

The Rights of Persons with Disabilities (Respect for Dignity, Effective Participation and Inclusive Opportunities) Act, 2010

Preamble

Whereas, persons with disabilities have made valued existing and will continue to make potential contributions to the overall well-being and diversity of their communities; and

Whereas, the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty; and

Whereas, disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others; and

Whereas, India has both signed and ratified the United Nations Convention on the Rights of Persons with Disabilities; and

Whereas, all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and persons with disabilities should be guaranteed their full enjoyment without discrimination; and

Whereas India has ratified the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and *check which of these conventions have been ratified by India*

Whereas, the Constitution of India as envisaged in its preamble seeks to secure for all its citizens justice – social economic and political, dignity equality and fraternity; and

Whereas, article 41 of the Constitution of India provides for public assistance in cases of old age, sickness, disablement and undeserved want; and

Whereas, article 14 of the Constitution of India guarantees to all its citizens including citizens with disabilities, equality before the law and equal protection of the law; and

Whereas, article 21 of the Constitution of India guarantees to all its citizens right to life and personal liberty; and

Whereas, persons with disabilities continue to be deprived of their human rights and fundamental freedoms; and

Whereas, right to life implies right to live with dignity; and

Whereas, it is imperative to ensure that persons with disabilities are not discriminated against and that they are treated on an equal basis with others and

Whereas, it is obligatory to ensure equality of opportunity to persons with disabilities including women and children with disabilities; and

Whereas, harmonization of the relevant laws with the United Nations Convention on the Rights of Persons with Disabilities need to be carried out; and

Whereas, it is now necessary to give effect to the provisions of the United Nations Convention on the Rights of Persons with Disabilities; and

Therefore, be it enacted by the Parliament in the 59th year of the Republic of India as follows:-

Chapter I: Preliminary, Short Title, Extent and Commencement

1. This Act may be called the Rights of Persons with Disabilities (Respect for Dignity, Effective Participation and Inclusive Opportunities) Act, 2009
2. This Act shall promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. It shall achieve this through inclusive equal opportunities, respect for inherent dignity and full and effective participation
3. It extends to the whole of India except the state of Jammu and Kashmir
4. It will come into force on such date as the Central Government may by notification appoint

Chapter II: Definitions

Note: This document includes only some key definitions presently. The list of definitions will grow as the drafting process continues. Most definitions are derived from the UNCRPD/ ICF

1. Persons with Disability:

Persons with Disabilities includes those who have long term

- Physical impairment (e.g. impairment of movement, muscles, joints, limbs, balance)
- Mental impairment (e.g. impairment of behaviour, attention concentration, thoughts, mood, perception, cognitive functions, insight)
- Intellectual impairment (e.g. impairment of learning (global and specific learning impairment) and impairment of applying knowledge)
- Sensory impairment (e.g. hearing impairment, visual impairment, impairment of touch)

which in interaction with various barriers may hinder full and effective participation of the persons in the society on an equal basis with others?

Person with disabilities include but are not restricted to persons living with blindness and low vision, persons cured of leprosy, persons living with hearing impairment (deaf and hard of hearing), locomotor disability, mental retardation (intellectual disabilities), dyslexia (specific learning difficulties) mental illness, cerebral palsy, autism, hemophilia, muscular atrophies and dystrophies, Dementias,, Multiple Sclerosis, Parkinson's Disease, other Degenerative Diseases of the Nervous System and multiple disabilities. This is an enumerative list of disabilities the words used to describe people with disability are the common words used today. These should in no way lead to a labeling or discrimination of people with disability.

