind Sports Federation (IBSA), representing India in this apex sports body for the visually challenged. It is also affiliated with the Paralympic Committee. It has 133 institutions and sports organizations from 23 states. Indian Blind Sports Association has been organising the National Sports Meet for the Blind on a biennial basis regularly since 1982. The 18th National Sports Meet was held in 2012 and was attended by nearly 600 athletes and sports officials from 15 states across the country. *IBSA World Championships: Escorts*, 1 Coach, 1 Assistant Coach and 2 Officials participated in the 4th IBSA World Championships and Game in the Antalya. India won five medals (one silver and four bronze medals).

Article 31 — Statistics and data collection

281. **Significance of statistics**

Article 31 recognizes the importance of comparable data on disability that is critical for planning, implementation, monitoring, and evaluation of inclusive policies. In this context, the statement: “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”, as expressed clearly in the convention, marks a shift from medical model to a social model of disability that the statistics of a country has to respond to.

282. The enactment of the PWD Act 1995 is a signal achievement of the Indian disability movement. Preamble to this Act clearly delineates its objective of promoting and ensuring equality and full participation of PwDs.

Sources of disability data

283. The PWD Act 1995 imposes specific obligation on the Government to undertake surveys, investigation and research concerning causes of disability. The major sources of

statistics on disabilities are the decadal Population Censuses and nationwide sample surveys on disability conducted by National Sample Survey Organization (NSSO).

284. In Census 2011, information in respect of eight types of disabilities was collected. The eight types are referred as (i) In seeing, (ii) In hearing (iii) In speech (iv) In movement (v) Mental Retardation (vi) Mental Illness, (vii) Multiple disabilities (viii) Any other

285. The Census of 2011 is the 15th edition, of census after independence. The definitions were broadly in conformity with those recommended by the aforesaid TAC. In Census 2011, the question was moved to number 9 in the priority that right after name, age, sex, religion etc. The definitions, concepts and the instructions were designed in such a manner that the question was canvassed appropriately 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 number of the household from the main respondent who answered other questions. Annexure 10 covers the disability related questions in Census 2011.

Dissemination of information

286. Publicity

A systematic publicity campaign was launched through print and electronic media that helped in creating an atmosphere where Census 2011 enumerators could canvass the question on disability effectively. The Census used the television, radio, print media and the internet to disseminate information for creating better awareness. A film on “Get Yourself Counted” was made for regional language television channels. The issue got covered on television talk shows, among other things. Information, Education and Communication (IEC) materials like handbills, posters, and leaflets in local languages were distributed in villages and to enumerators.

287. Public private partnership

The Census Organization was not alone in its endeavour to sensitize the general public about the importance of the Census of India 2011 and seeking their cooperation. Other Union Ministries, civil society organizations, particularly those, working for the welfare of PwDs also put in their intensive efforts to ensure that people come forward and provided correct information in respect of the questions concerning disability.

Article 32 — International co-operation

288. Constitutional jurisprudence

Article 51 (b) of the Constitution of India lays down that the State shall endeavor to: “maintain just and honourable relations among 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 fulfil its obligations under this article.

289. Department for International Development (DFID) India and disability

DFID India is probably the most proactive office of the country in addressing disability issues. The key features of DFID India’s response to disability are:

- Inclusion of disability indicators in log frame agreements with the Government. Disability indicators are included in the agreement for the Sarva Shiksha Abhiyan, the education programme. The indicator emphasises the need for an improved educational achievement for Scheduled Tribe and Scheduled Caste children and disabled children and particularly girls within these groups. PwDs are also included in the log frame for the multi-donor Reproductive and Child Health Programme. The programme requires the states to identify groups with the worst health outcomes and channel resources accordingly;
- **Partnerships Agreement Programme (PAP):** DFID India has established its own partnership agreements with selected UK NGOs who have Programme Partnership

Agreements with DFID headquarters. Each NGO 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. VSO has assisted DFID, by organising a roundtable meeting, headed by the Secretary of State and the disability stakeholders;

- **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 and are built into the programme. The programme encourages real capacity building approaches. 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;
- **Implementing DFID's corporate diversity agenda** DFID India has also been proactively seeking to implement the corporate diversity strategy. DFID India has been working with a local DPO to ensure that its recruitment processes are open and inclusive. Tsunami response Disability perspective to be included in Social-Equity Audits of post-tsunami relief programmes.

290. **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) for 15 months which in turn is implemented by Handicap International.

291. **The World Bank and International Monitoring Funds** effort at mainstreaming disability development is effectuated through their country specific Poverty Reduction Strategy Process.

292. **The Disability Rights Fund (DRF)** encourages and promotes the respect for the general principles stated in the Convention on the Rights of PwDs, the need to ensure the full participation of PwDs in all spheres of life, including the development of national and international laws, policies and programs. DRF supports Disabled Peoples Organizations to take the lead in advocating for the human rights of PwDs at local and national levels, utilizing the mechanism of the Convention on the Rights of Persons with Disabilities.

293. **Disability Initiatives In Sustainable Action India Society (DISAI Society)**

Fiscal sponsor Jagruthi Education and Social Upliftment Society to move disability rights forwarded by building the capacity of up to 100 DPOs to address the UNCRPD etc.

