

# **The Rights of Persons with Disabilities Bill, 2014 and the Notice of Amendments**

## **Collation of Feedback**

Prepared by

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for

**National Centre for Promotion of Employment for Disabled People  
(NCPEDP)**

December 2014

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## CONTEXT

The Rights of Persons with Disabilities Bill, 2014, along with the Notice of Amendments was tabled in the Rajya Sabha in February 2014. It was referred to the Standing Committee on Social Justice and Empowerment for examination and Report. The Standing Committee was constituted in September 2014. The Committee, under the Chairmanship of Shri Ramesh Bais, MP, had invited suggestions/comments/views from the public in general and from individuals/NGOs/experts/stakeholders and institutions in particular. Various organisations, disability groups, DPOs and individuals have submitted their suggestions to the Standing Committee.

NCPEDP decided to compile the suggestions sent to the Standing Committee from a representative sample of people/organisations/groups covering different regions and disabilities. The work of compiling the suggestions was given to DEOC, a social enterprise working in the area of disability inclusion. The Report will be used as the basis for further discussion at the Round Table Meeting to be held on 31st January and 1st February 2015.

## METHODOLOGY ADOPTED FOR COLLATION OF SUGGESTIONS

DEOC developed a list of 61 select organisations/disability groups/individuals, representing different regions and disabilities, for seeking their inputs on the Bill. An e-mail was sent, asking them to share the suggestions that they had sent to the Standing Committee.

Out of the 61 organisations/disability groups/individuals,

- 15 responded stating that they did not send any suggestions to the Standing Committee
- 9 did not respond to our mails
- 10 acknowledged our mails but did not send us their inputs
- 27 sent their inputs that they had sent to the Standing Committee

The names of 24 organisations/groups/individuals whose suggestions are included in this document are given below (out of 27 inputs received, 3 inputs overlapped, as they had sent a joint representation to the Standing Committee).

1. AADI – Action for Ability Development and Inclusion (New Delhi)
2. Action for Autism (AFA), National Centre for Autism (New Delhi)
3. Association for Disabled People (ADP) (New Delhi)
4. Association of People Affected by Leprosy (APAL), India (Andhra Pradesh)
5. Chinmaya Organisation of Rural Development (CORD) (Himachal Pradesh)
6. DAISY Forum of India (DFI) (New Delhi)

7. Deaf Enabled Foundation (DEF) (Andhra Pradesh)
8. Disability Activist Forum (DAF), West Bengal
9. Disability Advocacy Group (DAG) (Gujarat)
10. Disability Rights Alliance, India (DRA) (Tamil Nadu)
11. Disabled Rights Group (DRG) (New Delhi)
12. Ektha (Tamil Nadu)
13. HANDICARE (Uttar Pradesh)
14. Hemophilia Federation (India) (New Delhi)
15. Inclusive Planet Centre for Disability Law and Policy, Chennai (Tamil Nadu)
16. Ketan Kothari (Maharashtra)
17. Kilikili (Karnataka)
18. Leonard Cheshire Disability (LCD) (Karnataka)
19. National Association of the Deaf (NAD), India (New Delhi)
20. Network of Persons with disabilities Organisations (NPdO) (Andhra Pradesh)
21. Orissa State Disability Network (OSDN) (Odisha)
22. Sense International India (Gujarat)
23. VISHWAS - Vision for Health, Welfare and Special Needs (Haryana)
24. Xavier's Resource Center for the Visually Challenged (XRCVC) (Maharashtra)

In addition to the above, we have included suggestions of few organisations/groups that were available in public domain (either sent to us directly or forwarded to us).

1. All India Disability Alliance (AIDA) (New Delhi)
2. Autism Society of India (ASI) (Karnataka)
3. Disability Legislation Unit (DLU), Vidya Sagar (Tamil Nadu)
4. Parivaar - National Federation of Parents' Association for Persons with Mental Retardation, Autism, Cerebral Palsy and Multiple Disabilities (Karnataka)
5. Visually Impaired Bank Employees Welfare Association (VIBEWA) (West Bengal)

Suggestions from the above mentioned 29 organisations have been included in this document.

The suggestions sent by different organisations to the Standing Committee were in different formats. Some had just sent a note or a list of suggestions without making any reference to specific Clauses in the Bill. Some had done a Clause by Clause analysis and used italics or different colours to indicate the changes suggested. Some had presented their suggestions in a table format.

The suggestions given by the various organisations/people were categorised in the following manner:

- Add: (where the suggestion was to add a word/phrase)



- Delete: (where the suggestion was to remove a word/phrase/the entire Sub Clause/Clause)
- Replace: (a word/phrase with another word/phrase)
- Modified Text: (where a few words/phrase were added/deleted to the current text).
- Redrafted Sub Clause/Clause: (where the suggested text was very different from the current text in the Bill)
- Comment: (where there was an opinion expressed or where the suggestion was not formulated in a legal language)
- New Sub Clause/Clause

All the inputs have been presented verbatim as far as possible. In very few places, where the respondent had given a comment, we have done some editing to improve readability, keeping in mind not to lose the essence of their inputs. Where an organisation has given the text, it has been presented without any changes.

**The suggestions have been presented in the following format:**

- There are XVII (17) Chapters comprising of 117 Clauses and The Schedule in The Rights of Persons with Disabilities Bill, 2014. This document follows the same numbering.
- For presenting the suggestions, we have used the table format in order to provide for easy comparison between the current text and the suggestions.
- The table comprises of three columns: Sub Clause Number, Current Text and Suggestions. Each row contains a sub clause.
- The column on Current Text gives the text of the Bill as it is. Wherever there has been an amendment suggested to the Bill as per the Notice of Amendments presented in the Rajya Sabha, the amended text has been given below the original text.
- Suggestions have been presented for each Sub Clause under the following categories: add, delete, replace, modified text and redrafted text/Clause or a comment. If there were no suggestions for a particular Sub Clause, we have mentioned 'No suggestion'. If the organisation or person has given an explanation for the input, that has been put as a footnote.
- After each suggestion, the name of the respondent has been given.
- Suggestions for addition of new Sub Clauses were added at the end of each table (Clause), along with suggested text or a comment. At some places, where the new Sub Clause suggested was related to an existing Clause, it has been added in the table after that Clause.
- Suggestions for New Clauses have been added at the end of the document.

## CHAPTER 1: PRELIMINARY

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

Sub Clause	Current Text	Suggestions
1 (1)	This Act may be called the Rights of Persons with Disabilities Act, 2014.	<ul style="list-style-type: none"><li>• Comment: The name of the Act should say what it will do. The name of the Act should reflect that it would recognize, protect, promote and ensure the Rights of Persons with Disabilities<sup>1</sup> - Ektha</li></ul>
1 (2)	It extends to the whole of India except the State of Jammu and Kashmir.	<ul style="list-style-type: none"><li>• Delete: "except the State of Jammu and Kashmir." <sup>2</sup> - Inclusive Planet and DRA</li></ul>
1 (3)	It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	<ul style="list-style-type: none"><li>• Add in the end: "but in no case later than one year after its assent by the President."- DAF</li></ul>

<sup>1</sup> The Rights of Persons with Disability Bill just lists out the rights of persons with disabilities. The question here is, do we need an Act just to list out the rights or do we want the Act to recognize, protect, promote and ensure the Rights of Persons with Disability. If the answer is yes, these aspects must be reflected in the name of the bill itself. This way, one is tempted to think that the name of 1995 Act is better than the RPDB. That Act is called The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act.

<sup>2</sup> The obligations of the Indian state under the United Nations Convention on the Rights of Persons with Disabilities does not allow for the exclusion of any state and the residents of the State from the rights under the Act.

## Clause 2: Definitions

<b>Sub Clause</b>	<b>Current Text</b>	<b>Suggestions</b>
2	In this Act, unless the context otherwise requires,—	
2 (a)	<p>“appellate authority” means an authority notified under sub-section (1) of section 52 or designated under sub-section (1) of section 58, as the case may be.</p> <p><b>As per the Notice of Amendments:</b> “appellate authority” means an authority notified under <u>sub-section (3) of section 13 or</u> sub-section (1) of section 52 or designated under sub-section (1) of section 58, as the case may be.</p>	No suggestion

Sub Clause	Current Text	Suggestions
2 (b)	<p>“appropriate Government” means,—</p> <p>(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;</p> <p>(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• the word “of” before “the Central Government” - DAF</li> </ul> <p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• “appropriate Government” means,—</li> <li>(i) in relation to the Central Government or any establishment as defined in sub-section (h) of Section 2 (excluding clause (d) of sub-section (h) of Section 2), or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;</li> <li>(ii) in relation to a State Government or any establishment, as defined in sub-section (h) of Section 2(excluding clause (d) of sub-section (h) of Section 2), or any local authority as defined in sub-section (m) of Section 2, other than a Cantonment Board, the State Government.<sup>3</sup> - Inclusive Planet and DRA</li> </ul>
2 (c)	<p>“barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social or structural factors which hampers the full and effective participation of persons with disabilities in society.</p>	<p>Add to the definition:</p> <ul style="list-style-type: none"> <li>• “Attitudinal” - DRG<sup>4</sup>, AADI and VIBEWA<sup>5</sup></li> <li>• “transport and technological” - LCD</li> <li>• “attitudinal, religious”- DAF</li> <li>• “attitudinal”- OSDN</li> </ul> <p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• “Barrier” means any factor that impedes, prevents or obstructs the full and effective participation, of persons with benchmark disabilities in society. These factors includes attitudinal, communicational, including but not limited to communication barriers to persons with hearing impairment, cultural, economic, environmental, institutional, political, religious, historical, social, legal,</li> </ul>

<sup>3</sup> The details are given within redrafted Section 2 (h), this is merely a clarification

<sup>4</sup> The current definition is incomplete and ambiguous if all possible factors that impede participation of people with difficulties in not mentioned in the definition.

<sup>5</sup> More often than not, it is the negative psychological mindset of others which prevents a person with a disability from full participation.

Sub Clause	Current Text	Suggestions
		<p>physical or structural factors which hampers the full and effective participation of persons with benchmark disabilities in society<sup>6</sup>- AIDA</p> <ul style="list-style-type: none"> <li>• "Barrier" means any factor that impedes, prevents or obstructs the full and effective participation, of persons with disabilities in society. These factors include attitudinal, communicational, cultural, economic, environmental, institutional, political, religious, historical, social, legal, physical or structural, which hampers the full and effective participation of persons with disabilities in society.<sup>7</sup> - AFA</li> </ul>
2 (d)	<p>"care-giver" means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability.</p>	<p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• "care-giver" means any person, natural or juristic, including but not limited to parents and other family Members who with or without payment provides care including but not limited to substantial support, especially institutional or financial, or assistance, medical or physical including but not limited to substantial support or assistance;<sup>8</sup> - Inclusive Planet and DRA</li> </ul>
2 (e)	<p>"certifying authority" means an authority designated under sub-section (1) of section 56.</p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• "certifying authority" <u>in relation to certification of a person with benchmark disability</u> means an authority designated under sub-section (1) of section 56- DAF</li> </ul>
2 (f)	<p>"communication" includes means and formats of communication, languages, display of text, Braille, tactile</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• "sign language" - LCD</li> <li>• "signed languages and video &amp; visual displays"<sup>9</sup> - DEF</li> </ul>

<sup>6</sup> The definition of "Barrier" as contained in section 2© requires revision because it does not take into account the entire spectrum of the barriers particularly attitudinal cultural barriers etc hence the revision is required and it therefore recommended that the definition of term "Barrier" as suggested in 2011 draft bill may be adopted.

<sup>7</sup> The definition does not include the entire spectrum of barriers encountered by persons with disabilities.

<sup>8</sup> There is a need to include juristic persons into the definition of care giver to bring them under the purview of the Act.

<sup>9</sup> Unless Sign Language is recognized and given due recognition, the hearing impaired will always be at the receiving end in their interactions with the rest of the speaking community. The representatives of the Deaf expressed their anguish during consultations that the customer care personnel at banks usually insist

Sub Clause	Current Text	Suggestions
	<p>communication, signs, large print, accessible multimedia, written, audio, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology.</p>	<ul style="list-style-type: none"> <li>• “sign language, pictures and visuals” - DLU South</li> <li>• “sign language, video &amp; visually display” - AFA and AIDA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• “communication” includes means and formats of communication, languages <u>including but not limited to sign language and other non-spoken languages</u>, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, plain-language, <u>simple language</u>, human-reader, augmentative and alternative modes <u>including but not limited to alternative systems or methods of communication that may supplement or complement the use of one’s own speech to fulfil the daily communication needs of persons with speech, communication or language disabilities in accordance with their requirements and accessible and effectively usable information and communication technology;</u><sup>10</sup> - Inclusive Planet and DRA</li> </ul> <p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• Communication includes languages, display of text, Braille, tactile communication, sign language, 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; - NAD</li> </ul>
2 (g)	<p>“competent authority” means an authority appointed under section 48.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• “(i) in relation to the Central Government or any</li> </ul>

*on talking to the customer even when he/she is hearing and speech impaired. They pointed out that this amounts to non-recognition of persons with such disabilities and in order to rectify this anomaly, the recognition of Sign Language within the legal framework is a pre-requisite.*

<sup>10</sup> *There is a need to include a more comprehensive definition of communication, as that is the barrier most felt for persons with disabilities. This includes the definition within the UNCRPD.*

Sub Clause	Current Text	Suggestions
		<p>establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;  (ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.” - Inclusive Planet and DRA</p> <ul style="list-style-type: none"> <li>• “for registration of institutions for persons with disabilities and grants to such institutions” - DAF</li> </ul>
2 (h)	<p>“establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes Department of a Government.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• any contractor awarded a public tender, any cooperative or other society, association, trust, agency - LCD</li> <li>• private bodies.- DRG<sup>11</sup>, AADI, VIBEWA<sup>12</sup> and OSDN</li> <li>• non-governmental institutions &amp; business/employment ventures - DLU South</li> </ul> <p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• ‘establishment’ means and includes: <ol style="list-style-type: none"> <li>a. Departments and Ministries of Government;</li> <li>b. Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;</li> <li>c. Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in Section 617 of the Companies Act,</li> </ol> </li> </ul>

<sup>11</sup> A number of services are outsourced to or are provided by private bodies, and will remain inaccessible for people with disability unless they are a part of the definition of Establishment.

<sup>12</sup> It did so in the very first draft prepared by the drafting committee. The aim was to bring the private bodies also within the ambit of reservation for persons with disabilities. It was also required to compel the private players to provide for reasonable accommodation. By not including private players in the definition of establishment, we are maintaining the status quo and the new enactment does not deliver the promise of bringing our laws in line with UNCRPD. Nowadays, almost all governmental functions are being outsourced and so it becomes much more relevant to make private players follow government norms with regard to disability. By providing for reservation and reasonable accommodation in private sector, India would be breaking new ground in empowerment of the persons with disabilities.

Sub Clause	Current Text	Suggestions
		<p>1956;</p> <p>d. Any contractor who has been awarded a public tender;</p> <p>e. Any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, landlord, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (i) to (iv) and provides education, employment, health care, recreation, rehabilitation or other services in rural and urban areas;</p> <p>f. Any establishment as the Central or State Government may notify in the Official Gazette. Explanation: The term 'industry' shall have the same meaning as in Section 2 (j) of the Industrial Disputes Act, 1947. - DEF<sup>13</sup> and AIDA<sup>14</sup></p> <ul style="list-style-type: none"> <li>● "establishment" means but is not limited to: <ul style="list-style-type: none"> <li>a. Departments and Ministries of Government;</li> <li>b. Local authorities and authorities or bodies owned, controlled or aided by the Central or State Government;</li> <li>c. Any statutory or non-statutory body created, owned, financially or administratively controlled or aided by the Central or State Government or any such body performing public or civic functions and includes Government Companies as defined in Section 2 of the Companies Act, 2013;</li> <li>d. Any company, firm, cooperative or other society, whether registered under the Societies Registration Act or not , association, trust, agency, institution, organization, union, industry (having the same definition as in Section 2(j) of the Industrial Disputes Act), supplier of goods or services, factory or other non-statutory body or person, including both natural and juristic, which is not covered under clause</li> </ul> </li> </ul>

<sup>13</sup> Aided means any establishment which is in receipt of public funds either from Central or State Government.

<sup>14</sup> It does not embrace all the establishments and therefore it requires revision by substituting it with the suggested definition of this term in 2011 draft Bill.



Sub Clause	Current Text	Suggestions
		<p>(a) to (c) and provides services including but not limited to banking and finance; education; health; insurance; rehabilitation; entertainment, recreation and hospitality; transport or travel; and telecommunications;<sup>15</sup> - Inclusive Planet and DRA</p> <p>Modified text:</p> <ul style="list-style-type: none"> <li>● "establishment" means: <ul style="list-style-type: none"> <li>(i) <u>any company, firm, cooperative or other society, association, trust, agency, institution, organisation, factory or industry established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes Department of a Government;</u></li> <li>(ii) <u>Any contractor who has been awarded a public tender;</u></li> <li>(iii) <u>Any company, firm, cooperative or other society, association, trust, agency, institution, organization, union, landlord, industry, supplier of goods or services, factory or other non-statutory body which is not covered under clause (i) to (iii) and provides education, employment, health care, rehabilitation or other 'services' as defined in sub section vv of section 2, in rural and urban areas;</u></li> <li>(iv) <u>Any establishment as the Central or State Government may notify in the Official Gazette. Explanation: The term 'industry' shall have the same meaning as in Section 2 (j) of the Industrial Disputes Act, 1947. - DAF</u></li> </ul> </li> </ul>
2 (i)	"Fund" means the National Fund constituted under section 100.	<ul style="list-style-type: none"> <li>● Modified text: "fund" means the National Fund <u>for persons with disabilities</u> constituted under section 100. - DAF</li> </ul>

<sup>15</sup> The definition of establishment is very narrow in the Bill and only covers Government establishments. Questions of accessibility etc. all pertain to the definition of "establishment".

Sub Clause	Current Text	Suggestions
2 (j)	<p>“high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, accessing facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy.</p> <p><b>As per the Notice of Amendments:</b>  “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, <b>to take independent and informed decision, to access</b> facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• After “psychological’, add ‘and intellectual’<sup>16</sup>- Parivaar</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• “high support” means an intensive support, physical, psychological and otherwise, required by a person with disability for daily activities, accessing facilities including but not limited to basic facilities and participating in all areas of life including but not limited to education, employment, family and community life and treatment and therapy<sup>17</sup>;- Inclusive Planet and DRA</li> <li>• “high support” means an intensive support, physical, psychological, <u>intellectual and sensory support</u> which may be required by a person with benchmark disability for daily activities, to take informed and independent decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment, therapy, <u>recreation and leisure</u> - DAF</li> <li>• “high support” means that support, which may be needed by individuals with benchmark disabilities who require ongoing intensive support for activities of daily living; independent and informed decision-making; accessing facilities and participating in all areas of life including education; employment; family and community life; treatment and therapy; recreation and leisure. The need for high support often arises due to significant disability in a single area or multiple or cumulative disabilities in cognition, communication, sensory – perceptual processing (not including blindness), emotional regulation,</li> </ul>

<sup>16</sup>There are persons with severe and profound intellectual disability. They have high support needs for daily living and to maintain a dignified existence. At present they are not included in the ‘High Support Need’ definition and need to be included.

<sup>17</sup>The Bill seems to be providing benefits for persons with disabilities but restricting these benefits by and large to persons with “benchmark” disabilities. The provision of high support to a person with disability is important even if they are not within the definition of person with “benchmark” disability as in certain circumstances even a disability of less than 40% can require intensive support depending on the social context.

Sub Clause	Current Text	Suggestions
		<p>socialization, behaviour and mobility in interaction with attitudinal or environmental barriers; Provided that if individuals with benchmark disability don't choose to seek high support, they will not be denied reasonable accommodation on this ground.<sup>18</sup> - AIDA</p> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Who defines what "high support" is? Support is support and it is a right. - Ektha</li> <li>• Reconsider defining 'high support' and provisions for persons with 'high support' in the Bill<sup>19</sup> - LCD</li> </ul>
2 (k)	<p>"inclusive education" means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• "inclusive education" means a system of education wherein students <u>with a range of abilities</u>, with and without disability learn... - LCD</li> <li>• "Students of all abilities" - Vishwas</li> </ul> <p>Add in the end:</p> <ul style="list-style-type: none"> <li>• "at all levels of the system of education"<sup>20</sup> - Inclusive Planet and DRA</li> <li>• "such that learning outcomes of comparable/satisfactory quality are achieved for all students" - DAF</li> </ul>
2 (l)	<p>"institution" means an institution for the</p>	<p>Delete:</p>

<sup>18</sup> The definition of the term "high support" as contained in the bill in question does not emphasize the aspect of the choice of a person with disability to seek high support. Therefore the definition requires revision.

<sup>19</sup> Defining 'high support' of persons with disabilities is complex. It is subjective and dependent on both the individual and the environment which includes physical, social, economic, cultural and other factors. These in combination can both enable and create many barriers to the full participation of people with disabilities in society. Here are two examples: A wheelchair user who is able to self-propel will need 'intensive' support when he or she has to be physically carried to be seated on a bus or train due to steps and narrow door widths. However at other times where there are no physical barriers, they are quite independent. A woman with disability in an oppressive environment may not have 'high support' as defined in the Bill. However she will experience high levels of barriers and be denied her fundamental rights and freedoms. Therefore our suggestion is that the definition and references to 'high support' in the Bill are reconsidered.

<sup>20</sup>Inclusive education should be defined to include all the levels of the system of education.

Sub Clause	Current Text	Suggestions
	reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities.	<ul style="list-style-type: none"> <li>• “without imposing a disproportionate or undue burden in a particular case”.<sup>21</sup> - Kilikili</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>• “skill development, financial services, health care, guidance and counseling” - Vishwas</li> <li>• “institution” means an institution for <u>activities, including but not restricted to</u>, the reception.....<sup>22</sup> - AFA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• “institution” means an institution <u>accessed by persons with disabilities</u> for the reception, care, protection, education, training, rehabilitation, <u>skills development, employment, financial services</u> and any other activities <u>or services</u>. - LCD</li> <li>• “institution” means an institution for the reception, <u>residence</u> care, protection, education, training, rehabilitation and any other <u>services</u> provided for persons with disabilities;<sup>23</sup>- Inclusive Planet and DRA</li> <li>• “Institution” means an institution <u>which is accessed by persons with benchmark disabilities for activities including but not limited to</u> reception, care, protection, education, training, rehabilitation, <u>recreation etc.</u><sup>24</sup> - AIDA</li> </ul>
2 (m)	“local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under of the Cantonments Act, 2006; and any other authority	No suggestion

<sup>21</sup>This will become a way for governments and others to not provide reasonable accommodation.

<sup>22</sup> Scope of activities needs to be expanded by inserting ‘activities, including but not restricted to’

<sup>23</sup> The definition should extend to places which provide services to persons with disabilities.

<sup>24</sup> The definition of ‘Institution’ is narrow and does not embrace in it any other kind of activity which are not listed in the definition therefore it requires revision.

Sub Clause	Current Text	Suggestions
	established under an Act of Parliament or a State Legislature to administer the civic affairs.	
2 (n)	"National Commission" means the National Commission for persons with disabilities constituted under section 73.	No suggestion
2 (o)	"notification" means a notification published in the Official Gazette and the expression "notify" or "notified" shall be construed accordingly.	No suggestion
2 (p)	"person with benchmark disability" means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.	<p>Alter the term:</p> <ul style="list-style-type: none"> <li>benchmark disabilities with just Disabilities<sup>25</sup> - DLU South</li> </ul> <p>Repeal the term:</p> <ul style="list-style-type: none"> <li>The phrase "Benchmark Disabilities" must be repealed<sup>26</sup> - Ektha</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>....as certified by the certifying authority <u>for the purpose of accessing social protection and or social security benefits from the State.</u><sup>27</sup> - LCD</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>Persons with Hemophilia with factor deficiency less than 5% must be included in benchmark disability, and also Thalassemia Major must be in benchmark disability. -</li> </ul>

<sup>25</sup> Follow the definition of CRPD for persons with disabilities. Benchmark disabilities' looks only at impairments and is reflecting the medical model. This in turn will influence the certification and support systems. Since the bill has focused on impairments, it emphasizes on benchmark disabilities. How is the bench mark disability going to be defined in future? What is 40%? The chapters on education, employment, skill development, social security, etc are all nullified by chapter 6 Special provisions for persons with Benchmark disabilities.

<sup>26</sup> It is not in line with UNCRPD and the question is that who decides what is benchmark disability.

<sup>27</sup> The purpose of 'person with benchmark disability' needs to be defined and made specific in order to avoid confusion or misinterpretation and denial of support for people who are otherwise qualified for such support.

Sub Clause	Current Text	Suggestions
		<p>Hemophilia Federation (India)</p> <ul style="list-style-type: none"> <li>• Explain the purpose - Vishwas</li> <li>• Definition of disability should include the words in interaction with barriers, definition of persons with disabilities in clause 2 P is vague when it mentions minimum 40% disability if disability is not defined in measurable terms and all persons when it is defined in measurable terms. - VIBEWA</li> </ul>
2 (q)	<p>“person with disability” means a person with long term physical, mental, intellectual or sensory impairment which hinder his full and effective participation in society equally with others</p> <p><b>As per the Notice of Amendments:</b>  “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which <b>in interaction with barriers in the environment</b> hinder his full and effective participation in society equally with others.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• “or her” after “his” - OSDN</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• “person with a disability” means a person with long term physical, mental, intellectual or sensory impairment which in interaction with <u>various</u> barriers may hinder <u>their</u> full and effective participation in society <u>on an equal basis</u> equally with others;<sup>28</sup> - LCD</li> <li>• persons with disabilities <u>include those who have</u> long-term physical, mental, intellectual or sensory impairments which in interaction with <u>various</u> barriers may hinder <u>their</u> full and effective participation in society <u>on an equal basis with others</u>.<sup>29</sup> - Inclusive Planet and DRA</li> <li>• “persons with disability” means a person with long term physical, mental, intellectual, or sensory impairment which in interaction with barriers in the environment may hinder</li> </ul>

<sup>28</sup> The definition of “persons with disability” has been expanded to be in line with Article 1 of the CRPD. The definition needs to recognise the evolving concept of disability. Disability results from the interaction between persons with impairments and attitudinal and environmental barriers (including physical, information, communication, transport, institutional) that hinder their full and effective participation in society on an equal basis with others. (Preamble (e) CRPD)

<sup>29</sup> The definition of person with disability which has been used in the Bill is not reflective of the social model of disability as proposed under the UNCRPD and must be updated to reflect this.

Sub Clause	Current Text	Suggestions
		his/ <u>her</u> full and effective participation in society <u>on an equal basis with others</u> . <sup>30</sup> - AFA
2 (r)	"person with disability having high support needs" means a person with benchmark disability certified under clause (a) of sub-section (2) of section 57 who needs high support.	<ul style="list-style-type: none"> <li>• Delete the word "benchmark"<sup>31</sup> - Inclusive Planet and DRA</li> </ul>
2 (s)	"prescribed" means prescribed by rules made under this Act.	No suggestion
2 (t)	"reasonable accommodation" means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others.	Delete: <ul style="list-style-type: none"> <li>• "without imposing a disproportionate or undue burden in a particular case".<sup>32</sup> - DRG, AADI, Inclusive Planet, DRA, DAF, AIDA, AFA, Kilikili and ASI</li> </ul> Add in the end: <ul style="list-style-type: none"> <li>• "<u>in all areas of life</u>"<sup>33</sup> - Ketan Kothari</li> </ul> Modified text: <ul style="list-style-type: none"> <li>• "reasonable accommodation" means necessary and appropriate modification and adjustments <u>not</u> imposing a disproportionate or undue burden, <u>where needed</u> in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights <u>on an equal basis with others of all human rights and fundamental freedoms</u><sup>34</sup>- LCD</li> </ul>

<sup>30</sup> The present definition is not in conformity with the definition given in UNCRPD as it does not include the phrase "in interaction with barriers in the environment may"

<sup>31</sup> As explained above, the need for support may not depend on the extent of the disability.

<sup>32</sup> This will become a way for governments and others to not provide reasonable accommodation.

<sup>33</sup> I feel that we must categorically mention here itself that this applies to all aspects of life and hence necessary alteration ought to be made. This also is in compliant with at least four of the principles of UNCRPD

<sup>34</sup> The definition of "reasonable accommodation" has been elaborated in line with Article 2 of the CRPD.

Sub Clause	Current Text	Suggestions
		<ul style="list-style-type: none"> <li>• “reasonable accommodation” means necessary and appropriate modification and adjustments <u>when required</u> in a particular case, to ensure to persons with disabilities the enjoyment or exercise <u>of all rights, including but not limited to human and fundamental rights, on an equal basis with others.</u><sup>35</sup> - Inclusive Planet and DRA</li> <li>• “reasonable accommodation” means necessary and appropriate modification and adjustments, to ensure to persons with disabilities the enjoyment or exercise; <u>on an equal basis with others of all human rights and fundamental freedoms;</u> - DAF</li> <li>• “reasonable accommodation” means necessary and appropriate modification and adjustments, <u>where needed</u> in a particular case, to ensure to persons with <u>benchmark disabilities the enjoyment or exercise on an equal basis with other of all human rights and fundamental freedoms and also to ensure their full participation in society.</u><sup>36</sup> - AIDA</li> <li>• “reasonable accommodation” means necessary and appropriate modifications and adjustments <u>where needed in a particular case,</u> to ensure persons with disabilities the enjoyment or exercise of rights equally with others.<sup>37</sup> - AFA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Definition of reasonable accommodation: the words "in a particular case" are unwarranted as</li> </ul>

<sup>35</sup> The definition of reasonable accommodation should not include the qualification of “not imposing burden or cost” as that is apprehended to lead to a very narrow interpretation of the provision.

<sup>36</sup> The definition of “reasonable accommodation” qualifies the required modification or adjustment to be done only without imposing a disproportionate undue burden which allows subjective and arbitrary refusal to make such modification or adjustment on that ground by any authority which is not in conformity with the spirit of UNCRPD and the present Bill therefore it requires revision.

<sup>37</sup> The current definition allows subjective and arbitrary refusal to make modification or adjustment by any authority and is not in conformity with the spirit of UNCRPD.



Sub Clause	Current Text	Suggestions
		modifications/adjustments made can benefit large number of prospective employees/users. - VIBEWA
2 (u)	<p>“registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or nongovernmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature.</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>• “the welfare of the” - DAF</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• “registered organisation” means an association of persons working for the welfare of persons with disabilities, duly registered under an Act of Parliament or a State Legislature<sup>38</sup> - Inclusive Planet and DRA</li> <li>• “registered organisation” means an association of persons with <u>benchmark</u> disabilities or a disabled person organization, association of parents of persons with <u>benchmark</u> disabilities, association of persons with <u>benchmark</u> disabilities and family members, or a voluntary or non-governmental or charitable organization or trust, society, non-profit company working for the <u>empowerment, rights &amp; welfare</u> of the persons with <u>benchmark</u> disabilities, duly registered under an Act of Parliament or a State Legislature<sup>39</sup> - AIDA</li> </ul>
2 (v)	<p>“rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychiatric or social function levels.</p> <p><b>As per the Notice of Amendments:</b></p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, <u>cognitive</u>, psychological or social function levels <u>for their full inclusion and participation in all aspects of life. Rehabilitation also encompasses social reintegration of persons with disabilities who become victims of any form</u></li> </ul>

<sup>38</sup> It seems exclusionary to detail the possibilities of associations and their membership under this provision. It is more expedient to qualify that with the purpose of “working for the welfare of persons with disabilities” instead.

<sup>39</sup> The definition of registered organization does not include the organizations working in the area of empowerment or protection of rights in its definition and therefore the same requires revision to include those important areas

Sub Clause	Current Text	Suggestions
	<p>“rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, <b>psychological</b> or social function levels.</p>	<p><u>of exploitation, violence or abuse, including through the provision of protection services</u><sup>40</sup> - LCD</p> <ul style="list-style-type: none"> <li>• “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain <u>maximum independence</u>, physical, sensory, intellectual, <u>psychiatric or social and vocational ability; and full inclusion and participation in all aspects of life.</u><sup>41</sup> - Inclusive Planet and DRA</li> <li>• “rehabilitation” refers to a process aimed at <u>effective and appropriate measures, including through peer support and removal of barriers in the environment</u>, enable persons with disabilities to attain and maintain <u>maximum independence</u>, full physical, <u>mental</u>, social and <u>vocational ability</u>, and full inclusion and participation in all aspects of life on equal basis with others<sup>42</sup> - DAF</li> <li>• “rehabilitation” is the process of <u>taking effective and appropriate measures by identifying and lowering the barriers, including but not limited to through peer support, speech therapy, sign language, audio visual etc.</u> to enable persons with <u>benchmark disabilities</u> to attain and maintain <u>maximum independence</u>, full physical, <u>mental</u>, social and <u>vocational ability</u>, and full inclusion and participation in all aspects of life.<sup>43</sup>- AIDA</li> </ul>
2 (w)	<p>“Special Employment Exchange” means any office or place established and</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>• the word “special”<sup>44</sup>. It should be “Employment Exchange</li> </ul>

<sup>40</sup> The definition of “rehabilitation” has been elaborated in line with Articles 26 and 16 of the CPRD

<sup>41</sup> We advocate the use of the word “maximum” instead of “optimal” and expansion of the definition in the manner suggested.

<sup>42</sup>The definition of rehabilitation has to be in congruence with the UNCRPD and the new definition of persons with disability.

<sup>43</sup>The definition of “Rehabilitation” is not proper as it does not embrace all facets of rehabilitation process therefore a revised definition is suggested

<sup>44</sup> The word “Special” in “Special Employment Exchange” reinforces the stereotype of persons with disabilities as “special”, “different”, or “not normal”. Persons with disabilities are persons first and foremost with the same rights as any other citizen of India.

Sub Clause	Current Text	Suggestions
	<p>maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—(i) persons who seek to engage employees from amongst the persons suffering from disabilities; (ii) persons with benchmark disability who seek employment; (iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed.</p>	<p>for persons with disabilities” - LCD</p> <ul style="list-style-type: none"> <li>the word “suffering” and replace with “with”.<sup>45</sup> - LCD, DAF, AFA, Inclusive Planet and DRA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>(ii) <u>persons with disabilities</u> who seek employment; (iii) vacancies to which persons with benchmark disabilities seeking employment can <u>apply and the reasonable accommodation that may be required for the same</u>.<sup>46</sup> - Inclusive Planet and DRA</li> </ul>
2 (x)	<p>“specified disability” means the disabilities as specified in the Schedule.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>Follow the definition of persons with disabilities as given in UNCRPD<sup>47</sup> - DLU South, Ektha</li> </ul>
2 (y)	<p>“State Commission” means a State Commission for persons with disabilities constituted under section 86 of this Act.</p>	<p>No Suggestion</p>
2 (z)	<p>“universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive</p>	<p>Add</p> <ul style="list-style-type: none"> <li>“Built” in front of the environment - Vishwas</li> <li>“also” after “design and shall”. - AFA</li> </ul> <p>Delete:</p> <ul style="list-style-type: none"> <li>“and shall apply to assistive devices including advanced</li> </ul>

<sup>45</sup> The term “persons suffering from disabilities” suggests discomfort, constant pain and a sense of hopelessness. It also reinforces the notion that people with disabilities live impoverished lives, are passive and are objects of charity.

<sup>46</sup> The Special Employment Exchange should be required to have information regarding all persons with disabilities and not just persons with benchmark disabilities, though it should keep a track of posts to which persons with benchmark disabilities can apply having been provided with reasonable accommodation

<sup>47</sup> Specified Disabilities looks only at impairments and is reflecting the medical model. This in turn will influence the certification and support systems.

Sub Clause	Current Text	Suggestions
	devices including advanced technologies for particular group of persons with disabilities.	technologies for particular group of persons with disabilities <sup>48</sup> - Inclusive Planet and DRA

## New Sub Clauses

(1) Add the definition of “**Discrimination on the basis of disability**”<sup>49</sup> - DRG, AADI, OSDN, LCD, DAF, AIDA, Inclusive Planet and DRA

Suggested text:

- “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 of all human rights and fundamental freedoms on an equal basis with others. This includes direct and indirect discrimination and denial of reasonable accommodation<sup>50</sup>. – LCD
- “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;<sup>51</sup> - DAF, AIDA, Inclusive Planet and DRA

<sup>48</sup> The line “shall apply including but not limited to assistive devices including advanced technologies for particular group of persons with disabilities” seems incongruous because assistive devices are by their very nature specialized.

<sup>49</sup> UNCRPD clearly articulates discrimination on the basis of disability. This is important as it clarifies the specific nature of discrimination faced by people with disability

<sup>50</sup> The terms “Non-discrimination” and “discrimination on the basis of disability” are used a number of times in the RPD Bill. Therefore is important that these terms are defined. Disability discrimination can either be direct or indirect. Direct discrimination is where a person with a disability is treated less favourably because of their disability than someone without a disability would be treated in the same circumstances. Indirect discrimination occurs where there is a rule, policy or practice which seems to apply equally to everyone, but which actually puts persons with disabilities at an unfair disadvantage compared with those who are not disabled.

<sup>51</sup> The definition of “discrimination on the basis of disability” is an important one and is omitted from the draft Bill. It marks a departure from the commonly accepted judicial precedent on the definition of equality before the law, and will determine all judicial challenge to the rights enshrined in this document.