2. Impairments of Physiological, Psychological Functions and Body Structures

- a. Impairments include the diversity of physiological and/ or psychological functions in the physical, sensory, mental and intellectual domains, which leads to limitation of execution of tasks or actions related to the function. Physiological functions include but are not limited to movement, hearing, visual perception etc) and psychological functions include but are not limited to attention/ concentration, orientation, behavior, mood, thinking, perception, learning and applying knowledge, memory, abstraction, problem solving etc),
- b. Impairments include diversity in form of the structure in the physical, sensory, mental and intellectual domains which leads to a limitation of execution of tasks or actions related to the structure. Body structures are anatomical parts of the body such as organs, tissues, limbs and their components.
- c. Impairments in interaction with various barriers may hinder full and effective participation in the society on an equal basis with others

3. Discrimination based on disability means

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

4. Barriers may include

- a. Barriers may include environmental factors that make up the physical, social and attitudinal environment in which Persons live and conduct their lives and which in interaction with the impairments may hinder full and effective participation in the society on an equal basis with others
- b. Barriers may include
 - i. LACK OF ACCESS TO PRODUCTS AND TECHNOLOGY *for personal consumption (food, medicines), for personal use in daily living, for personal indoor and outdoor mobility, and transportation, products for communication*
 - ii. LACK OF ACCESS TO TECHNOLOGY *Design, construction and building products and technology of buildings for public use Design, construction and building products and technology of buildings for private use*
 - iii. NATURAL ENVIRONMENT AND HUMAN MADE CHANGES TO ENVIRONMENT
Climate, Light, Sound
 - iv. LACK OF SUPPORT AND RELATIONSHIPS Immediate family Friends Acquaintances, Peers, Colleagues, Neighbours and community members Persons in position of authority Personal care providers and personal assistants Health professionals Health related professionals
 - v. ATTITUDES Individual attitudes of immediate family members Individual attitudes of friends, Individual attitudes of personal care providers and personal assistants Individual attitudes of health/education/disability/professionals Individual attitudes of health related professionals, Individual attitudes of employers
 - vi. Societal attitudes
 - vii. Social norms, practices and ideologies
 - viii. SERVICES, SYSTEMS AND POLICIES Housing services, systems and policies; Communication services, systems and policies; Transportation services, systems

and policies; Legal services, systems and policies; Social security, services, systems and policies; General social support services, systems and policies; Health services, systems and policies; Education and training services, systems and policies; Labour and employment services, systems and policies; Insurance services, systems and policies; Financial services, systems and policies; Electoral services, systems and policies; Other services, systems and policies which are not included in the above

5. Ensuring Full and Effective Participation of Persons with disability means

- a. *Participation is the involvement of a person in various life situations or domains of life like nutrition, family, self care, independent living, civil and political life, relationships, culture*
- b. Full and Effective Participation of persons with disability implies that the appropriate government shall ensure or make to happen that:
 - i. Persons with disability are the primary determinants of decisions regarding their own lives
 - ii. Persons with disability have access to information regarding their rights and options for the decisions they make regarding their lives
 - iii. Persons with disability have the opportunity and the support for participation and decision making (to the extent required) lack of such support should never lead to exclusion, discrimination or substitution of participation and decision making
 - iv. Persons with disability should have support to the extent required for participation in processes that ensure fulfillment of their right to life with dignity, education, health, food, work, relationships, access to justice, association, right to property, movement, cultural rights
 - v. Persons with disability have the opportunity and support (to the extent required) for participation in and contribution to decision making in all civil society consultative processes of planning and resource allocation in the community at all levels of functioning (from the panchayati raj to the planning commission)
 - vi. Persons with disability should have support for participation in political processes including elections to the extent required
 - vii. Persons with disability are informed about and have equal opportunities to participate in public private partnerships
 - viii. Persons with disability are informed about and have equal opportunity to participate in social audits

6. Ensuring Inclusion means

- a. Ensuring Inclusion implies that the decisions and actions of the appropriate government and its functionaries, taken in the process of development, analysis, planning and implementation contribute to equalization of opportunities including

availability of specific opportunities and effective participation for all persons with disabilities