294. There are various other organizations other which are supporting disability programs in India. Some of them are: CBM, Germany; Sight Savers, UK; Sense International, UK; Action Aid, UK; LCH Disability, UK; Voice and Vision, USA; Asian Blind Union; International Council for the Education of Persons with Visual Impairment; Rehabilitation International; Disabled People's International; Abilympic International; Misoror, Germany; International Association for the Prevention of Blindness; International league on Mental Retardation; Low Vision International; Deaf blind International; Vision 2020; and Japan International Development Council.

295. **Capacity Building Initiatives:**

(a) **Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices:**

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. UNESCO, on the other hand, has concentrated its monetary assistance on inclusive education.

296. Besides International Organisations, 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 prevention of disability. 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.

(b) Facilitating cooperation in research and access to scientific and technical knowledge:

297. **The Jaipur Foot**, even today, remains the most significant contributors of India to the disability sector on the global map. Offered by the Bhagwan Mahaveer Viklang Sahayata Samiti (BMVSS) Jaipur, set up in 1975 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 service charges or monetary obligation in return. 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. The Samiti also provides training in educating people with regard to making 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. The Jaipur Foot has also gone a long way in restoring livelihood for those affected in the civil war ravaged country of Sri Lanka. The highest denomination of Jaipur foot that has gone from BMVSS is to Afghanistan with figure of 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 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.

298. **ALIMCO** has taken major steps with emphasis on "Make in India" mission by signing agreement for Artificial Limbs with M/s Ottobock, Germany; inclusion of high end devices for distribution to PwDs under CSR Project; and introduction of Cochlear Implant Surgery to empower persons with hearing disability. In a step towards providing better hearing experience for hearing impaired persons, ALIMCO successfully procured 56 numbers of Cochlear Implant for the National Institute for Hearing Handicapped, Mumbai.

(c) Providing, as appropriate, technical and economic assistance, including facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies:

299. In furtherance of inter-country co-operation, India renewed its MoU with Mauritius in November, 2007 with regards to co-operation among the countries in the field of Social Defence including inter alia disability. The MoU recognises, that while MoSJE remains nodal agency for policies and programmes for empowerment of PwDs, 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.

300. The Ministers and representatives of members and associate members of the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) assembled at the High Level Inter-Governmental meeting for the final review of the implementation of the Asian and Pacific Decade of Disabled Persons, 2003-2012 held at Incheon, Korea in 2012 and adopted the Incheon Strategy "Make the Right Real" for PwDs in Asia and the Pacific. The ESCAP in its 69th Session held from 25 April- 1 May, 2013 passed the resolution endorsing the Ministerial declaration and Incheon Strategy. The Incheon Strategy spells out Action Plans at the regional and sub-regional levels to achieve the goals and contains the core indicators for tracking the progress of implementation.

301. In order to oversee the implementation of the Incheon Strategy, the UNESCAP has constituted the Working Group on the Asian and Pacific Decade for Persons with Disabilities, 2013-2022. The first meeting of the Working Group was held at Incheon, Korea in 2014. During 2-3 March, 2015, Government of India hosted the Second Session of the Working Group at New Delhi in association with UNESCAP Secretariat to discuss critical issue of Make the Rights Real for persons with disabilities. About 70 delegates from

13 member countries and representatives from civil society organizations participated in the meeting.

Article 33 — National implementation and monitoring

302. Focal points and coordination mechanisms

Due to the cross cutting nature of disability, coordinating mechanisms have been viewed as integral to the realization of disability rights. In order to provide focussed attention to disability rights, a separate department on disability namely, Department for Empowerment of Persons with Disabilities was set up in the MoSJE in 2012 to act as the nodal Department for the overall policy, planning and coordination of programmes for PwDs.

303. Central and state coordination committees

The PWDA along with the Constitution of India 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, members “five persons, as far as practicable, being PwDs to represent NGO’s or associations which are concerned with PwDs”. 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. The other members of the Committee are the Secretaries of other relevant Ministries; Directors of the National institutes; and representatives of the State and Union Territories.

304. This Committee has been envisaged “to serve as the national focal point on disability matters and is required to facilitate the continuous evaluation of a comprehensive policy towards solving the problems faced by PwDs”. The Central Coordination Committee has 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.

305. This Central Coordination Committee is supported by a Central Executive Committee which 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.

Monitoring and implementation mechanism

306. Chief Commissioner of persons with disabilities

Under Section 58 of PWDA functions of the Chief Commissioner for Persons with Disabilities comprise of: coordinating the work of the Commissioners, monitoring utilization of funds disbursed by the Central Government, safeguarding the rights and facilities made available to PwDs. Additionally, the Chief Commissioner can intervene in the complaints filed or suomoto with respect to matters relating to deprivation of rights of PwDs and can issue regulations, executive orders, guidelines or instructions for the welfare and protection of rights of PwDs.

307. Commissioners of persons with disabilities

Section 60 of PWDA requires every State Government to appoint a Commissioner for Persons with Disabilities. The State Commissioner has the powers similar to that of CCPD in relation to the State.