(2) Add the definition of "**Language**"<sup>52</sup> - DRG, AADI, OSDN, DEF, NAD, DAF, Inclusive Planet and DRA

Suggested text:

- "Language" includes spoken and signed languages and other forms of non spoken language - DEF<sup>53</sup>, NAD, DAF, Inclusive Planet<sup>54</sup> and DRA

(3) Add the definition of "**Abuse**"<sup>55</sup> - DRG & AADI

(4) Add the definition of "**Augmentative and Alternative Communication (AAC)**"<sup>56</sup> - DRG, AADI and DAF

Suggested text:

- "Augmentative and alternative communication (AAC)" are alternative systems or methods of communication that may supplement or complement the use of one's own speech to fulfill the daily communication needs of persons with speech, communication or language disabilities in accordance with their requirements and enables them to participate and contribute to their community and society;<sup>57</sup> - DAF

(4) Add the definition of "**Disabled Persons' Organisation**" (DPO). - DAF

Suggested text:

- "Disabled persons' organisation" (DPO) means an organisation registered under an Act of Parliament, or a State Legislature, and controlled by a majority of persons with disabilities at the board and membership levels; - DAF

(5) Add the definition of "**Human Rights**". - DAF

Suggested text:

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<sup>52</sup> UNCRPD explicitly states the definition as Language includes spoken and signed languages and other forms of non-spoken languages. Sign language and other non-spoken languages are widely used and would need to be added.

<sup>53</sup> In order to broaden the purview of languages, the definition of language should include spoken languages, signed languages as well as non-spoken languages

<sup>54</sup> This was omitted from the original inclusion in the UNCRPD. It is important to acknowledge sign language on par with other languages to enable the right to communication for persons who use these means of communication.

<sup>55</sup> Clarity in understanding what Abuse entails

<sup>56</sup> AAC is a means of communication for many people with disabilities, therefore it must be added to the list of definitions.

<sup>57</sup> Some words are used in these bills which are not defined like AAC, Discrimination, public building etc. These definitions have been added.

- “Human rights” shall have the meaning assigned to it in Clause (d) of Section 2 of the Protection of Human Rights Act, 1993; - DAF

(6) Add the definition of “**Public Building/ Infrastructure/ Place**”. – DAF, AIDA and Ketan Kothari

Suggested text:

- “public building” means a building, irrespective of ownership, which is used and accessed by the public at large; and includes its entrance, exit, parking space, footpath and other appurtenant lands; - DAF
- Public Infrastructure shall mean and include:
  - a) Building - means a building, irrespective of ownership, which is used and accessed by the public at large; including but not limited to buildings used for educational & vocational purposes; Workplaces; Commercial Activities; public utilities;, religious, cultural, leisure & recreational activities; Medical & Health Services; Law enforcement agencies, reformatories & judicial for as; Transportation services such as Railway stations, platforms, Roadways, Bus Q shelters/ Terminus, Airports, Waterways ;etc.
  - b) Transportation Systems includes Road Transport, Rail Transport, Air Transport, Water Transport, Para Transit Systems for last mile connectivity, road & street infrastructure etc.
  - c) Information & Communication Technologies includes all services & innovations relating to communication and information such as telecom services, web based services, electronic & print services, digital & virtual services etc.
  - d) Public facilities & services includes all forms of delivery of service provisions to the public at large; including but not limited to housing, educational& vocational trainings; employment & career advancement, shopping/ marketing, religious, cultural, leisure & recreational; Medical, Health & rehabilitation, banking, finance & insurance, communication, postal & information, access to justice, public utilities, transportation etc.<sup>58</sup> - AIDA

Comment:

- Definition could be taken from the amendments proposed by the ministry somewhere in 2010 or the Committee definition of 2012<sup>59</sup> - Ketan Kothari

(7) Add the definition of “**Services**”. - DAF

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<sup>58</sup>This term is very relevant for proper interpretation and understanding the provisions relating to accessibility. As such, the definition of this terms requires inclusion in the definition clause

<sup>59</sup>There is a special need to define “Public Place” with specific mention of private places which are meant to serve the public such as cinemas, restaurants, medical facilities etc. since these are frequented by the disabled as much as anyone else.

Suggested text:

- “Services” means services provided by members of any profession or trade, or provided by any government, local authority or establishment and includes services relating to banking and finance; education; health; insurance; rehabilitation; entertainment, recreation and hospitality; transport or travel and telecommunications; - DAF

(8) Add the definition of “**Violence**”. - DAF

Suggested text:

- “violence” means causing physical, mental, sexual or psychological harm or injury;- DAF

(9) Add the definition of “**Habilitation**”. - AIDA

Suggested text:

- “Habilitation” is a process by which persons born with impairments learn life skills.<sup>60</sup> – AIDA

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<sup>60</sup>This is required to include measures to be taken for persons with benchmark disabilities born. Therefore it is suggested that the definition given to the term “Habilitation in 2011 draft Bill may be included.

## CHAPTER 2: RIGHTS AND ENTITLEMENTS

### Clause 3: Equality and Non-Discrimination

Sub Clause	Current text	Suggestions
3 (1)	The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.	<p>Modified text:</p> <ul style="list-style-type: none"> <li>The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity <u>on an equal basis with all other citizens of the country</u>. - DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - Inclusive Planet and DRA</li> <li>This section has to be repealed as some of the concerns arising out of repealing this section can be dealt with appropriate amendments given below to the Section 108 - Ektha</li> </ul>
3 (2)	The appropriate Government shall take special measures to protect the rights of women and children with disability and also take steps to utilise the capacity of persons with disabilities by providing appropriate environment.	<p>Delete:</p> <ul style="list-style-type: none"> <li>The Sub Clause. Refer to the new section on women and children with disability - DAF</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>.....providing an appropriate environment <u>that is free from attitudinal and environmental barriers (including physical, information, communication, transport, institutional)</u>.- LCD</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>



Sub Clause	Current text	Suggestions
		<ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - Inclusive Planet and DRA</li> </ul>
3 (3)	<p>No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is appropriate to achieve a legitimate aim.</p> <p><b>As per the Notice of Amendments:</b> No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a <b>proportionate means of achieving</b> a legitimate aim.</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>'unless it is shown that the impugned act or omission is appropriate to achieve a legitimate aim'- DRG<sup>61</sup>, AADI, Kilikili<sup>62</sup>, ASI, AFA<sup>63</sup>, OSDN, DLU South<sup>64</sup> and OSDN</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act, <u>provision, criteria, practice, treatment</u> or omission is of achieving appropriate means a legitimate aim<sup>65</sup>- DAF</li> <li>No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission <u>of such a nature where disability could be a hurdle and where the authority practicing such discrimination gives reasons thereto clearly.</u><sup>66</sup> - Ketan Kothari</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - Inclusive Planet and DRA</li> <li>Discrimination cannot be justified in the garb of furthering a legitimate aim. - VIBEWA</li> </ul>

<sup>61</sup> The phrase is discriminatory and is against the principles of equality and non-discrimination and UNCRPD to which India is a signatory.

<sup>62</sup> Zero tolerance for any discrimination on the ground of disability. No qualifiers acceptable.

<sup>63</sup> The phrase '...unless it is shown that the impugned act of omission is appropriate to achieve a legitimate aim,' is discriminatory and needs to be deleted.

<sup>64</sup> discrimination against persons with disabilities has been justified if it is shown that the impugned act or omission is appropriate to achieve a legitimate aim in Clause 3.3. What is legitimate & what is appropriate?

<sup>65</sup> Redress mechanisms need to be pointed out

<sup>66</sup> This needs to be totally deleted as under no circumstances such clause could be allowed. Even where the case required discrimination the wording will have to be much more clearer and less open to interpretation

Sub Clause	Current text	Suggestions
3 (4)	No person shall be deprived of his or her personal liberty only on the ground of disability.	Comments: <ul style="list-style-type: none"> <li>• Redress mechanisms need to be pointed out - DAF</li> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - Inclusive Planet and DRA</li> </ul>
3 (5)	<b>As per the Notice of Amendments, the following new sub clause to be added:</b> <u>The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.</u>	No suggestion

## New Sub Clauses

### Suggested Text:

- The appropriate government shall take necessary steps to ensure that persons with disabilities enjoy the right to life with dignity and to personal liberty guaranteed by Article 21 of the Constitution of India on an equal basis with others. - DAF
- The appropriate government and local authorities shall take steps to ensure that persons with disabilities are able to enjoy the rights regarding freedom of speech and expression, etc., provided by Article 19 of the Constitution, on an equal basis with others. - DAF
- The appropriate governments will ensure the right to inclusive play for all children with disabilities.<sup>67</sup> - Kilikili
- As in Clause 20(1), Equal opportunities policy could also be emphasized on educational institutions and shall include appropriate teaching learning methodologies adopted to facilitate quality education for children with all kinds of disabilities. Similar policy could be brought out for other sections such as political participation, social security, etc., as well. - DLU South
- Private sector entities offering services in the area of health, tele-communication, technology, finance, insurance,

<sup>67</sup> The right to play is often neglected in the discourse on rights and entitlements. This needs to be highlighted and appropriately enshrined.

entertainment, web services etc shall not discriminate against persons with disability and shall treat them at par and on equal terms with their other customers. – NAD

## Redrafted Clause

- **By AIDA**

The entire Clause 3 to be replaced by the following text:

- (1) All persons with benchmark disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law;
- (2) The appropriate government and all regulatory bodies shall ensure that the persons with benchmark disabilities enjoy the right to equality, life with dignity and respect for his/her integrity equally with others and towards this end shall take all affirmative actions or measures aimed to accelerate or achieve de facto equality of persons with benchmark disabilities.
- (3) Any special measure or reasonable accommodation extended to ensure enjoyment and exercise of right to equality by any person with benchmark disability, shall not constitute discrimination.
- (4) Every appropriate Govt. or its establishments shall be obliged to extend reasonable accommodation to persons with benchmark disabilities for ensuring that they are not discriminated against on the ground of disability.
- (5) No person with disability shall be discriminated on the ground of disability in any aspect of life.
- (6) No person shall be deprived of his or her personal liberty only on the ground of disability.<sup>68</sup>

- **By Inclusive Planet and DRA**

The entire Clause 3 to be replaced by the following text:

- (1) It is recognized that disability is a part of human diversity, much like race, gender and religion, and that all persons with disabilities have an inherent right to equality before and under the law are entitled to the equal protection of the laws without any discrimination.
- (2) No person shall be discriminated against on the ground of disability, and all persons with disabilities shall be provided with reasonable accommodation to provide for the effective realization of this right.
- (3) Any legislation or policy or programme enacted by the State designed to accelerate or achieve de facto equality

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<sup>68</sup>The present draft does not prohibit discrimination on the ground of disability completely and also does not explicitly recognized the right of equality and non-discrimination. It dilutes even the fundamental right of equality guaranteed to all citizens of the country U/A 14 to 16 of the Constitution of India and therefore requires complete change.

of persons with disabilities shall not be considered to be discrimination under this Section.<sup>69</sup>

### Section 3A: Liberty (newly proposed)

- (1) No person with disability shall be deprived of their liberty unlawfully or arbitrarily, and any deprivation of liberty shall be in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
- (2) In the event that a person with disability is deprived of their liberty through any process, they shall be, on an equal basis with others, entitled to guarantees in accordance with international human rights law, including by provision of reasonable accommodation.<sup>70</sup>

### Section 3B: Integrity (newly proposed)

- (1) All persons with disability shall have the right to lead their life with dignity and respect for their integrity including bodily and mental integrity, on an equal basis with others.<sup>71</sup>

## Clause 4: Community Life

Sub Clause	Current text	Suggestions
4 (1)	The persons with disabilities shall have the right to live in the community.	Modified text: <ul style="list-style-type: none"><li>• Persons with disabilities shall have the right to live in the community <u>and the right to choose their place of residence and where and with whom they live on an equal basis with others.</u> - LCD</li><li>• <u>All persons with disabilities shall have the right to choose their place</u></li></ul>

<sup>69</sup>In the draft presented before the Rajya Sabha, the rights to equality and liberty and integrity have been put together whereas they require separate consideration. The right of equality for persons with disabilities must be in consonance with the UNCRPD which does not provide for exceptions on the grounds as provided for in the present Bill.

<sup>70</sup> Discussions surrounding the UNCRPD specifically excluded the wording of the right to liberty as provided in the draft i.e. "No person shall be deprived of his or her personal liberty only on the ground of disability." as it still provides for the deprivation of liberty of persons with disabilities on grounds related to disability, for example, a person who is "leprosy cured" can be still deprived of their liberty on the grounds of being vagrant, and the marginalization is on account of the stigma associated with leprosy.

<sup>71</sup> : A specific section on integrity is required as persons with disabilities are at specific risk for violations of their bodily and mental integrity by way of forced invasive treatments and other procedures.

Sub Clause	Current text	Suggestions
		<p><u>of residence and where and with whom they live on an equal basis with others and shall not be obliged to live in a particular living arrangement.</u><sup>72</sup> - Inclusive Planet and DRA</p> <ul style="list-style-type: none"> <li>• <u>All</u> persons with disability shall have the right to live in the community. - DAF</li> </ul>
4 (2)	<p>The appropriate Government shall endeavour that the persons with disabilities are,—</p> <p>a) not obliged to live in any particular living arrangement; and</p> <p>b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.</p>	<p>Replace:</p> <ul style="list-style-type: none"> <li>• Replace the word “endeavour” with “ensure” - DAF</li> </ul> <p>Modified text for sub Clause (b):</p> <ul style="list-style-type: none"> <li>• given access to a range of in-house, residential and other community support services, including personal assistance, <u>forms of live assistance and intermediaries</u> necessary to support living with due regard to age and gender, <u>by making them available free or at an affordable cost.</u>- LCD</li> <li>• <u>Persons with disabilities shall have the right to access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;</u><sup>73</sup> - Inclusive Planet and DRA</li> </ul>

## New Sub Clauses

### Suggested Text

- Persons with disabilities shall have the right to appropriate Community services and facilities which are available for the general population, provided that these services and facilities are provided to them on an equal basis with others, and that these services and facilities are responsive to the needs of persons with disabilities and considerations such as age and gender<sup>74</sup> - Inclusive Planet and DRA

<sup>72</sup> The right under Article 19 of the UNCRPD is a right which must be realized in its entirety. The right must include the positive right to choose one's living arrangement and not only the right to not be forced into a particular living arrangement.

<sup>73</sup> Same as Footnote for 4 (1)

<sup>74</sup> Same as Footnote for 4 (1)

## Clause 5: Protection from cruelty and inhuman treatment

Sub Clause	Current text	Suggestions
5 (1)	The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment	Modified text: <ul style="list-style-type: none"> <li>• No persons with disability shall be subjected to torture, cruel, inhuman or degrading treatment or punishment.<sup>75</sup> - Inclusive Planet and DRA</li> <li>• The appropriate Government shall take <u>all appropriate</u> measures to protect <u>person with disability</u> from being subjected to torture, cruel, inhuman or degrading treatment. - DAF</li> </ul>
5 (2)	No person with disability shall be a subject of any research without,— (i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and (ii) prior permission of an Ethics Committee constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (u) of section 2.	No suggestion

<sup>75</sup> 'Punishment' was excluded from the Bill, whereas the UNCRPD covers cruel, inhuman or degrading treatment and punishment. Often persons with disabilities in institutional set ups and schools are subjected to degrading punishments as a method of "disciplining" them.

## Clause 6: Protection from abuse, violence and exploitation

Sub Clause	Current text	Suggestions
6 (1)	The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation, and to prevent the same, shall—	Modified text: <ul style="list-style-type: none"> <li>The appropriate Government shall take <u>all appropriate</u> measures to protect persons with disabilities from all forms of abuse, violence and exploitation, and to prevent the same, shall:- - DAF</li> </ul>
6 (1) (a)	take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;	Modified text: <ul style="list-style-type: none"> <li>take cognizance of incidents of abuse, violence and exploitation and provide legal remedies, <u>making them available free or at an affordable cost</u>, against such incidents; - LCD</li> </ul>
6 (1) (b)	take steps for avoiding such incidents and prescribe the procedure for its reporting;	Comment: <ul style="list-style-type: none"> <li>Add timelines - Vishwas</li> </ul>
6 (1) (c)	take steps to rescue, protect and rehabilitate victims of such incidents; and	No suggestion
6 (1) (d)	create awareness and make available information among the public.	No suggestion
New Sub Clause		create a local monitoring mechanism to ensure the realization of this right among persons with disabilities within the family or institutional setting <sup>76</sup> - Inclusive Planet and DRA
6 (2)	Any person or registered	Modify:

<sup>76</sup> Many instances of abuse, violence and exploitation happen within closed doors of homes or institutions and the ability of persons with disabilities in such set ups to access redressal forums may also be controlled by the persons inflicting this treatment. Therefore, an effective mechanism for monitoring is essential.

Sub Clause	Current text	Suggestions
	organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.	<ul style="list-style-type: none"> <li>• Change "Executive Magistrate" to "Judicial Magistrate" - DAF, Inclusive Planet<sup>77</sup> and DRA</li> </ul> Delete: <ul style="list-style-type: none"> <li>• The term "registered" before "organisation". - DAF</li> </ul> Comment: <ul style="list-style-type: none"> <li>• 'Executive Magistrate' to be defined<sup>78</sup> - LCD</li> </ul>
New Sub Clause		Suggested text <ul style="list-style-type: none"> <li>• The Judicial Magistrate on receipt of such information, shall take immediate steps to have the person with disability produced before him, and provide for the assistance of communication facilitators or other persons who may be required to assist the person with disability.<sup>79</sup>- Inclusive Planet and DRA</li> </ul>
6 (3)	The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as he deems fit for the protection of such person with disability including an order—	Modify: <ul style="list-style-type: none"> <li>• Change "Executive Magistrate" to "Judicial Magistrate" - DAF</li> </ul>
6 (3) (a)	to rescue the victim of such act,	No suggestion

<sup>77</sup> The powers should be given to the Judicial Magistrate and not to the executive Magistrate.

<sup>78</sup> Defining who the "Executive Magistrate within the local limits" is will make it clear for persons with disabilities which authorities they should approach when they are subject to abuse, violence and exploitation. Additional Comment: For the 'Executive Magistrate within the local limits' to be able to discharge his/ her duty to protect the rights of persons with disabilities to the fullest extent possible they should be accessible to persons with disabilities. This includes in terms of their location, access to their office, availability of sign language interpreters and sign boards in his/ her office indicating their services for persons with disabilities.

<sup>79</sup> The Judicial Magistrate should be able to assess the situation by communicating with the person with disability and not allow for the decision making process regarding protection to happen without involving the person with disability in the spirit of "nothing about us, without us."



Sub Clause	Current text	Suggestions
	authorising the police or any organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such person, or both, as the case may be;	
6 (3) (b)	for providing protective custody to the person with disability, if such person so desires;	No suggestion
6 (3) (c)	to provide maintenance to such person with disability.	No suggestion
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>to provide support for the person with disability as mentioned in Section 4 (2) if such person so desires;<sup>80</sup> - Inclusive Planet and DRA</li> </ul>
New Sub Clause		Comment: <ul style="list-style-type: none"> <li>To mention about children with disabilities, women with disabilities and Senior citizens with disabilities. Cross reference to JJ Act and Act that safeguards interests of Women and Senior citizen.<sup>81</sup> - Vishwas</li> </ul>

<sup>80</sup> If a person with disability is experiencing violence at the hands of their caregiver, they may hesitate to seek access to justice because it will leave them with no means of independent living. Hence, the Magistrate must be able to make orders to ensure that the person with disability is able to lead the same standard of living after an intervention is made to ensure that they are protected.

<sup>81</sup> Targeted mention for vulnerable groups to be specifically mentioned.

Sub Clause	Current text	Suggestions
6 (4) (a)	Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of— (a)his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;	Modify: <ul style="list-style-type: none"> <li>• Change "Executive Magistrate" to "Judicial Magistrate" - DAF</li> </ul>
6 (4) (b)	the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;	No suggestion
6 (4) (c)	the right to free legal aid; and	No suggestion
6 (4) (d)	the right to file a complaint under the provisions of this Act or any other law dealing with such offence: Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.	No suggestion
New Sub		Suggested text:

Sub Clause	Current text	Suggestions
Clause		<ul style="list-style-type: none"> <li>• arrange community support services, including personal assistance, forms of live assistance and intermediaries necessary to support living with due regard to age and gender - LCD</li> </ul>
6 (5)	<p>If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter.</p>	<p>Modify:</p> <ul style="list-style-type: none"> <li>• Change "Executive Magistrate" to "Judicial Magistrate" - DAF</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• If the <u>Judicial</u> Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, <u>he shall take cognizance of the same.</u><sup>82</sup> - Inclusive Planet and DRA</li> </ul>

## New Sub Clauses

### Suggested text

- The appropriate government shall take necessary steps to ensure awareness on abuse, violence and exploitation of persons with disabilities among community members, families and disabled persons themselves as well as specify redress mechanisms available. - DAF

### Comments

- The respective authorities including magistrates and police have to be sensitized on disability and trained on the ways and means to handle persons with disabilities including all possible reasonable accommodation provisions in Clause 6. - DLU South
- Legal aid services should be made available to all persons with disabilities from the Panchayat Level to national level for disabled people to seek redress. – DAF

<sup>82</sup> Since the powers are now to be given to the Judicial Magistrate, he or she can immediately take cognizance if the offence is a cognizable one.

- Include the atrocities prevention compensation and immediate relief provisions shall be provide for disabled people as per SC/ST , Nirbhaya Act lines - NPDO

## Clause 7: Protection and Safety

Sub Clause	Current text	Suggestions
7 (1)	The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters	Add: <ul style="list-style-type: none"> <li>• after the word "emergencies", the word "epidemics" to be inserted. - OSDN</li> </ul>
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>• In furtherance of the right recognized in sub-section (1), the appropriate governments and local authorities shall take effective and appropriate measures to enable the protection and safety of persons with disabilities in these situations on an equal basis with others. - DAF</li> </ul>
7 (2)	The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities.	Add: <ul style="list-style-type: none"> <li>• The National and State Civil Defence Organization / NSS / National Communal harmony cell shall take appropriate measures to ensure inclusion of persons with disabilities in its activities'. - Hemophilia Federation</li> </ul>
7 (3)	The District Disaster Management Authority constituted under section	Add: <ul style="list-style-type: none"> <li>• The District Disaster Management Authority constituted under</li> </ul>

Sub Clause	Current text	Suggestions
	25 of the Disaster Management Act, 2005 shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness	section 25 of the Disaster Management Act, 2005 .....persons of any situations of risk <u>in an accessible format</u> ..... enhance disaster preparedness. <sup>83</sup> - Ketan Kothari
New Sub Clause		<ul style="list-style-type: none"> <li>The appropriate government shall take suitable measures to ensure the safety and protection and to offer immediate relief and rehabilitation to victims with disabilities in situations of communal violence or internal disturbance. - DAF</li> </ul>
7 (4)	The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the concerned State Commission, in accordance with the accessibility requirements of persons with disabilities.	Add: <ul style="list-style-type: none"> <li>The authorities engaged ..... the concerned State Commission, in accordance with the accessibility, <u>communication and rehabilitation</u> requirements of persons with disabilities. - DAF</li> <li>The authorities engaged .....the concerned State Commission, <u>persons with disabilities and their representative organisations</u>, in accordance with the accessibility requirements of persons with disabilities- LCD</li> </ul>

## New Sub Clauses

### Suggested text

- The Armed Forces shall, in all situations of armed conflict, take appropriate measures to ensure the safety and protection of persons with disabilities in the light of their obligations pursuant to Human Rights. – DAF
- The National, state and district disaster management authorities shall be trained on the safe and dignified means of

<sup>83</sup>The words "in accessible format" need to be added to get complete clarity.

imparting services to disabled people and to address their physical, communication, commutation and medical requirements during risk/emergency situations. A check list shall be worked out which the authorities/ armed forces could verify/follow during situations of risks / emergencies and successive rehabilitation processes including refugee camps. - DLU South

### Comment

- An additional sub-section to be added stating that no place of public utility such as cinema/restaurant/hotels etc. will be given Occupancy Clearance (OC) unless adequate risk management facilities are available for persons with disabilities. - Ketan Kothari

## Clause 8: Home and Family

Sub Clause	Current text	Suggestions
8 (1)	No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• No child shall be separated from his or her parents on the ground of disability.<sup>84</sup> - Inclusive Planet and DRA</li> <li>• No child with disability shall be separated from his or her parents or <u>immediate family</u> on the ground of disability except on an order of <u>,appropriate Child Welfare Committee constituted by the appropriate authority,</u> if required, in the best interest of the child<sup>85</sup>. - DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• The Bill for rights of persons with disabilities shall not provide for separation of a child with disability from his/her parents. There shall be a clause to mention about children with disabilities having the right to express their views with due acknowledgement / recognition to be given to their views as provided by CRC. - DLU</li> </ul>

<sup>84</sup> The wording of the UNCRPD specifically excludes children from being separated from their parents on the ground of disability. The Bill provides that children can be separated from their parents on the ground of disability as long as there is a Court Order which goes against the UNCRPD.

<sup>85</sup>Home and family should cover the whole life span of Persons with Disabilities including the provision of marriage, guardianship and adoption

Sub Clause	Current text	Suggestions
		South
8 (2)	Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.	Delete: <ul style="list-style-type: none"> <li>the Clause 8 (2)<sup>86</sup>.- LCD</li> </ul> Modified text: <ul style="list-style-type: none"> <li>Where the parents <u>or immediate family</u><sup>87</sup> are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter homes or <u>foster homes</u> run by the appropriate Government or non-governmental organizations, as may be required. - DAF</li> </ul>

## New Sub Clauses

### Suggested text

- Where a child with disability or a child of a parent with disability is found to be a child in need of care and protection as defined under the Juvenile Justice Act, the concerned Court shall make orders for appropriate capacity building for parents including appropriate orders under Section 4 (2) of this Act.<sup>88</sup> - Inclusive Planet and DRA

<sup>86</sup> Deleting this clause is proposed because this clause directly contradicts the very purpose of this Bill and specifically Clause: Chapter 2, 3. (3) of the Bill that states "No person with disability shall be discriminated on the ground of disability" and Chapter 2, Clause 8. (1) that states: 8. (1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

<sup>87</sup> Immediate family is a defined group of relations, used in rules or laws to determine which members of a person's family are affected by those rules. It normally includes a person's parents, spouses, siblings and children. It can contain others connected by birth, adoption, marriage, civil partnership, or cohabitation, such as grandparents, grandchildren, siblings-in-law, half-siblings, adopted children and step-parents/step-children, and cohabiting partners.

<sup>88</sup> In the Concluding observations on the consolidated third and fourth periodic reports of India by the Committee on the Rights of the Child dated 13th June 2014, the Committee expressed deep concern at the high levels of abandonment of children with disabilities by their parents, and also noted that there was a need to allocate adequate human, technical and financial resources to support parents of children with disabilities with the aim of preventing the abandonment of these children. Therefore, the focus must be on enabling parents of children with disability to have the overall resources to provide effective care for their children.

## Comments

- Add a clause to the effect- The competent court must further ensure that the rights of such a child, are protected and promoted<sup>89</sup>. - DRG & AADI
- Mention about play, health, nutrition, freedom of choice, opportunities to explore, evolve and develop their full potential. Add punitive measures. The Act should link this section with CRC. - DLU South

## Clause 9: Reproductive rights

Sub Clause	Current text	Suggested Text
9 (1)	The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.	<ul style="list-style-type: none"> <li>• Rephrase.<sup>90</sup> - Kilikili and ASI</li> </ul> Add: <ul style="list-style-type: none"> <li>• "sexual health, reproductive rights" <sup>91</sup> - Inclusive Planet and DRA</li> <li>• "Sexual / Reproductive rights &amp; Reproductive health care" - DLU South</li> <li>• "sexual and reproductive health information and services and maternal health." - OSDN</li> </ul> Add in the end: <ul style="list-style-type: none"> <li>• "on an equal basis with others." - DAF</li> </ul>
9 (2)	No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and	Modified text: <ul style="list-style-type: none"> <li>• No person with disability shall be subject to any medical procedure <u>or given any medication</u> which leads to infertility</li> </ul>

<sup>89</sup> This would ensure prevention of abuse and would enable the child to enjoy all the rights and freedoms.

<sup>90</sup> Reproductive rights seem to be equated with family planning.

<sup>91</sup> The rights cannot only be limited to family planning, as sexuality extends beyond reproduction.



Sub Clause	Current text	Suggested Text
	informed consent.	<u>or has any effect on sexual health</u> without his or her free and informed consent. <sup>92</sup> - Inclusive Planet and DRA

## New Sub Clauses

### Suggested text

- No person with disability shall be denied access to any residential or care arrangement on the grounds that they have not undergone a procedure for sterilization.<sup>93</sup> - Inclusive Planet and DRA

### Comment

- All persons with disabilities should also be able to access reproductive health services at the local level and be enabled to take decisions free from discrimination and violence. - DAF

## Clause 10: Accessibility in Voting

Sub Clause	Current text	Suggestion
10	The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.	<p>Add</p> <ul style="list-style-type: none"> <li>All materials related to electoral process to be <u>in accessible formats</u>. - DLU South</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>In a time bound manner, within 5 years of the enactment. - Vishwas</li> </ul>

<sup>92</sup> Many persons with disabilities are given medication which may not lead to infertility but may impact their sexual health. It is necessary that persons with disabilities are given correct information as regards the side effects of medication in order to allow them to make the best decisions.

<sup>93</sup> There are numerous instances of persons with disabilities, particularly women, who are forced to undergo sterilization procedures as a prerequisite to admission to care facilities. There must therefore be a strict provision against such indirect coercion into compromising one's reproductive choices.

## New Sub Clauses

### Suggested text

- All persons with disabilities who are eligible to vote are included in the voters list, including persons in institutional settings<sup>94</sup> - Inclusive Planet and DRA
- Notwithstanding anything contained in any Act presently in force, no person shall be prevented from contesting of any election at any level of Governance on account of their disability. Persons with disabilities desirous of contesting elections shall be provided all reasonable accommodation required for the same.<sup>95</sup> - Inclusive Planet and DRA
- Election Commission of India and State Election Commissions shall use accessible communication modes such as audio / visual announcement systems, large text, signage, Braille material, assistance of sign language interpretation, Alternative and Augmentative Communication systems, etc., for persons with disabilities, throughout the electoral processes. - DLU South

### Comments

- Include the participation of disabled people in political life and ways to facilitate it. Other Acts such as Panchayati Raj Act which has provisions detrimental to the political participation of disabled people shall be directed to undertake amendments in lines with UNCRPD. Stringent punitive measures on infringing the political rights of disabled people shall be provided for. - DLU South
- If the Presiding Officer of a polling booth is satisfied that, due to disability, a person with disability is unable to recognise the symbols or to record vote without assistance, the presiding officer shall permit the elector to take a companion of not less than eighteen years of age to the voting compartment for recording/casting the vote. - DAF
- The Election Commission of India and State Election Commissions shall ensure that people with disabilities have Voter I Cards, irrespective of whether they live with family, independently or in a home. - DAF

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<sup>94</sup> *The right to legal capacity includes the right to be recognized as persons before the law, and this includes, as per the General Comment on Article 12 issued by the Committee on the Rights of Persons with Disabilities: "Legal capacity is an inherent right accorded to all people, including persons with disabilities. As noted above, it consists of two strands. The first is legal standing to hold rights and to be recognized as a legal person before the law. This may include, for example, having a birth certificate, seeking medical assistance, registering to be on the electoral role or applying for a passport." Often, persons with disabilities living in institutions are excluded from the process of enrollment of voters on the grounds of lack of address proof, or the assumption that they cannot participate in the electoral process.*

<sup>95</sup> *There are many instances of persons with disabilities who have been barred from contesting elections either on the basis of statute or because they have not been able to comply with regulations regarding filling of forms etc. on account of their disability and processes being inaccessible. Therefore this provision needs to specifically set this right.*

- The Election Commission of India and State Election Commissions shall ensure that severely disabled people who cannot travel to the polling stations shall have access to alternative ways of exercising their right to vote, such as postal ballots. - DAF
- The right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation is to be recognized, and the right 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 must be upheld. - OSDN

## Clause 11: Access to justice

Sub Clause	Current text	Suggestions
11 (1)	The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>• and provide reasonable accommodation - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> <li>• Free legal aid for persons with disabilities to be included. - VIBEWA</li> </ul>
New Sub Clauses		<p>Suggested text:</p> <ul style="list-style-type: none"> <li>• The appropriate Government shall ensure that persons with disabilities are able to exercise the rights provided in other acts, law and schemes.</li> <li>• The authorities in subsection (1) shall ensure that persons with disabilities are able to exercise the right to approach these authorities without discrimination on the basis of disability and provide reasonable accommodation.</li> <li>• All the authorities mentioned in subsection (1) shall evaluate the testimony, opinion or argument given by a person with disability on an equal basis with others and ensure that there is no discrimination whether directly or indirectly on grounds of disability.- DAF</li> </ul>
11 (2)	The appropriate Government shall take	Modified text:

Sub Clause	Current text	Suggestions
	<p>steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.</p>	<ul style="list-style-type: none"> <li>The appropriate Government shall take steps to put in place suitable <u>appropriate</u> support measures for all persons with disabilities <u>and specifically</u> for those living outside family and those disabled requiring high support for exercising legal rights. - DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>
11 (3)	<p>The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.</p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>The National Legal Services Authority, the State Legal Services Authorities <u>and the District Legal Services Authority</u> constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodations to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them <u>on an equal basis</u> with others.- DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>
11 (4) (a)	<p>The appropriate Government shall take steps to— (a) ensure that all their public documents are in accessible formats;</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>
11 (4) (b)	<p>ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>

Sub Clause	Current text	Suggestions
11 (4) (c)	make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• make available all necessary facilities <u>that includes forms of live assistance, sign language interpreters, intermediaries, equipment</u> to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.- LCD</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>

## New Sub Clauses

### Comments

- All legal services at the district, State and Central government administration shall be made physically accessible for all disabled people. Punitive measures are to be provided for the violation of the right to access to justice for persons with disabilities. The authorities shall ensure the assistance of sign language interpreters and AAC facilitators, when ever/where ever required<sup>96</sup> - DLU South
- Add – (a) – Police custody – police cannot detain the disabled for more than 6 hours. (b) Jail – The jail administration will make a separate ward for disabled person - Hemophilia Federation
- Add time bound manner - Vishwas

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<sup>96</sup>Though Access to Justice speaks about ensuring reasonable accommodation, it doesn't speak about physical access for all.

## Redrafted Clause

- **By AIDA**

Replace the existing Clause with the following text<sup>97</sup>

- (1) The appropriate Government and authorities shall ensure that persons with benchmark disabilities are able to exercise the right to access any court including panchayat and village court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability and provide reasonable accommodation whatever and whenever required;
- (2) The right of access to justice in subsection (1) includes access to police stations and other investigating and law enforcing agencies as complainant or otherwise, initiating a legal proceeding, participate in any legal proceeding as a party, complainant, accused, advocate, witness, expert, or amicus curiae or in any other capacity relevant for and to assist in adjudication of any dispute. No person with disability shall be denied the right to participate on the grounds of disability;
- (3) Every person with disability shall be entitled to use any means of communication along with support which such person desires and finds appropriate to participate in legal proceedings based on his or her disability;
- (4) All communication under sub – section (2) shall be deemed to be oral communication for all purposes including under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) and the Indian Evidence Act, 1872 (Act No. 1 of 1872);
- (5) Notwithstanding anything contained to the contrary in any law for the time being in force, All authorities including courts and tribunals mentioned in subsection (1) shall not question the admissibility of the testimony of a person with disability on the ground of his/her disability and the means of communication by which such testimony is given and shall evaluate the testimony, opinion or argument given by a person with disability on an equal basis with others and ensure that there is no discrimination whether directly or indirectly on the basis of disability;
- (6) In the cases involving any person with disability or involving their interest or claim before any judicial or quasi judicial authority or tribunal or court, the concerned District Judge shall have the authority to waive the normal rule of territorial jurisdiction considering the residence, availability of required support and access to the judicial system etc.;
- (7) The National Legal Services Authority and the State Legal Services Authority of the respective State shall provide free legal aid to any person with disability, on request;
- (8) No person with disability shall be required to pay court fees in order to access justice;
- (9) Every appropriate Government shall take immediate steps to ensure that all police stations are accessible to all persons with benchmark disabilities and the necessary equipments, support or arrangements are made available

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<sup>97</sup>The present draft is not exhaustive enough to cover all aspects relating to access to justice by persons with benchmark disabilities. Therefore, this requires to be substituted by the alternative draft.

- to enable persons with benchmark disabilities to file a First Information Report, join investigation, and get their statement recorded before the police;
- (10) The appropriate Government shall ensure that all persons with benchmark disabilities living in institutions are able to exercise their right to access justice by facilitating them to do so;
  - (11) The authorities in sub-section (1), shall take immediate steps to: (a)ensure that all their documents are in accessible formats; (b)ensure that filing departments, registry or any other office of records are supplied with necessary equipments to enable filing, storing and referring to the documents and evidence in accessible formats; and (c)make available all the necessary facilities and equipments to facilitate recording of testimonies, arguments or opinion given by persons with benchmark disabilities in their preferred language and means of communication including but not limited to video recording of the testimony from statement of a person with hearing impairment through sign language interpretation with adequate number of faculty members of the school who are trained in sign language.
  - (12) All Judicial Academies; Police Academies and Training Organizations for all law enforcement personnel and officials shall undertake regular training programmes on disability rights with participation of persons with benchmark disabilities, as a part of their induction and continuing education programmes;
  - (13) All authorities mentioned in subsection (1) shall take steps to ensure, that matters involving the rights and interests of persons with benchmark disabilities are disposed of expeditiously:

All the above provisions shall also be applicable to all persons who have disabled dependents.