- b. Ensuring Inclusion means that the appropriate government facilitates and mobilizes steps and ensures the facilitation and mobilization of steps (including those to be taken by private parties) so that the potential of all its citizens by designing and accommodating the structure and functioning of all its departments, policies and programs to the needs of all persons with disabilities.
- c. Inclusion shall be ensured by including **the disability dimension** in data collection, analyses and interpretation of information and organization of documentation throughout the analysis and planning process.
- d. Inclusion shall also be ensured through identifying channels of information and initiating ways to **involve persons with disabilities as full and effective partners** at all stages of the development process.
- e. Inclusion shall also be ensured through using **checkpoints** at various stages in the development process (particularly resource allocation and resource utilization) to identify and assess the impact of development decisions on persons with disabilities and thus to identify options to minimize the negative effects, and to enhance the positive impact of such decisions and actions.
- f. Inclusion shall also be ensured by designing mechanisms which can **launch sustainable processes for empowering persons with disabilities** so that they can take charge of affairs which concern them.

7. Universal Design means

- a. "Universal design" means the design of products, environments, programmes, planning and procurement processes, processes for access to information, tools, curricula, human resources and services to be usable by all Persons, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude development and availability of assistive devices and processes for particular groups of persons with disabilities where this is needed.

8. Reasonable Accommodation means

- a. "Reasonable accommodation" means necessary and appropriate modification and adjustments, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms; when the cost of reasonable accommodation is disproportionate to the sources of income of the duty bearer required to put the reasonable accommodation in place, the duty bearer may seek support from the appropriate government for the same.

It would be the responsibility of the appropriate government to bring out a list of mandatory and optional reasonable accommodations to facilitate this process

9. Communication means

- a. "Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;
- b. "Language" includes spoken and signed languages and other forms of non spoken languages; *Signed language should be given the status of a national language with an Academy to research and develop it*

Chapter III: The Principles of the Act

All provisions of the present act will be governed by the following principles:

1. Respect for inherent dignity, individual autonomy including freedom to make one's own informed choices and independence of persons which means that Persons with disability should be seen as individuals in their own right (as opposed to only being members of a family, community or a group of beneficiaries) and that Persons with disability should be treated with dignity and should have the opportunity, support and access to information to make their own decisions. The appropriate government must ensure respect for inherent dignity, individual autonomy, informed choices and independence.
2. Non discrimination and Equality of Opportunity which means that Persons with disability should not be discriminated against on account of being disabled, Persons with disability should be seen to have similar needs with substantively equal access to different and specific ways of fulfilling these needs. The appropriate government will ensure non discrimination on the basis of disability
3. Dual discrimination on the basis of poverty and disability which means that the negative impact of poverty on persons with disability (including the magnification of poverty due to disability) must be acknowledged and addressed by the appropriate government in all its policies and programs especially those for poverty alleviation and social security
4. Persons with disability face multiple difficulties and thus are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin including caste, property, birth, age or other status. The risk of such multiple vulnerability increases in times of conflict and disaster. The appropriate government will ensure non discrimination of all Persons with disability who are multiply vulnerable
5. Full and effective participation which means that Persons with disability should be able to participate and make decisions regarding their own lives and should be able to contribute to decision making regarding the community that they belong to. Such processes of participation should not label or isolate Persons with disability. The appropriate government must ensure full and effective participation of Persons with disability
6. Respect for differences and acceptance of all persons with disability as part of human diversity which means that all Persons are different from each other and the human experience and human form has range of ways of being and that disabled Persons represent a part of such a continuum
7. Accessibility which means (to be added by Shivani)

8. Equality between men and women which means men and women are equal and must have an equal access to resources
9. Women and girls with disabilities are often at greater risk, both within and outside the home, of discrimination, violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation. The appropriate government will ensure the non discrimination of women with disabilities and protection from neglect, abuse, maltreatment and exploitation
10. Children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis
11. Respect for evolving capacities of children and persons with disabilities which means that the abilities of all children and persons with disabilities are likely to progressively surface, unfold, develop or change specially when the children and persons experience facilitative and enabling environments
12. Respect for the right of children with disabilities to preserve their identities which means that all children with disabilities have a right to experience environments which help them develop and integrate multifarious identities including that of being a disabled person
13. The family is the natural and fundamental group unit of society in India and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities. When the rights of any person with disability are infringed, violated or in conflict with his/ her family, the appropriate government will ensure the protection of the rights of person with disability and support him/ her through other mechanisms and not through family