## Clause 12: Legal Capacity

Sub Clause	Current text	Suggestions
12 (1)	<p><b>As per the Notice of Amendments following new Sub Clause to be added:</b></p> <p>The appropriate Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as any other person before the law."</p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>Notwithstanding anything contained in any other law to the contrary, persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as persons before the law. - DAF</li> </ul>
12 (2)	The appropriate Government shall ensure	Add:

Sub Clause	Current text	Suggestions
	<p>that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.</p>	<ul style="list-style-type: none"> <li>• “insurance” along with the other domains - Vishwas</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• The appropriate Government shall ensure that the persons with disabilities have right, equally with others <u>to exercise their legal capacity</u>, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit. - LCD</li> <li>• <u>Notwithstanding anything contrary contained in any other law, all persons with disabilities have the right, on an equal basis with others</u>, to own or inherit property; control their financial affairs; obtain access to bank loans, mortgages and other forms of financial credit, <u>and not to be arbitrarily deprived of their property</u>; - DEF</li> <li>• <u>All persons with disabilities have the right, to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and the appropriate government shall take steps to ensure that these rights are recognized and also that persons with disabilities are not arbitrarily deprived of their property.</u><sup>98</sup> - Inclusive Planet and DRA</li> <li>• <u>Notwithstanding anything contrary contained in any other law, the appropriate Government shall ensure that all person with disabilities have right, on an equal basis with others</u>, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit. - DAF</li> </ul>

<sup>98</sup> The formulation of provisions relating to legal capacity in this Bill are completely contrary to the UNCRPD. At the first stage, there must be recognition of the right to legal capacity. In the second, the question of support in the exercise of mental capacity, which differs from person to person, must not be restricted to persons with disabilities. That is discriminatory and violative of the UNCRPD. In addition, there are no provisions regarding the need to monitor the support systems in the exercise of mental capacity.



Sub Clause	Current text	Suggestions
12 (3)	When a conflict of interest arises between a person providing support and a person with disability in a particular financial, property or other economic transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction: Provided that there shall not be a presumption of conflict of interest just on the basis that the supporting person is related to the person with disability by blood, affinity or adoption.	No suggestion
12 (4)	A person with disability may alter, modify or dismantle any support arrangement and seek the support of another: Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transaction entered into by the person with disability with the aforesaid support arrangement.	Modified text: <ul style="list-style-type: none"> <li>For all persons who require support arrangements in the exercise of mental capacity, the appropriate Government shall enact legislation to ensure the regulation of support mechanisms. Notwithstanding anything contained in any legislation presently in force, that no person shall be deemed to require any form of supported or substituted decision making on the ground of having any impairment.<sup>99</sup> - Inclusive Planet and DRA</li> </ul>
12 (5)	Any person providing support to the person with disability shall not exercise undue influence and shall respect his or her autonomy, dignity and privacy.	Delete: <ul style="list-style-type: none"> <li>the word "undue" before influence.<sup>100</sup> - DLU South</li> </ul>

<sup>99</sup> The formulation of provisions relating to legal capacity in this Bill are completely contrary to the UNCRPD. At the first stage, there must be recognition of the right to legal capacity. In the second, the question of support in the exercise of mental capacity, which differs from person to person, must not be restricted to persons with disabilities. That is discriminatory and violative of the UNCRPD. In addition, there are no provisions regarding the need to monitor the support systems in the exercise of mental capacity.

<sup>100</sup> Clause 12(5) talks about not exercising undue influence on person with disability whereas no influence shall be exercised on a person with disability by a person providing support.

## New Sub Clauses

### Suggested text

- All persons with disabilities have the right to access all arrangements and support necessary for exercising their legal capacity in accordance with their will and preferences. - DAF and DEF
- The legal capacity of a person with disability shall not be questioned or denied, irrespective of the degree and extent of support, by reason of accessing support to exercise legal capacity. - DAF and DEF
- All persons with disabilities presently under any form of guardianship under the National Trust Act, 2000, or the Mental Health Act, 1987, shall have the right to have their guardianship reconsidered before the authority constituted by the appropriate Government.<sup>101</sup> - Inclusive Planet and DRA
- Any express or implied disqualification on the grounds of disability prescribed in any legislation, rule, notification, order, bye-law, regulation, custom or practice which has the effect of depriving any person with disability of legal capacity shall not be legally enforceable from the date of enforcement of this Act. - DAF

### Comments

- The entire section to be revised. It should be formulated by the committee based on its decision for considering various representations from different stake holders.<sup>102</sup> – AIDA
- The clauses related to Legal Capacity are not adequate. We really hoped that this law could take a stand and seal the debate based on the CRPD. That is unfortunately not happening now. We certainly have more work to do in this area. - OSDN

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<sup>101</sup> The formulation of provisions relating to legal capacity in this Bill are completely contrary to the UNCRPD. At the first stage, there must be recognition of the right to legal capacity. In the second, the question of support in the exercise of mental capacity, which differs from person to person, must not be restricted to persons with disabilities. That is discriminatory and violative of the UNCRPD. In addition, there are no provisions regarding the need to monitor the support systems in the exercise of mental capacity.

<sup>102</sup> There is no consensus on the issue of the manner of informed decision making and institution of guardianship. However, there is consensus that whatever is the final formulation, there should be a specific clause repealing any provision contrary to such final provision in the Bill contained in any other law.

## Clause 13: Provision for Guardianship

Sub Clause	Current text	Suggestions
13	<p>(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a District Court records a finding that a mentally ill person is incapable of taking care of himself or herself and of taking any legally binding decisions on his or her own, it shall make an order for appointment of limited guardian to take care of such mentally ill person and take all legal binding decisions on his or her behalf in consultation with such person:            Provided that the District Court may grant plenary guardianship to the mentally ill person under extraordinary situations where limited guardianship could not be awarded.  <i>Explanation.</i>—For the purposes of this section,—</p> <p>(i) “plenary guardianship” means a guardianship whereby subsequent to a finding of incapacity, a guardian substitutes for the person with disability as the person before the law and takes all legally binding decisions for him and the decisions of the person with disability have no binding force in law during the subsistence of the guardianship and the guardian is under no legal obligation to consult with the person with disability or determine his or her will or preference whilst taking decisions for him;</p> <p>and</p> <p>(ii) “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>The Clause to be removed in its entirety - Inclusive Planet, DRA and DLU South.</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, the District Court shall <u>take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity that are proportional and tailored to the person’s circumstances, applying for the shortest time possible.</u><sup>103</sup> - LCD</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>Full Legal Capacity for all persons with disabilities which require support. The support does not mean having a guardianship/</li> </ul>

<sup>103</sup> This clause limits the legal capacity of persons with mental disabilities. Article 12, CRPD states that “States parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity”. In addition it says states must make sure these measures “are proportional and tailored to the person’s circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body.” However, in its present form, the RPD Bill will be used to appoint ‘plenary guardians’ and ‘limited guardians’ that will deny all persons with mental illness in India the right to exercise their legal capacity. In addition, when persons with disabilities experience psychosocial stress, they can easily be brought within the realm of ‘mental illness’ and denied legal capacity. Therefore there is a high risk that all persons with disabilities may lose their legal capacity.

Sub Clause	Current text	Suggestions
	<p>guardian and the person with disability.</p> <p>(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any law for mentally ill person shall be deemed to function as limited guardian:            Provided that where a guardian appointed prior to the commencement of this Act, is unable to function as limited guardian, the concerned District Court may grant plenary guardianship afresh taking into account all relevant records of the concerned mentally ill person within six months from the date of commencement of this Act.</p> <p><i>Explanation.</i>—For the purposes of this section “District Court” means, in any area for which there is a city civil court, that court, and in any other area the principal civil court of original jurisdiction, and includes any other civil court which the State Government may, by notification, specify as the court competent to deal with all or any of the matters specified in this Act.</p> <p><b>As per the Notice of Amendments, the entire Clause to be substituted with the following text:</b></p> <p>(1) <b>Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his or her behalf in consultation with such person, in such manner, as may be prescribed by the State Government.</b></p>	<p>limited guardianship. These two will never be considered as support but it will be considered as substitutes.<sup>104</sup> - Ektha</p> <ul style="list-style-type: none"> <li>• The entire section to be revised,. It should be formulated by the committee based on its decision for considering various representations from different stake holders.<sup>105</sup> - AIDA</li> <li>• Aspect of plenary guardianship needs open discussion by people with psychosocial disabilities and their care givers. - AFA</li> </ul>

<sup>104</sup>Persons can have access to justice only if he/she is recognized as a person before law and hence it is mandatory to have full legal capacity with all persons with all disabilities.

<sup>105</sup>There is no consensus on the issue of the manner of informed decision making and institution of guardianship. However, there is consensus that whatever is the final formulation, there should be a specific clause repealing any provision contrary to such final provision in the Bill contained in any other law.

Sub Clause	Current text	Suggestions
	<p>Explanation. - For the purposes of this section,</p> <p>(i) "limited guardianship" means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability: Provided that the limited guardianship shall be for a specific period and for specific purpose and shall work in accordance with the will of the person with disability: Provided further that the District Court or designated authority may grant total support to the person with disability requiring such support or when the limited guardianship has to be granted repeatedly and the decision regarding the support to be provided may be reviewed by the Court or designated authority to determine the nature and manner of support.</p> <p>(2) On and from the date of commencement of this Act, every plenary guardian appointed under any provision of any law for persons with disabilities shall be deemed to function as limited guardian.</p> <p>(3) The person with disability shall have the right to appeal against the decision of appointment of a limited guardian before an appellate authority appointed by the State Government for that purpose."</p>	

## New Sub Clauses

### Suggested text

- Person with intellectual disability or with Autism shall have a right to select and get a guardian to support his or her decision making and taking legally binding decision. The state government shall make appropriate rules and regulations and enabling arrangement in each district for such disabled persons to exercise his or her option for the appointment of a guardian. The state government shall also endeavour to make arrangement through organizations of parents of persons with intellectual disability and Autism for supporting decision making for such disabled persons throughout the country. Any person including appointed Guardian providing decision making support to such disabled person shall not

be coercive or unduly subvert the decision making capacity of such disabled person. He or she shall at all time respect the autonomy, dignity and privacy of such disabled person.<sup>106</sup> - Parivaar

## Clause 14: Designation of authorities to support

Sub Clause	Current text	Suggestions
Title	Designation of authorities to support.	Change the title to: Duty of authorities to provide support - DAF
14 (1)	The appropriate Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disabilities in exercise of their legal capacity.	Delete: <ul style="list-style-type: none"> <li>The Clause to be removed - Inclusive Planet and DRA</li> </ul> Comment: <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF</li> </ul>
14 (2)	The authority designated under sub-section (1) shall take measures for setting up suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other measures as may be required.	Comment: <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF</li> </ul>

<sup>106</sup>Persons with intellectual disability and Autism should have full legal capacity. However to supplement for intellectual disability, these disabled persons must also have right to get a guardian appointed to support their decision making capacity. The guardianship provision for intellectually disabled persons is also prevailing in developed countries like USA, UK, Australia etc many of them being signatory of UNCRPD. Therefore Guardianship for intellectually disabled person is not against the UNCRPD or legal capacity of PwID since it supports him/ her to overcome the impairment (disability), and rules and regulations can be formed to ensure that guardian does not misuse the position. The existing Guardianship provisions in National Trust Act is a case in point and there are only exceptional instances where the provision has been misused and they can be dealt under the law. In addition the Supported Decision Making (SDM) system be also included in the bill to give it legal sanctity. As and when the Supported Decision Making system becomes socially prevalent in urban and rural areas the persons with intellectual disability can select either guardian or SDM to take care of their financial, fiduciary and living care.

## Redrafted Clause

- **By DAF**

14. (1) The appropriate governments shall establish or designate one or more authorities to mobilize the community and create social networks to support persons with disabilities in the exercise of their legal capacity. Such authorities shall:
  - (a) take immediate steps to put in place suitable support measures for the exercise of legal capacity by persons with disabilities living in institutions and persons with disabilities who need to have high support;
  - (b) take suitable steps including, where appropriate, mediation proceedings, in order to assist persons with disabilities who have exited from plenary guardianship to set up where required by such persons with disabilities suitable support arrangements other than limited guardianship for the exercise of their legal capacity;
  - (c) take steps to review how the system of deemed limited guardianship is operating for persons with disabilities including those living in institutions and to assist such persons with disabilities in establishing suitable support arrangements to exercise their legal capacity;
  - (d) design appropriate provisions for the protection, safety, care and exercise of legal rights for persons with disabilities who may not be in an condition to exercise full legal capacity.
14. (2) The review process referred to in sub clause (1) (c) is facilitative in nature and no person with disability can be denied legal capacity or refused the benefit of limited guardianship arrangements due to the delay or non occurrence of the review.

## CHAPTER III: EDUCATION

Chapter	Current text	Suggestions
III	Education	Change the title of the Chapter to "Right to Education" - DAF

### Clause 15: Duty of Educational Institutions

Sub Clause	Current text	Suggestions
15	<p>The appropriate Government and the local authorities shall endeavour that all educational institutions funded by them provide inclusive education to the children with disabilities and towards that end shall—</p> <p><b>As per the Notice of Amendments:</b> The appropriate Government and the local authorities shall endeavour that all educational institutions funded <b>or recognised</b> by them provide inclusive education to the children with disabilities and towards that end shall—</p>	<p>Replace:</p> <ul style="list-style-type: none"> <li>the term "endeavour" with "ensure" - AIDA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>The appropriate Government and the local authorities shall endeavour that all educational institutions provide inclusive education to the children with disabilities <u>that is available and accessible for all, in particular children with disabilities from low income families and rural areas.</u><sup>107</sup> - LCD</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>Educational Institutions should also include Boards, Councils and certifying authorities. - Vishwas</li> <li>The overall perspective throughout the chapter on Education for children with disabilities is geared towards full inclusion. While this is the ultimate goal, it is</li> </ul>

<sup>107</sup> The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education for all children in the age group of six to fourteen years as a fundamental right. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full time elementary education in a formal school irrespective of being funded by the State or otherwise. We have suggested that children with disabilities from low income families and rural areas are highlighted as they are less likely to be able to access quality education in an inclusive setting.



Sub Clause	Current text	Suggestions
		<p>recommended that all forms of education including specialised educational services and partial inclusion be also included.<sup>108</sup> - Kilikili and ASI</p> <ul style="list-style-type: none"> <li>• provide special school facilities to children with autism or intellectual disability who are unable to benefit from inclusive education environment due to behavioral or cognitive impairment.<sup>109</sup> - Parivaar</li> <li>• chapter on education has to mention about special education. - VIBEWA</li> </ul>
15 (i)	admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;	<p>Add:</p> <ul style="list-style-type: none"> <li>• "by designing play spaces that allow children with disabilities to use them with ease and dignity, along with their typically growing peers". - Kilikili</li> <li>• the word "cultural" after the word "sports". - OSDN</li> </ul>
15 (ii)	make building, campus and various facilities accessible;	<p>Add:</p> <ul style="list-style-type: none"> <li>• make building, campus and various facilities <u>including toilets and drinking water facilities safe gender specific and accessible</u>; - DAF</li> </ul>
15 (iii)	provide reasonable accommodation according to the individual's requirements;	No suggestions
15 (iv)	provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;	<p>Add in the end :</p> <ul style="list-style-type: none"> <li>• provide .....goal of full inclusion <u>and learning outcomes at par with others</u>; - DAF</li> <li>• provide .....goal of full inclusion <u>by ensuring among other things compulsory education/ learning of Braille or sign</u></li> </ul>

<sup>108</sup> If other legitimate forms of education such as specialised educational services are not included and inclusion into regular schools forced for all children with disabilities, there is a danger that the educational needs of children with disabilities may not be adequately met and that the schools may become day care centres rather than learning and skill building centres.

<sup>109</sup>Special education is required for Intellectually disabled and Autistic children in inclusive or special environment based on severity of intellectual disability. Some cases having strong behavioral issues and low functioning intellectually disabled or Autistic children may not be able to adjust in inclusive environment and will have to be provided with special education in special schools.

Sub Clause	Current text	Suggestions
		<u>language for the blind or hearing impaired students as the case may be;</u> - AIDA
15 (v)	<p>ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• ensure that the education to persons who are blind or deaf or both <u>or who have language and communication difficulties such as those with autism</u>, is imparted in the most appropriate languages and modes and means of communication.<sup>110</sup> - Kilikili and ASI</li> <li>• ensure that the education to persons who are blind or deaf or both, <u>and those with other impairments</u>, is imparted in the most appropriate languages and modes and means of communication.<sup>111</sup> - LCD</li> <li>• ensure ....means of communication <u>with adequate number of trained sign language /Braille teachers as also the professionally trained teachers for imparting education to intellectual disability;</u> - AIDA</li> <li>• ensure ..... means of communication <u>for the individual, and in environments which maximize academic and social development.</u> - NAD</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• ensure that the education is imparted in the languages and modes and means of communication <u>according to the best interests of the child, and facilitate the learning of sign language and the promotion of the linguistic rights of the deaf community.</u><sup>112</sup> - Inclusive Planet and DRA</li> </ul>

<sup>110</sup> Broadens the clause to include persons with communication difficulties too such as those with autism

<sup>111</sup> This is to ensure children with disabilities impairments not listed do not get excluded from this clause.

<sup>112</sup> It is not enough for the language imparting to be "appropriate" as that leaves the decision to the school as to what to impart by way of training. It must be according to the preferences of the child and keeping the best interests of the child in mind.

Sub Clause	Current text	Suggestions
15 (vi)	detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;	Replace: <ul style="list-style-type: none"> <li>the word "overcome" with "accommodate"<sup>113</sup> - LCD</li> </ul>
15 (vii)	monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;	Add in the end: <ul style="list-style-type: none"> <li>monitor ..... every student with disability <u>at par with others</u>; - DAF</li> </ul>
15 (viii)	provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.	Add: <ul style="list-style-type: none"> <li>provide transportation facilities to the children with disability and also the attendant of the children with disabilities <u>in need</u>. - DAF</li> </ul> Modified text: <ul style="list-style-type: none"> <li>provide transportation facilities to all children with disabilities <u>as well as to the</u> attendant of the children with disabilities having high support need; - AIDA</li> </ul> Comment: <ul style="list-style-type: none"> <li>In addition to providing personal attendants as appropriate in schools for children with high support needs, provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.<sup>114</sup> - LCD</li> </ul>

<sup>113</sup> The purpose of inclusive education is to include. Therefore it is not a question of overcoming or getting past their disability, but accommodating the diverse needs of all children, including those with learning disabilities.

<sup>114</sup> One of the main reasons for children with high support needs dropping off from school is the lack of personal attendants provided in schools.

## New Sub Clauses

### Suggested text

- Collaborate with nearby Special Schools to encourage inclusive interactions and group activities between all children on a regular basis. - Inclusive Planet and DRA
- Provide additional domiciliary support aimed at learning and preparation for school where appropriate especially for children with developmental disabilities. – DAF
- Provide free appropriate learning interventions both at preschool and at home for children with disabilities in need in the age group of 0 to 6 years. - DAF
- Developmental and occupational training to be compulsorily provided to children with autism and intellectual disabilities along-with appropriate certification wherever the child with disability is incapable of attaining mainstream school leaving certification. - AIDA
- The appropriate Government, at both State and Central level, shall formulate and adopt a time bound action plan for completing all the steps necessary for achieving inclusive education within the three year period specified in the Right to Education Act, 2010.<sup>115</sup> - AIDA
- Provide required developmental therapy and special education to children with autism or intellectual disabilities.<sup>116</sup> – Parivaar
- Hire vigilance committee to supervise the mandated services in schools and penalize them if needed for not providing them, such as ramp, modified toilets etc. - ASI

### Comment

- Punitive measures should be included in the education chapter. There shall be a mention on general accessibility measures and time frame in which educational institutions shall be made accessible. - DLU South

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<sup>115</sup>The present provision in the draft limits the coverage of this provision only to educational institutions funded by the appropriate Govt. therefore the same requires revision

<sup>116</sup>The children with intellectual disability, Autism and delayed development mile stones critically require sp. Education and developmental therapy to improve their capacity to assimilate knowledge and education, which the physically disabled persons may acquire with different assisted devices and sign language.

## Clause 16: Specific Measures to Promote and Facilitate Inclusive Education

Sub Clause	Current text	Suggestions
16 (a)	The appropriate Government and the local authorities shall take the following measures for the purpose of section 15, namely:— (a) to conduct survey of school going children for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met;	<p>Replace:</p> <ul style="list-style-type: none"> <li>• “school going children” with “<u>all children – both those in school and those not in school/out of school</u>” - LCD<sup>117</sup> , Vishwas, DAF</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>• to conduct survey ... <u>are being met or not being met and work out appropriate strategies to fill the gaps;</u> - DAF</li> <li>• such survey should be repeated in every five years. - DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• periodicity of survey to be laid down. - VIBEWA</li> </ul>
16 (b)	to establish adequate number of teacher training institutions;	<p>Comment:</p> <p>Also refer to the New Sub Clause suggested to make regular teachers training inclusive.</p>

<sup>117</sup> A significant majority of children with disabilities are out of school and it is important that they are not excluded. As in previous clauses, we have suggested that you delete the word ‘special’. All children irrespective of disability have particular needs that need to be met.

Sub Clause	Current text	Suggestions
16 (c)	to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability;	<p>Add:</p> <ul style="list-style-type: none"> <li>• a comma after "teachers with disability"<sup>118</sup> - Inclusive Planet and DRA</li> <li>• "with equal grade and salary as given to other teachers of the school." - CORD</li> <li>• "at all levels of education". - NAD</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in <u>teaching and supporting the education system</u> in teaching children with disabilities <u>including those</u> with intellectual disability, <u>autism, communication disabilities and multiple disabilities in an inclusive set up</u>; - DAF</li> </ul>
16 (d)	to train professionals and staff to support inclusive education;	<p>Add:</p> <ul style="list-style-type: none"> <li>• "at all levels of education". - NAD</li> </ul>
16 (e)	to establish adequate number of resource centres to support educational institutions;	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• to establish adequate number of resource centres to support educational institutions <u>including those providing services for children between 0 to 6 years</u>; - DAF</li> </ul>
16 (f)	to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• to promote <u>total communication</u> including augmentative &amp; alternative communication methods (eg – <u>picture Exchange Communication System - PECS</u>)<u>in different environments with the use of individualized way of</u></li> </ul>

<sup>118</sup>There must be a comma inserted after 'teachers with disability' to indicate that the requirement of knowledge of sign language and Braille need not be restricted only to persons with disabilities who are employed.

Sub Clause	Current text	Suggestions
	fulfill the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society;	<p><u>speaking and listening, using non- verbal or metaphorical forms for communication, especially in case of people with autism, deafblindness, cerebral-palsy, mental illness etc.</u><sup>119</sup> - Kilikili and ASI</p> <p>Delete:</p> <ul style="list-style-type: none"> <li>the phrase "to supplement the use of one's own speech".<sup>120</sup> - DEF, Inclusive Planet and DRA</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>the word "signs" before "sign language"<sup>121</sup> - AFA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>to promote the use of Braille, Sign Language, appropriate augmentative and alternative modes including means and formats of communication, to fulfill the daily communication needs of persons with speech, communication or language disabilities and enable them to participate and contribute to their community and society;<sup>122</sup> - Inclusive Planet and DRA</li> </ul>
16 (g)	to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years and either free or at affordable cost, thereafter;	<p>Replace:</p> <ul style="list-style-type: none"> <li>the word "eighteen" to "twenty one" - CORD</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>the term "accessible" before "books" <sup>123</sup> - Inclusive Planet and DRA</li> </ul>

<sup>119</sup>To broaden communication modes to include people with autism.

<sup>120</sup> The use of the words "promote" and "supplement" in this section is problematic. Moreover there is ambiguity in the use of "one's". It also creates a leeway for introducing mandatory and accepted means of communication which will be "recognized" as opposed to others, which is not the intention of the UNCRPD.

<sup>121</sup> Some population use sign language while others use signs.

<sup>122</sup> Section was required to be reworded as sign language was grouped into Augmentative and Alternative means of communication.

<sup>123</sup> The books need to be accessible, to avoid the ambiguity.

Sub Clause	Current text	Suggestions
		Modified text: <ul style="list-style-type: none"> <li>To provide books, other learning materials and appropriate assistive devices <u>including group hearing aids, visual aids</u> to students with benchmark disability free of cost <u>till the completion of their school education</u> and either free or at affordable cost thereafter - AIDA<sup>124</sup> and AFA<sup>125</sup></li> </ul>
16 (h)	to provide scholarships in appropriate cases to students with benchmark disability;	Modified text: <ul style="list-style-type: none"> <li>To <u>formulate scheme</u> of scholarship for students with benchmark disabilities <u>at different levels of education</u><sup>126</sup> - AIDA</li> </ul>
16 (i)	to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses;	Add: <ul style="list-style-type: none"> <li>exemption from visual questions as well.<sup>127</sup> - Vishwas</li> <li>curriculum representation and examination paper in accessible formats at all levels of education and modified/ non-descriptive question paper. - XRCVC, DFI, Ketan Kothari, NPDO and ASI</li> </ul> Modified text: <ul style="list-style-type: none"> <li>To make <u>mandatory provisions for developing of curricula</u> and adaptation of existing curricula or <u>introduction of special curricula to meet individual needs where required with focus upon gender specific needs ,needs of children</u></li> </ul>

<sup>124</sup>Since the present provision ensures the availability of books, other learning materials and appropriate assistive devices to students with bench mark disabilities free of cost upto the age of 18 years, there is a likelihood of a student with benchmark disability not completing the school education upto that age therefore the proposed revision is suggested to ensure that the aforementioned material books etc., are made available to the students with benchmark disabilities upto the completion of their school education.

<sup>125</sup> This provision limits availability of books and learning materials to students of benchmark disabilities upto 18years. However since Section 31(2) states 'Persons with benchmark disabilities shall be given an upper age relaxation for admission in institutions of higher education', it acknowledges that students with benchmark disabilities may complete education at 23 years. This must be reflected in section 16(g)

<sup>126</sup>The present provision only provides for consideration to award scholarship in individual cases instead of obliging the appropriate Govt. to formulate scheme for award of scholarship to the students with benchmark disabilities at different levels of education hence the proposed revision is suggested.

<sup>127</sup> Measures to promote and facilitate inclusive education



Sub Clause	Current text	Suggestions
		<p><u>with autism spectrum disorders, learning disability and such other developmental disabilities such as provision to learn only one language, using worksheets with strong visuals, exemptions from certain subjects such as Mathematics or any other depending on ability of the child, allowing use of standard accommodation such as calculators, bilingual for the hearing impaired, making curricula accessible (Braille, audio, large print, text to speech software, assistive technology devices) with focus on experiential learning, and imparting training to teachers in handling these formats.</u><sup>128</sup> - Kilikili and ASI</p> <ul style="list-style-type: none"> <li>• to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, <u>etc; provided that no student will be exempted from studying a subject or course on account of the syllabus not being accessible to the student.</u> - Inclusive Planet and DRA</li> <li>• to make suitable modifications in the curriculum and <u>evaluation</u> system to meet the needs of students with disability such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses, exemption from diagram based questions; - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Curriculum representation is to be in a manner that will enable its conversion into accessible formats possible. Curriculum of all schools, colleges and universities to be designed in a manner that will render it easy to transfer to students with disabilities through proper pedagogy.- XRCVC and DFI</li> </ul>

<sup>128</sup> Broaden modification to include those necessary for people with autism. To specifically list the required modifications.

Sub Clause	Current text	Suggestions
		<ul style="list-style-type: none"> <li>● Curriculum is to be designed in a manner that will render it easy to transfer to students with disabilities through proper pedagogy; Curriculum representation is to be in a manner that will enable its conversion into accessible formats possible; Universities/school boards to be mandated to produce books in accessible formats for students with disabilities.<sup>129</sup> - Ketan Kothari</li> <li>● We also need modified/ non-descriptive type of Question paper which will be a combination of MCQ, Match the following, fill up the blanks from given choices, labeling diagrams in science, location / maps in geography, circling only suitable or right or appropriate points for the given title, from a bunch of given sentences. – NPDO</li> <li>● Need more clarity here. All children with Autism may not / will not need the modified curriculum. They will be able to move on with reasonable ease, as long as modified/ non-descriptive question paper is provided to them for testing. So, like other countries like USA, UK etc, we can come up with modified curriculum (which will / could be a few grades lower &amp; much easier, &amp; by including needed syllabus for these children ----- this would / could be named as a different program (if this is given to a 7th grade student who is unable to cope up with 7th grade academics, it won't be called as 7th grade exams....due to the reduced amount of syllabus etc,). - ASI</li> </ul>
16 (j)	to promote research to improve learning; and	No suggestions
16 (k)	any other measures, as may be required.	No suggestions

<sup>129</sup>There does not appear any mention about curriculum being accessible as also about curriculum representation and educational procurement. We feel that this needs to be specifically mandated.

## New Sub Clauses

### Suggested text

- Facilitate 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; - NAD
- Facilitate the learning of sign language and the promotion of the linguistic identity of the deaf community; - NAD
- All publishers / publishing entities / authorities commissioned by these educational authorities either directly or via vendors would have to comply with this accessible production criteria. – XRCVC and DFI
- Universities/schools are to be mandated to keep accessibility standards while procuring gadgets and other educational materials to be used in imparting knowledge. – XRCVC, DFI and Ketan Kothari

### Comments

- To include compulsory learning of Braille and Sign Language as part of the school curriculum - DEF
- A module on sign language should also be a part of the B.Ed course in order to equip teachers to teach students with Deaf person both in special and mainstream schools. - NAD
- Develop an inclusive curriculum together with modules on disability and inclusive education in all training programs for teachers.<sup>130</sup> - LCD
- A compulsory module on Indian Sign Language should be a part of JBT and B.Ed courses in order to trained teachers to teach children with disabilities in mainstream education. - CORD
- to include diversity including disability as a generic component in all mainstream teacher training courses including but not restricted to preschool, primary teachers training courses, B. Ed., M.Ed. - DAF

## Clause 17: Adult education

Sub Clause	Current text	Suggestions
17	The appropriate Government and the local authorities shall take measures to promote participation of persons with disabilities in	Modified text: <ul style="list-style-type: none"> <li>• The appropriate Government and the local authorities shall take measures to promote, <u>protect and ensure</u> the</li> </ul>

<sup>130</sup> All teachers need to be trained on inclusive education and involved in developing modules on disability and inclusive education and not a select few. It will be impossible to reach out to all children with disabilities with just a few specially trained teachers in a district/ state.

Sub Clause	Current text	Suggestions
	adult education and continuing education programmes equally with others.	<p>participation of persons with disabilities in adult education and continuing education programmes equally with others<sup>131</sup>. – LCD</p> <ul style="list-style-type: none"> <li>• The appropriate Government and the local authorities shall take measures to promote participation of persons with disabilities in adult education and continuing education programmes <u>on an equal basis</u> with others.- DAF</li> </ul>

## New Sub Clauses

### Suggested text

- Appropriate authorities shall ensure necessary adaptations and reasonable accommodations in adult education program. - DLU South
- The appropriate government shall formulate scheme for continuous education support to adults with intellectual disability or with Autism to enhance their skills of daily living and open employment.<sup>132</sup> – Parivaar

<sup>131</sup> A significant majority of persons with disabilities above eighteen in India have not been able to pursue their higher studies due to various barriers and weak legislation. The RPD Bill should address this gap.

<sup>132</sup> The persons with Intellectual disability or with Autism require different type of continuous education to enhance their capabilities in adulthood. This has less to do with literacy and more to reinforce skills required for daily living and at work place. This is defined as Assisted living and work Center approach. Therefore such continuous support be included as Adult Education support for persons with Intellectual disability or with Autism.

## CHAPTER IV: SKILL DEVELOPMENT AND EMPLOYMENT

Chapter	Current text	Suggestions
IV	Skill Development and Employment	Change the title of the Chapter to “Right to Skill Development and Employment” - DAF

### Clause 18: Vocational training and self employment

Sub Clause	Current text	Suggestions
18	The appropriate Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.	<p>Add:</p> <ul style="list-style-type: none"> <li>• supported employment - Vishwas</li> <li>• “professional” after “vocational”. - DAF</li> </ul> <p>Add in the end:</p> <ul style="list-style-type: none"> <li>• “and assisted workshop by association of parents of persons with intellectual disability or with autism”<sup>133</sup> - Parivaar</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the “Redrafted Clause” below at the end of the Section). - AIDA</li> </ul>

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<sup>133</sup>Due to intellectual disability and behavioral issues some disabled persons will not be acceptable in open employment without a dedicated resource to help him. However the same purpose is achieved in assisted workshops. These workshops are supported by group of parents of intellectually disabled or autism persons who form self help groups to assist their intellectually disabled sons and daughters with self employment

## New Sub Clauses

### Suggested text

- The appropriate Government shall develop curriculum for the vocational training and all round skill development of persons with disabilities in areas that are contemporary and relevant for the purpose of employment, and such training programmes shall be organized such as to facilitate the participation of persons with disabilities especially in the rural areas.<sup>134</sup> - Inclusive Planet and DRA
- This would include inter alia:
  - (a) Inclusion of person with disability in all mainstream formal and non formal vocational/ skill training schemes, programmes in accessible environments, with appropriate support which is gender sensitive and comprise reasonable accommodation, where appropriate.
  - (b) If, in the opinion of the person enlisted, there is a need to impart specific training in order to ensure that a person with disability has adequate support, then such facilities should be made available;
  - (c) Where appropriate exclusive skill training programs for persons with disabilities are required especially for those with developmental, intellectual, multiple disabilities and autism, such trainings will be provided with active links with the market.
  - (d) Create necessary modifications or formulate schemes and programmes with provisions of loans at concessional rates including that of microcredit to support persons with disabilities for their self employment including that of sheltered workshops.
  - (e) The appropriate government shall take a pro active role in marketing the products manufactured by persons with disabilities.
  - (f) The appropriate government and establishment shall maintain segregated data on the progress made in the skill training and self employment of all the participants including that of persons with disabilities. This should be used to reformulate strategies on a regular frequency. - DAF

### Comments

- The safety measures for employees at work and its training shall be incorporated. Punitive measures shall be provided if there is denial of rights with respect to the employment of persons with disabilities.- DLU South

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<sup>134</sup> It has been the experience that persons with disabilities have often been given vocational training that is not relevant to the present market, and at times they have also been excluded from such programmes as they are organized at the District Level and it is prohibitively far for them to travel and attend the same.

- Inclusion of Youth with disabilities. Special privilege, promotion and care for youth with disabilities and their skill development.<sup>135</sup> - Association for Disabled People

## Redrafted Clause

### • By AIDA

- 18 (1) No person with disability shall be denied enrollment / induction in any skill development or vocational training programme on the ground of disability and shall impart the training to persons with benchmark disabilities free of cost.
- 18 (2) Every appropriate Govt. shall reserve not less than 5% seats for persons with benchmark disabilities in all skill development programmes or vocational training programmes run and conducted by any establishment / institution maintained or aided by the appropriate Govt. This 5% reservation shall be equally distributed among the following class of disabilities to the extent of 1% each:
- a) Blindness and low vision;
  - b) Hearing impairment and speech impairment;
  - c) Locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy;
  - d) Autism, intellectual disability and mental illness;
  - e) Multiple disabilities from amongst persons under clauses (a) to (d) including deafblindness in the posts identified for each disabilities.
- 18 (3) Every appropriate Govt. shall undertake and establish skill development and vocational training programmes for persons with benchmark disabilities consistent with their job prospects within one year of this law coming into force and impart the training free of cost to persons with benchmark disabilities.
- 18 (4) Every appropriate Govt. shall formulate necessary schemes and programme for promoting self employment initiatives by persons with benchmark disabilities including but not limited to for advance of loan to them at concessional rates as well as for providing infrastructural and marketing support to them by all financial institutions, banks and other related organizations.<sup>136</sup>

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<sup>135</sup>Youth of India also include youth with disability and are to be seen as much as contributing members as other youth and would need to be invested upon.

<sup>136</sup>The draft provision does not include the aspect of inclusion of persons with benchmark disabilities in mainstream vocational training programmes nor does it obliges the appropriate Govt. to undertake skill development and vocational training programmes specially designed for persons with benchmark disabilities therefore requires revision to include these important aspects.

## Clause 19: Non-discrimination in employment

Sub Clause	Current text	Suggestions
19 (1)	No establishment shall discriminate against any person with disability in any matter relating to employment: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.	<p>Delete:</p> <ul style="list-style-type: none"> <li>the sub cause "Provided that the..... provisions of this section"- DAF, Inclusive Planet, DRA, AIDA, VIBEWA<sup>137</sup> and DLU South<sup>138</sup></li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>No establishment shall discriminate against any person with disability in any matter relating to employment: <u>All persons with disabilities are eligible to apply for all posts and their suitability shall be considered independent of their need for reasonable accommodation to effectively perform duties associated with the post or the inaccessibility of the infrastructure of the establishment.</u><sup>139</sup> - Inclusive Planet and DRA</li> <li>No establishment <u>both governmental and non-governmental and both in organised and unorganised sectors</u> shall discriminate against any person with disability in any matter relating to employment <u>including but not limited to recruitment, promotion and other related issues.</u> – DAF</li> <li>No establishment shall discriminate against any person with <u>benchmark</u> disability in any matter relating to employment:<sup>140</sup> - AIDA</li> </ul>

<sup>137</sup>Blanket exemption not desirable. It enables establishments to seek exemption from non discrimination provisions which atrocious, to say the least.

<sup>138</sup>It provides for possible discrimination/exclusion of persons with disabilities in establishments, which should be scrapped. Should recognise the right to equal opportunities with respect to any/all kinds of employment, the right to choice and ways to facilitate the right.

<sup>139</sup> It is against both the dicta of the Supreme Court of India as well as the UNCRPD to limit persons with disabilities to apply only for certain reserved posts. If persons with disabilities adhere to all other qualifications to perform the tasks associated with employment, a clause needs to be inserted to protect them from losing out on grounds of their having a disability. At times persons with disabilities have been held to be incapable of employment because they have been certified as having above 90% of a disability.

<sup>140</sup>The present provision attempts to nullify non-discrimination clause by inserting proviso to sub section 1 of section 19 giving authority to appropriate Govt. to exempt any establishment from the provisions of the Act, hence the revision is sought.



Sub Clause	Current text	Suggestions
19 (2)	Every establishment shall provide appropriate environment to employees with disabilities.	Add: <ul style="list-style-type: none"> <li>• Every establishment ....employees with disabilities, <u>including provision of reasonable accommodation as per the requirement of the person with disability.</u><sup>141</sup> - Inclusive Planet and DRA</li> <li>• Every establishment shall provide <u>reasonable accommodation and</u> appropriate <u>barrier free and conducive</u>, environment to employees with disabilities. - DAF</li> <li>• Every establishment shall provide .....employees with <u>benchmark</u> disabilities; - AIDA</li> <li>• Every establishment .....employees with disabilities <u>to include, but not limited to, reasonable accommodation, enabling technology, aids &amp; equipment, access at workplace, adjustments to premises like rest rooms, canteens, etc., modification of instructions &amp; reference manuals, providing a reader or sign language interpreter and other facilities and services to ease disabled persons' fitment to perform reasonable work."</u> - OSDN</li> <li>• Every establishment .....employees with disabilities, <u>including reasonable accommodation at all stages of recruitment, selection, training &amp; employment including provision of captions/ sign language interpreters for the deaf and hard of hearing.</u> - NAD</li> </ul>
19 (3)	No promotion shall be denied to a person merely on the ground of disability.	No suggestions
19 (4)	No establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:	Replace: <ul style="list-style-type: none"> <li>• the word "establishment" with the word "employer"<sup>142</sup> - Ketan Kothari</li> </ul>

<sup>141</sup> While the person with disability requires to be accommodated as per their individual need, an establishment needs to create an overall environment among the other employees and overall infrastructure which is welcoming and sensitive to the needs of persons with disabilities.

<sup>142</sup>This section needs to be somehow made applicable to private sector since in changing times, many persons with disabilities may have to be working with private sector and there being no social security present, they may face difficulties in an eventuality.

Sub Clause	Current text	Suggestions
	<p>Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:</p> <p>Provided 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.</p>	

## New Sub Classes

### Suggested text

- Any Person with Disability, if eligible for any post which is sought to be filled, shall have the right to appear for selection and hold the post if selected. - DAF
- Any devices necessary for bringing out the best performance in person with disabilities shall be made available in every establishment. - DAF
- Every appropriate government shall establish a transparent system of assessment of any employee with benchmark disability during the process of writing ACRs so as to ensure that the ACRs of any employee with disability do not suffer from any bias or prejudice on the ground of disability. – AIDA

## Clause 20: Equal opportunity policy

Sub Clause	Current text	Suggestions
20 (1)	Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.	<p>Add:</p> <ul style="list-style-type: none"> <li>• within 3 years<sup>143</sup> - Vishwas</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• Every establishment shall notify <u>within a period of not more than six months from the date on which the Act comes into force or from the date on which the establishment is constituted</u>, equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government. <u>The proposed measures should ensure that persons with disabilities are included in existing government schemes and programmes related to employment.</u> - DAF</li> </ul>
20 (2)	Every establishment shall register a copy of the said policy with the National Commission or the State Commission, as the case may be.	No suggestions

<sup>143</sup> Equal Opportunity Policy

## Clause 21: Maintenance of records.

Sub Clause	Current text	Suggested Text
21 (1)	Every establishment shall maintain records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this Chapter in such form and manner as may be prescribed by the Central Government.	Add in the end: <ul style="list-style-type: none"> <li>Every establishment .....by the Central Government. <u>These records shall specifically include information on women with disabilities and ensure effective measures being taken to sustain their employment.</u> - DAF</li> </ul>
21 (2)	Every employment exchange shall maintain records of persons with disabilities seeking employment.	Modified text: <ul style="list-style-type: none"> <li>Every employment exchange <u>including District Employment Exchanges</u> shall maintain records of persons with disabilities seeking employment <u>and ensure their suitable employment.</u> - DAF</li> </ul>
21 (3)	The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in their behalf by the appropriate Government.	Replace: <ul style="list-style-type: none"> <li>"in their behalf" with "on their behalf". - DAF</li> </ul>

## Clause 22: Appointment of Grievance Redressal Officer

Sub Clause	Current text	Suggestions
22 (1)	Every establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the National Commission or the State Commission, as the case may be, about the appointment of such officer.	No suggestions
22 (2)	Any person aggrieved with the non-compliance of	No suggestions

Sub Clause	Current text	Suggestions
	the provisions of section 19, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.	
22 (3)	The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be enquired within two weeks of its registration.	No suggestions
22 (4)	If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability.	Replace: <ul style="list-style-type: none"> <li>• “District level committee on disability” with “National Commission for Persons with benchmark disabilities or State Commission for Persons with benchmark disabilities as the case may be”<sup>144</sup>, - DRG AADI and AIDA</li> </ul>

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<sup>144</sup> The remedy against the action taken by the grievance redressal officer in terms of Subsection (1) is provided by way of complaint to District Level Committee on disability, which has no control nor is vested with adequate powers to deal with such complaints. Therefore such a remedy is illusory and ineffective.

## CHAPTER V: SOCIAL SECURITY, HEALTH, REHABILITATION AND RECREATION

Chapter	Current text	Suggestions
V	Social Security, Health, Rehabilitation and Recreation	<p>Suggested title:</p> <ul style="list-style-type: none"> <li>• Right to Social Security, Health, Rehabilitation and Recreation"- DAF</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>• "Habilitation" in front of "rehabilitation" - Vishwas</li> </ul>

### Clause 23: Social security

Sub Clause	Current text	Suggestions
23 (1)	The appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community: Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent higher than the similar schemes applicable to others.	<p>Delete:</p> <ul style="list-style-type: none"> <li>• "within the limit of its economic capacity and development" <sup>145</sup>- Inclusive Planet, DRA, DAF, AIDA, VIBEWA, Kilikili and ASI</li> </ul> <p>Replace:</p> <ul style="list-style-type: none"> <li>• the term "persons with disabilities" with "persons with benchmark disabilities". - AIDA</li> <li>• the phrase "within the economic capacity" with "maximum available resources". - Ektha</li> </ul> <p>Add in the end:</p> <ul style="list-style-type: none"> <li>• Provided further that the appropriate Govt. shall ensure adequate percentage of allocation for persons with</li> </ul>

<sup>145</sup> This will be an excuse for governmental inaction

Sub Clause	Current text	Suggestions
		benchmark disabilities at least to the extent of 5% in all mainstream social security schemes and programmes. <sup>146</sup> - AIDA
23 (2)	The appropriate Government while devising these schemes and programmes shall give due consideration to the diversity of disability, gender, age, and socio-economic status.	Add: <ul style="list-style-type: none"> <li>• After “diversity of disability” add “and severity of disability” Parivaar and DAF</li> </ul>
23 (3)	The schemes under sub-section (1) shall provide for,—	Add: <ul style="list-style-type: none"> <li>• The schemes under sub-section (1) shall provide for: (1) <u>support to parents groups and other registered organisations to evolve community living and employment options for their children with high support needs.</u><sup>147</sup> - Kilikili and ASI</li> </ul>
23 (3) (a)	Community centres with good living conditions in terms of safety, sanitation, health care and counseling;	No suggestions
23 (3) (b)	facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;	Add at the end: <ul style="list-style-type: none"> <li>• “through registered organization financed by appropriate government”<sup>148</sup> - Parivaar</li> </ul>

<sup>146</sup>The present provision limits the obligation of appropriate Govt. to operate and undertake social security schemes and apply its coverage to benchmark disability to its economic capacity and development which is not justified. Experience has shown that owing to the social and other barriers created due to disabilities, such social security measures are essential to ensure the inclusion and independence of living of persons with benchmark disabilities as such this part of the section requires revision.

<sup>147</sup>Government support for residential and employment needs for adults with high support needs is critical and needs to be put into the Act.

<sup>148</sup>The most effective health care required by infant and children with development delays is early intervention therapeutic intervention and care. If such care is provided in early childhood the extent of disability and its future impact on the life of children with intellectual disability or Autism can be minimized. At present such therapies for infants with delayed milestones are mostly provided by NGOs run by parents of Persons with intellectual disability.

Sub Clause	Current text	Suggestions
		Modified text: <ul style="list-style-type: none"> <li>• <u>making facilities existing within the community for destitute persons and children accessible for persons with disabilities.</u><sup>149</sup> - Inclusive Planet and DRA</li> <li>• <u>reasonable accommodation and construction of additional space</u> for persons including children with disability who have no family or have been abandoned, or are without shelter or livelihood; <u>including through registered organizations financed by appropriate government under various schemes and legislations.</u> - DAF</li> </ul>
23 (3) (c)	support during natural or man-made disasters and in areas of conflict;	No suggestions
23 (3) (d)	support to women with disability for livelihood and for upbringing of their children;	Modified text: (d) support to women with disability for livelihood; (da) support to persons with disabilities in the upbringing of their children; <sup>150</sup> - Inclusive Planet and DRA
23 (3) (e)	access to safe drinking water and appropriate and accessible sanitation facilities especially in urban slums and rural areas;	Add: <ul style="list-style-type: none"> <li>• the word “accessible” before “drinking water”. - DAF</li> </ul>
23 (3) (f)	provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified;	Add: <ul style="list-style-type: none"> <li>• “therapeutic and other appropriate interventions” after “diagnostic services”. - DAF</li> <li>• After “corrective surgery” add “and appropriate occupational, physio, speech and behavioral therapies and counseling” - Parivaar</li> </ul>

<sup>149</sup> The original wording of this Section actually advocates for the establishment of separate facilities for the purpose stated. This is much less economical than making present facilities accessible, and will discourage the segregation of persons with disabilities in such places.

<sup>150</sup> It is important for this provision to be made gender neutral as either parent being a person with disability may require the assistance of the Government in affording the best possible life quality for their children.



Sub Clause	Current text	Suggestions
		Modified text: <ul style="list-style-type: none"> <li>provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities, <u>while prioritizing the acceptance of persons with disabilities as part of human diversity and humanity.</u><sup>151</sup> - Inclusive Planet and DRA</li> </ul>
23 (3) (g)	disability pension to persons with disabilities subject to such income ceiling as may be notified;	Add: <ul style="list-style-type: none"> <li>"support allowances" after "disability pension". - DAF</li> </ul>
23 (3) (h)	unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;	Delete: <ul style="list-style-type: none"> <li>the term "special". - Vishwas</li> </ul>
23 (3) (i)	care-giver allowance to persons with disabilities with high support needs;	Add: <ul style="list-style-type: none"> <li>care-giver allowance ....with high support needs <u>including allowances to family members of persons with disabilities who act as full or part time care givers;</u><sup>152</sup>- Inclusive Planet and DRA</li> </ul>

<sup>151</sup> There should be no income cap for the provision of aids and appliances and disability pension to persons with disabilities. The reason is that much of a person with disability's income goes into purchase of assistive devices, medication, rehabilitation and other measures. The "normalization" of persons with disabilities through diagnostic services and surgeries etc. is often sought regardless of the impact it may have on the person with disability and is disrespectful of the human diversity that is disability. This can be seen in forced medication of persons with psychosocial disabilities or free cochlear implants to make deaf children be able to hear, and both these procedures have grave side effects and consequences upon both the person and the diversity that they represent. Hence any such schemes should respect personal choice in this regard.

<sup>152</sup> Often non-professional care givers like parents, siblings and spouses get no compensation for the assistance that they provide as they are not professional, and they often are unable to seek employment or are able to only work part time to care for their family member. Governments should ensure that such persons receive an allowance for the role they play in society.

Sub Clause	Current text	Suggestions
23 (3) (j)	comprehensive insurance scheme for persons with disability, not covered under the Employees State Insurance Schemes, or any other statutory or Government-sponsored insurance schemes;	<p>Add:</p> <ul style="list-style-type: none"> <li>• comprehensive insurance scheme <u>with no additional cost or premium on account of disability</u> for persons with disability .....insurance schemes;<sup>153</sup> - LCD</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Should provide for the coverage of persons with disabilities in all insurance schemes, including Employees State insurance schemes or any other statutory / government sponsored / private insurance schemes. - DLU South</li> <li>• Add non discrimination and ensure equal insurance at no extra premium. - OSDN</li> <li>• Transport allowance to be added as well. - Vishwas</li> </ul>
23 (3) (k)	any other matter which the appropriate Government may think fit.	No suggestions

## New Sub Clauses

### Suggested text

- The government shall facilitate persons with disabilities in setting up their own homes of their choice and preference.<sup>154</sup> - DLU South
- Protection and promotion of deaf culture;<sup>155</sup> - Inclusive Planet and DRA
- The appropriate government shall include persons with disabilities in the existing social security schemes and programmes including those for the unorganized sector. - DAF

<sup>153</sup> In practice, insurance companies charge an additional premium for persons with disabilities on account of their disability. The person with a disability has to bear an additional cost of undergoing a medical examination by the doctor certified by the insurance company before being covered by insurance.

<sup>154</sup> Also needs to look at housing of disabled people and should converge with the State and Central Housing board and other schemes/policies.

<sup>155</sup> The Government should endeavour to create schemes to protect and promote deaf culture on the lines of other minority cultures and languages that is being done in India.

## Comment

- The section should focus on the choices of disabled people with respect to their social life and security. - DLU South

## Clause 24: Health care

Sub Clause	Current text	Suggestions
24	Title: Health care	<ul style="list-style-type: none"> <li>• Suggested title: "Right to Health Care"- DAF</li> </ul>
24 (1)	The appropriate Government and the local authorities shall take necessary measures for the persons with disabilities to provide,—	<ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF</li> </ul>
24 (1) (a)	free health care in the vicinity specially in rural area subject to such family income as may be notified;	<p>Comment:</p> <ul style="list-style-type: none"> <li>• provide Smart Card to each person with disability who has more than 50% disability, disability allowance to every person with disability without the criteria of income, appoint rehabilitation professional (Physiotherapist, Occupational Therapist, Speech Therapist and Psychologist) in government hospitals of the states. - CORD</li> </ul>
New Sub Clause		<p>Suggested text:</p> <ul style="list-style-type: none"> <li>• effective communication and methods of providing information in order to attain consent from persons with disabilities to any necessary medical treatment.<sup>156</sup> - Inclusive Planet and DRA</li> </ul>
24 (1) (b)	barrier-free access in all parts of the hospitals and other healthcare	<p>Delete:</p> <ul style="list-style-type: none"> <li>• "run or aided by them" - Ketan Kothari<sup>157</sup> and Ektha<sup>158</sup></li> </ul>

<sup>156</sup> Persons with disabilities are often subject to procedures without seeking their informed consent, or often seeking consent from the assumed guardian. Health care measures must include specific provisions to ensure that informed consent is taken from persons with disabilities before any treatment.

<sup>157</sup>as in many cases especially for tertiary needs, people may be required to visit private places and the law of the land must wherever necessary apply to private bodies.

<sup>158</sup>Access to barrier free health care should extend from government run or aided healthcare facilities to include ALL health care facilities, including private ones.

Sub Clause	Current text	Suggestions
	institutions and centres run or aided by them;	
24 (1) (c)	priority in attendance and treatment.	No suggestion
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>necessary financial support for medication and treatment for persons with high and constant medical needs such as those suffering from epilepsy etc.<sup>159</sup> - Kilikili and ASI</li> </ul>
24 (2)	The appropriate Government and the local authorities shall take measures and make schemes or programmes to promote health care and prevent the occurrence of disabilities and for the said purpose shall—	Delete: <ul style="list-style-type: none"> <li>“prevent the occurrence of disabilities” - Inclusive Planet and DRA, Ektha and DLU South</li> </ul> Add: <ul style="list-style-type: none"> <li>“persons with disabilities” after “health care”. - Inclusive Planet and DRA</li> </ul>
24 (2) (a)	undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;	Modified text: <ul style="list-style-type: none"> <li>undertake or cause to be undertaken surveys, investigations and research concerning <u>development of secondary disabilities in persons with disabilities, particularly those which are caused by malnutrition and unsatisfactory living conditions and methods for prevention of the same;</u> - Inclusive Planet and DRA</li> </ul>
24 (2) (b)	promote various methods for preventing disabilities;	Delete: <ul style="list-style-type: none"> <li>the clause.<sup>160</sup> - Inclusive Planet and DRA</li> </ul>
24 (2) (c)	screen all the children at least once in a year for the purpose of identifying “at-risk” cases;	Modified text: <ul style="list-style-type: none"> <li>screen children with disabilities at least once in a year for the purpose of <u>identifying deficiencies in nutrition and</u></li> </ul>

<sup>159</sup> Ongoing and regular Medical treatment often costs a lot for families and some form of subsidy needs to be worked out.

<sup>160</sup> This being a legislation concerned with the “rights” of persons with disabilities, it seems incongruous for the legislation to be speaking of “prevention” of disabilities. Where secondary disabilities in persons with disabilities can be prevented, such steps must be taken.

Sub Clause	Current text	Suggestions
		<p><u>healthcare</u>;<sup>161</sup> - Inclusive Planet and DRA</p> <p>Comment:</p> <ul style="list-style-type: none"> <li>• Early intervention to become integral part of the Health Services at the Primary Health Centre level. ECCD services at Anganwadis in villages to include Children at risk below the age of 6. - Vishwas</li> </ul>
24 (2) (d)	provide facilities for training to the staff at the primary health centres;	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>• provide facilities for training to the staff at the primary health centres <u>in respect of disability and methods of providing accommodation to persons with disabilities</u>;<sup>162</sup> - Inclusive Planet and DRA</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• Focus is on prevention of disabilities whereas ample emphasis needs to be on Training/sensitizing the staff at the Primary Health centres in treating and also handling persons with disabilities. - Vishwas</li> </ul>
24 (2) (e)	sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;	No suggestion
24 (2) (f)	take measures for pre-natal, perinatal and post-natal care of mother and child;	No suggestion
24 (2) (g)	educate the public through the pre-	Modified text:

<sup>161</sup> Children with disabilities require specific monitoring for health concerns. The term 'at risk' is vague and unspecified and what is to be done with "such" children is left to the imagination of the health care workers, so to speak. For children in general, other legislations and Child Policies can be developed with regard to screening and related concerns.

<sup>162</sup> Specific training on reasonable accommodation is necessary for staff in primary health care centres.

Sub Clause	Current text	Suggestions
	schools, schools, primary health centres, village level workers and anganwadi workers;	<ul style="list-style-type: none"> <li>educate the public <u>on the rights of persons with disabilities with regard to healthcare and access</u> through the pre-schools, schools, primary health centres, village level workers and anganwadi workers.<sup>163</sup> - Inclusive Planet and DRA</li> </ul>
24 (2) (h)	create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;	Delete: <ul style="list-style-type: none"> <li>the clause.<sup>164</sup> - Inclusive Planet and DRA</li> </ul>
24 (2) (i)	health care during the time of natural disasters and other situations of risk;	Modified text: <ul style="list-style-type: none"> <li><u>make special provisions for health care of persons with disabilities</u> during the time of natural disasters and other situations of risk; - Inclusive Planet and DRA</li> </ul>
24 (2) (j)	essential medical facilities for life saving emergency treatment and procedures; and	Modified text: <ul style="list-style-type: none"> <li><u>maintain</u> essential medical facilities for life saving emergency treatment and procedures <u>which may be specific to certain impairments</u>;<sup>165</sup> - Inclusive Planet and DRA</li> </ul>
24 (2) (k)	sexual and reproductive health care especially for women with disability.	Modified text: <ul style="list-style-type: none"> <li><u>promote</u> sexual and reproductive health <u>care for all persons with disabilities</u><sup>166</sup> - Inclusive Planet and DRA</li> </ul>

<sup>163</sup> The public requires to be sensitized on these aspects, and not, as the draft sought to imply, a general sort of awareness which can be addressed in National Health Policies etc. and not in this Disability Rights statute.

<sup>164</sup> Again, the allocation of resources for such endeavours need not be within such a statute and would rather be achieved through a National Health Policy etc.

<sup>165</sup> the allocation of resources for such endeavours need not be within such a statute and would rather be achieved through a National Health Policy etc.

<sup>166</sup> Issues regarding reproductive and sexual health are concerns of persons with disabilities of all genders, and hence restricting or prioritizing this only to women with disabilities will be undesirable.

## New Sub Clauses

### Comments

- Government crèche facilities for children of working women to also be equipped to provide caring to children at risk and children with disabilities. – Vishwas
- Appropriate governments / local authorities shall come up with an equality / non discrimination policy that shall be followed by all health care agencies. Awareness on healthy way of living, nutritious meal & hygiene and information on the prevention of communicable & non communicable diseases shall be made available for persons with disabilities in rural areas in accessible formats. Information on disability specific health issues and its management shall be imparted to disabled people at the communities. Informed consent shall be ensured with respect to health practices. All information related to health shall be available in accessible formats. All medical / health professional / workers shall be sensitized on various disabilities including health disabilities and its management. Denial of access to quality health system shall be penalised. Specialised treatment at no / subsidized cost shall be available for people with neuro/muscular/metabolic/genetic/ degenerative disabling conditions. - DLU South
- The education governing councils for medical and Clause-medical education should include appropriate level curriculum regarding identification and early intervention for delayed development milestone of infants and children.<sup>167</sup> - Parivaar

## Redrafted Clause

### • By DAF

24 (1) The appropriate Government, the local authorities and establishments shall ensure that:

- a) all persons with disabilities enjoy the highest attainable standard of health on an equal basis with others in a manner which is accessible and barrier free and that persons with disabilities are not directly or indirectly discriminated on the grounds of disability;
- b) all persons with disabilities are provided health care in accessible environments through accessible procedures and with reasonable accommodation. Domiciliary services shall be available wherever required to attain universal coverage

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<sup>167</sup> At present the curriculum on detection and therapeutic intervention for children with delayed milestones is not included in the syllabus of MBBS course or in education curriculum of paramedics employed in rural areas. This is essential to enable medical personnel to be able to detect and intervene for disabled children at the earliest age.

- c) free and quality health care in equal basis with others in the vicinity specially in rural area subject to such family income as may be notified with due consideration to age in case of children with disabilities.
  - d) Free and quality health care should be provided to adults with disabilities based on the basis of the income of the person with disability and not of the family.
  - e) Health care services should be gender sensitive.
  - f) Priority in attendance and treatment.
- 24 (2) In fulfilment of its obligation under this section the appropriate governments shall make schemes and programmes with the participation and involvement of persons with disabilities and care-givers that *inter alia* makes provision for
- a) Inclusion of persons with disabilities in all promotive and preventive health care measures
  - b) the minimization and prevention of further disabilities with requisite education, training, information and intervention in accessible manner;
  - c) disability specific equipments and accessible infrastructure at all health care centres; public buildings and places; and all other such places that may be notified by the appropriate government from time to time;
  - d) 'essential medical facilities' for all life saving emergency treatment and procedures;
  - e) include women with disabilities in sexual and reproductive health initiatives;
  - f) take measures for pre-natal, perinatal and post-natal care of women with disabilities and child at par with others
  - g) Inclusion of all children especially in the age group of 0 to 6 years including that of children with impairments/ disabilities in the early child hood care programmes at par with others.
  - h) At birth screening of all high risk children for detection of disability.
  - i) Yearly screening identifying "at-risk" and suspected cases and carry out necessary appropriate intervention measures by ensuring early intervention and pre-school services to children from 0 to 6 years of age.
  - j) inclusion in nutritional intervention for children with disabilities
  - k) psychosocial care and support at every stage of the medical process be it investigation, evaluation, diagnosis, treatment or intervention;
  - l) access to all Primary Health Care services which is gender sensitive, especially within rural areas and for the urban poor;
  - m) free or subsidized treatment and medical services for weaker and indigent sections, especially for persons with psychosocial disabilities and seizures as required;
  - n) create awareness amongst the masses through television, radio and other mass media on the need of primary health care services for all including that of persons with disabilities.
  - o) provide facilities for training to the staff of the primary health care structures on issues that include inclusion of persons with disabilities in the general promotive and preventive health measures and prevention of further disabilities;
  - p) educate the public through the pre-schools, schools, primary health centres, village level workers and early childhood care workers;
  - q) the health care of persons with disabilities during times of natural disasters and other situations of risk;
  - r) essential medical facilities for life saving emergency treatment and procedures; and



- s) coverage of medical expenses, aids and appliances and therapeutic intervention in the existing health insurance schemes and where appropriate within a comprehensive insurance scheme for persons with disabilities.

Explanation

'Medical Services' include surgery, therapy, medicines, pathology, aids and appliances and follow up. - DAF

## Clause 25: Insurance schemes

Sub Clause	Current text	Suggestions
25	The appropriate Government shall, by notification, make insurance schemes for their employees with disabilities.	<p>Replace:</p> <ul style="list-style-type: none"> <li>• "employees with disabilities" to "all persons with disabilities" - Kilikili, ASI, Ektha</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• The appropriate Government shall, by notification, make insurance schemes <u>for persons with disabilities. Provided that no insurance service provider shall deny insurance or provide insurance at unreasonable costs or conditions to any person on the ground of disability.</u><sup>168</sup> - Inclusive Planet and DRA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF and AIDA</li> <li>• The worrying factor here again is the fact that private insurance companies are ignored and those persons with disabilities who are not government employees and whose income may not be sufficient are not covered specifically for health care through insurance. I feel that this is against equity. - Ketan Kothari</li> </ul>

<sup>168</sup> Persons with disabilities find it extremely difficult to gain access to affordable insurance – be it general insurance or medical insurance – on the grounds of arbitrary perceived risk on the grounds of disability. There must be a clause which protects against such discrimination.

## New Sub Clauses

### Suggested Text

- No Insurance company whether private or public shall refuse any insurance cover or policy on the ground of any disability and also shall not charge any extra premium on the ground of disability and also shall not refuse any benefit forming part of the given policy on the ground of disability - DRG<sup>169</sup>, AADI and AFA<sup>170</sup>

### Comments

- Any refusal of insurance on the grounds of disability is unlawful. Any rule in Standard form contracts that persons with disabilities constitute higher or unacceptable risk constitutes discrimination. - NAD
- All establishments shall provide medical and life insurance to persons with disabilities on an equal basis with others; - NAD
- The denial of such insurance or its provision on disproportionate premiums or iniquitous conditions would constitute discrimination. - NAD
- Provide driving license including insurance to person with deaf on an equal basis with others; - NAD

## Redrafted Clause

### • By DAF

The suggested text is

- (1) All medical services including therapeutic services to children and persons with disabilities will be covered through health insurance.
- (2) All establishments shall provide insurance against assistive devices.
- (3) All establishments shall provide medical and life insurance to persons with disabilities on an equal basis with others.

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<sup>169</sup> The present provision does not provide any safeguard against refusal to extend insurance policies on the ground of disability as well as against discrimination in the matter of extending benefits and charging extra premium on the ground of disability

<sup>170</sup> Insert provision to prevent refusal of insurance. The present provision does not provide any safeguard against refusal to extend insurance policies on the ground of disability as well as against discrimination in the matter of extending benefits and charging extra premium on the ground of disability

- (4) The denial of such insurance or its provisions on disproportionate premiums or iniquitous conditions would constitute as discrimination.

• **By AIDA**

The suggested text is

- 25 (1) The appropriate Government shall, by notification, mandate that all insurance companies shall offer policies to persons with benchmark disabilities on an equal basis with non-disabled persons including but not limited to family insurance, group insurance, accidental benefits, health insurance, life insurance, and the like within ninety days from the date of commencement of this Act.
- 25 (2) No Insurance company whether private or public shall refuse any insurance cover or policy on the ground of any disability and also shall not charge any extra premium on the ground of disability and also shall not refuse any benefit forming part of the given policy on the ground of disability
- 25 (3) The appropriate government shall ensure that persons with disability are covered under all insurance schemes framed under the National Domestic Workers Welfare Trust.
- 25 (4) The appropriate government shall, by notification, make insurance schemes for their employees with disabilities<sup>171</sup> - AIDA

## Clause 26: Rehabilitation

Sub Clause	Current text	Suggestions
26 (1)	The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas	<p>Delete:</p> <ul style="list-style-type: none"> <li>“within their economic capacity and development” - DEF, Kilikili, ASI, AIDA<sup>172</sup>, VIBEWA, Inclusive Planet<sup>173</sup> and DRA</li> </ul> <p>Replace:</p> <ul style="list-style-type: none"> <li>the phrase “within the economic capacity” with “maximum</li> </ul>

<sup>171</sup>The preset provision does not provide any safeguard against refusal to extend insurance policies on the ground of disability as well as against discrimination in the matter of extending benefits and charging extra premium on the ground of disability

<sup>172</sup>The suggested change is necessary to ensure that the appropriate Govt. may not postpone the implementation of this statutory provision in the garb of economic constraints.

<sup>173</sup> The term “within their economic capacity and development” is to be removed. It goes without saying that all schemes are subject to and designed with the economic capability of the State in mind.

Sub Clause	Current text	Suggestions
	of health, education and employment for all persons with disabilities.	<p>available resources". - Ektha</p> <p>Comment :</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section)<sup>174</sup> - DAF</li> </ul>
26 (2)	For the purposes of sub-section (1), the appropriate Government and the local authorities may grant financial assistance to non-Government Organisations.	<p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF</li> </ul>
26 (3)	The appropriate Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.	<p>Replace:</p> <ul style="list-style-type: none"> <li>"non governmental organisations" with "disabled people / activists / experts" - DLU, South</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>"Disabled People's Organisations as consultants" after "non - governmental organisations" - Ektha</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - DAF</li> </ul>

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<sup>174</sup> Rehabilitation is mentioned in this clause in a very broad generic manner. There are separate sections on employment and education but there are no separate sections on health related rehabilitation. This is a very crucial part of rehabilitation. 26 A focuses on mainly on health related rehabilitation.

## Redrafted Clause

- **By DAF**

Text for 26 A) is

- (1) All persons with disabilities have the right to live a full and meaningful life irrespective of the nature of the impairment and the manner, gender, age, caste, place, situation or circumstance in which such impairment is acquired;
- (2) In furtherance of this right to life and living all persons with disabilities have a right to peer, professional, community and state support to resume and continue their personal, social, economic and political participation on an equal basis with others;
- (3) In enforcement of this abovementioned right the appropriate governments and local authorities shall put in place suitable peer and professional intervention to enable the persons with disabilities to accept the altered nature of their mind and body;
- (4) All persons with disabilities have a right to be provided aids and appliances of recognized quality, gender sensitive, free or at an affordable cost along with the requisite training to utilise it;
- (5) Every person with disability has the right to be informed of the various rehabilitation options and make the final decision on the course of rehabilitation;
- (6) The appropriate governments and concerned establishments shall put in place suitable infrastructure and expertise for the rehabilitation of persons with disabilities including that of community based rehabilitation.
- (7) For the purposes of sub-section (6), the appropriate Government and the local authorities may grant financial assistance to non-Government Organisations.
- (8) The appropriate Government and the local authorities, while formulating habilitation and rehabilitation policies shall consult the non-Governmental Organizations, DPOs, parents organizations working for the cause of persons with disabilities. – DAF

## Clause 27: Research and development

Sub Clause	Current text	Suggestions
27	The appropriate Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habilitation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities	No suggestion

## Clause 28: Culture and Recreation

Sub Clause	Current text	Suggestions
28	The appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include,—	<p>Add:</p> <ul style="list-style-type: none"> <li>• “and establishments” after “local authorities”- DAF</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• Inclusion of disabled people in all leisure, culture &amp; recreational programs through collaborating with the concerned ministries and departments shall be provided.<sup>175</sup> - DLU, South</li> </ul>
28 (a)	facilities, support and sponsorships to artists and writers with disability to pursue their interests and talents;	No suggestions
28 (b)	establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;	No suggestions
28 (c)	making art accessible to persons with disabilities;	No suggestions
28 (d)	promoting recreation centres, and other associational activities;	<p>Add:</p> <ul style="list-style-type: none"> <li>• “deaf culture” after “recreational centres”- DEF <sup>176</sup> and AIDA<sup>177</sup></li> <li>• “accessible” before “recreation centres” - DAF</li> </ul>

<sup>175</sup>Culture & Recreation speaks about the promotion of various cultural ventures for disabled people which would lead to the exclusion of disabled people.

<sup>176</sup> UNCRPD: Article 28 on Participation in Cultural Life, Recreation, Leisure and Sports recognizes the specific cultural and linguistic identity of persons with disabilities

<sup>177</sup>The suggested change is necessitated to cast an obligation on the appropriate Govt. for promoting deaf culture which is necessary for ensuring their recreational rights.

Sub Clause	Current text	Suggestions
		Comment: <ul style="list-style-type: none"> <li>● make the existing centres and hobby classes accessible and inclusive for children, youth and girls with disabilities. - Vishwas</li> </ul>
28 (e)	facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;	Add: <ul style="list-style-type: none"> <li>● "Youth clubs" - Vishwas</li> <li>● "all mainstream cultural and recreational activities including" before "scouting, dancing," - DAF</li> </ul> Replace: <ul style="list-style-type: none"> <li>● the words "dancing and art classes" with "creative and performing arts". - OSDN</li> </ul>
28 (f)	redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities; and	Add: <ul style="list-style-type: none"> <li>● "science" before "cultural"<sup>178</sup> - Inclusive Planet and DRA</li> <li>● "all mainstream" before "courses" - DAF</li> </ul>
28 (g)	developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities.	Add: <ul style="list-style-type: none"> <li>● developing technology,.....equipments and inclusive <u>public play spaces</u>, to facilitate .....for <u>children</u> and persons with disabilities in recreational activities<sup>179</sup>. - Kilikili</li> <li>● "mainstream" before "recreational activities". - DAF</li> <li>● the word "cultural" before "recreational" - OSDN</li> </ul>

<sup>178</sup> Clause (f) restricts participation to only cultural and arts subjects, and this must be expanded to include Science as many persons with sensory disabilities are often excluded from pursuing science related subjects as it is seen to be too technical.

<sup>179</sup>To bring play for children with disabilities into the forefront of the discussion on recreation.

## New Sub Clauses

### Suggested Text

- promotion of deaf culture;<sup>180</sup> - Inclusive Planet and DRA
- 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 language and deaf culture. - NAD and OSDN
- Making cultural events, museums and tourist attractions accessible for persons with disabilities - Inclusive Planet and DRA
- Research shall be undertaken in this area. Accessible modes of communication shall be facilitated & ensured. - DLU South
- Enjoy access to television programmes, films theatre museums, cinemas, libraries and tourism services, enjoy access to monuments and sites of national cultural importance and other cultural activities in accessible formats including sign language interpreter – NAD
- Ensure that all Cultural Academies whether of, art, literature, music, or dance shall include persons with disabilities in their programs and activities, and shall thereby provide recognition, support, and awards to the cultural contribution of persons with disabilities on an equal basis with others. - DAF

### Comment

- Make specific mention on Sign Language - DEF

## Clause 29: Sporting activities

Sub Clause	Current text	Suggestions
29 (1)	The appropriate Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities.	Modified text: <ul style="list-style-type: none"> <li>• The appropriate Government shall take measures to ensure effective participation in sporting activities of <u>for all</u> the persons with disabilities. <u>Such measures shall expressly provide for the inclusion of persons with disabilities in all mainstream sporting events and activities.</u> - DAF</li> </ul>

<sup>180</sup> Deaf culture is a culture in itself and requires promotion and protection, like all minority cultures. The requirement to promote deaf culture is also enshrined in Article 30 (4) of the UNCRPD.



Sub Clause	Current text	Suggestions
		Comments: <ul style="list-style-type: none"> <li>• All persons with disabilities have a right to participate in sports at all levels on an equal basis with others; - NAD</li> <li>• The Bill does not refer to mainstream sports, and without that specification, the Bill seems to lean towards limiting persons with disabilities to only disability specific sports. - OSDN</li> </ul>
29 (2)	The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their schemes and programmes for the promotion and development of sporting talents.	Add: <ul style="list-style-type: none"> <li>• the word "all" before " sports and" <sup>181</sup> - Inclusive Planet and DRA</li> </ul>
29 (3)	Without prejudice to the provisions contained in sub-sections (1) and (2), the appropriate Government and the sports authorities shall take measures to,—	Add: <ul style="list-style-type: none"> <li>• "national and state" before "sports authorities"- DAF</li> </ul>
29 (3) (a)	restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;	Add: <ul style="list-style-type: none"> <li>• the word "mainstream" before "sporting activities" - DAF</li> </ul>
29 (3) (b)	redesign and support infrastructure facilities of all sporting activities for persons with disabilities;	Add: <ul style="list-style-type: none"> <li>• the word "mainstream" before "sporting activities" - DAF</li> </ul>

<sup>181</sup> It is important for persons with disabilities to be encouraged to participate in all sports including mainstream sports where rules and regulations allow for persons with disabilities to participate, for example, deaf persons as wrestlers, or archers, or marksmen, and all reasonable accommodation should be provided when necessary for such inclusion.