Chapter IV: General Obligations of the Appropriate Governments

1. All appropriate governments and local authorities shall take steps to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability by any person, organization, public or private enterprise
2. The appropriate governments and local authorities shall constitute task groups at the central, state, and the local levels with a view to identifying and reviewing existing laws, rules and regulations so as to suggest necessary modifications in such laws, rules and regulations that discriminate against persons with disability.
3. The task groups as referred to in sub-section 2 shall be constituted within two months (or as specified) from the date of entry into force of this Act. These task groups will submit their reports together with their recommendations to the appropriate authorities within a period of 3 months (or as specified) from the date of their constitution.
4. The appropriate governments and local authorities, on receipt of reports and recommendations of these task groups, shall modify such identified laws, rules and regulations in accordance to the purpose and objectives of this act read together with UNCRPD.
5. These task groups shall have adequate representation of persons belonging to different categories of disabilities including women with disability, family members of people with disability, professionals, lawyers and jurists with disability rights orientation, social activists and government officials.
6. The appropriate governments and local authorities shall take into account the protection, promotion and full enjoyment of human rights of persons with disabilities while designing, formulating, planning, implementing, analyzing, auditing and reviewing all policies and programmes. The appropriate governments and local authorities shall further refrain from engaging in any act or practice that is inconsistent with this Act and to ensure that public authorities and institutions act in conformity with this Act.
7. The appropriate governments at both central and state levels, including all ministries, departments and local authorities including panchayati raj institutions shall actively consult with and involve persons with disabilities, including children and women with disability at the policy formulation and decision making levels in respect of matters that affect their lives.
8. The appropriate governments and local authorities shall undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in Chapter 1 the Act, which should require the minimum possible adaptation and

the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines. The appropriate governments and local authorities shall also undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost.

9. The appropriate Government and local authorities shall undertake to provide accessible information to persons with disability about mobility aids, devices and assistive technologies, as well as other forms of assistance including training in accessing information, support services and facilities.
10. The appropriate governments and local authorities shall review, redesign and implement the training of those who presently provide services to and those who are likely to provide quality assured, rights based and inclusive services to persons with disabilities in accordance with the rights recognized in this Act.
11. It shall be obligatory for private entities providing services, goods, facilities etc. which are open to the public to universally design their goods, services, facilities etc. so that persons with disabilities are able to access, use and enjoy them on an equal basis with others. The private entities shall also undertake or promote research and development of, and promote the availability and use of new technologies, including information and communication technologies, mobility aids, devices, and assistive technologies, specifically suitable to persons with disability, giving priority to technologies at an affordable cost.
12. The appropriate governments and local authorities shall review and redesign research and service delivery processes so as to develop, promote and provide quality assured, rights based and inclusive services to persons with disabilities in accordance with the rights recognized in this Act.

Chapter XI: Equality and Non Discrimination

1. All persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. All discrimination of persons on the basis of disability is prohibited and persons with disabilities are guaranteed equal and effective legal protection against discrimination on all grounds.
3. The appropriate governments shall take all the steps to ensure that reasonable accommodation is provided to promote equality for all persons with disability and eliminate discrimination.
4. Specific measures which are necessary shall be taken to accelerate or achieve substantive equality of persons with disabilities and not considered as discrimination of others.
5. In order to promote equality and eliminate discrimination, all appropriate governments shall take all appropriate steps to mitigate the negative impact of multiple discrimination that People with Disability face on the basis of poverty, gender, caste or any other factor leading to marginalization.