Sub Clause	Current text	Suggestions
		Comments: <ul style="list-style-type: none"> <li>● Physical/architectural/informational access shall be ensured for all sporting activities. - DLU South</li> <li>● All existing, upcoming and to-be- built sports arenas shall be made accessible for persons with disabilities. - Ektha</li> </ul>
29 (3) (c)	develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities;	No suggestions
29 (3) (d)	provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities;	Add: <ul style="list-style-type: none"> <li>● the word "mainstream" before "sporting activities" - DAF</li> </ul>
29 (3) (e)	allocate funds for development of state of art sport facilities for training of persons with disabilities;	Comment <ul style="list-style-type: none"> <li>● 3% funds should be earmarked for Para Sports - VIBEWA</li> </ul>
29 (3) (f)	promote and organise disability specific sporting events for persons with disabilities.	Comments: <ul style="list-style-type: none"> <li>● Provide for disability inclusive sports apart from disability specific sports. - DLU South</li> <li>● More should be said about Para Sports - VIBEWA</li> </ul>

## New Sub Clauses

### Suggested Text

- All international and national sporting events for persons with disabilities including deaflympics, Special Olympics and Paralympics shall be accorded the status due to international and national sporting events and the sports persons participating in such events shall be allocated resources, sponsorships, awards and jobs on an equal basis with others. - NAD

### Comment

- Ensure accessible and inclusive play spaces for children in public play areas such as in parks, playgrounds etc. Inclusive play spaces means ensuring both physical accessibility as well as making modification to all play and sports equipments to ensure that they can be used by all children.<sup>182</sup> - Kilikili and ASI

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<sup>182</sup> *Recreational activities listed in the draft Act seems to include only adults for whom sports facilities are needed. There is no mention of play facilities for younger children.*

## CHAPTER VI: SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK DISABILITIES

Chapter	Current text	Suggestions
VI	Special Provisions for Persons with Benchmark Disabilities	Replace: <ul style="list-style-type: none"> <li>• the phrase "special provisions" with "Schemes and development programmes".<sup>183</sup> - LCD</li> </ul> Comment: <ul style="list-style-type: none"> <li>• "Special provisions for persons with benchmark disability" encourages exclusion in education as well. The term Benchmark disabilities is discriminatory. - DLU South</li> </ul>

### Clause 30: Free education for children with benchmark disabilities

Sub Clause	Current text	Suggestions
30 (1)	Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, if necessary.	Replace: <ul style="list-style-type: none"> <li>• the word "eighteen" with "twenty one" - CORD</li> <li>• the phrase "six to eighteen" with "zero to twenty one"<sup>184</sup> - Ketan Kothari</li> </ul> Add: <ul style="list-style-type: none"> <li>• the word "and compulsory" after "free"<sup>185</sup> - AFA</li> </ul> Add in the end: <ul style="list-style-type: none"> <li>• Provided that the failure of a neighbourhood school to provide inclusive education shall not be a ground of necessity under this</li> </ul>

<sup>183</sup> As mentioned previously, this bill defines the rights and entitlements of persons with disabilities. The use of the word 'Special' is patronising and reinforces the negative stereotype that the rights of persons with disabilities are 'Special'.

<sup>184</sup> Here the age of 6 is too late for child with disability and in our case this needs to start much earlier; in fact, 0-21 years since even the completion of education may not be finished by the age of 18 years.

<sup>185</sup> Insert 'compulsory' and a fresh provision. Education for benchmark disabilities should also be compulsory.

Sub Clause	Current text	Suggestions
		<p>Section, and that the preference of the parents of the child with disability, and wherever possible, the child with disability, shall be followed in this regard<sup>186</sup>. - Inclusive Planet and DRA</p> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• Notwithstanding anything contained in the rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age <u>from</u> six to eighteen years shall have the right to free education in a neighborhood school <u>including but not limited to services at resource centre for specialized support</u>, if necessary. - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• All children and adults with disabilities should receive free and compulsory education till the age of 21 irrespective of their physical, sensory or cognitive Impairment combination of sign language and other modes of communication to be used as the medium of instruction in school and higher education for students with Deaf. Indian Sign Language will however be the preferred mode of imparting training and instruction for the Deaf. - NAD</li> <li>• It states that every child with benchmark disabilities has a right to education in a neighbourhood school, or in a special school, "if necessary". There is no clarity as to who is to determine the necessity.<sup>187</sup> - OSDN</li> </ul>

<sup>186</sup> By allowing for children to be sent to special schools on the grounds of necessity, the right to choose is taken away from parents and given to authorities to decide according to circumstances. Instead of ensuring schools become accessible and inclusive for children with disabilities, it may be deemed "necessary" for children with disabilities to be sent to special schools which are often far away from their places of residence.

<sup>187</sup> If the child falls under the category of "high support needs", then this decision may be carried out by the assessment board. The question of where the child should study should be decided, as far as possible, by the children themselves, according to Article 7 of the UNCRPD, which grants children with disabilities the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right. This decision can also be taken by the parents of the child, as per Article 26 of the Universal Declaration of Human Rights which recognizes that parents have a prior right to choose the kind of education that shall be given to their children. By not specifying and prioritizing who deems the move to special schools "necessary", there is a violation of the UNCRPD.

Sub Clause	Current text	Suggestions
		<ul style="list-style-type: none"> <li>Reasonable accommodation has to be provided for providing compulsory education. - AFA</li> </ul>
30 (2)	The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.	<p>Replace:</p> <ul style="list-style-type: none"> <li>the word "eighteen" with "twenty one" - CORD and NAD</li> <li>the phrase "he attains the age of eighteen years" with "he completes the equivalent of higher secondary education".<sup>188</sup> - Inclusive Planet and DRA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>Children whose both parents have disability should also have access to free education. - DAG</li> <li>Education shall be provided in a mainstream accessible environment and not an appropriate environment. - DLU South</li> </ul>

## New Sub Clauses

### Suggested Text

- The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to early intervention and pre-school services within the age group of 0 to 6 years. – DAF
- Provide reasonable accommodation according to the individual's requirements; - AFA

### Comments

- All grants in aid to Special schools run by NGOs should be quantified on the basis of salaries at full scale of pay and not on honorarium basis Special Educators must be appointed in every Govt., aided and private schools with equal grade and salary as given to other teachers to realize inclusive education. Additionally, Special educators must be given an additional pay and higher increment as incentive to attract more trained professionals to the sector. – NAD

<sup>188</sup> Often children with disabilities start education late, and often they will not complete a sufficient number of levels of education by the time they reach the age of 18. Therefore, it is important to not tie the right to free education down to a particular age.

- Specialised schools with speech therapy / OT / play group sessions etc in home & -Special ed classrooms in Regular Ed to facilitate partial & full inclusions, depending on the child's readiness - ASI

### Clause 31: Reservation in higher educational institutions

Sub Clause	Current text	Suggestions
31 (1)	All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities.	No suggestions
31 (2)	The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.	Replace: <ul style="list-style-type: none"> <li>• "five" with "ten" years. - NAD</li> </ul>

### Clause 32: Identification of posts for reservation

Sub Clause	Current text	Suggestions
32	The appropriate Government shall— (i) identify posts in the establishments to be reserved for the persons with benchmark disability; (ii) review and update the list of identified posts, taking into consideration the developments in	Redrafted text: <ul style="list-style-type: none"> <li>• No person shall be deemed to be unsuitable to apply for any post in any establishment on the ground of disability, and all efforts shall be made to provide reasonable accommodation to otherwise qualified candidates who are selected for posts.<sup>189</sup> - Inclusive Planet and DRA</li> </ul>

<sup>189</sup> Any discrimination on the basis of disability is against the principles of the UNCRPD. Identification of posts for persons with disabilities is not a practice that is consistent with the principles of the UNCRPD at all. Candidates who are otherwise qualified to hold a post should be given the reasonable accommodation required to execute the work required. The necessity of providing reasonable accommodation cannot be a ground for denial of employment.

Sub Clause	Current text	Suggestions
	<p>technology, at periodical intervals not exceeding five years.</p> <p><b><u>As per the Notice of Amendments, the entire Clause to be substituted with the following text:</u></b></p> <p><b><u>The appropriate Government shall</u></b></p> <p>(i) <b><u>identify posts in the establishment which can be held by respective category of benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 33;</u></b></p> <p>(ii) <b><u>constitute an expert committee with adequate representation of persons with benchmark disabilities for identification of such posts;</u></b></p> <p>(iii) <b><u>undertake periodic review of the identified posts at an interval not exceeding three years."</u></b></p>	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>• "in consultation with DPOs and Associations of Parents of Persons with disabilities especially of ASD and Persons with Intellectual &amp; Developmental Disabilities"; - DAF</li> <li>• "in consultation with Disabled Person Organization and Association of parents of persons with intellectual disability"<sup>190</sup>- Parivaar</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - AIDA and AFA</li> <li>• The Supreme Court in October had directed the government to allow 3% reservation for disabled people in government jobs. The bill, however, narrows the definition of the kind of employment to be made available to the disabled, and leaves ample scope for the government to wiggle out of having to provide meaningful employment. - OSDN</li> <li>• Reservations shall be made in all jobs and not in identified jobs. - DLU South</li> <li>• Identification of posts is for appointment to fill up the vacancies reserved and not for reserving the posts. SC judgment of October 8, 2013 in NFB vs. UOI should be followed and section so worded. - VIBEWA</li> </ul>

<sup>190</sup>There should be provisions for consultative process with disabled persons through DPOs (disabled persons' organization and Parents' associations of Intellectually disabled and Autistic persons. The RPD bill should include representatives of Parent Association of intellectually disabled or autistic persons, for any participative/ consultation process



## Redrafted Clause

### • By AIDA and AFA

- 32 (1) Every appropriate govt. shall identify posts which can be held by respective categories of disabilities only for the purpose of using the vacancies in such identified posts for making appointments of respective category of persons with benchmark disabilities against 1% reservation for each of them as contained in Sec.33.
- 32 (2) For this purpose, every appropriate government shall constitute an expert committee consisting of at least one representative of respective DPO working in the field of each of the categories of benchmark disabilities entitled to get the benefit of scheme of reservation.
- 32 (3) It shall be obligatory upon every appropriate govt. to undertake periodic review of the identification of posts at an interval of at least every three years<sup>191</sup> to update the list of identified posts.
- 32 (4) Every appropriate govt. shall notify in the official gazette the list of identified posts which may be used for appointment of respective category of Person with Disability after his selection against the reservation for his/her category of Disability.
- 32 (5) The notified list of identified posts shall be treated as an illustrative list of posts which can be held by Persons with benchmark disabilities and not as an exhaustive list.
- 32 (6) No person with Disability shall be denied consideration for appointment or appointment against any post which is not included in the notified list of the identified post, if he is otherwise eligible for such post as per the notified eligibility criteria for the same.<sup>192</sup>

## Clause 33: Reservation

Sub Clause	Current text	Suggestions
33 (1)	Every appropriate Government shall reserve in every establishment under them, not less than five per cent. of the vacancies meant to be filled for persons or class of persons with benchmark	For 33 (1) (a) <ul style="list-style-type: none"> <li>• Comment: 1% vacancies should be bifurcated between blind and low vision, or 1% separately should be provided for blind and 0.5% for low vision. - VIBEWA</li> </ul>

<sup>191</sup> AIDA has suggested three years whereas AFA has suggested five years for review and updation of the list of identified posts.

<sup>192</sup> To be redrafted: This section links identification with reservation and creates an impression that reservation is to be done only with respect to the identified post. Such a situation in the existing act also exists which came up for consideration of the Hon'ble apex court in the case titled as Govt. of India Through Secretary Vs. Ravi Prakash Gupta and UOI Vs. National Federation of the Blind and their Lordships were pleased to hold that reservation is independent of the identification and the identification is only for limited purpose to utilized vacancies for filling up reservation by giving appointment in such post.

Sub Clause	Current text	Suggestions
	<p>disability, of which one per cent. each shall be reserved for the persons with following disabilities,—</p> <p>(a) blindness and low vision;  (b) hearing impairment and speech impairment;  (c) locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy;  (d) autism, intellectual disability and mental illness;  (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:</p> <p>Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.</p> <p><i>Explanation.</i>—For the purposes of this section, the computation of reservation of vacancies for the persons with benchmark disabilities shall be</p>	<p>For 33 (1) (b)</p> <ul style="list-style-type: none"> <li>• Replace the phrase “hearing impairment and speech impairment” with “deafness and hard of hearing”. - CORD, DEF, Inclusive Planet<sup>193</sup>, DRA and NAD</li> <li>• Replace the phrase “hearing impairment and speech impairment” with “deaf, hard of hearing” and speech impairment - DAF</li> <li>• Add in the end: “with reservation of 0.5 % of the vacancies for each of the two disabilities” - NAD</li> <li>• Comment: The term “Deafness” should be categorized as:- those whose deafness is more than 71 dB (severe loss) - those whose deafness is more than 90 dB (profound hearing loss) The term ‘Hard of Hearing’ should be categorized as:- those whose deafness is more than 60 dB (moderate hearing loss) - DEF</li> </ul> <p>For 33 (1) (c)</p> <ul style="list-style-type: none"> <li>• Add: “Spinal Injury and Spina Bifida” - Vishwas</li> </ul> <p>For 33 (1) (d)</p> <ul style="list-style-type: none"> <li>• Add: “developmental” after “intellectual” - DAF</li> </ul> <p>For 33 (1) (e)</p> <ul style="list-style-type: none"> <li>• Delete: “in the posts identified for each disabilities” <sup>194</sup>- Inclusive Planet and DRA</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>• Hemophilia, Thalassemia, Sickle Cell Anemia disease, - Hemophilia Federation</li> </ul>

<sup>193</sup> There is a difference in the definition of deafness, hard of hearing, and hearing impaired as explained in this submission. The wording of this Section should also reflect this.

<sup>194</sup> Having reservations in identified posts is, as pointed out above, violative of the UNCRPD. The Government should ensure a minimum of 5% of employment reserved for persons with disabilities, as explained above.

Sub Clause	Current text	Suggestions
	<p>computed on five per cent of the total cadre strength.</p> <p><b>As per the Notice of Amendments:</b>  <u>Every appropriate Government shall appoint in every establishment under them, not less than five per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent, each shall be reserved for persons with following benchmark disabilities,-</u>            (a) blindness and low vision;            (b) hearing impairment and speech impairment;            (c) locomotor disability including cerebral palsy, leprosy cured and muscular dystrophy;            (d) autism, intellectual disability and mental illness;            (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:  <u>Provided that the National Commission or the State Commission, as the case may be, may, having regard to the duties and functions of particular posts in any establishment, exempt the recruitment to such post by notification from the purview of this section.</u></p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>• Provided that the National Commission ... from the provisions of this section. - DAF</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• <u>All establishments</u> shall reserve not less than five percent of all posts <u>and in promotions</u> for persons with disabilities in accordance with the following banding of disabilities, with each band being entitled to 1%;           <ol style="list-style-type: none"> <li>Persons with blindness and low vision</li> <li>Persons with Deaf and Hard of Hearing (with reservation of 0.5 % of the vacancies for each of the two disabilities).</li> <li>Persons with locomotor disability and leprosy cured;</li> <li>Persons with cerebral palsy and muscular dystrophy;</li> <li>Persons with autism, intellectual disability and mental illness;</li> <li>Persons with multiple disabilities, deaf-blindness and multiple sclerosis, speech impaired. - NAD</li> </ol> </li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Reservation in promotion should be explicitly provided following judgment of SC and bombay HC in National confederation for the development of the disabled vs. Union of India case. - VIBEWA</li> <li>• Provide reservations in promotion in all cadre state and civil services inspirit of Hon'ble Supreme court of India Judgement - NPDO</li> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - AIDA</li> <li>• There should be clarity on Merit and Reservation. If candidate employed on merit, this should not be marked against jobs reserved for persons with disabilities.- OSDN</li> <li>• All forms of appointments should be included in the purview</li> </ul>

Sub Clause	Current text	Suggestions
		<p>of reservation viz. direct and indirect appointments, promotion, vacancies filled by deputation, contractual appointments etc. - OSDN</p> <ul style="list-style-type: none"> <li>● Reservations shall be provided to all persons with disabilities and not to the 5 categories as mentioned in the bill. - DLU South</li> <li>● Should be reservation in jobs for persons with disabilities in Private sector. - Association for Disabled People</li> <li>● There should be reservation in jobs for the sportsperson with disabilities.<sup>195</sup>- Association for Disabled People</li> <li>● Section on reservation should find a place in chapter on employment itself. - VIBEWA</li> </ul>
33 (2)	<p>Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability: Provided that if the nature of vacancies in an establishment is such that a given</p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>● Where in any recruitment year .....by interchange among the five categories and <u>a suitable vacancy in a different category be exchanged in lieu. The total number of allocated vacancies should not be decreased due to re-allocation in any of the sections (a) to (e) given clause 33(1). Unfulfilled vacancies should be allocated within the disabled persons.</u> Provided that if the nature of vacancies ..... - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>● The provision of interchangeability will work to exclude certain benchmark disabilities from the right to access job opportunities. - Inclusive Planet and DRA</li> <li>● the vacancies shall not be passed on to a person without disability. - DLU South</li> <li>● The vacancies continue to lapse in favor of non-disabled in the new draft also. This has to be stopped completely. - OSDN</li> <li>● The entire Clause to be redrafted (Please see the "Redrafted</li> </ul>

<sup>195</sup>. India taking part Internationally in Paralympics, Deaf Sports and Special Olympics and won many medals also but there is no any reservation in jobs for disabled sports person

Sub Clause	Current text	Suggestions
	category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.	Clause" below at the end of the Section) - AIDA
33 (3)	<p><b>As per the Notice of Amendments, following new Sub Clause to be added:</b></p> <p><u>The appropriate Government shall, by notification, provide relaxation of upper age limit for employment of persons with benchmark disability in accordance with the instructions issued by that Government from time to time."</u></p>	<ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section) - AIDA</li> </ul>

## New Sub Clauses

### Comments

- There is no provision to monitor the representation of Women with Disabilities in employment which calls for launching of Special drives to recruit women with disabilities. – NAD
- Appointment of an officer for Equal Opportunity for Disabled Persons in all establishments having staff strength over a specified number, to enable equal opportunity for disabled persons employed and sensitisation of all staff in the establishment. - DAF

## Redrafted Clause

- **By AIDA**

### **SECTION 33(1)**

Every appropriate govt. shall appoint in every establishment such percentage of vacancies not less than 5% of the total

number of vacancies in the cadre strength in each group of posts filled by any mode of recruitment including direct recruitment, promotion and deputation etc. in the establishment for the following class of persons with benchmark disabilities in the following manner:

- (i) Person with blindness and low vision- 1% of all categories of posts.
- (ii) Persons with hearing and speech impairment- 1% of all categories of posts.
- (iii) Person with locomotors disability including cerebral palsy, leprosy cured and muscular dystrophy- 1% of all categories of posts.
- (iv) Person with autism, intellectual disability and mental illness 1% of all categories of posts.
- (v) Persons with multiple disabilities of combination of any two or more disabilities detailed hereinabove from clause -1 to v including deaf blindness.

Provided that National Commission for persons with benchmark disabilities or State Commission for persons with benchmark disabilities, as the case may be, may, having regard to the duties of the particular post in any establishment, office or department exempt the recruitment to such posts by notification from the purview of this section. However, National Commission or State Commission for persons with benchmark disabilities, as the case may be, shall review such a decision every two years.

### **SECTION 33(2)**

The percentage of reservation and its distribution among different categories of disabilities may be reviewed once every three years by the National Commission for persons with benchmark disabilities only for the purpose of including more disabilities in the scheme of reservation by simultaneously enhancing the percentage of reservation proportionately.

### **SECTION 33(3)**

Where in any recruitment year, any vacancy reserved for the aforesaid classes of persons with benchmark disabilities and advertise as such could not be filled up due to non availability of a suitable person with disability in spite of the selection process having been under taken to fill up the said reserved vacancy, such vacancy shall be carry forward to next three succeeding recruitment years.

### **SECTION 33(4)**

And if in third succeeding recruitment year also suitable person belonging to the said class of disability is not available, it may first be filled by interchange among the classes of persons with benchmark disabilities entitled for reservation.

### **SECTION 33(5)**

In the event of filling up vacancy reserved for a different category of disability by interchanging the same, equal number of vacancies so filled by interchange will be diverted to the category of disabilities whose vacancies were filled by interchange from the reserved vacancies for the categories of disabilities which benefited from such interchange.

### **SECTION 33(6)**

If the vacancy is not filled even after carrying forward the vacancy and trying to interchange the same with other classes of disabilities, the Employer may apply to National Commission for persons with benchmark disabilities or State Commission for persons with benchmark disabilities, as the case may be, for de- reservation of the given post, whose decision shall be final. It is hereby clarified for removal of doubts that the post sought to be de reserved shall be kept vacant until the decision has been communicated by the competent Authority on the application of the de reservation.

### **SECTION 33(7)**

The existing benefit in the area of employment including those benefits available to the employees with disabilities such as age relaxation in upper age limit, transport/ conveyance allowance etc. shall not be curtailed by the appropriate Govt. in any manner whatsoever. However, it would be lawful for the appropriate Govt. to enhance the existing benefits for improving the status of employment for persons with benchmark disabilities.<sup>196</sup> - AIDA

## **Clause 34: Incentives to employers in private sector**

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
34	The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to	Delete: <ul style="list-style-type: none"><li>• "within the limit of their economic capacity and development". - Inclusive Planet<sup>197</sup>, DRA, Ektha, DAF</li><li>• "Benchmark" - DAF</li></ul>

<sup>196</sup>A true interpretation given to section 33 of the existing Act makes a minimum of 3% reservation in the total No. of vacancies in the cadre strength in an establishment whereas scheme of reservation as contained in section 33 in the present bill is both self contradictory and an attempt to dilute the existing right. The suggested change is in accordance with the interpretation of existing scheme of reservation as contained in section 33 of the Existing Act given by Hon'ble Apex court in UOI Vs. National Federation of the Blind vide judgment dt. 8.10.13 and re-affirmed in subsequent judgments dt. 10.12.13 as well as 12.9.14 dismissing the petitions filed by MCD and UOI respectively challenging the judgments of High court of Delhi and Bombay High court respectively. (copies of relevant judgments are enclosed herewith)

<sup>197</sup> There must be removal of the provisions which allow for limitations based on the economic capacity etc. of the Government.

Sub Clause	Current text	Suggestions
	<p>employer in private sector to ensure that at least five per cent. of their work force is composed of persons with benchmark disability</p>	<p>Comments:</p> <ul style="list-style-type: none"> <li>• Timeline needs to be added along with specifying the incentive - Vishwas</li> <li>• incentives to private sector should be specified, otherwise section would lapse into mere formality as at present. - VIBEWA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• The appropriate Government and the local authorities shall, provide incentives to employer in private sectors to ensure that <u>even when less than</u> five per cent, of their work force is composed of persons with disability. - DAF</li> <li>• The appropriate Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector <u>within a period of 3 years,</u> to ensure that at least five per cent. of their work force is composed of persons with benchmark Disability <u>in consultation with Disabled Peoples' Organizations/ Organizations working for the cause of disability.</u><sup>198</sup> - Ketan Kothari</li> </ul>

## Clause 35: Special employment exchange

Sub Clause	Current text	Suggestions
35	<p>The appropriate Government may, by notification, require that from such date, the employer in every establishment shall furnish such information or return as may be prescribed by the Central Government</p>	<p>No suggestion</p>

<sup>198</sup> Here, some timeline needs to be laid down, maybe 3 years from the time of passage of the Act and also consulting persons with disabilities/organizations working for the cause of disabilities



Sub Clause	Current text	Suggestions
	in relation to vacancies appointed for persons with benchmark disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be notified by the Central Government and the establishment shall thereupon comply with such requisition.	

### Clause 36: Special schemes and development programmes

Sub Clause	Current text	Suggestions
36 (a)	The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,— a. five per cent reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;	Add: <ul style="list-style-type: none"> <li>“livelihood programmes” - Vishwas</li> </ul>
36 (b)	five per cent reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;	No suggestions
36 (c)	five per cent. reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise,	Add: <ul style="list-style-type: none"> <li>Housing loans at lower rate of interest for women with disabilities and registration of property of persons with disabilities at concessional rate. - Vishwas</li> </ul>

Sub Clause	Current text	Suggestions
	recreation centers and production centers.	<ul style="list-style-type: none"> <li>● assisted living center for persons with intellectual disability and Autism” after “housing” <sup>199</sup>- Parivaar</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>● five per cent, reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, <u>assisted living centres for Persons with ASD, Person with Intellectual Disabilities and Persons with Multiple Disabilities</u> setting up of <u>self employment ventures</u>, business, enterprise, recreation centers and production centers.- DAF</li> </ul>

## New Sub Clauses

### Suggested Text

- The suggested text for SECTION 36(2)(i) and 36(2)(ii) is given below.
  - 36(2)(i)  
Every appropriate Govt. is obliged to formulate, notify and implement schemes for the empowerment and welfare of employees with benchmark disabilities within a period of one year from the date of this Act coming into force.
  - 36(2)(ii)  
Such schemes may include the following matters:-
    - a) Special provision in posting and transfer policies of an establishment for persons with benchmark disabilities so as to ensure their posting and transfer near their residence as far as possible and practical.
    - b) For making available required assistive devices and accessible technology and operations connected with the job profile of a person with benchmark disability at no cost to him/her.
    - c) The training and welfare of persons with benchmark disabilities;
    - d) Regulating the employment;
    - e) Health and safety measures and creation of a non-handicapping environment in places where persons with

<sup>199</sup>In many cases, specially after the demise of parents, the autistic and intellectually disabled persons require group homes for living after their parents are no more. Therefore appropriate reservation in allotment of space in the housing complex for group homes for persons with intellectual and autistic disabilities is essential.

- benchmark disabilities are employed;
- f) The manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
  - g) Constituting the authority responsible for the administration of the scheme;<sup>200</sup> - AIDA

### Comments

- Central Government provide Special financial package to hilly states for the benefit of people with disabilities of hilly and rural areas of India. Promote research on assistive devices to meet the need for hilly States and rural person with disabilities- CORD
- Ensure to cover each Person with disabilities under the scheme of Annapurna Aanyojna and under food security bill without any discrimination. - CORD

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<sup>200</sup>In the existing Act in terms of section 38, every appropriate Govt. is obliged to formulate and implement schemes for the welfare of employees with disabilities. However, no such provision has been included in the present draft. This leaves the issues relating to posting and transfer etc. unattended. Therefore new provision is suggested to be included in the form of 36(a)

## CHAPTER VII: SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH HIGH SUPPORT NEEDS

Chapter	Current text	Suggestion
VII	Special Provisions for Persons with Disabilities with High Support Needs	<p>Delete:</p> <ul style="list-style-type: none"> <li>• the word "special".<sup>201</sup> - LCD</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The title states "Special Provisions". However, the text of the Clauses do not mention what the special provisions would be<sup>202</sup> - Kilikili and ASI</li> <li>• The provisions in Chapter VII on 'Special Provisions For Persons with Disabilities with High Support Needs' Clause 37 (1) (2) (3) (4) can make it extremely difficult for persons with disabilities who are poor and from remote/ rural locations to benefit. In order to benefit one has to apply to the authority who will refer to an assessment board prescribed by the Central Government, who in turn reports to the certifying authority for action. This can take a lot of time, energy and resources and may not be meaningful to the poor and persons with disabilities from remote/rural areas. - LCD</li> </ul>

### Clause 37: Special provisions for persons with disabilities with high support

Sub Clause	Current text	Suggestions
37 (1)	Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on	No suggestion

<sup>201</sup> As mentioned previously, this bill defines the rights and entitlements of persons with disabilities. The use of the word 'Special' is patronising and reinforces the negative stereotype that the rights of persons with disabilities are 'Special'.

<sup>202</sup> The Draft Act does not talk about what the special provisions should be and instead only talks of how the person would be certified as having 'high support needs'.

Sub Clause	Current text	Suggestions
	his or her behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support.	
37 (2)	On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Central Government.	Add in the end: <ul style="list-style-type: none"> <li>• "Provided that the person with disability shall be heard by the Assessment Board and all required reasonable accommodation and communication assistance shall be provided for the participation of the person with disability in the proceedings."<sup>203</sup> - Inclusive Planet and DRA</li> </ul>
37 (3)	The Assessment Board shall assess the case referred to it under sub-section (1) in such manner as may be prescribed by the Central Government, and shall send a report to the authority certifying the need of high support and its nature.	Comment: <ul style="list-style-type: none"> <li>• Persons with Disabilities shall be involved in preparing the check list / manual for assessment by the board. A proper explanation in writing shall be provided to the disabled person seeking this assistance if his request is turned down. The applicant should have an option to approach the competent authority if the explanation is not satisfactory.<sup>204</sup> - DLU South</li> </ul>
37 (4)	On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the appropriate Government in this behalf.	Delete: <ul style="list-style-type: none"> <li>• "and subject to relevant schemes and orders of the appropriate Government in this behalf."<sup>205</sup>- Inclusive Planet and DRA</li> </ul>

<sup>203</sup> The principle of "nothing about us, without us" with respect to decision making on behalf of persons with disabilities must be adhered to in this legislation. There is no provision for the person with disability being heard and so this must be provided for.

<sup>204</sup> There is no mention on how the assessment board would arrive at the decision on whether the person requires high support or not.

<sup>205</sup> There should not be any restrictions placed on the basis of Government schemes. The accommodation needed by each person with disability differs and Government schemes often envisage a single solution for all persons with similar impairments

## New Sub Clauses

### Suggested Text

- Nothing in this Section shall permit an assessment board to permit any invasive or permanent medical procedure or treatment in respect of a child with disability, or any person with disability without their clear and informed consent.<sup>206</sup> - Inclusive Planet and DRA

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<sup>206</sup> *In the case of the Deaf community, there is an apprehension that in light of present State Government schemes, cochlear implants may be forced upon young deaf children by an Assessment Board. There have been numerous instances of this in the past. Parents of deaf children consent to these procedures, however, the deaf community feels that in many cases adequate information is not given regards the effect on the children, and also it is tantamount to denying the cultural identity of a deaf person to the child. In case of persons with psychosocial disabilities, this may take the form of medications. There is no clarity on what "high support" actually means and where the line is drawn and so it is important that the consent of persons is taken and that as far as possible, children are altogether exempt from permanent invasive mechanisms to "normalize" their conditions.*

## CHAPTER VIII: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVERNMENTS

### Clause 38: Awareness campaigns

Sub Clause	Current text	Suggestions
38 (1)	The appropriate Government, in consultation with the National Commission or the State Commission, as the case may be, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected.	Add: <ul style="list-style-type: none"> <li>“and self advocacy programs for persons with intellectual disability or Autism” after “awareness campaigns”<sup>207</sup>- Parivaar</li> </ul>
38 (2) (a)	The programmes and campaigns specified under sub section (1) shall also,— (a) promote values of inclusion, tolerance, empathy and respect for diversity;	Delete: <ul style="list-style-type: none"> <li>the term “tolerance”. - DLU South</li> </ul>
38 (2) (b)	advance recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workforce, labour market and professional fee;	Replace: <ul style="list-style-type: none"> <li>“professional fee” with “overall diversity in the establishment;”<sup>208</sup> - Inclusive Planet and DRA</li> </ul>
38 (2) (c)	foster respect for the decisions made by persons with disabilities on all matters	No suggestions

<sup>207</sup>1. In case of intellectually disabled person 'self advocacy campaign' is required in addition to 'awareness campaign'. This enables the intellectually disabled to socially adapt themselves. Only then they can effectively participate and assert their rights in the society.

<sup>208</sup> Contribution to “professional fee” as mentioned in the draft bill is unclear. As per the mandate of the UNCRPD it is important that the contribution of persons with disabilities to the overall diversity of society is recognized.

Sub Clause	Current text	Suggestions
	related to family life, relationships, bearing and raising children;	
38 (2)(d)	provide orientation and sensitisation at the school, college, University and professional training level on the human condition of disability and the rights of persons with disabilities;	Replace: <ul style="list-style-type: none"> <li>the word "human condition" with the word "human diversity" - Inclusive Planet and DRA</li> </ul>
38 (2) (e)	provide orientation and sensitisation on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers.	Replace: <ul style="list-style-type: none"> <li>"disabling conditions" with "disabilities"<sup>209</sup> - Inclusive Planet and DRA</li> </ul>
38 (2)(f)	ensure that the rights of persons with disabilities are included in the curriculum in Universities and colleges.	Add: <ul style="list-style-type: none"> <li>"schools" before "universities". - LCD</li> <li>"human condition of disability and" before the word "rights" - OSDN</li> <li>"life stories of extra ordinary disabled achievers" after the word "disabilities" - OSDN</li> </ul>

## New Sub Clauses

### Suggested Text

- Provide orientation & sensitization and also professional trainings to people related to implementation of law and orders that includes administrators, police and the judiciary- DAF

<sup>209</sup> Again, instead of listing disability as an abnormal condition, the wording of the Bill should reflect the diversity that it brings to the human experience.



## Comments

- Awareness programs shall also focus on sensitising persons with disabilities and their families on varied information related to disability and equal opportunities through media and other accessible means. - DLU South

## Clause 39: Accessibility

Sub Clause	Current text	Suggestions
39	<p>The National Commission shall, formulate regulations for the persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.</p> <p><b>As per the Notice of Amendment:</b> The National Commission shall, formulate <b>and enforce</b> regulations for the persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban</p>	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>• This would include, but not be limited to, full access to public play spaces through ensuring accessibility and inclusivity in all processes of park and play space development and maintenance.<sup>210</sup> - Kilikili</li> <li>• These regulations shall be notified within a period of 6 months from the date of constitution of the Commission, and shall be released to the public by way of draft for comment and feedback prior to finalization.<sup>211</sup> - Inclusive Planet and DRA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• National commission shall consult with the Stake holders and access consultants while framing the regulations. The section shall specify punitive measures on failing to adhere to the standards including failure to provide information in accessible formats. There isnt a mention on suitable measures taken to make information, communication and technology accessible. - DLU South</li> <li>• Buildings, road, indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; including electronic services and emergency services. - NAD</li> </ul>

<sup>210</sup> Public play spaces have not been given their due attention when it comes to talking about accessibility.

<sup>211</sup> The National Commission requires a deadline for notification of guidelines as all further requirements and penalties for non compliance are highly dependant on that. Therefore the National Commission must be bound by a deadline. In addition, the regulations must reflect the practices and precedents in the field of accessibility, and seeking public comment would be the best way in which a solid set of regulations could be achieved.

Sub Clause	Current text	Suggestions
	and rural areas.	<ul style="list-style-type: none"> <li>The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>

## New Sub Clauses

### Suggested Text

- To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public; - NAD

## Redrafted Clause

### • By AIDA

- (1) All persons with benchmark disabilities have the right on an equal basis with others to the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas;
- (2) All appropriate governments and establishments shall be required to ensure that the rights of persons with benchmark disabilities to accessibility as outlined in sub section (1) of this section are fully protected.

#### Section 39(A)

- (i) The National Commission for Persons with disabilities shall formulate regulations which lay down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services open or provided to the public, both in urban and in rural areas and the same shall be adopted and notified by the appropriate Governments within six months from the date of the finalization of the said standards/ guidelines.
- (ii) The National Commission for Persons with disabilities shall formulate these Regulations, in consultation with subject and experiential experts, by adopting or adapting prevailing international standards on physical environment and information and communication technologies and systems to local conditions and any relevant national codes, guidelines and advisories. It shall ensure that the regulations are disability, age and gender appropriate and are applicable to:
  - (a) All buildings and facilities used by the public;
  - (b) Permanent, temporary or emergency conditions;
  - (c) All new community residential places and private residences to make them visitable and live-able;

- (d) Pedestrian infrastructure;
  - (e) Ports;
  - (f) Road based transport; Aviation; Railways; Maritime transport; Rural Public Transport System; and all other modes of transport so as to ensure that persons with benchmark disabilities travel in safety and comfort.
- (iii) The National Commission for persons with disabilities shall within a period of one year develop and notify the aforesaid accessibility standards regulations for both urban and rural areas. It shall review these regulations every five years and revise them if required in order to ensure universal coverage of all transport and built environment;

The National Commission or the State Commission for persons with disabilities, as the case may be, shall ensure the compliance of accessibility standards/ regulations through the concerned regulating authorities. For this purpose, the National Commission or the State Commission for persons with disabilities, as the case may be, shall require the concerned regulating authorities to include a condition of observance of accessibility standards/ regulations in the permission/ license issued for the purpose of occupation of a building, declaring a transport to be fit for road, operating a facility or service, operating communication & information services etc.<sup>212</sup> - AIDA

## Clause 40: Access to transport

Sub Clause	Current text	Suggestions
40 (1) (a)	The appropriate Government shall take suitable measures to provide,— (a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces,	Add in the end: <ul style="list-style-type: none"> <li>• “and signs &amp; visual display”<sup>213</sup> - DEF</li> </ul> Modified text: <ul style="list-style-type: none"> <li>• The appropriate Government shall take suitable measures to provide,— (a) facilities for persons with disabilities <u>in all public transport including</u> at bus stops, railway stations and airports conforming to the accessibility standards relating to the <u>built environment</u>, parking spaces, toilets, ticketing</li> </ul>

<sup>212</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.

<sup>213</sup> Hard of hearing and deaf persons experience profound barriers with regard to access to public utility services like banking. Hence, these need to be rectified in the legislation itself.

Sub Clause	Current text	Suggestions
	toilets, ticketing counters and ticketing machines;	<p>counters and ticketing machines, <u>convey all information through signs and visual display and provide other assistance in relation to communication and comfort for persons with disabilities.</u><sup>214</sup> - Inclusive Planet and DRA</p> <ul style="list-style-type: none"> <li>• facilities for persons with disabilities in <u>surface transport including</u> at bus <u>and taxi</u> stops, railway stations and airports, <u>water transport boarding stations, ports</u> conforming to the accessibility standards relating to parking <u>and boarding</u> spaces, toilets, ticketing counters and ticketing machines - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The limiting of accessibility standards to these 4 areas is inexplicable. - OSDN</li> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>
40 (1) (b)	access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• access to all modes of transport <u>which must</u> conform to the design standards. <u>Wherever possible and safe for persons with disabilities, there shall be retrofitting of old modes of transport, however, in the interim period, steps will be taken to accommodate persons with disabilities in the transport system using methods that are safe and that respect the dignity of the individual.</u><sup>215</sup> - Inclusive Planet and DRA</li> <li>• access to all modes of transport that conform to the design standards, including retrofitting old modes of transport,</li> </ul>

<sup>214</sup> Persons with disabilities require accessible public transport, and the Section as drafted was rather limited in the provisions for accessible public transportation. What also needs to be included within the Section pertaining to accessibility in transport is in communication for persons with disabilities, and comfort, especially taking into consideration the environment for persons with psychosocial disabilities.

<sup>215</sup> The previous wording of the Section i.e. excluding the access to transport where it is economically unfeasible or unsafe creates an escape clause through which accommodating of persons with disabilities within the transport system would be delayed indefinitely. Till all transport is made accessible, temporary methods of accommodating persons with disabilities must be made available.

Sub Clause	Current text	Suggestions
		<p>which are safe for persons with disabilities; - DAF</p> <p>Comments:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> <li>• The phrasing - Access to all modes of transport wherever technically feasible, economically viable and without entailing major structural changes in design - will give government a scope to escape responsibility. - OSDN</li> </ul>
40 (1) (c)	accessible roads to address mobility necessary for persons with disabilities.	<p>Add:</p> <ul style="list-style-type: none"> <li>• "and pavements" after "roads". - DAF</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• Accessible <u>pavements and roads</u> to address mobility necessary for persons with disabilities, <u>including the use of signage and tactile</u>.<sup>216</sup>- Inclusive Planet and DRA</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the "Redrafted Clause" below at the end of the Section). - AIDA</li> </ul>
New Sub Clause		<p>Suggested text:</p> <ul style="list-style-type: none"> <li>• Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters to provide accessible versions of information in establishments. Accessible version includes any version or form which gives a person with disability access to the work as flexibly and comfortably as a person without a disability, and shall include, but not be limited to, audio</li> </ul>

<sup>216</sup> The previous wording of the Section merely restricts the obligation of the State as regards roads. Most persons in general use the pavement as pedestrians. Pavements are either non-existent or very rarely are made accessible for persons with disabilities. Pavements are not just about physical access, but also include clear signage and tactile path and danger marks to alert visually impaired persons.

Sub Clause	Current text	Suggestions
		recordings, audio –visual works with audio or text descriptions, Braille, e-text including DAISY formats, digital copies compatible with assistive technology or refreshable Braille, tactile material, large print, with different type-faces and sizes and sign language. <sup>217</sup> - Inclusive Planet and DRA
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>• Where provision of interpreters is not possible, the establishment of Video Relay and Reply Services between sign language interpreters and persons with disabilities at establishments including hospitals, police station etc.<sup>218</sup> - Inclusive Planet and DRA</li> </ul>
New Sub Clause		Comment: <ul style="list-style-type: none"> <li>• Timeframe to ensure accessibility in transportation system and Punitive measures if the accessibility standards are not adhered to shall be included. - DLU South</li> </ul>
40 (2)	The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,— <ul style="list-style-type: none"> <li>(a) incentives and concessions;</li> <li>(b) retrofitting of vehicles; and</li> <li>(c) personal mobility assistance;</li> </ul>	Delete: <ul style="list-style-type: none"> <li>• “at affordable cost”.<sup>219</sup> - Inclusive Planet and DRA</li> </ul> Comment: <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the “Redrafted Clause” below at the end of the Section). - AIDA</li> </ul>

<sup>217</sup> Accessibility often only denotes the physical (built) environment, whereas it is necessary for persons to be able to communicate effectively within these premises as well. This is a strong component of the UNCRPD approach to Accessibility under Article 9.

<sup>218</sup> Same as above footnote

<sup>219</sup> “at affordable cost” should be removed as it may be misconstrued as placing economic limitations and should be removed.

## Redrafted Clause

- **By AIDA**

- 40(1) The appropriate governments and establishments shall take suitable measures to provide:
- (a) facilities for persons with benchmark disabilities at Bus stops, Rly. Stations and airports that meet the accessibility standards relating inter alia to parking spaces, toilets, ticketing counters and ticketing machines;
  - (b) access to all modes of transport that conform to design standards, including retrofitting old modes of transport;
  - (c) Accessible roads to address mobility necessary for persons with benchmark disabilities;
  - (d) to ensure that where no modifications are possible, human assistance shall be made available to persons with benchmark disabilities at no cost to them;
  - (e) support services to assist persons with benchmark disabilities to negotiate and interact with unfamiliar people, environs and spaces;
  - (f) for rural modes of transport and accessible roads to address mobility needs of persons with benchmark disabilities in rural areas.
- 40(2) All appropriate governments and establishments shall develop schemes and programmes to promote the personal mobility of persons with benchmark disabilities at no cost to them, according to their choice and access needs; Such schemes may inter alia provide:
- (a) incentives and concessions to provide accessible transport facilities to persons with benchmark disabilities;
  - (b) for retrofitting of vehicles for persons with benchmark disabilities at no extra cost;
  - (c) appropriate personal mobility assistance;
- 40(3)
- (a) All appropriate governments and establishments shall ensure that all services and facilities provided by them are available to persons with benchmark disabilities on an equal basis with others; and that such services are provided in such mode or format which is responsive to the needs of persons with benchmark disabilities but at no extra cost to them;
  - (b) All appropriate governments and establishments shall ensure that all announcements inviting public response including those made for procurement, entitlement, employment, public health and disaster preparedness must be accessible to all persons with benchmark disabilities;
  - (c) The National and State Commissions for Persons with benchmark disabilities shall make available to all service providers information on how they can make their services accessible to persons with benchmark

disabilities.<sup>220</sup> - AIDA

## Clause 41 Access to information and communication technology

Sub Clause	Current text	Suggestions
41 (i)	The appropriate Government shall take measures to ensure that, (i) all contents available in audio, print and electronic media are in accessible format;	<p>Comments:</p> <ul style="list-style-type: none"> <li>• Accessible version includes any version or form which gives a person with disability access to the work as flexibly and comfortably as a person without a disability, and shall include, but not be limited to, audio recordings, audio – visual works with audio or text descriptions, Braille, e-text including DAISY formats, digital copies compatible with assistive technology or refreshable Braille, tactile material, large print, with different type-faces and sizes and sign language. - NAD</li> <li>• The entire Clause to be redrafted (Please see the “Redrafted Clause” below at the end of the Section). - AIDA</li> </ul>
41 (ii)	persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>• “including English, Hindi and Regional languages”. - NAD</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• The entire Clause to be redrafted (Please see the “Redrafted Clause” below at the end of the Section). - AIDA</li> </ul>
41 (iii)	electronic goods and equipment which are meant for everyday use are available in universal design.	No suggestions

<sup>220</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.



## New Sub Clauses

### Suggested Text

- The appropriate Government agencies shall take measures to ensure that Sign Language is recognised as an official language and takes steps to foster its use and development.<sup>221</sup> – LCD
- Provide forms of live assistance and intermediaries, including guides, readers and Professional Sign Language Interpreters (add) to facilitate accessibility to buildings and other facilities open to the public;<sup>222</sup> - DEF
- The appropriate government shall designate a Public Accessibility Officer on par with Public Information Office – DEF
- Establish Video Relay Services to enable deaf people to communicate through sign language interpreters at office, hospital, police station etc. – NAD
- To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms – NAD

## Redrafted Clause

### • By AIDA

#### **41(1)**

All appropriate governments and establishments shall take measures to ensure that:

- a) All content in whichever medium whether audio, print or electronic or digital shall be made available to persons with benchmark disabilities in accessible format, free of cost;
- b) Persons with benchmark disabilities shall have access to electronic media by providing for audio description, sign language interpretation and close captioning;
- c) Accessibility to tele-communication services where telecommunications will include any kind of transmission of information of the user's choosing without change in form or content of information as sent or received;
- d) Electronic goods and equipment of everyday use follow the principles of universal design;

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<sup>221</sup> The CRPD obliges States parties to recognize and promote the use of sign language in line with Article 21: Freedom of expression and opinion, and access to information.

<sup>222</sup> Included from Draft Bill 2011; also as per the recommendations of DEF in clause (g) Professional Sign Language Interpreters were added.

- e) the formulation and implementation of Schemes at no extra cost to persons with benchmark disabilities for access to Information and Communication Technology in rural as well as urban areas;
- f) all their websites as well as all private websites providing consumer services conform to the most updated version of the World Wide Web Consortium web accessibility standards;
- g) Incentives and concessions are provided to support existing websites to make them accessible to persons with benchmark disabilities.

#### **41(2)**

The conversion, reproduction, adaptation and communication of all copyright materials into accessible versions for exclusive use of persons with benchmark disabilities on 'not-for-profit' basis shall be covered within the "fair dealing" clause of the relevant statute.

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

#### **41(3)**

All government and private websites shall be made accessible, in accordance with the regulations formulated by the National Commission for Persons with benchmark disabilities, within a maximum period of one year from the date of notification of such regulations;

#### **41(4)**

Any contravention of this Section shall be deemed to be an offence and be proceeded against under this Act as well as other relevant statutes.<sup>223</sup> - AIDA

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<sup>223</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.

## Clause 42: Consumer goods

Sub Clause	Current Text	Suggestions
Title	Consumer goods	Change the title to: <ul style="list-style-type: none"> <li>• "Access to consumer products and personal mobility" - DAF</li> <li>• "promotion and development of production and distribution of universally designed consumer goods" - AIDA</li> </ul>
42	The appropriate Government shall take measures to promote development, production and distribution of universally designed consumer products and accessories for general use for persons with disabilities.	Modified text: <ul style="list-style-type: none"> <li>• All appropriate governments <u>and establishments</u> shall:               <ol style="list-style-type: none"> <li>(a) take measures to promote development, production and distribution of universally designed consumer products and accessories for general use;</li> <li>(b) <u>take measures to provide accessible consumer services including personal grooming, fitness and beautification services.</u><sup>224</sup> - AIDA</li> </ol> </li> </ul>

## New Sub Clauses

### Suggested Text

- The appropriate government shall formulate appropriate schemes and programmes for enabling personal mobility for persons with disability. – DAF
- **42(A) Service Animals**
  - (i) The National Commission for persons with benchmark disabilities shall formulate regulations for Service Animal

<sup>224</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.

- (ii) training facilities so as to ensure that persons with benchmark disabilities are provided suitable Service Animals ;
- (ii) The appropriate govts and establishments shall permit and facilitate the use of Service Animals by persons with benchmark disabilities on roads, buildings, all transport systems, public facility or services/facilities;
- (iii) A person with disability needing assistance shall have a right to be accompanied by a Service Animal without being required to pay an extra charge for the Service Animal. <sup>225</sup> - AIDA

- **42(B)**

Every appropriate Govt. and provider of all public services including such private service provider will be under an obligation to provide live assistance including professional sign language interpreters to access all public services and public facilities to the blind, hearing impaired and other benchmark disabilities requiring such live assistance.<sup>226</sup> - AIDA

### Clause 43: Mandatory observance of accessibility norms

Sub Clause	Current text	Suggestions
43 (1)	No establishment shall be granted permission to build any structure if the building plan does not adhere to the regulations formulated by the National Commission under section 39.	Add: <ul style="list-style-type: none"> <li>• "individual, organization" before "or establishment" - AIDA</li> <li>• "private service providers" - VIBEWA</li> </ul>
43 (2)	No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the regulations formulated by the National Commission.	Modified text: <ul style="list-style-type: none"> <li>• No <u>individual, organization</u> or establishment shall be issued a certificate of completion or allowed to take occupation of a building <u>if it has failed</u> to adhere to the regulations formulated by the National Commission for Persons with benchmark disabilities; - AIDA</li> </ul>

<sup>225</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.

<sup>226</sup>The suggested change is necessitated to ensure access to public services and facilities by such categories of disabilities who need live assistance

## New Sub Clauses

### Suggested Text

- Any contravention of this Section shall be penalized under Section 102. – DAF
- Suggested Text is given below.
  - No individual or establishment shall be allowed to operate any transport system unless it conforms to the accessibility norms and universal design standards as notified by the National Commission for person with disabilities.
  - Any contravention of this Section shall be proceeded against under chapter 16 of this Act.
  - Every establishment of appropriate Govt. and provider of all public services/ facilities whether private or Govt. Service provider, shall designate a public Accessibility officer on par with information officer.<sup>227</sup> - AIDA

## Clause 44: Time limit for making existing infrastructure and premises accessible and action for that purpose

Sub Clause	Current text	Suggestions
44 (1)	<p>All existing public buildings shall be made accessible in accordance with the regulations formulated by the National Commission within a period not exceeding five years from the date of notification of such regulations:</p> <p>Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>• “Provided that the central Government... and other related parameters.” - DAF</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• All existing public buildings <u>used for government purposes</u> shall be made accessible in accordance with the regulations formulated by the National Commission for Persons with benchmark disabilities, within a period not exceeding <u>three</u> years from the date of notification of such regulations; 44(2) <u>All other public buildings shall be made accessible in</u></li> </ul>

<sup>227</sup>The present provision is not only contradictory but is also incomplete. It gives powers to enforce accessibility regulations to national commission but there is no mechanism nor procedure to enforce them. The provisions relating to accessibilities as contained in RPD Draft Bill 2011 addresses these concerns and therefore those provisions should substituted the existing suggested provision.

Sub Clause	Current text	Suggestions
	parameters.	<u>accordance with regulations formulated by the National Commission for persons with benchmark disabilities, within a period not exceeding five years from the date of notification of such regulations;</u> - AIDA
44 (2)	The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.	Modified text: <ul style="list-style-type: none"> <li>The appropriate Government and the local authorities shall formulate and publish an action plan <u>for providing immediate reasonable accommodation to persons with disabilities</u> in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops <u>on an ad hoc basis until permanent accessibility solutions are in place.</u><sup>228</sup> - Inclusive Planet and DRA</li> </ul>

## New Sub Clauses

### Suggested Text

- Any contravention of this Section shall be penalized under Chapter XVI - DAF and AIDA

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<sup>228</sup> While permanent solutions in establishments will take 5 years, in the meanwhile persons with disabilities must be accommodated through ad hoc or temporary provisions. Local authorities must immediately work on guidelines for provisions of such accommodation while the long term solutions for accessibility are achieved.

## Clause 45: Time limit for accessibility by service providers

Sub Clause	Current text	Suggestions
Title	Time limit for accessibility by service providers	Change the title to: Time limit for accessibility duties by service providers. - DAF
45	The service providers shall provide services in accordance with the regulations on accessibility formulated by the National Commission under section 39 within a period of two years from the date of notification of such regulations: Provided that the Central Government, in consultation with the National Commission, may grant extension of time for providing certain category of services in accordance with the said regulations.	<p>Delete:</p> <ul style="list-style-type: none"> <li>“Provided that the Central Government... in accordance with the said regulations.” - DAF and AIDA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>The service providers shall provide services in accordance with the regulations on accessibility formulated by the National Commission under section 39 within a period of <u>one</u> year from the date of notification of such regulations: Provided that the Central Government, in consultation with the National Commission, may grant extension of time of <u>one additional year</u> for providing certain category of services in accordance with the said regulations.<sup>229</sup> - Inclusive Planet and DRA</li> <li><u>All</u> service providers shall provide services in accordance with the regulations on accessibility formulated by the National Commission <u>for Persons with benchmark disabilities</u> within a period of <u>one</u> year from the date of notifications of such regulations; - AIDA</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>Definition of service provider needs to be inserted. The definition has to clearly include the private sector- AFA</li> </ul>

<sup>229</sup> It is important for service providers to prioritize accessibility requirements. The need to make services accessible is not by any means a new phenomenon and international precedent exists on account of legislation like the Americans with Disabilities Act and the European Commission directives. It is therefore merely a question of introducing these practices in India. Service providers should attempt to make services accessible as soon as possible.

## New Sub Clauses

### Suggested Text

- Any contravention of this Section shall be penalized under Chapter 16. - AIDA

## Clause 46: Human resource development

Sub Clause	Current text	Suggestions
46 (1) (a)	Without prejudice to any function and power of Rehabilitation Council of India constituted under the Rehabilitation Council of India Act, 1992, the appropriate Government shall endeavour to develop human resource for the purposes of this Act and to that end shall,— (a) mandate training on disability rights in all courses for the training of Panchayati Raj Members, legislators, administrators, police officials, judges and lawyers;	Add: <ul style="list-style-type: none"> <li>• mandate training .....of Panchayati Raj Members, <u>rural and urban planners, transport authorities</u>, legislators, administrators, ..... and lawyers; - LCD</li> <li>• "town planners".- Vishwas</li> </ul>
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>• mandate specific sensitivity training to the respective authorities including magistrates and police on the ways and means to handle persons with disabilities including all possible reasonable accommodation provisions with regard to their powers under Section 6. - Inclusive Planet and DRA</li> </ul>
46 (1) (b)	induct disability as a component for all education courses for schools, colleges and University teachers, doctors, nurses, para-medical personnel, social welfare officers,	Add in the end: <ul style="list-style-type: none"> <li>• induct disability as a component .... and community workers; <u>including components on Alternative and Augmentative forms of communication and Sign</u></li> </ul>



Sub Clause	Current text	Suggestions
	rural development officers, asha workers, anganwadi workers, engineers, architects, other professionals and community workers;	<u>Language</u> ; <sup>230</sup> - Inclusive Planet and DRA
46 (1) (c)	initiate capacity building programmes including training in independent living and community relationships for families, members of community and other stakeholders and care providers on care giving and support;	No suggestions
46 (1) (d)	ensure independence training for persons with disabilities to build community relationships on mutual contribution and respect;	No suggestions
46 (1) (e)	conduct training programmes for sports teachers with focus on sports, games, adventure activities;	Add: <ul style="list-style-type: none"> <li>● "Music, Art, Yoga" - Vishwas</li> <li>● the word "and coaches" after the word "teachers" - OSDN</li> </ul>
46 (1) (f)	any other capacity development measures as may be required;	No suggestions
46 (2)	All universities shall promote teaching and research in disability studies including establishment of study centres for such studies.	No suggestions
46 (3)	In order to fulfill the obligation stated in sub-section (1), the appropriate Government shall in every five years	No suggestions

<sup>230</sup> Since the main barriers to access with such professionals is communication, it is important for some basic knowledge of communication methods to exist.

Sub Clause	Current text	Suggestions
	undertake a need based analysis and formulate plans for the recruitment, induction, sensitization, orientation and training of suitable personnel to undertake the various responsibilities under this Act.	

## New Sub Clauses

### Suggested Text

- Training of national, state and district disaster management authorities on the safe and dignified means of imparting services to disabled people under Section 7 and to address their physical, communication, commutation and medical requirements during risk/emergency situations including the development of a check list on which the authorities/armed forces could verify during situations of risks / emergencies and successive rehabilitation processes including refugee camps. - Inclusive Planet and DRA
- The programs of HRD shall engage disabled people as consultants at the planning as well as executive phase. - DLU South
- Training programs on inclusive education, accessible and alternative teaching & learning methods, usage/teaching of accessible communication modes & methods and reasonable accommodations with respect to education, play & extracurricular activities shall be incorporated. - DLU South

### Comments

- Training thousands of para educators - for which we need many courses of at least few months to one year, on Autism. Current numbers have to increase drastically – ASI
- Create the post of professional Sign Language Interpreter. – NAD
- State to create a Panel of Sign Language Interpreters which will have trained interpreters who can be called upon by Courts, police stations, hospitals etc and for all points of public dealing with Deaf and Hard of Hearing persons - NAD

## Clause 47: Social audit

Sub Clause	Current text	Suggestions
47	<p>The appropriate Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and need the requirements and concerns of persons with disabilities.</p>	<p>Replace:</p> <ul style="list-style-type: none"> <li>the word "need" with the word "meet". - LCD</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>The appropriate Government ...involving persons with disabilities <u>and their representative organisations</u> to ensure that the scheme and programmes do not have an adverse .....disabilities. - LCD</li> <li>The appropriate Government shall, <u>within a period of one year from the enactment of this legislation</u>, undertake social audit ....concerns of persons with disabilities. <u>This audit shall be repeated every 5 years.</u><sup>231</sup> - Inclusive Planet and DRA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>The appropriate Government shall undertake social audit, <u>from time to time</u>, of all general schemes and programmes involving all persons with disabilities to <u>assess</u> impact upon the <u>lives of</u> persons with disabilities and <u>ensure further proper implementation of the schemes and programmes if their needs are found to have not met appropriately.</u> - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>Mention of the frequency and interval to be integral - Vishwas</li> <li>Social audit of all general schemes should be mandatory and not only schemes involving persons with disabilities. - VIBEWA</li> </ul>

<sup>231</sup> The need for a social audit of schemes in existence is extremely important and needs to be executed post haste upon the enactment of this legislation. At the same time, this process needs to be repeated regularly to ensure that the schemes etc. are truly benefitting persons with disabilities at large.

## New Sub Clauses

### Suggested Text

- The Social audit process shall involve disabled people as experts and consultants. - DLU South

## CHAPTER IX: REGISTRATION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES AND GRANTS TO SUCH INSTITUTIONS

Chapter	Current text	Suggestions
IX	Registration of Institutions for Persons with Disabilities and Grants to Such Institutions	<ul style="list-style-type: none"> <li>The chapter needs to be deleted and redrafted. The Chapter needs to create provisions for a phased closing down of institutions and moving towards independent living in group homes with personal assistance. There also needs to be a mandate for a rehabilitation plan for persons with disabilities in institutions.<sup>232</sup> - Inclusive Planet and DRA.</li> </ul>

### Clause 48: Competent authority

Sub Clause	Current text	Suggestions
48	The State Government shall appoint an authority as it deems fit to be a competent authority for the purposes of this Chapter.	<ul style="list-style-type: none"> <li>to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>

<sup>232</sup> The institutionalization of persons with disabilities is violative of the provisions of the UNCRPD which give rights of independent living and being included in the community to persons with disabilities in Article 16. The entire chapter is violative of the right to liberty and the right to independent living. The entire Chapter is in violation of the UNCRPD and is inconsistent with the provisions of the Bill which speak of independent living, however feeble those Sections may be.

## Clause 49: Registration

Sub Clause	Current text	Suggestions
49	Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except in accordance with a certificate of registration issued in this behalf by the competent authority: Provided that an institution for care of mentally ill persons, which holds a valid license under section 8 of the Mental Health Act, 1987 or any other Act for the time being in force, shall not be required to be registered under this Act.	Comments: <ul style="list-style-type: none"> <li>• Clinics/ hospitals run for profit to be covered as well - Vishwas</li> <li>• to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> <li>• The roles, functions, infrastructure and services of organisations. The norms for registration shall be uniform across all states. - DLU South</li> <li>• The Government shall set procedures to register the name of people's organisations as Disabled People's Organisations and not in any other way. - Ektha</li> <li>• Provision for existing institution to continue and apply for Certificate of registration within a specified period should be there. - VIBEWA</li> </ul>
New Sub Clause		Add in the end: <ul style="list-style-type: none"> <li>• "The appropriate governments will issue guidelines and set qualifying standards to establish and maintain different institutions for persons with disabilities within six months of approval of this bill by the President." <sup>233</sup> - Parivaar</li> </ul>

## Clause 50: Application and grant of certificate of registration

Sub Clause	Current text	Suggestions
50 (1)	Every application for a certificate of registration shall be made to the	Comment: <ul style="list-style-type: none"> <li>• to be deleted/redrafted as mentioned for Chapter IX -</li> </ul>

<sup>233</sup>The government should have transparency and set qualifying requirements for registration and approval of financial grants. There should also be a limit on application processing time by each level of functionaries responsible for processing the applications.

Sub Clause	Current text	Suggestions
	competent authority in such form and in such manner as may be prescribed by the State Government.	<p>Inclusive Planet and DRA</p> <ul style="list-style-type: none"> <li>certification process contains nothing new, it should provide for one unified certificate valid throughout India, also how different the certification would be from existing medical model. It continues with same medico-bureaucratic set up to be prescribed by government. - VIBEWA</li> </ul>
50 (2)	<p>On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and on being satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder, it shall grant a certificate of registration to the applicant and if not satisfied, the competent authority shall, by order, refuse to grant the certificate applied for:</p> <p>Provided that before making any order refusing to grant a certificate, the competent authority shall give the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in writing.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>After "It shall grant a certification of registration to the applicant" add "within 60 days of date of filing of application by the applicant or indicate reasons for not granting the registration"<sup>234</sup> - Parivaar</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>
50 (3)	No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an	<p>Comment:</p> <ul style="list-style-type: none"> <li>to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>

<sup>234</sup> The registration and certification of institutions should be a time bound process unlike in present time when even after 2 years the registration of institutions is delayed mainly due to bureaucratic delays

Sub Clause	Current text	Suggestions
	application has been made is in a position to provide such facilities and meet such standards as may be prescribed by the State Government.	
50 (4)	The certificate of registration granted under sub-section (2) ,— (a) shall, unless revoked under section 51 remain in force for such period as may be prescribed by the State Government; (b) may be renewed from time to time for a like period; and (c) shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.	Comment: <ul style="list-style-type: none"> <li>● to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>
50 (5)	An application for renewal of a certificate of registration shall be made not less than sixty days before the expiry of the period of validity.	Comment: <ul style="list-style-type: none"> <li>● to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>
50 (6)	A copy of the certificate of registration shall be displayed by the institution in a conspicuous place.	Comment: <ul style="list-style-type: none"> <li>● to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>
50 (7)	Every application made under sub-section (1) or sub-section (5) shall be disposed of by the competent authority within such period as may be prescribed by the State Government.	Comment: <ul style="list-style-type: none"> <li>● to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>



## Clause 51: Revocation of registration

Sub Clause	Current text	Suggestions
51 (1)	<p>The competent authority may, if it has reason to believe that the holder of a certificate of registration granted under sub-section (2) of section 49 has,— Revocation of registration.</p> <p>(a) made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or</p> <p>(b) committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may, after making such inquiry, as it deems fit, by order, revoke the certificate:</p> <p>Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate of registration shall not be revoked.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>• to be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>
51 (2)	<p>Where a certificate of registration in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation: Provided that where an appeal lies under section 52 against the order of revocation, such institution shall cease to function,—</p> <p>(a) where no appeal has been preferred immediately on the expiry of the period</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>• To be deleted/redrafted as mentioned for Chapter IX. - Inclusive Planet and DRA</li> </ul>

Sub Clause	Current text	Suggestions
	<p>prescribed for the filing of such appeal; or (b) where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.</p>	
51 (3)	<p>On the revocation of a certificate of registration in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be— (a) restored to the custody of his or her parent, spouse or lawful guardian, as the case may be, or (b) transferred to any other institution specified by the competent authority.</p>	<p>Redrafted text:</p> <ul style="list-style-type: none"> <li>On the revocation of a certificate of registration in respect of an institution, (a) <u>Persons with disabilities who are residents of that institution on the date of such revocation have the first option to exercise their right to choose their place of residence and where and with whom they live.</u><sup>235</sup> - LCD</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>To be deleted/redrafted as mentioned for Chapter IX.<sup>236</sup> - Inclusive Planet and DRA</li> </ul>
51 (4)	<p>Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.</p>	No suggestion

<sup>235</sup> As rights holders, persons with disabilities must have the opportunity to choose their place of residence and where and with who they live – Article 19, CRPD. The above mentioned clause is phrased in such a way that it makes a person with a disability a non-entity. This amounts to violation of Article 3 – General Principles, CRPD that seeks to ensure inherent dignity and individual autonomy, including the freedom to make one’s own choices, and the independence of persons with disabilities.

<sup>236</sup> Section 51 (3) contains one of the most blatant provisions of this Bill which goes completely against the Rights discourse: “On the revocation of a certificate of registration in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be— (a) restored to the custody of his or her parent, spouse or lawful guardian, as the case may be, or (b) transferred to any other institution specified by the competent authority.” The process by which a person becomes an “inmate” of an institution is also not specified, and not regulated.

## Clause 52: Appeal

Sub Clause	Current text	Suggestions
52 (1)	Any person aggrieved by the order of the competent authority refusing to grant a certificate of registration or revoking a certificate of registration may, within such period as may be prescribed by the State Government, prefer an appeal to such appellate authority, as may be notified by the State Government against such refusal or revocation.	Comment: <ul style="list-style-type: none"> <li>To be deleted/redrafted as mentioned for Chapter IX - Inclusive Planet and DRA.</li> </ul>
52 (2)	The order of the appellate authority on such appeal shall be final.	Comment: <ul style="list-style-type: none"> <li>To be deleted/redrafted as mentioned for Chapter IX - Inclusive Planet and DRA.</li> </ul>

## Clause 53: Act not to apply to institutions established or maintained by Central or State Government

Sub Clause	Current text	Suggestions
53	Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.	Delete: <ul style="list-style-type: none"> <li>The entire Clause - DRG<sup>237</sup>, AADI, AIDA<sup>238</sup>, Inclusive Planet<sup>239</sup>, DRA, AFA, Ektha<sup>240</sup></li> </ul>

<sup>237</sup> By exempting the institutions run by Central or Stage Govt. from the provisions of registration under this chapter, it may result into compromise with the quality of services in such institutions and its management becoming unregulated which is not correct

<sup>238</sup>By exempting the institutions run by Central or Stage Govt. from the provisions of registration under this chapter, it may result into compromise with the quality of services in such institutions and its management becoming unregulated which is not correct.

<sup>239</sup> Same as for Chapter IX

<sup>240</sup>Section 53 should be repealed as otherwise there won't be any effective monitoring and evaluation of governmental organisations and facilities.

## Clause 54: Assistance to registered institutions.

Sub Clause	Current text	Suggestions
54	The appropriate Government may within the limits of their economic capacity and development, grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of the Act.	Delete: <ul style="list-style-type: none"><li>• “within the limits of their economic capacity and development” - DAF, Ektha</li></ul> Comment: <ul style="list-style-type: none"><li>• To be deleted/redrafted as mentioned for Chapter IX - Inclusive Planet and DRA.</li></ul>

## CHAPTER X: CERTIFICATION OF SPECIFIED DISABILITIES

Chapter	Current text	Suggestions
X	Certification of Specified Disabilities	Delete: <ul style="list-style-type: none"> <li>• the word "specified". - DAF</li> </ul>

### Clause 55: Guidelines for assessment of specified disabilities

Sub Clause	Current text	Suggestions
55	The Central Government shall notify guidelines for the purpose of assessing the extent of specified disability in a person.	Comment: <ul style="list-style-type: none"> <li>• Chapter X does not mention how the extent of disability will be notified and if the current percentage system is followed, then many people would be deprived of their required services apart from malpractice happening in denoting the percentage based on influence, bribes, callous attitude of medical authorities, etc. The norms for certification need to be uniform throughout the country and shall not be specific to each state.- DLU South</li> </ul>

### New Sub Clauses

#### Suggested Text

- The Central / State Government shall involve activists with disabilities / experts from the disability sector while notifying / formulating guidelines to assess disabilities of people. - DLU South

## Clause 56: Designation of certifying authorities

Sub Clause	Current text	Suggested Text
56 (1)	The appropriate Government shall designate persons, having requisite qualifications and experience, as certifying authorities, who shall be competent to issue the certificate of disability.	Redrafted text: <ul style="list-style-type: none"> <li>The appropriate Government shall designate <u>at every panchayat, municipal and notified area, officials or authorities who shall be authorized to issue disability certificate to persons with disabilities in accordance with prescribed procedure.</u> - DAF</li> </ul>
56 (2)	The appropriate Government shall also notify the jurisdiction within which and the terms and conditions subject to which, the certifying authority shall perform its certification functions.	Add in the end: <ul style="list-style-type: none"> <li>The appropriate Government ....perform its certification functions. <u>Provided that any certificate issued by such certifying authority shall be valid across India, and shall deemed to be valid identity proof for all purposes.</u><sup>241</sup> - Inclusive Planet and DRA</li> </ul> Comment: <ul style="list-style-type: none"> <li>The board of certifying authorities shall include experts from the disability sector as members. Experts from the disability sector shall also be consulted during assessments wherever required. The assessment needs to focus on functionalities and the impact of environment on disability. - DLU South</li> </ul>

### New Sub Clauses

#### Suggested Text

- The suggested text is given below.
  - The authorized officials or authorities shall also include persons outside the medical fraternity.

<sup>241</sup> There have been issues raised by persons with disabilities wherein certificates issued by one state are often rejected when being used as proof of disability outside the State for example while being used to seek travel concessions or admissions etc.

- (2) The prescribed procedure shall be devised so as to facilitate the obtaining of the certificate by persons with disabilities.
- (3) The duration of validity of the certificate shall be determined having regard to the nature of impairment.
- (4) Certificates awarded shall remain valid throughout India.
- (5) Special care must be taken to ensure the certification of persons with high support needs, persons with disabilities living within institutions and persons with disabilities who are homeless or without shelter.<sup>242</sup> - DAF

## Clause 57: Procedure for certification

Sub Clause	Current Text	Suggested Text
57 (1)	Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.	No suggestions
57 (2)	On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 55, and shall, after such assessment, as the case may be,— (a) issue a certificate of disability to such person, in such form as may be prescribed by the Central Government; (b) inform him in writing that he has no specified disability.	Add a Sub Clause 57 (2) (c): <ul style="list-style-type: none"> <li>• A certificate thus issued will be valid across states, boards and departments.<sup>243</sup> - AIDA</li> </ul> Comment: <ul style="list-style-type: none"> <li>• There should be some timeline laid down and it should be ensured that people are not required to travel again and again for acquiring their disability certificate - Ketan Kothari</li> </ul>
<b>57 (3)</b>	<b>As per the Notice of Amendments, following new Sub Clause to be added:</b>	No suggestions

<sup>242</sup>Persons who are homeless or in a shelter generally do not have an identity as a citizen. Many of them who could not be placed in an alternative set up continue to reside in the shelter. For example many homeless persons with disability are placed in a shelter. Some of them either cannot remember their place of residence or the family does not want to take them back. They do not have any identity including a disability certificate. They are denied the basic rights and entitlements of a citizen. This needs serious consideration.

<sup>243</sup>Migrant population in many states face great difficulty due to the Disability certificates that vary across states. Disability certificates must be valid across the country

Sub Clause	Current Text	Suggested Text
	the certificate so issued will be valid throughout the country.	

### Clause 58: Appeal against a decision of certifying authority

Sub Clause	Current text	Suggestions
58 (1)	Any person aggrieved with decision of the certifying authority, may appeal against such decision, within such time and in such manner as may be prescribed by the State Government, to such appellate authority as the State Government may designate for the purpose.	No suggestion
58 (2)	On receipt of an appeal, the appellate authority shall decide the appeal in such manner as may be prescribed by the State Government.	No suggestion



## CHAPTER XI: CENTRAL AND STATE ADVISORY BOARDS ON DISABILITY AND DISTRICT LEVEL COMMITTEE

### Clause 59: Constitution of Central Advisory Board on Disability

Sub Clause	Current text	Suggestions
59 (1)	The Central Government shall, by notification, constitute a body to be known as the Central Advisory Board on Disability to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.	No suggestion
59 (2) (a) to (s)	The Central Advisory Board shall consist of, - (a) the Minister in charge of Department of Disability Affairs in the Central Government, Chairperson, ex officio; (b) the Minister of State in charge dealing with Department of Disability Affairs in the Ministry in the Central Government, Vice Chairperson, ex officio; (c) three Members of Parliament, of whom two shall be elected by Lok Sabha and one by the Rajya Sabha; Members, ex officio; (d) the Ministers in charge of Disability Affairs of all States and Administrators or Lieutenant Governors of the Union territories, Members, ex officio; (e) Secretaries to the Government of India in charge of the Ministries or Departments of Disability Affairs, Social Justice and Empowerment, School Education and Literacy, and Higher Education, Women and Child Development, Expenditure, Personnel and Training, Administrative Reforms	Add: <ul style="list-style-type: none"> <li>• "Secretary, Tourism Corporation". - DLU South</li> <li>• "Chairperson of National Commission for persons with disabilities" - DAF</li> <li>• Representation from AICTE or Architecture - Vishwas</li> </ul> For 59 (2) (r): Add in the end: <ul style="list-style-type: none"> <li>• The ten NGO nominees will be selected from each section of disability i.e. Neuro, Blind, Hearing, language, Non-communicable bleeding disorder, leprosy, Locomotors, Muscles, mental, multiple disability. - Hemophilia Federation</li> <li>• Provided that these members will be selected in a manner which ensures representation of persons with various</li> </ul>

Sub Clause	Current text	Suggestions
	<p>and Public Grievances, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Communications and Information Technology, Legal Affairs, Public Enterprises, Youth Affairs and Sports, Road Transport and Highways and Civil Aviation, Members, ex officio;</p> <p>(f) Secretary, Planning Commission, Member, ex officio;</p> <p>(g) Chairperson, Rehabilitation Council of India, Member, ex officio;</p> <p>(h) Chairperson, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, Member, ex officio;</p> <p>(i) Chairman-cum-Managing Director, National Handicapped Finance Development Corporation, Member, ex officio;</p> <p>(j) Chairman-cum-Managing Director, Artificial Limbs Manufacturing Corporation, Member, ex officio;</p> <p>(k) Chairman, Railway Board, Member, ex officio;</p> <p>(l) Director-General, Employment and Training, Ministry of Labour and Employment, Member, ex officio;</p> <p>(m) Director, National Council for Educational Research and Training, Member, ex officio;</p> <p>(n) Chairperson, National Council of Teacher Education, Member, ex officio;</p> <p>(o) Chairperson, University Grants Commission, Member, ex officio;</p>	<p>disabilities from across the Country.<sup>244</sup> - Inclusive Planet and DRA</p> <p>Delete:</p> <ul style="list-style-type: none"> <li>the phrase "as far as practicable". - Inclusive Planet, DRA, DLU South, VIBEWA</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>Members to be nominated by the Central Government: (i) five Members <u>from DPOs representing cross-disabilities;</u> (ii) ten Members, <u>being persons with disabilities, representatives from parents organizations</u> to represent Non-Governmental Organisations concerned with cross disabilities or disabled persons organizations: - DAF</li> </ul>

<sup>244</sup> As clause (i) permits for 5 members who are experts in the field of disability and rehabilitation, it stands to reason that the 10 members who are to be nominated should be persons with disabilities themselves. Any person who works for the disabled and is not disabled themselves can be accommodated within the intake in clause (i). This adheres to the obligation of State parties to include persons with disabilities in decision making that impacts them - "nothing about us, without us."