Chapter XII: Women with disabilities

1. To recognize that women and girls with disabilities are subjected to multiple discrimination and all appropriate governments in this regard shall take all appropriate measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. All appropriate governments shall take all appropriate measures to ensure the full development, advancement, and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms set out in the present Act.
3. Reasonable Accommodation as stated in section 8(a) of the Chapter II on definitions is provided to all women with disabilities according to their specific individual requirement.
4. To recognize that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation and thus, all appropriate Governments shall take all appropriate legislative, administrative, social, educational and other measures to protect women with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
5. All appropriate governments shall take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender and age sensitive assistance and support for women with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. All appropriate governments shall ensure that protection services are – age, gender – and disability – sensitive.
6. In order to prevent the occurrence of all forms of exploitation, violence and abuse , all appropriate governments shall ensure that all facilities and programmes designed to serve women with disabilities are effectively monitored by independent authorities.
7. All appropriate governments shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of women with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self –respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.
8. All appropriate governments shall put in place effective legislation and policies, including women focused legislation and policies, to ensure that the instances of exploitation, violence and abuse against women with disabilities are identified, investigated and where appropriate, prosecuted.
9. All appropriate governments shall take effective and appropriate measures to eliminate discrimination against women with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that :

- a. The right of all women with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
 - b. The rights of women with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided.
 - c. Women with disabilities, including children, retain their fertility on an equal basis with others.
10. All appropriate governments shall ensure that all women with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of women with disabilities, all appropriate governments shall undertake to provide early and comprehensive information, services and support to women with disabilities and their families.

Chapter XIII: Children with Disabilities

All appropriate governments shall take all necessary measures to ensure the full enjoyment by the children with disabilities of **ALL** human rights and fundamental freedoms on an equal basis with other children.

1. In all actions concerning children with disabilities, the best interest of the child shall be primary consideration.
2. Appropriate provisions to be established so that the right to life of a baby or a child with disability on an equal basis with others is ensured and appropriate punishment for all those that directly or indirectly violate the right to life, survival and development of children with disabilities.
3. All appropriate governments shall ensure that all children with disabilities are registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and far as possible, the right to know and be cared for by their parents.
4. All appropriate governments shall take all appropriate measures so that children with disabilities can express their views, which should be equally treated as voices from other children.
5. All appropriate governments shall take all appropriate legislative, administrative, social, educational and other measures to protect children with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
6. All appropriate governments shall take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring , inter lia, appropriate forms of gender and age sensitive assistance and support for children with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. All appropriate governments shall ensure that protection services are – age, gender – and disability – sensitive.
7. In order to prevent the occurrence of all forms of exploitation, violence and abuse , all appropriate governments shall ensure that all facilities and programmes designed to serve children with disabilities are effectively monitored by independent authorities.
8. All appropriate governments shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of children with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self – respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

9. All appropriate Governments shall put in place effective legislation and policies, including child focused legislation and policies, to ensure that the instances of exploitation, violence and abuse against children with disabilities are identified, investigated and where appropriate, prosecuted.
10. All appropriate Governments shall put in place effective legislation and policies, including child focused legislation and policies, to ensure that the instances of exploitation, violence and abuse against children with disabilities are identified, investigated and where appropriate, prosecuted.

Chapter XIV: Right to Life and its Enhancement

1. All appropriate governments to reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others. It can be promoted through measures:
 - a. public debate on humanitarian rather than utilitarian views
 - b. person centric rather than medical approach in literature concerning disabilities
 - c. discouraging MTP on the basis of disabling conditions in the foetus
 - d. enhancing respect for life through putting in place appropriate support systems for the families, particularly persons with high support needs
 - e. creating awareness about the health hazards to the conceived child through appropriate health related information to the parents and safe pregnancy and child birth measures.

Chapter XIX: Participation in political and public life

1. All appropriate Governments shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:
 - a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
 - b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties
 - ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Chapter XX: Participation in cultural life, recreation, leisure and sport

1. All appropriate Governments shall recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:
 - a) Enjoy access to cultural materials in accessible formats;
 - b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
 - c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, places of community gatherings and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. All appropriate Governments shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
3. All appropriate Governments shall take all appropriate steps, in accordance with national and international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including Sign languages and deaf culture.
5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, All appropriate Governments shall take appropriate measures:
 - a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
 - c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
 - d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

- e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Chapter XXII: Awareness Raising

1. All appropriate governments shall adopt immediate, effective and appropriate measures:

- a) To raise awareness throughout society, including at the family level, policy makers, parliamentarians, police, judiciary, health professionals, architects and religious bodies regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities.
- b) To impart accurate information about the disabilities so as to fight against the stereotypes, prejudices and harmful practices relating to persons with disabilities
- c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Awareness can be spread through following measures:

- a) large scale public awareness campaigns using radio, TV and print media with the following focus:
 - i) nurturing receptiveness to the rights of persons with disabilities;
 - ii) promoting positive perceptions by sharing success stories about people with disabilities and the families
 - iii) promoting recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(b) Fostering at all levels of the education system, including all children from an early age, an attitude of respect for the rights of persons with disabilities; facilitating change in vocabulary that is detrimental to this process

(c) Encouraging all organs of the media including indigenous forms of communicative and creative expressions to portray persons with disabilities in a manner so as to eliminate prejudiced and stereotyped perception and sensitizing towards the barriers created by attitudes and lack of infrastructure services

(d) Promoting awareness-training programmes in all relevant professional courses including media studies regarding persons with disabilities and the rights of persons with disabilities. The same should be done with people with disabilities about their rights and the rights of other disabled communities so as to promote their growth and development.

(e) Promoting awareness about the right to information about programs, schemes and benefits available and the freedom to make informed choices

Chapter XXIII: Education

1. All appropriate governments shall recognize the right of all persons with disabilities to education and ensure that persons with disabilities are not excluded from the general education system on the basis of disability notwithstanding the degree of the disability
 - a. All appropriate governments shall ensure that there is no segregation of persons with disabilities on the basis of disability, into separate educational systems. As segregation is prohibited, henceforth from the day of the passing of this act no new segregated educational structures including schools will be established.
 - b. In order to promote equality and eliminate discrimination, all appropriate Governments shall take appropriate steps to mitigate the negative impact of multiple discriminations that persons with disability face like that of poverty, gender, caste and any other factor leading to marginalisation.
 - c. All non-enrolled children with disabilities shall have access to education appropriate to their individual needs.
2. With a view to recognizing this right all appropriate Governments shall realize the right without discrimination and on the basis of equal opportunity shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c) Enabling persons with disabilities to participate effectively in a free society.
3. In realizing this right, all appropriate Governments shall ensure that
 - a) persons with disability are not excluded from the general education system and further that children with disability are not excluded from free and compulsory elementary education or from secondary/senior secondary education and other levels of education including technical education, vocational training, adult education, distance learning and lifelong learning.
 - b) All Children with disability can access an inclusive, equitable, quality and free elementary education, secondary education, on an equal basis with others in the communities in which they live.

- c) All Persons with disabilities can access inclusive institutions of higher learning including vocational education on an equal basis with others in the communities in which they live
- d) Reasonable accommodation as defined in Section ----- of Chapter-----on definitions is provided to all persons with disability according to their specific individual requirement
- e) All Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- f) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
- g) Appropriate systems, structures, processes and resource allocations shall be provided to identify, enroll and retain all children with disability within the general education systems within three years of the passing of this Act.

4. All appropriate Governments shall enable persons with disability to learn in inclusive environments and to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, all appropriate Governments shall take appropriate measures, including:

- a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
- c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
- d) Ensuring that the curriculum, pedagogy and evaluation strategies are sensitive to the evolving capacities of persons with disability, and in particular to the learning needs of children with cognitive and learning difficulties.
- e) Ensuring that the educational material is available in all accessible formats and is suitable to the learning needs of all persons with disability and further that the material takes away the negative stereotypes of disability and promotes positive attitudes in accordance with the rights recognized in this Act.
- f) With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, all appropriate Governments shall take measures to ensure that children with disabilities have equal access to participation in play, theatre, art, recreation and leisure and sporting activities