Sub Clause	Current text	Suggestions
	<p>(p) Chairperson, Medical Council of India, Member, ex officio;</p> <p>(q) Directors of the following Institutes:</p> <p>(i) National Institute for the Visually Handicapped, Dehradun;</p> <p>(ii) National Institute for the Mentally Handicapped, Secundrabad;</p> <p>(iii) Pandit Deen Dayal Upadhyay Institute for the Physically Handicapped, New Delhi;</p> <p>(iv) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai;</p> <p>(v) National Institute for the Orthopaedically Handicapped, Kolkata;</p> <p>(vi) National Institute of Rehabilitation Training and Research, Cuttack;</p> <p>(vii) National Institute for Empowerment of Persons with Multiple Disabilities, Chennai;</p> <p>(viii) National Institute for Mental Health and Sciences, Bangalore;</p> <p>(ix) Indian Sign Language Research and Training Centre, New Delhi, Members, ex officio;</p> <p>(r) Members to be nominated by the Central Government:—</p> <p>(i) five Members who are experts in the field of disability and rehabilitation;</p> <p>(ii) ten Members, as far as practicable, being persons with disabilities, to represent non-Governmental Organisations concerned with disabilities or disabled persons organisations: Provided that out of the ten Members nominated, at least, five Members shall be women and at least one person each shall be from Scheduled Castes and Scheduled Tribes:</p> <p>(iii) up to three representatives of national level chambers of commerce and industry;</p>	

Sub Clause	Current text	Suggestions
	(s) Joint Secretary to the Government of India dealing with the subject of disability policy, Member-Secretary, ex officio.	

## Clause 60: Terms and conditions of service of Members

Sub Clause	Current text	Suggestions
60 (1)	Save as otherwise provided under this Act, a Member of the Central Advisory Board nominated under clause (r) of sub-section (2) of section 59 shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.	No suggestion
60 (2)	The Central Government may, if it thinks fit, remove any Member nominated under clause (r) of sub-section (2) of section 59, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.	No suggestion
60 (3)	A Member nominated under clause (r) of sub-section (2) of section 59 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon becomes vacant.	No suggestion
60 (4)	A casual vacancy in the Central Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.	No suggestion

Sub Clause	Current text	Suggestions
60 (5)	A Member nominated under sub-clause (i) or sub-clause (iii) of clause (r) of sub-section (2) of section 59 shall be eligible for renomination.	Add in the end: <ul style="list-style-type: none"> <li>“for one additional term”. - DAF</li> </ul>
60 (6)	The Members nominated under sub-clause (i) and sub-clause (ii) of clause (r) of sub-section (2) of section 59 shall receive such allowances as may be prescribed by the Central Government.	No suggestion

## Clause 61: Disqualification

Sub Clause	Current text	Suggestions
61 (1) (a) to (e)	(1) No person shall be a Member of the Central Advisory Board, who— (a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or (b) is of unsound mind and stands so declared by a competent court, or (c) is, or has been, convicted of an offence which, in the	Delete: <ul style="list-style-type: none"> <li>the clause 61 (1) (b) - LCD<sup>245</sup>, Vishwas, DRG<sup>246</sup>, AADI, Inclusive Planet<sup>247</sup>, DRA, AIDA<sup>248</sup>, AFA<sup>249</sup></li> </ul>

<sup>245</sup> 'Unsound' mind as a reason to disqualify a member in the advisory board amounts to "discrimination on the basis of disability". This violates the very principle and spirit of the RPD Bill. This should be deleted.

<sup>246</sup> This provision recognizes the unsoundness of mind as a disqualification for holding or continuing to hold the office of member of Central Advisory Board and State Advisory Board whereas the bill is premised on the legal capacity of all groups of persons with disabilities. Thus, such a disqualification on that ground runs counter to the spirit of the UNCRPD and the bill.

<sup>247</sup> The finding of a person to be of "unsound mind" such that they are deemed incapacitated to hold any post is violative of the UNCRPD as it is specifically linked to disabilities.

<sup>248</sup> This provision recognizes the unsoundness of mind as a disqualification for holding or continuing to hold the office of member of Central Advisory Board and State Advisory Board whereas the bill is premised on the legal capacity of all groups of persons with benchmark disabilities. Thus, such a disqualification on that ground runs counter to the spirit of the UNCRPD and the bill

<sup>249</sup> Delete existing clause on unsound mind: This provision recognizes the unsoundness of mind as a disqualification for holding or continuing to hold the office of member of Central Advisory Board and State Advisory Board whereas the bill is premised on the legal capacity of all groups of persons with disabilities. Thus, such a disqualification on that ground runs counter to the spirit of the UNCRPD and the bill

Sub Clause	Current text	Suggestions
	<p>opinion of the Central Government, involves moral turpitude, or  (d) is, or at any time has been, convicted of an offence under this Act, or  (e) has so abused his position in the opinion of the Central Government as a Member so as to render his continuance in the office is prejudicial interests of the general public.</p>	
61 (2)	<p>No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.</p>	No suggestions
61 (3)	<p>Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 60, a Member who has been removed under this section shall not be eligible for renomination as a Member.</p>	No suggestions

## Clause 62: Vacation of seats by Members

Sub Clause	Current text	Suggestions
62	<p>If a Member of the Central Advisory Board becomes subject to any of the disqualifications specified in section 61, his seat shall become vacant.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>• How many vacancies shall be permissible in Central Advisory Board and for how long - Vishwas</li> </ul>

## Clause 63: Meetings of the Central Advisory Board on disability

Sub Clause	Current text	Suggestions
63	The Central Advisory Board shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.	<p>Modified text:</p> <ul style="list-style-type: none"> <li>The Central Advisory Board shall meet at least once in every <u>three months</u> and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed <u>and the activities of the Board will be accessible to public through maintaining of an updated website.</u> - DAF</li> </ul> <p>Add in the end:</p> <ul style="list-style-type: none"> <li>Every minutes of the meetings of Central Advisory Board will be regarded as “public document” and will be made available on the website of the ministry as soon as possible.<sup>250</sup> - Ketan Kothari</li> </ul>

## Clause 64: Functions of Central Advisory Board on disability

Sub Clause	Current text	Suggestions
64 (1)	Subject to the provisions of this Act, the Central Advisory Board on disability shall be the national-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full	No suggestions

<sup>250</sup>There should be a sub clause added to say that every minutes of the meetings of the Central Advisory Board will be termed as “Public Document” and will be available on the website of the ministry as soon as is practicable.

Sub Clause	Current text	Suggestions
	enjoyment of rights.	
64 (2) (a)	(2) In particular and without prejudice to the generality of the foregoing provisions, the Central Advisory Board on disability shall perform the following functions, namely: (a) advise the Central Government and the State Governments on policies, programmes, legislation and projects with respect to disability;	Redrafted text: <u>(a) All policies, programmes, legislation, schemes and projects with respect to disability should be referred to advisory board to be reviewed and revised from the perspective of persons with disabilities</u> - DAF
64 (2) (b)	develop a national policy to address issues concerning persons with disabilities;	Add in the end: <ul style="list-style-type: none"> <li>• “for a period of three years and to review the progress periodically”. - DAF</li> </ul> Comment: <ul style="list-style-type: none"> <li>• Timeline for developing a National Policy to be mentioned - Vishwas</li> </ul>
64 (2) (c)	review and coordinate the activities of all Departments of the Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to persons with disabilities;	No suggestions
64 (2) (d)	take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the national plans;	Delete: <ul style="list-style-type: none"> <li>• “and the international organisations”.<sup>251</sup> - Inclusive Planet and DRA</li> </ul>

<sup>251</sup> There is no need for the international organizations to be lobbied with for the provision of entitlements to persons with disabilities at the national level.



Sub Clause	Current text	Suggestions
New Sub Clause		Suggested text: <ul style="list-style-type: none"> <li>• Monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities in India<sup>252</sup> - Inclusive Planet and DRA</li> </ul>
64 (2) (e)	recommend steps to ensure accessibility, reasonable accommodation, non discrimination for persons with disabilities vis-à-vis information, services and the built environment and their participation in social life;	Add: <ul style="list-style-type: none"> <li>• the word "livelihood" after "built environment". - DAF</li> <li>• the words "education and employment". - DLU South</li> </ul>
64 (2) (f)	monitor and evaluate the impact of laws, policies and programmes to achieve full participation of persons with disabilities; and	Redrafted text: <ul style="list-style-type: none"> <li>• Undertake a study on the laws and legal provisions which discriminate against persons with disabilities and undertake the study of the impact of laws, policies and programmes to achieve full participation of persons with disabilities; and <sup>253</sup>- Inclusive Planet and DRA</li> </ul>
64 (2) (g)	such other functions as may be assigned from time to time by the Central Government.	No suggestions

<sup>252</sup> There needs to be the constant monitoring of the legal system and system of entitlements to ensure that the rights of persons with disabilities are being looked at seriously.

<sup>253</sup> The UNCRPD under Article 4 mandates that the State Parties take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.

## Clause 65: State Advisory Board on disability

Sub Clause	Current text	Suggestions
65 (1)	Every State Government shall, by notification, constitute a body to be known as the State Advisory Board on disability to exercise the powers conferred on, and to perform the function assigned to it, under this Act.	No suggestion
65 (2) (a) to (f)	<p>The State Advisory Board shall consist of—</p> <p>(a) the Minister in charge of the Department in the State Government dealing with disability matters, Chairperson, ex officio;</p> <p>(b) the Minister of State or the Deputy Minister in charge of the Department in the State Government dealing with disability matters, if any, Vice-Chairperson, ex officio;</p> <p>(c) secretaries to the State Government in charge of the Departments of Disability Affairs, School Education, Literacy and Higher Education, Women and Child Development, Finance, Personnel and Training, Health and Family Welfare, Rural Development, Panchayati Raj, Industrial Policy and Promotion, Labour and Employment, Urban Development, Housing and Urban Poverty Alleviation, Science and Technology, Information</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• Secretary, Tourism Corporation - DLU South</li> </ul> <p>For 65 (2) (e) (iii):</p> <p>Delete:</p> <ul style="list-style-type: none"> <li>• the phrase “as far as practicable”. - DLU South, Inclusive Planet, DRA, VIBEWA</li> </ul> <p>Add:</p> <ul style="list-style-type: none"> <li>• The ten NGO nominees will be selected from each section of disability i.e. Neuro, Blind, Hearing, language, Non- communicable bleeding disorder, leprosy, Locomotors, Muscles, mental, multiple disability. - Hemophilia Federation</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• (iii) ten persons being persons with disabilities, to represent non-Governmental Organisations or associations <u>which are concerned with disabilities: Provided that these members will be selected in a manner which ensures</u></li> </ul>

Sub Clause	Current text	Suggestions
	<p>Technology, Public Enterprises, Youth Affairs and Sports, Road Transport and any other Department, which the State Government considers necessary, Members, ex officio;</p> <p>(d) three Members of the State Legislature of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any, and where there is no Legislative Council, three Members shall be elected by the Legislative Assembly, Members, ex officio;</p> <p>(e) Members to be nominated by the State Government:—</p> <p>(i) five Members who are experts in the field of disability and rehabilitation;</p> <p>(ii) five Members to be nominated by the State Government by rotation to represent the districts in such manner as may be prescribed Provided that no nomination under this sub-clause shall be made except on the recommendation of the district administration concerned;</p> <p>(iii) ten persons as far as practicable, being persons with disabilities, to represent non-Governmental Organisations or associations which are concerned with disabilities: Provided that out of the ten persons</p>	<p><u>representation of persons with various disabilities from across the State.</u><sup>254</sup> - Inclusive Planet and DRA</p>

<sup>254</sup> As clause (i) permits for 5 members who are experts in the field of disability and rehabilitation, it stands to reason that the 10 members who are to be nominated should be persons with disabilities themselves. Any person who works for the disabled and is not disabled themselves can be accommodated within the intake in clause (i). This adheres to the obligation of State parties to include persons with disabilities in decision making that impacts them - "nothing about us, without us."

Sub Clause	Current text	Suggestions
	<p>nominated under this clause, at least, five shall be women and at least one person each shall be from the Scheduled Castes and the Scheduled Tribes;</p> <p>(iv) not more than three representatives of the State Chamber of Commerce and Industry;</p> <p>(f) officer not below the rank of Joint Secretary in the Department dealing with disability matters in the State Government, Member-Secretary, ex officio.</p>	

## Clause 66: Terms and conditions of service of Members

Sub Clause	Current text	Suggestions
66 (1) to (6)	<p>(1) Save as otherwise provided under this Act, a Member of the State Advisory Board nominated under clause (e) of sub-section (2) of section 65, shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.</p> <p>(2) The State Government may, if it thinks fit, remove any Member nominated under clause (e) of sub-section (2) of section 65, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.</p> <p>(3) A Member nominated under clause (e) of sub-section (2) of section 65 may at any time resign his office by writing under his hand addressed to the State Government and the seat of</p>	<p>For 66 (5), add in the end:</p> <ul style="list-style-type: none"> <li>• "for one additional term". - DAF</li> </ul>

Sub Clause	Current text	Suggestions
	<p>the said Member shall thereupon become vacant.</p> <p>(4) A casual vacancy in the State Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.</p> <p>(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (e) of sub-section (2) of section 65 shall be eligible for renomination.</p> <p>(6) the Members nominated under sub-clause (i) and sub-clause (ii) of clause (e) of sub-section (2) of section 65 shall receive such allowances as may be prescribed by the State Government.</p>	

## Clause 67: Disqualification

Sub Clause	Current text	Suggestions
67 (1),(2) and (3)	<p>(1) No person shall be a Member of the State Advisory Board, who—</p> <p>(a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or</p> <p>(b) is of unsound mind and stands so declared by a competent court, or</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>the clause 67 (1) (b) - DRG<sup>255</sup>, AADI, LCD<sup>256</sup>, Vishwas, Inclusive Planet<sup>257</sup>, DRA, AIDA, AFA</li> </ul>

<sup>255</sup> This provision recognizes the unsoundness of mind as a disqualification for holding or continuing to hold the office of member of Central Advisory Board and State Advisory Board whereas the bill is premised on the legal capacity of all groups of persons with disabilities. Thus, such a disqualification on that ground runs counter to the spirit of the UNCRPD and the bill

<sup>256</sup> 'Unsound' mind as a reason to disqualify a member in the advisory board amounts to "discrimination on the basis of disability". This violates the very principle and spirit of the RPD Bill. This should be deleted.

<sup>257</sup> The finding of a person to be of "unsound mind" such that they are deemed incapacitated to hold any post is violative of the UNCRPD as it is specifically linked to disabilities.

Sub Clause	Current text	Suggestions
	<p>(c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or</p> <p>(d) is, or at any time has been, convicted of an offence under this Act, or</p> <p>(e) has so abused in the opinion of the State Government his position as a Member as to render his continuance in the State Advisory Board detrimental to the interests of the general public.</p> <p>(2) No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.</p> <p>(3) Notwithstanding anything contained in sub-section (1) or sub-section (5) of section 66, a Member who has been removed under this section shall not be eligible for renomination as a Member.</p>	

### Clause 68: Vacation of seats

Sub Clause	Current text	Suggestions
68	If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 67 his seat shall become vacant.	No suggestions

## Clause 69: Meetings of State Advisory Board on disability

Sub Clause	Current text	Suggested Text
69	The State Advisory Board shall meet at least once in every six months and shall observe such rules or procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.	<p>Replace:</p> <ul style="list-style-type: none"> <li>“six months” with “four months”. - DLU South</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>Here too it is necessary to add the subclause stating that the minutes to be regarded as “public document”. - Ketan Kothari</li> </ul>

## Clause 70: Functions of State Advisory Board on disability

Sub Clause	Current text	Suggestions
70 (1)	Subject to the provisions of this Act, the State Advisory Board shall be the State-level consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights.	No suggestions
70 (2) (a) to (d)	<p>In particular and without prejudice to the generality of the foregoing provisions, the State Advisory Board on disability shall perform the following functions, namely:—</p> <p>(a) advise the State Government on policies, programmes, legislation and projects with respect to disability;</p> <p>(b) develop a State policy to address issues concerning persons with disabilities;</p> <p>(c) review and coordinate the activities of all Departments of the State Government and other Governmental and non-Governmental Organisations in the State which are dealing with matters relating to persons with disabilities;</p> <p>(d) take up the cause of persons with disabilities with the</p>	No suggestions

Sub Clause	Current text	Suggestions
	concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the State plans;	
70 (2) (e)	recommend steps to ensure accessibility, reasonable accommodation, non discrimination for persons with disabilities, services and the built environment and their participation in social life on an equal basis with others;	<p>Comment:</p> <ul style="list-style-type: none"> <li>State advisory board on disability shall recommend steps to ensure non discrimination of persons with disabilities vis-à-vis education &amp; employment. - DLU South</li> </ul>
70 (2) (f)	monitor and evaluate the impact of laws, policies and programmes designed to achieve full participation of persons with disabilities; and	<p>Redrafted text:</p> <ul style="list-style-type: none"> <li>Undertake a study on the laws and legal provisions which discriminate against persons with disabilities and undertake the study of the impact of laws, policies and programmes to achieve full participation of persons with disabilities; and<sup>258</sup> - Inclusive Planet and DRA</li> </ul>
70 (2) (g)	such other functions as may be assigned from time to time by the State Government.	No suggestions

<sup>258</sup> The UNCRPD under Article 4 mandates that the State Parties take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.



## Clause 71: District-level Committee on disability

Sub Clause	Current text	Suggestions
71	The State Government shall constitute District-level Committee on disability to perform such functions as may be prescribed by it.	<p>Comments:</p> <ul style="list-style-type: none"> <li>• Constitution to be defined - Vishwas</li> <li>• Constitution of the district level committees shall be detailed and shall include persons with disabilities as members apart from the NGOs concerning persons with disabilities. - DLU South</li> <li>• There should be some clarity on the role of district level committees as to facilitate local level issues of the persons with disability. - VIBEWA</li> </ul>

### New Sub Clauses

#### Comment

- There should be District/block level redressal mechanism under supervision of persons with disability only - NPDO

## Clause 72: Vacancies not to invalidate proceedings

Sub Clause	Current Text	Suggestions
72	No act or proceeding of the Central Advisory Board on disability, a State Advisory Board on disability, or a District-level Committee on disability shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of such Board or Committees, as the case may be.	No suggestion

**CHAPTER XII: NATIONAL COMMISSION FOR PERSONS WITH DISABILITY**

**Clause 73: Constitution of National Commission for persons with disabilities**

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
73 (1) (a) to (j)	<p>The Central Government shall, by notification, constitute a body to be known as the National Commission for persons with disabilities to exercise the powers conferred upon and to perform the following functions, namely:—</p> <p>Constitution of National Commission for persons with disabilities.</p> <p>(a) identify, suomotu or otherwise, provisions of any law, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;</p> <p>(b) inquire, suomotu or otherwise with respect to deprivation of rights of persons with disabilities and safeguards available to them in respect of matters for which the Central Government is the appropriate Government and take up the matter with the appropriate authorities for corrective action;</p> <p>(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;</p> <p>(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;</p> <p>(e) study treaties and other international instruments on the rights of persons with</p>	No suggestion

Sub Clause	Current text	Suggestions
	<p>disabilities and make recommendations for their effective implementation;</p> <p>(f) undertake and promote research in the field of the rights of persons with disabilities;</p> <p>(g) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;</p> <p>(h) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;</p> <p>(i) monitor utilisation of funds disbursed by the Central Government for the benefit of persons with disabilities; and</p> <p>(j) such other functions as the Central Government may assign.</p>	
73 (2)	<p>The National Commission shall consist of a Chairperson from amongst persons of eminence with a distinguished record of service of not less than twenty-five years in the field of disability, and two Members with distinguished record of service of not less than twenty years in the field of rehabilitation, advocacy, law, management and technology concerning disability matters: Provided that out of the two Members, one Member shall be a person with disability.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• The National Commission shall consist of a Chairperson <u>as far as is practicable a person with disability</u> from amongst persons of eminence....<sup>259</sup> - Ketan Kothari</li> <li>• the words "the Chairperson and" after the phrase "provided that". - OSDN</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• The National Commission shall consist of a chairperson <u>who is a person with disability</u> with distinguished record of service of not less than twenty five years in the field of disability, and two members with distinguished record of service of not less than twenty years in the field of</li> </ul>

<sup>259</sup>This needs to be corrected since it almost gives a feeling that the chairman will never be a person with disability. It would be better if we could say that as far as possible the chairman could be person with disability.

Sub Clause	Current text	Suggestions
		<p>rehabilitation, advocacy, law, management and technology concerning disability matters: Provided that out of the two members one member <u>shall necessarily be a person with disability ensuring representation to each category of benchmark disability by rotation.</u><sup>260</sup>- DRG , AADI and AIDA</p> <ul style="list-style-type: none"> <li>● The National Commission shall consist of a Chairperson from amongst persons of eminence with a distinguished record of service of not less than twenty-five years in the field of disability, and <u>three</u> Members with distinguished record of service of not less than twenty years in the field of rehabilitation, advocacy, law, management and technology concerning disability matters: Provided that out of the <u>three Members and Chairperson, at least three persons shall be persons with disability, and at least one of these shall be a woman with a disability.</u><sup>261</sup> - Inclusive Planet and DRA</li> <li>● The Chairperson of National Commission for persons with disabilities shall be a person with disability of eminence working in the field of cross disability. - DLU South</li> <li>● The National Commission shall consist of a Chairperson who is a person of eminence with <u>considerable experience</u> in the field of disability, and two Members with</li> </ul>

<sup>260</sup> The chairperson of the commission has to be a person with disability and clear stipulation should be made to that effect in the provision.

<sup>261</sup> There needs to be accommodation of the principle of "nothing about us, without us". The National Commission should reflect this, even if the Chairperson is not a person with a disability, a majority of the members should always be so.

Sub Clause	Current text	Suggestions
		<p><u>considerable experience</u> in the field of rehabilitation, advocacy, law, management and technology concerning disability matters: Provided that <u>the chairperson may be a person with disability</u> and out of the two Members, one Member shall be a person with disability.- DAF</p> <ul style="list-style-type: none"> <li>• Chairperson should be a person with disability/caregiver, shall appoint all committees related to implementation of acts/policies for the disabled - NPDO</li> </ul>
73 (3)	The head office of the National Commission shall be in the National Capital Region, Delhi.	No suggestions

### Clause 74: Selection and appointment of Chairperson and Members

Sub Clause	Current Text	Suggestions
74 (1) (a) to (d)	<p>(1) The Central Government shall, for the purpose of selection of the Chairperson and the Members of the National Commission, constitute a Selection Committee consisting of—</p> <p>(a) Cabinet Secretary—Chairperson;</p> <p>(b) Secretary in charge of the Ministry or the Department responsible for administration of this Act as the convener— Member;</p> <p>(c) Secretary in charge of the Ministries or the Departments of the Central Government dealing with health and personnel—Members;</p> <p>(d) two experts in the field of empowerment and rehabilitation of persons with disability matters as may be nominated by the Central Government—Members.</p>	<p>Redrafted text:</p> <p>(1) The Central Government.....a Selection Committee consisting of—</p> <p>(a) Chief Justice of Supreme Court;</p> <p>(b) Chairperson National Human Rights Commission ;</p> <p>(c) Chairperson National Commission for Women;</p> <p>(d) Three Chief Justice of High Courts of India;</p> <p>(e) Two experts in the field of empowerment and rehabilitation of persons with disability matters as may be nominated by the Central</p>

<b>Sub Clause</b>	<b>Current Text</b>	<b>Suggestions</b>
		Government—Members. - DAF
74 (2) to (6)	<p>(2) The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the National Commission and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Commission, make a reference to the Selection Committee for filling up of the vacancy.</p> <p>(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the National Commission within two months from the date on which the reference is made to it.</p> <p>(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.</p> <p>(5) The Selection Committee, before recommending any person for appointment as a Chairperson or other Member of the National Commission, shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member.</p> <p>(6) No appointment of the Chairperson or other Member of the National Commission shall be invalid merely by reason of any vacancy in the Selection Committee.</p>	No suggestions

## Clause 75: Term of office of Chairperson and Members

Sub Clause	Current Text	Suggestions
75 (1) and (2)	<p>(1) The Chairperson and a Member of the National Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for another term of three years.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—</p> <p>(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or</p> <p>(b) be removed from his office in accordance with the provisions of section 76.</p>	No suggestion

## Clause 76: Removal of Chairperson and Members

Sub Clause	Current text	Suggestions
76 (1)	<p>Notwithstanding anything contained in sub-section (1) of section 75, the Central Government may, by order, remove from office the Chairperson or any other Members, if the Chairperson or as the case may be, such other Member,—</p> <p>(a) has been adjudged an insolvent; or</p> <p>(b) has been convicted of an offence which, in the opinion of</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>76 (1) (c)<sup>262</sup> - Inclusive Planet<sup>263</sup>, DRA, AIDA<sup>264</sup> and AFA<sup>265</sup></li> </ul>

<sup>262</sup> Please note that Inclusive Planet, DRA, AIDA and AFA have given their inputs based on the un-amended text, which says, "(c) has become physically or mentally incapable of acting as a Member; or". We do not have their view on the amended text.

<sup>263</sup> The phrasing of the term "mentally or physically incapable" is prejudicial to persons with disabilities and thus violative of the UNCRPD. This is made worse by the fact that such termination on the grounds of mental or physical incapability can be done without giving the person the right to be heard in this regard in Subsection (2) below.

<sup>264</sup> This provision disqualifies a person to hold the office in the Commission on the ground of physical or mental incapacity, thereby implying that certain benchmark disabilities would not be entitled to be represented on this commission which is against the very spirit and foundation of UNCRPD and the bill.

<sup>265</sup> Delete the clause: This provision disqualifies a person to hold the office in the Commission on the ground of physical or mental incapacity, thereby implying that certain benchmark disabilities would not be entitled to be represented on this commission which is against the very spirit and foundation of UNCRPD and the bill.

Sub Clause	Current text	Suggestions
	<p>the Central Government, involves moral turpitude; or</p> <p>(c) has become physically or mentally incapable of acting as a Member; or</p> <p>(d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or</p> <p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest.</p> <p><b>As per the Notice of Amendments,</b>  <b>76(1) (c) to be substituted with the following text:</b>  <u>"is of unsound mind and stands so declared by a competent court; or"</u></p>	
76 (2)	No Member shall be removed under clauses (d) and (e) of subsection (1) unless he has been given a reasonable opportunity of being heard in the matter.	No suggestions

## Clause 77: Member to act as Chairperson and to discharge functions in certain circumstances

Sub Clause	Current text	Suggestions
77 (1) to (3)	<p>(1) In the event of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Central Government may designate the senior-most Member to act as the Chairperson until the day on which a Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.</p> <p>(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may authorise the</p>	No suggestions



Sub Clause	Current text	Suggestions
	<p>senior-most Member to discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.</p> <p>(3) The senior-most Member designated to act under sub-section (1) or to discharge functions of the Chairperson under sub-section (2), of the Chairperson shall continue to draw salary and allowances of a Member.</p>	

### Clause 78: Terms and conditions of service of Chairperson and Members.

Sub Clause	Current text	Suggestions
78	<p>The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members of the National Commission shall be such as may be prescribed by the Central Government: Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.</p>	No suggestions

### Clause 79: Vacancies, etc., not to invalidate proceedings of National Commission

Sub Clause	Current text	Suggestions
79 (a) to (c)	<p>No act or proceeding of the National Commission shall be invalid merely by reason of—</p> <p>(a) any vacancy in, or any defect in the constitution of, the National Commission; or</p> <p>(b) any defect in the appointment of a person acting as a Member of the National Commission; or</p> <p>(c) any irregularity in the procedure of the National Commission not affecting the merits of the case.</p>	No suggestions

## Clause 80: Procedure for National Commission

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
80 (1) to (3)	<p>(1) The National Commission shall meet at such time and place as the Chairperson may think fit.</p> <p>(2) Subject to the provisions of this Act and the rules made thereunder, the National Commission shall have the power to lay down, by regulations, its own procedure.</p> <p>(3) All orders and decisions of the National Commission shall be authenticated by the Secretary or any other officer of the National Commission duly authorised by the Chairperson in this behalf.</p>	No suggestions

## Clause 81: Officers and other staff of National Commission

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
81 (1) to (3)	<p>(1) The Central Government shall appoint an officer of the rank of an Additional Secretary to the Government of India, who shall be the Secretary to the National Commission.</p> <p>(2) Subject to such rules as may be made by the Central Government in this behalf, the National Commission may appoint such other administrative and technical officers and staff as it may consider necessary.</p> <p>(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the Central Government.</p>	No suggestions

## Clause 82: Transfer of service of existing employees

Sub Clause	Current text	Suggestions
82	<p>Subject to the provisions of this Act, every person employed in the Office of Chief Commissioner for persons with disabilities constituted under section 57 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 immediately before the date of establishment of the National Commission shall, on and from such date, become an employee of the National Commission with such designation as the National Commission may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the National Commission had not been established and shall continue to do so unless and until his employment in the National Commission is terminated or until such tenure, remuneration and terms and conditions are duly altered by the National Commission: Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.</p>	No suggestions

## Clause 83: Action by appropriate authorities on recommendation of National Commission

Sub Clause	Current text	Suggestions
83	<p>Whenever the National Commission makes a recommendation to an authority in pursuance of clause (b) of sub-section (1) of section 73, that authority shall take necessary action on it, and inform the Commission of the action taken within three months from the date of receipt of the recommendation: Provided that where an authority does not accept a</p>	<p>Modified text:</p> <ul style="list-style-type: none"> <li>Whenever the National Commission <u>issues a direction</u> to an authority in pursuance of clause (b) of subsection (1) Of 73 , that the authority shall take necessary action on it and inform the Commission of the action taken within 3 months from the date of receipt of the recommendation: Provided that where an authority <u>refuses to</u></li> </ul>

Sub Clause	Current text	Suggestions
	<p>recommendation, it shall convey reasons for non-acceptance to the National Commission within the period of three months, and shall also inform the aggrieved person.</p>	<p><u>implement the direction issued by the National Commission or fails to implement it within the prescribed period, the national Commission shall approach the head of the department/ establishment for ensuring the implementation of its direction.</u><sup>266</sup> - DRG, AADI and AIDA</p> <p>Delete:</p> <ul style="list-style-type: none"> <li>• Provided that....inform the aggrieved person. - DLU South</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• Orders of national commission toothless as those of CCPD at present. Some enforcement machinery and powers must be given to it. - VIBEWA</li> </ul>

### Clause 84: National Commission to have certain powers of civil court

Sub Clause	Current Text	Suggestions
84 (1) and (2)	<p>(1) The National Commission shall, for the purpose of discharging its functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure,1908 while trying a suit, in respect of the following matters, namely:—</p> <p>(a) summoning and enforcing the attendance of witnesses</p> <p>(b) requiring the discovery and production of any document;</p> <p>(c) requisitioning any public record or copy thereof from any court or office;</p> <p>(d) receiving evidence on affidavits; and</p>	No suggestion

<sup>266</sup> The present section dilutes the status of the directions and orders issued by the existing enforcement mechanism in the form of chief commissioner and the state commissioner for persons with disability, and thereby further weakens the enforcement machinery

<b>Sub Clause</b>	<b>Current Text</b>	<b>Suggestions</b>
	<p>(e) issuing commissions for the examination of witnesses or documents</p> <p>(2) Every proceeding before the National Commission shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the National Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.</p>	

### Clause 85: Annual and special reports of National Commission

<b>Sub Clause</b>	<b>Current Text</b>	<b>Suggestions</b>
85 (1) to (3)	<p>(1) The National Commission shall submit an annual report to the Central Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.</p> <p>(2) The Central Government shall cause the annual and special reports of the National Commission to be laid before each House of Parliament, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.</p> <p>(3) The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government</p>	No suggestion

## CHAPTER XIII: STATE COMMISSION FOR PERSONS WITH DISABILITIES

Chapter	Suggestions
XIII	<p>Comment:                      No provision about Orders of state commission exists. No analogous section to Section 83, let alone giving teeth to orders of commission. - VIBEWA</p>

### Clause 86: Constitution of State Commission for persons with disabilities

Sub Clause	Current text	Suggestions
86 (1)	A State Government shall constitute a body to be known as the State Commission for persons with disabilities or two or more States on mutual consent can have one Commission in respect of their States to exercise the powers conferred upon and to perform the following functions, namely:—	Delete: <ul style="list-style-type: none"> <li>• "or two or more States on mutual consent can have one Commission in respect of their States"<sup>267</sup> - Handicare, Inclusive Planet<sup>268</sup> and DRA</li> </ul>
86 (1) (a) to (i)	(a) identify, suomotu, or otherwise, provisions of any law, policies, programmes and procedures of the State Government, which are inconsistent with the provisions of this Act, and recommend necessary corrective steps; (b) inquire, suomotu, or otherwise, with respect to deprivation of rights of persons with disabilities and safeguards available to them, in respect of matters for	No suggestions

<sup>267</sup> *It's bizarre. Not practical. It would only give the States plenty of excuse and time to put off formation of the commission on various grounds viz. (to elaborate a few): The clause says that the State commission shall consist of three members including one Chairperson. The question would arrive which State should have the Chairperson of his choice. Same would be the bone of contention about other members and there would be disarray about clause 87 and whole thing would be chaotic.*

<sup>268</sup> *Each State must have its own State Commission and two States cannot share a common State Commission as allowed for under the draft Bill. Every State has its own diverse issues with regard to persons with disabilities and for persons with disabilities in each State to have to share resources of their State Commission with another State is unviable and displays a lack of sensitivity towards the important concerns of persons with disabilities*

Sub Clause	Current text	Suggestions
	<p>which the State Government is the appropriate Government and take up the matter with the appropriate authorities for corrective action;</p> <p>(c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;</p> <p>(d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;</p> <p>(e) undertake and promote research in the field of the rights of persons with disabilities;</p> <p>(f) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;</p> <p>(g) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;</p> <p>(h) monitor utilisation of funds disbursed by the State Government for the benefit of persons with disabilities; and</p> <p>(i) such other functions as may be assigned by the State Government from time to time.</p>	
86 (2)	<p>The State Commission shall consist of a Chairperson from amongst persons of eminence, with a distinguished record of service of not less than twenty years in the field of disability, and two Members, with distinguished record of service of not less than fifteen years in the field of rehabilitation, advocacy, law, management, technology concerning disability matters: Provided that out of the two Members, one Member shall be a person with disability.</p>	<p>Add:</p> <ul style="list-style-type: none"> <li>• the phrase "the Chairperson and" after "provided that". - OSDN</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>• The State Commission shall consist of a Chairperson from amongst persons of eminence, with a distinguished record of service of</li> </ul>

Sub Clause	Current text	Suggestions
		<p>not less than twenty years in the field of disability, and <u>three</u> Members, with distinguished record of service of not less than fifteen years in the field of rehabilitation, advocacy, law, management, technology concerning disability matters: Provided that out of the <u>three</u> Members and Chairperson, at least <u>three</u> persons shall be persons with disability, <u>and at least one of these shall be a woman with a disability.</u><sup>269</sup> - Inclusive Planet and DRA</p> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Chairperson of State Commission for persons with disabilities shall be a person with disability of eminence working in the field of Cross disability. - DLU South</li> <li>• Chairperson should be a person with disability/caregiver, shall appoint all committees related to implementation of acts/policies for the disabled - NPDO</li> </ul>
86 (3)	The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.	No suggestion

<sup>269</sup> There needs to be accommodation of the principle of "nothing about us, without us". The National Commission should reflect this, even if the Chairperson is not a person with a disability, a majority of the members should always be so.



## Clause 87: Selection and appointment of Chairperson and Members

Sub Clause	Current Text	Suggestions
87 (1)	<p>The State Government shall, for the purpose of selection of the Chairperson and the Members of the State Commission, constitute a Selection Committee consisting of—</p> <ul style="list-style-type: none"> <li>(a) Chief Secretary—Chairperson;</li> <li>(b) Secretary in charge of the Ministry or the Department responsible for administration of this Act as the convener—Member;</li> <li>(c) Secretary in charge of the Departments of the State Government dealing with Health, and Personnel—Members;</li> <li>(d) two experts in the field of rehabilitation of persons with disability matters as may be nominated by the State Government—Member.</li> </ul>	<p>Redrafted text:</p> <ul style="list-style-type: none"> <li>• The State Government shall, ....constitute a Selection Committee consisting of—</li> <li>(a) Chief Justice and two judges of the High Court</li> <li>(b) Two experts in the field of rehabilitation of persons with disability matters as may be nominated by the State Government- Member. - DAF</li> </ul>
87 (2) to (6)	<ul style="list-style-type: none"> <li>(2) The State Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the State Commission and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Commission, make a reference to the Selection Committee for filling up of the vacancy.</li> <li>(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the State Commission within two months from the date on which the reference is made to it.</li> <li>(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.</li> <li>(5) Before recommending any person for appointment as a Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member.</li> </ul>	No suggestions

Sub Clause	Current Text	Suggestions
	(6) No appointment of the Chairperson or other Member of the State Commission shall be invalid merely by reason of any vacancy in the Selection Committee.	