5. In order to help ensure the realization of this right, all appropriate Governments shall take appropriate measures to:

- a) Employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate

augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

- b) To review, redesign and implement all pre-service and in-service teacher training programmes so that all teachers are equipped with :- inclusive approaches and philosophy— based on sets of attitudes and values which are accepting of diversity, respecting the individual dignity of each individual person with disability; educational techniques pedagogical knowledge and skills of inclusive classroom practices and materials to support persons with disabilities; ensuring an effective learning process of all persons with disability, and in particular people with intellectual impairments, specific learning difficulties, autism, and multiple disabilities; qualified in sign language and/or Braille; the use of appropriate augmentative and alternative modes, means and formats of communication.

6) All appropriate Governments shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, all appropriate Governments shall ensure that reasonable accommodation as defined in Chapter II section 8a is provided to persons with disabilities.

7) In order to ensure the realization of this right ,all appropriate Governments shall take measures, including legislation, to modify existing laws, regulations, policies and procedures to unify special and general education system within a common administrative, technical and legislative framework which shall govern the:

- a) Recognition, certification and functioning of all educational bodies including schools,existing special schools,national institutes, accreditation bodies, examination bodies, training and research institutes, education boards and colleges and universities. It shall ensure that the functioning of all such bodies has an inclusive philosophy and stated guidelines reflecting that philosophy
- b) A transition plan shall be designed to ensure:
- i. the transition of all special schools to become neighborhood inclusive schools, recognized by the education board, within 3 years of passing of this act
 - ii. the transition of identified organizations working in the area of disability in each district/block to become resource centers and provide individualized support to general schools, teachers, and children with disability, their families and communities to promote inclusive education, within 3 years
 - iii. the transition of mainstream schools into inclusive schools and to ensure that the systems , policies and practices within the inclusive schools follow the principles of this Act
- c) All the provisions, of the Right to Education Act 2009 shall be amended to ensure the right to education for persons with diasbailities. To ensure this a desk of Inclusive Education in the Ministry of Social Justice and Empowerment which shall work in coordination with the MHRD shall be established to supervise the implementation of the above Act

Chapter XXV: Respect for home and the family

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

6. Appropriate measures should be taken to provide support to the families having a child with disability through appropriate systems including community in this process.
7. promoting awareness about the potential of enrichment of the families through respect for the needs and respect for a person with disability.
8. the person with disability including women with disability should have the equal rights to parental property as with other siblings

Chapter XXVIII: Habilitation and Rehabilitation

1. All appropriate Governments and local authorities shall take effective and appropriate measures, including through peer support, to enable all persons with disabilities, irrespective of severity of impairments, to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, all appropriate Governments and local authorities shall organize, strengthen and extend comprehensive and quality habilitation and rehabilitation services and programmes, particularly in the areas of nutrition, health, education, employment, shelter/independent living, and social services, in such a way that these services and programmes:
 - a. begin at the earliest possible stage, and are based on the multidisciplinary/trans-disciplinary assessment of individual needs and strengths;
 - b. support participation and inclusion in the community and all aspects of society, are voluntary and are available to all persons with disabilities as close as possible to their own communities in different geographical terrains and economic groups of the country, including urban, rural, hilly, desert and remote areas;
 - c. include reasonable accommodation and support services (human, technological and/or material) for full participation and inclusion;
 - d. are environmentally safe, and adhere to quality standards and guidelines laid down by appropriate authorities;
 - e. are widely publicized and information made available through accessible formats;
2. All appropriate Governments and local authorities shall ensure the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall ensure development, availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.
4. All appropriate Governments and local authorities shall ensure accessibility of any relief/rehabilitation measures during disaster management to the affected persons with disabilities

Chapter XXIX: Liberty of Movement

1. All appropriate Governments shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
 - a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
 - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
 - c. Are free to leave any country, including their own;
 - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.