### Clause 88: Term of office of Chairperson and Members

Sub Clause	Current Text	Suggestions
88 (1) and (2)	<p>(1) The Chairperson and Members of the State Commission shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for re-appointment for another term of three years.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—</p> <p>(a) relinquish his office by giving in writing to the State Government a notice of not less than three months; or</p> <p>(b) be removed from his office in accordance with the provisions of section 89.</p>	No suggestion

### Clause 89: Removal of Chairperson and Members

Sub Clause	Current text	Suggestions
89 (1)	<p>Notwithstanding anything contained in sub-section (1) of section 88, the State Government may, by order, remove from office the Chairperson or any other Members, if the Chairperson or, as the case may be, such other Member,—</p> <p>(a) has been adjudged an insolvent; or</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>• 89 (1) (c)<sup>270</sup> - Inclusive Planet, DRA, AIDA and AFA</li> </ul>

<sup>270</sup> Please note that Inclusive Planet, DRA, AIDA and AFA have given their inputs based on the un-amended text, which says, "(c) has become physically or mentally incapable of acting as a Member; or". We do not have their view on the amended clause.

Sub Clause	Current text	Suggestions
	<p>(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or  (c) has become physically or mentally incapable of acting as a Member; or  (d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or  (e) has so abused his position as to render his continuance in office prejudicial to the public interest.</p> <p><b>As per the Notice of Amendments, 89 (1) (c) to be substituted with the following text:</b>  <u>"is of unsound mind and stands so declared by a competent court; or"</u></p>	
89 (2)	No Member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter	No suggestions

**Clause 90: Member to act as Chairperson and to discharge functions in certain circumstances.**

Sub Clause	Current text	Suggestions
90 (1) to (3)	<p>(1) In the event of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the State Government may designate the senior-most Member to act as the Chairperson until the day on which a Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.</p> <p>(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the State Government may authorise the senior-most Member to discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.</p> <p>(3) The senior-most Member designated to act under sub-section (1) or to discharge</p>	No suggestions

Sub Clause	Current text	Suggestions
	functions of the Chairperson under sub-section (2), of the Chairperson shall continue to draw salary and allowances of a Member	

### Clause 91: Terms and conditions of service of Chairperson and Members

Sub Clause	Current text	Suggestions
91	The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members of the State Commission shall be such as may be prescribed by the State Government: Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.	No suggestions

### Clause 92: Vacancies, etc., not to invalidate the proceedings of State Commission

Sub Clause	Current text	Suggestions
92	No act or proceeding of the State Commission shall be invalid merely by reason of— (a) any vacancy in, or any defect in the constitution of, the State Commission; or (b) any defect in the appointment of a person acting as a Member of the State Commission; or (c) any irregularity in the procedure of the State Commission not affecting the merits of the case.	No suggestion

### Clause 93: Procedure of State Commission

Sub Clause	Current text	Suggestions
93 (1) to (3)	<p>(1) The State Commission shall meet at such time and place as the Chairperson may think fit.</p> <p>(2) Subject to the provisions of this Act and the rules made thereunder, the State Commission shall have the powers to lay down, by regulations, its own procedure.</p> <p>(3) All orders and decisions of the State Commission shall be authenticated by the Secretary or any other officer of the State Commission duly authorised by the Chairperson in this behalf.</p>	No suggestion

### Clause 94: Officers and other staff of State Commission

Sub Clause	Current text	Suggestions
94 (1) to (3)	<p>(1) The State Government shall appoint an officer of the rank of Additional Secretary to the State Government who shall be the Secretary to the Commission.</p> <p>(2) Subject to such rules as may be made by the State Government in this behalf, the Commission may appoint such other administrative and technical officers and staff as it may consider necessary.</p> <p>(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.</p>	No suggestion

### Clause 95: Transfer of service of existing employees to State Commission

Sub Clause	Current text	Suggestions
95	Subject to the provisions of this Act, every person employed in the Office of State Commissioner for persons with disabilities constituted under section 60 of the	No suggestion

Sub Clause	Current text	Suggestions
	<p>Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 immediately before the date of establishment of the State Commission shall, on and from such date becomes an employee of the State Commission with such designation as the State Commission may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held on such date if the State Commission had not been established and shall continue to do so unless and until his employment in the State Commission is terminated or until such tenure, remuneration and terms and conditions are duly altered by the State Commission: Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the approval of the Central Government.</p>	

### Clause 96: Annual and special reports of State Commission

Sub Clause	Current text	Suggestions
96 (1) to (3)	<p>(1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.</p> <p>(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.</p> <p>(3) The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.</p>	No suggestion

## Clause 97: Transitory provisions

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
97	The Chief Commissioner for persons with disabilities and the State Commissioners for persons with disabilities appointed under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, shall continue to so function and exercise the powers conferred on them under that Act, until the National Commission and the State Commission are constituted under this Act, but on the constitution of the National Commission and the State Commission, as the case may be, the Chief Commissioner for persons with disabilities and the State Commissioners for persons with disabilities shall cease to hold office.	No suggestion

## CHAPTER XIV: SPECIAL COURT

Chapter	Current text	Suggestions
XIV	Special Court	Change title to: <ul style="list-style-type: none"> <li>• "Court for Persons with Disabilities"<sup>271</sup> - LCD</li> <li>• "District Disability Rights Tribunal" - DAF</li> </ul>

### Clause 98: Special Court

Sub Clause	Current text	Suggestions
98	For the purpose of providing speedy trail, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act.	Comment: <ul style="list-style-type: none"> <li>• If special courts have to exist, the law shall also ensure access of persons with disabilities in all other courts as well.<sup>272</sup>- DLU South</li> </ul> Redrafted text: <ul style="list-style-type: none"> <li>• The State Government shall, with the concurrence of the Chief Justice of the High Court, drawn up rules for hearing trials regarding offences under this Act by Courts of Sessions.<sup>273</sup> - Inclusive Planet and DRA</li> </ul> (1) There shall be established District Disability Rights Tribunals at the district level in each State; (2) The Tribunal shall consist of three members: <ol style="list-style-type: none"> <li>(a) Presiding officer being a judge</li> <li>(b) an advocate who has practiced for not less than five years;</li> <li>(c) a member who is an experiential expert or a subject expert with experience</li> </ol>

<sup>271</sup> Delete 'Special' and delete all subsequent references to 'Special' in Chapter XIV. This bill defines the rights and entitlements of persons with disabilities; hence the use of the word 'Special' is patronising and reinforces the negative stereotype that the rights of persons with disabilities are 'Special'.

<sup>272</sup> Will Special courts lead to further exclusion of disabilities instead of speedy disposal of cases?

<sup>273</sup> Appointing one district Court as a Special Court is not an optimal solution for persons with disabilities. The idea should be to allow persons with disabilities larger flexibility in accessing judicial remedies instead of being forced to come all the way to the district headquarters to follow up on their cases.



Sub Clause	Current text	Suggestions
		<p>in disability human rights or human rights, preferably a women with disabilities;</p> <p>(3) The above appointments shall be in accordance in with prescribed procedure;</p> <p>(4) The salary allowances and other emoluments of the Presiding officer shall be of senior judge, civil division and that of the member Junior Judge civil division. - DAF</p>

## New Sub Clauses

### Suggested Text

- Every appropriate Govt. shall establish Disability Rights Tribunal for adjudication of the cases of deprivation and violation of rights conferred under this Act or under any other law for the time being in force or Rules and Regulations framed thereunder or facilities granted through executive instructions or matters involving discrimination on the ground of disability of any kind in every district.<sup>274</sup> - AIDA, DRG and AADI

## Clause 99: Special Public Prosecutor

Sub Clause	Current text	Suggestions
99 (1)	For every Special Court, the State Government may, by notification, specify a Public Prosecutor or appoint an advocate, who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• <u>For every District</u>, the State Government may, by notification, specify a Public Prosecutor or appoint an advocate, who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court. <u>The Special Public Prosecutor so appointed will hold charge for the entire district and shall be imparted</u></li> </ul>

<sup>274</sup>To provide for establishment of the Disability Rights Tribunal in line with Industrial Tribunal. Section 98 of the Bill envisages a special court for trying the offences under it of the level of sessions judge in each district. However, the bill does not provide for seeking enforcement of rights under the Bill in the form of a Tribunal. As such, the Bill does not provide any judicial machinery for enforcement of rights under the bill which are of civil nature.

Sub Clause	Current text	Suggestions
	Court.	<p><u>training in disability and on communication with persons with disabilities.</u><sup>275</sup> - Inclusive Planet and DRA</p> <p>Comment:</p> <ul style="list-style-type: none"> <li>To be deleted and redrafted as per the Redrafted Text given below - DAF</li> </ul>
99 (2)	The Special Public Prosecutor appointed under sub-section (1) shall be entitled to receive such fees or remuneration as may be prescribed by the State Government.	<p>Comment:</p> <ul style="list-style-type: none"> <li>To be deleted and redrafted as per the Redrafted Text given below - DAF</li> </ul>

## Redrafted Clause

- **By DAF**

**99.**

Jurisdiction of the District Disability Rights Tribunal: The tribunal shall have jurisdiction over such number of Revenue Districts as may be notified keeping in view the territorial expansion of districts in each state and the demographic concentration of persons with disabilities;

**99a. Panel of Disability Rights Defenders**

- (1) Each District Disability Rights Tribunal shall have a panel of three advocates attached to it as Disability Rights Defenders;
- (2) The Disability Rights Defenders shall be attached to the respective Tribunal on a full-time basis and will assist the Tribunal in the conduct of the proceedings before it for offences committed under this act;
- (3) Advocates with three years practicing experience at the bar shall be eligible for appointment as Disability Rights defenders;
- (4) The pay and allowances of Disability Rights Defenders shall be as prescribed.

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<sup>275</sup> Persons with disabilities require means of communicating with the Prosecutor and the Prosecutor to have special knowledge regarding the particular circumstances and challenges faced by different impairments.

**99b. Proceedings before the District Disability Rights Tribunal**

- (1) Any person with disability aggrieved by the deprivation of the rights guaranteed under this Act and the National Trust Act can petition the District Disability Rights Tribunal in person or by post by such procedure as may be prescribed;
- (2) The tribunal shall tour the entire area under its jurisdiction and hear dispose of matters at mandal, tehsil or taluk level headquarters closest to the place where the petitioner with disability resides;
- (3) On receipt of a complaint, the District Disability Rights Tribunal shall provide a copy of the complaint to the opposite party mentioned in the complaint directing such party to respond within a period of thirty days;
- (4) The District Disability Rights Tribunal shall, after considering the written response to the complaint, communicate to both parties the place where the proceeding is to be conducted and give a reasonable opportunity to both the parties to present their case in person or through legal counsel. Provided that persons with disabilities shall be assisted by the Disability Rights Defenders attached to the Tribunal to present their case.
- (5) The decision of the District Disability Rights Tribunal shall be final.

**99c. State Disability Rights Tribunal**

- (1) There shall be established State Disability Rights Tribunal in each state;
- (2) The tribunal shall have three members:
  - (a) A Presiding Officer from amongst the District Judges in the State with the concurrence of the Chief Justice of the High Court for a period of three years or a person who has served as a presiding officer in one of the District Disability Tribunals in the state for at least a period of 5 years;
  - (b) An advocate with five years of experience;
  - (c) Person with disabilities with relevant experience, preferably a women with disabilities.
- (3) The appointments shall be made in accordance with such procedure as may be prescribed.

**99d. Jurisdiction of the State Disability Rights Tribunal**

- (1) If the District Disability Rights Tribunal is of the opinion that any matter before it involves important question of law then it may refer the same to the State Disability Rights Tribunal for its decision;
- (2) If there is a difference of opinion between the Presiding Judge and Member of the District Disability Rights Tribunal then the same shall be referred to the State Disability Rights Tribunal for its decision;
- (3) If the State Disability Tribunal is of the view that any case has been pending before the District Disability Rights Tribunal for an unduly long time then it may withdraw the same to its file and dispose it off;
- (4) If the State Disability Rights Tribunal is of the opinion that a similar question is pending for decision before more than one District Disability Rights Tribunal under its jurisdiction then it may withdraw all those cases from different Tribunals to its file and dispose them off in accordance with law; Provided that the State Disability Rights Tribunal may either exercise this power suomotu or on application of any interested person
- (5) The State Disability Rights Tribunal may either suomotu or on application take cognizance, of any large scale or systemic infringement of rights of persons with disabilities and pass appropriate orders or directions;

- (6) Any person aggrieved by a compliance notice or direction of State Disability Rights Authority made under this Act, and the attendant regulations may appeal against the same to the State Disability Rights Tribunal within a period of 30 days.

**99e. Proceedings before the State Disability Rights Tribunal**

- (1) The State Disability Rights Tribunal shall devise its own procedure to conduct its proceedings provided that such procedure is in accordance with the principles of natural justice;
- (2) The State Disability Rights Tribunal shall ordinarily sit as a full panel of three members; However if the presiding officer is on leave he may authorize the other two members to function as a Tribunal. In the event of a member being absent by reason of leave or post being vacant the presiding officer and the other member will function as the Tribunal
- (3) In the event of difference of opinion, the majority opinion shall prevail;
- (4) The decision of the State Disability Rights Tribunal shall be final.
- (5) All appeals from the State Disability Rights Tribunal shall lie with the High Court of the concerned state.

**99f. National Disability Rights Tribunal**

- (1) There shall be established a National Disability Rights Tribunal in New Delhi;
- (2) The tribunal shall have three members:
  - (a) A Presiding Officer from amongst the High Court Judges with the concurrence of the Chief Justice of India for a period of three years or a person who has served as a presiding officer in one of the State Disability Rights Tribunals for at least a period of 5 years;
  - (b) An advocate with five years of experience;
  - (c) Person with disabilities with relevant experience, preferably a women with disabilities.
- (3) The appointments shall be made according to prescribed procedure.

**99g. Powers and Functions of the Disability Rights Tribunals**

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

**99h. Powers of the Disability Rights Tribunals**

- (1) For the purposes of this section, the Disability Rights Tribunals shall have the same powers as that of a Civil Court under the Code of Civil Procedure 1908 while trying a suit in respect of the following matters, namely:
  - (a) summoning and enforcing the attendance of any person and examining him on oath;

- (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;
  - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;
  - (e) issuing commissions for the examination of witnesses or documents;
  - (f) reviewing its decisions;
  - (g) dismissing an application for default or deciding it ex parte;
  - (h) setting aside any order of dismissal of any application for default or any order passed by it ex parte; and
  - (i) have a summary trial, in accordance with Chapter XXI CrPC, 1973
  - (j) any other matter which may be prescribed by the Concerned Government.
- Proviso: The Disability Rights Tribunal shall make all efforts to ensure speedy trial.

**99i. Execution of the Orders of the Disability Rights Tribunals**

- (1) An order or decision of the Tribunal under this Act shall be executable by the Tribunal **as a decree of a civil court**, and for this purpose, the Tribunal shall have all the powers of a civil court;
- (2) Every order passed by the District Disability Rights Tribunals shall be implemented within a period of four months and the authority to implement the same shall be the Revenue Divisional Officer or Sub Divisional Magistrate as the case may be having jurisdiction over the area where the person in whose favour the order is made resides. The orders of the State and National Disability Rights Tribunals shall be implemented by District Collector, District Magistrate or Deputy Commissioners as the case may be having jurisdiction over the area where the person in whose favour the order is made resides.

**99j. Conditions of Service of Members**

The salaries and allowances payable to, and other terms and conditions of service of the members of the Disability Rights Tribunals, including the Disability Rights Defenders, shall be such as may be prescribed.

**99k. Officers and other Staff of Disability Rights Tribunals**

- (1) The central government in the case of the National Disability Rights Tribunal and the respective state governments in the case of other tribunals shall be responsible for providing the staff and necessary infrastructure for the effective functioning of the Tribunals;
- (2) Subject to such Rules as may be made by the Central Government in this behalf, the Disability Rights Tribunals may appoint such other technical and scientific staff as it may consider necessary;
- (3) The salaries, allowances and conditions of service of the officers and other staff shall be such as may be prescribed.

## Chapter XV: NATIONAL FUND FOR PERSONS WITH DISABILITIES

### Clause 100: National Fund for persons with disabilities

Sub Clause	Current text	Suggestions
100 (1)	<p>There shall be constituted a Fund to be called the National Fund for persons with disabilities and there shall be credited thereto—</p> <p>(a) all sums available under the Fund for people with disabilities, constituted vide notification no. S.O. 573 (E), dated the 11th August, 1983 and the Trust Fund for Empowerment of Persons with Disabilities, constituted vide notification No. 30-03/ 2004-DDII, dated the 21st November, 2006, under the Charitable Endowment Act, 1890</p> <p>(b) all sums payable by banks, corporations, financial institutions in pursuance of judgment dated the 16th April, 2004 of the Hon'ble Supreme Court in Civil Appeal Nos. 4655 and 5218 of 2000;</p> <p>(c) all sums received by way of grant, gifts, donations, benefactions, bequests or transfers;</p> <p>(d) all sums received from the Central Government including grants-in-aid;</p> <p>(e) all sums from such other sources as may be decided by the Central Government.</p>	No suggestion
100 (2)	The Fund for persons with disabilities shall be utilised and managed in such manner as may be prescribed.	<p>Add:</p> <ul style="list-style-type: none"> <li>• There shall be a provision deliberating the purposes on which the fund and its excess corpus would be spent on. The list on the same shall include Assistive devices including AAC devices. The chief executive officer of the National Fund for persons with</li> </ul>

Sub Clause	Current text	Suggestions
		<p>disabilities shall be a person with disability of eminence working with Cross disability or a person without disability of eminence working in the field of cross disability. - DLU South</p> <p>Comment:</p> <ul style="list-style-type: none"> <li>No uses for fund have been prescribed under the Act. - VIBEWA</li> </ul>

## Clause 101: Accounts and audit

Sub Clause	Current text	Suggestions
101 (1) to (4)	<p>(1) The Central Government shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Fund including the income and expenditure accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.</p> <p>(2) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable from the Fund to the Comptroller and Auditor-General of India.</p> <p>(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Fund shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government account,</p>	No suggestion

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
	<p>and in particular, shall have the right to demand production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Fund.</p> <p>(4) The accounts of the Fund as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be laid before each House of Parliament by the Central Government.</p>	



## CHAPTER XVI: OFFENCES AND PENALTIES

### Clause 102: Punishment for contravention of provisions of Act or rules or regulations made thereunder

Sub Clause	Current text	Suggestions
102	Any person who contravenes any of the provisions of this Act, or of any rule or regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both, and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.	<p>Replace:</p> <ul style="list-style-type: none"> <li>“person” and “company” to “persons, company, establishment, and public servant”.<sup>276</sup> - DRG and AADI</li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>Any person who contravenes any of the provisions of this Act, or of any rule or regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to <u>fifty thousand rupees</u> or with both, and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than <u>five lakh rupees</u> but which may extend to <u>twenty lakh rupees</u> or with both.<sup>277</sup> - Inclusive Planet and DRA</li> </ul>

<sup>276</sup> The proposed section does not provide for imposing penalty or punishment on the Government authorities, companies and departments in the contravention of any of the provisions of this Bill, though the likely breach of the provisions is from the government authorities and public servants.

<sup>277</sup> The fines as stated in the earlier draft are not reflective of the seriousness of the offence, and in fact it would be worthwhile for some establishments to pay off the fine instead of actually investing in completing the accessibility provisions.

## Clause 103: Offences by companies

Sub Clause	Current text	Suggestions
Title	Offences by companies	<ul style="list-style-type: none"> <li>Change the title to "Offences of Establishments" - DAF</li> </ul>
103 (1)	<p>Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:</p> <p>Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>"Provided that nothing....commission of such offence." - DLU South and Ektha</li> </ul> <p>Replace:</p> <ul style="list-style-type: none"> <li>the word "company" with the word "establishment". - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>The provisions of Section 103 sub sections 1 &amp; 2, must be enacted in the sections relating to education and employment (the section must also be applicable to private establishments and education institutions) - Ektha</li> <li>To be deleted and redrafted per the Redrafted Text given in the end. - AIDA</li> </ul>
103 (2)	<p>(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be</p>	<p>Replace:</p> <ul style="list-style-type: none"> <li>the word "company" with the word "establishment". - DAF</li> </ul> <p>Delete:</p> <ul style="list-style-type: none"> <li>"Explanation.....partner in the firm". - DAF</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>The provisions of Section 103 sub sections 1 &amp; 2, must be enacted in the sections relating to education and employment (the section must also be applicable to private establishments and education institutions) - Ektha</li> </ul>

Sub Clause	Current text	Suggestions
	liable to be proceeded against and punished accordingly. Explanation.—For the purposes of this section,— (a) “company” means any body corporate and includes a firm or other association of individuals; and (b) “director”, in relation to a firm, means a partner in the firm.	<ul style="list-style-type: none"> <li>• To be deleted and redrafted per the Redrafted Text given in the end. - AIDA</li> </ul>

## Redrafted Clause

### • By AIDA

Any person, including public servant who contravenes any of the provisions of this Act, or of any Rule or Regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months or with a fine which may extent to ten thousand rupees or with both and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.<sup>278</sup>

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<sup>278</sup>The present provision makes a person liable for punishment in respect of offences committed by him under the Act which include violation of any provision of this Act. However, it has categorically excluded public servants who in majority of the cases would be liable for such offences as most of the violations would take place on the part of public servant who have to discharge obligations on behalf of the appropriate Govt. under the provisions of this Act therefore the necessary revision is required to include them.

## Clause 104: Punishment for fraudulently availing any benefit meant for persons with benchmark disabilities

Sub Clause	Current text	Suggestions
104	Whoever, fraudulently avails or attempts to avail any benefit meant for persons with benchmark disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both	<p>Replace:</p> <ul style="list-style-type: none"> <li>the phrase "benchmark disabilities" with "all Disabilities" - Ektha</li> <li>"two years" with "seven years". - VIBEWA</li> <li>"one lakh rupees" with "five lakh rupees" - VIBEWA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>To be deleted and redrafted as per the Redrafted Text given below - AIDA</li> <li>Benefit should be forfeited with retrospective effect, besides, unique sentences like community service should be laid down. - VIBEWA</li> </ul>

### Redrafted Clause

- **By AIDA**

104(1)

Where an offence under this act has been committed by a company including a Corporation established by or under a Central Act or State Act or a body owned or controlled or aided by the Govt. as well as a Govt. company as defined in Section 2 of the Companies Act, 2013, every person who at the time the offence was committed was incharge of, and was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly provided that nothing contained in this sub section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence

104(2)

Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager,

Secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation- For the purpose of this section,-

(a) "Company" means anybody corporate and includes a firm or other association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm. <sup>279</sup> - AIDA

## Clause 105: Punishment for offences of atrocities

Sub Clause	Current text	Suggestions
105 (a)	Whoever,— (a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;	Modified text: <ul style="list-style-type: none"> <li>Intentionally <u>abuses</u>, insults or intimidates with intent to humiliate a person with disability in any place within <u>private</u> or public view;<sup>280</sup> - LCD</li> <li>Intentional or <u>unintentional</u> humiliation shall be considered an offence and shall be considered so if it happens in a public view or <u>private</u>. - DLU South</li> </ul> Delete: <ul style="list-style-type: none"> <li>"within public view"<sup>281</sup> - Inclusive Planet and DRA</li> </ul> Comment: <ul style="list-style-type: none"> <li>Any exploitation Sexual or otherwise (inclusive of verbal, emotional, physical, social, etc) shall be considered as offence under clause 105. - DLU South</li> </ul>
105 (b)	assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;	No suggestions

<sup>279</sup>The present provision does not include Govt. companies and therefore it is suggested to revise this provision for including Govt. companies as well.

<sup>280</sup> Our suggestion is to expand the scope of this clause to include abuse that could be physical, emotional, verbal, economic, mental or sexual. The inclusion of 'private' is to expand the scope of offences and atrocities that happen at home or institutions that is within four walls and not in public view.

<sup>281</sup> The use of the term "public place" is irrelevant to the hate crimes against persons with disabilities. The jurisprudence surrounding "public place" in the Prevention of SC/STs Atrocities Act has led to many cases of humiliation and insult of persons with disabilities going unpunished because the venue was not a "public" one.

Sub Clause	Current text	Suggestions
105 (c)	having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;	
105 (d)	being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;	<p>Modified text:</p> <ul style="list-style-type: none"> <li>• being in a position to dominate the will of a child, woman or <u>man with disability</u> and uses that position to exploit <u>her/him</u> sexually<sup>282</sup> - LCD</li> <li>• being in a position to dominate the will of a <u>person with disability</u> and uses that position to exploit the <u>person</u> sexually;<sup>283</sup> - Inclusive Planet and DRA</li> </ul> <p>Comments:</p> <ul style="list-style-type: none"> <li>• Men and boys with disabilities shall also be considered under this section. - DLU South</li> <li>• Gender equality must be maintained for section 105. - Ektha</li> </ul>
105 (e)	voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;	No suggestions
105 (f)	performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for	<p>Add:</p> <ul style="list-style-type: none"> <li>• "or infertility" after "termination of pregnancy". - DAF</li> </ul> <p>Delete:</p> <ul style="list-style-type: none"> <li>• the phrase "except in cases where medical procedure for termination of pregnancy is done in severe cases of disability"</li> </ul>

<sup>282</sup> Men and boys with disabilities can also be subjected to sexual exploitation.

<sup>283</sup> As the Indian Penal Code has been amended as of last year to expand the definition of rape and to make rape victims gender neutral, it is important that this provision also reflects this.

Sub Clause	Current text	Suggestions
	<p>termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability;</p> <p>shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.</p>	<p>and with the opinion of a registered medical practitioner and also with the consent of the guardian of the women with disability” - DRG<sup>284</sup>, AADI, DAF, Inclusive Planet<sup>285</sup> and DRA</p>
New Sub Clause		<p>Suggested text:</p> <p>(g) Any person acting as a care-giver of the person with disability, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to facilitate, or negligently fails to prevent such medical procedure from being performed, shall be punishable with imprisonment which may extend to five years and with fine.</p> <p>(h) Whoever voluntarily or knowingly denies food or fluids to any person with disability or aids or abets in such denial shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine. – DAF</p>

<sup>284</sup> The phrase contradicts the legal capacity of a woman with disability.

<sup>285</sup> The UNCRPD protects the reproductive rights of women with disabilities. The right of women with disabilities to bear children was even recognized by the Supreme Court of India. The provision as drafted allowed for women with “severe” disabilities to have their pregnancies terminated against their will. This is unacceptable and needs to be dropped from the Section.

## New Sub Clauses

### Suggested Text

- **By DAF**

#### **Punishment for Contravention of Accessibility Norms for Built Infrastructure**

- (1) Any individual or any organization or establishment which fails to comply with the provisions under Section 43 shall be punished with:
- (a) Suspension of the supply of water and electricity till the accessibility requirements are fulfilled; or
  - (b) Cancellation, revocation or suspension of the license of the builder; or
  - (c) Fine which may extend to five percent of the market value or the estimated market value, as the case may be, of the building; or
  - (d) A combination of two or more of the above.
- (2) If the offender fails to comply with the provisions of Section 43 within a period of six months from the date of conviction, the offender shall be punished with an additional fine which may extend up to one lakh rupees for every day during which such failure continues after the conviction for the first such failure.

#### **Penalty for Contravention of Duties by Service Providers**

- (1) Any service provider who fails to comply with the provisions under Section 84 shall be penalized with cancellation, revocation or suspension of service license or manufacturing; or with fine, which may extend up to one lakh rupees or with both;
- (2) If the offender fails to comply with the provisions of Section 44 within a period of six months from the date of conviction, the offender shall be penalised with additional fine which may extend up to five thousand rupees for every day during which such failure continues after the conviction for first such failure.

#### **Penalty for Willfully Making False Statement**

Whoever in any application, declaration, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act before National Disability Rights Authority or State Disability Rights Authority as the case may be, or any order, regulation or direction made or given thereunder by National Disability Rights Authority or State Disability Rights Authority, wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh. - DAF



## Clause 106: Punishment for failure to furnish information

Sub Clause	Current text	Suggestions
106	Whoever, fails to produce any book, account or other documents or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day, of continued failure or refusal after the date of original order imposing punishment of fine.	No suggestion

## Clause 107: Previous sanction of appropriate Government

Sub Clause	Current text	Suggestions
107	No Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter, except with the previous sanction of the appropriate Government or a complaint is filed by an officer authorised by it in this	<p>Delete:</p> <ul style="list-style-type: none"> <li>the entire clause. - DLU South<sup>286</sup>, DAF, Ektha, VIBEWA<sup>287</sup></li> </ul> <p>Modified text:</p> <ul style="list-style-type: none"> <li>No Court shall take cognizance of an offence alleged to have been committed by an employee of the appropriate Government under this Chapter <u>during the course of their employment</u>, except with the previous sanction of the appropriate</li> </ul>

<sup>286</sup>Courts shall take cognizance of any offence committed by any employee of the appropriate government or the public

<sup>287</sup>previous sanction of the government thwarts the objective of the penalty chapter. It is used more often than not, to the detriment of the persons with disabilities. It would virtually render government servants immune to prosecution under this act.

Sub Clause	Current text	Suggestions
	behalf.	Government or a complaint is filed by an officer authorised by it in this behalf. <sup>288</sup> - Inclusive Planet and DRA

## Clause 108: Alternative punishments

Sub Clause	Current text	Suggestions
108	Where an act or omission constitutes an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any other law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such Act as provides for punishment which is greater in degree.	Delete: <ul style="list-style-type: none"> <li>the entire clause. - Inclusive Planet<sup>289</sup>, DRA, AIDA<sup>290</sup></li> </ul> Comment: <ul style="list-style-type: none"> <li>This section should be amended to include punishment for ALL the Acts under which the crimes are committed including this Act - Ektha</li> </ul>

<sup>288</sup> Sanction can only be mandated in cases where the accused was in the course of his employment. In the event that the act was of such a nature that it is not possible for it to have been done during the course of employment e.g. several offences under Section 105 of this Bill will force such cases into the requirement of sanction for prosecution. Therefore the clarification must be placed in.

<sup>289</sup> Where offences fall under multiple statutes, it is the Judge's discretion which allows for sentences to run consecutively or concurrently. There appears to be no reason as to why this decision is being made for the Judge by the inclusion of this provision.

<sup>290</sup> This provision prohibits taking of cognizance by the court of any offence committed by any employee of the appropriate Govt. under this chapter which is detrimental to the implementation and enforcement of the provisions of this Act as it is the responsibility of the employee of the appropriate Govt. to ensure that the provisions and schemes for achievement of the objectives of the Act are implemented in letter and spirit

## CHAPTER XVII: MISCELLANEOUS

### Clause 109: Application of other laws not barred

Sub Clause	Current text	Suggestions
109	The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.	<p>Add in the end:</p> <ul style="list-style-type: none"> <li>The provisions ...time being in force <u>and this act shall have overriding effect in relation to any matter or provision contrary to the provisions of this act.</u>- DAF</li> </ul> <p>Delete:</p> <ul style="list-style-type: none"> <li>the entire Clause.<sup>291</sup>- DLU South</li> </ul> <p>Redrafted Clause:</p> <ul style="list-style-type: none"> <li>The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force and to the extent of such inconsistency that other law shall be deemed to have no effect. (2)The provisions of this Act or the rules made there under shall be in addition and not in derogation of any other legislation, rules, orders or instructions which provides any entitlement or benefit to persons with disabilities.<sup>292</sup> - Inclusive Planet and DRA</li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>Make a provision that other laws negating the provisions of this Act shall not apply. - VIBEWA</li> </ul>

<sup>291</sup>The provisions of this act shall take over those of other acts, wherever appropriate, as India having ratified the Convention on the Rights of Persons with Disabilities is obliged not only to follow its provisions but also to amend all national acts in lines with UNCRPD.

<sup>292</sup> Article 4 of the UNCRPD mandates the amendment of laws which are discriminatory against persons with disabilities. In the circumstances, the provision as worded by the Bill allows for other laws to take precedence over this even if they discriminate against persons with disabilities. Such wording (taken from the 2011 Draft) would be much more desirable.

## Clause 110: Protection of action taken in good faith

Sub Clause	Current text	Suggestions
110	<p>No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any officer of the appropriate Government or any officer or employee of the National Commission or State Commission for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.</p>	<p>Delete:</p> <ul style="list-style-type: none"> <li>the entire Clause.<sup>293</sup> - DLU South</li> </ul> <p><b>Redrafted Clause:</b></p> <p><b>110(1)</b> (Applicability of other laws) Any provision in any other law for the time being in force which is inconsistent and which negate the object and spirit of this Act shall be deemed to be repugnant to the extent of its repugnancy with the Objects and provisions of this Act.</p> <p><b>110(2)</b> The provisions of this Act are in addition to the existing benefits and entitlements under any law, Rules, Regulations, administrative decisions, instructions etc. and in case of any conflict between the provisions of this Act and the existing benefits and entitlements, the beneficial provisions to persons with benchmark disabilities shall prevail.<sup>294</sup> - AIDA</p>

<sup>293</sup>This clause shall be removed as a discrimination or offence cannot result from good faith and cannot be claimed as good faith. The definition of Good faith is unknown and would serve as a loop hole, if permitted.

<sup>294</sup>This provision does not bar the application of other laws resulting into the validity of the provisions of any other law which are inconsistent with the provisions of this Act and are also even inconsistent with the objects of this Act. There are various negative provisions in existing Act such as Indian Contract Act, Evidence Act etc. which does not recognize the legal capacity of persons with specific disabilities. Therefore it has to be revised.

## Clause 111: Power to remove difficulties

Sub Clause	Current text	Suggestions
111 (1) and (2)	<p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty. Provided that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under this section shall be laid as soon as may be, after it is made, before each House of Parliament.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>Power to remove difficulties section shall be scraped and power to add more provisions to facilitate all human rights and fundamental freedoms of all disabled people shall be incorporated. - DLU South</li> </ul>

## Clause 112: Power to amend Schedule

Sub Clause	Current text	Suggestions
112 (1) and (2)	<p>(1) On the recommendations made by the appropriate Government or otherwise, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>The list of disabilities shall be provided in annexure rather than schedule and the process of amending the same shall be at regular intervals and shall involve the consultation of persons with disabilities apart from having experts with disabilities as members for such committee. - DLU South</li> </ul>

Sub Clause	Current text	Suggestions
	<p>Schedule and any such notification being issued, the Schedule shall be deemed to have been amended accordingly.</p> <p>(2) Every such notification shall, as soon as possible after it is issued, shall be laid before each House of Parliament.</p>	

### Clause 113: Power of Central Government to make rules

Sub Clause	Current text	Suggestions
113 (1)	The Central Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.	<p>Comment:</p> <ul style="list-style-type: none"> <li>This process shall involve persons with disabilities and experts from the National Disability sector as members of the committees concerned. The process shall also ensure that the voices of all the stake holders across the country are heard. - DLU South</li> </ul>
113 (2)	<p>In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p> <p>(a) the manner of constituting the Ethics Committee under sub-section (2) of section 5;</p>	<p>Add the following after 2 (a):</p> <ul style="list-style-type: none"> <li>“(b) the manner of providing support of a limited guardian under sub section (1) of section 13.” -</li> </ul>

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
	<p>(b) the manner of notifying the equal opportunity policy under sub-section (1) of section 20;</p> <p>(c) the form and manner of maintaining records by every establishment under sub-section (1) of section 21;</p> <p>(d) the manner of maintenance of register of complaints by grievance redressal officer under sub-section (3) of section 22;</p> <p>(e) the manner of furnishing information and return by establishment to the Special Employment Exchange under section 35;</p> <p>(f) the composition of the Assessment Board under sub-section (2) and manner of assessment to be made by the Assessment Board under sub-section (3) of section 37;</p> <p>(g) the manner of application for issuance of certificate of disability under subsection (1) and form of certificate of disability under sub-section (2) of section 57;</p> <p>(h) the allowances to be paid to nominated Members of the Central Advisory Board under sub-section (6) of section 60;</p> <p>(i) the rules of procedure for transaction of business in the meetings of the Central Advisory Board under section 63;</p> <p>(j) the salaries and allowances and other conditions of services of Chairperson and Members of the National Commission under section 78;</p> <p>(k) the salaries and allowances and conditions of services of officers and staff of the National Commission under sub-section (3) of section 81;</p> <p>(l) the form, manner and content of annual report to be prepared and submitted by the National Commission under sub-section (3) of section 85;</p> <p>(m) the procedure, manner of utilisation and management of the Fund under subsection (2) of 100; and</p> <p>(n) the form for preparation of accounts of Fund under sub-section (1) of section 101.</p>	DAF
113 (3)	Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or	No suggestion

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
	more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	

### Clause 114: Power of State Government to make rules

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
114 (1)	The State Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.	Comment: <ul style="list-style-type: none"> <li>This process shall involve persons with disabilities and experts from the Disability sector as members of the committees concerned. The process shall also ensure that the voices of all the stakeholders across the State are heard. - DLU South</li> </ul>
114 (2)	In particular, and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following matters, namely:— <ol style="list-style-type: none"> <li>the manner of constituting the ethics committee under sub-section (2) of section 5;</li> <li>the form and manner of making an application for certificate of registration under sub-section (1) of section 50;</li> </ol>	No suggestion



<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
	<p>(c) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 50;</p> <p>(d) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 50;</p> <p>(e) the period of disposal of application for certificate of registration under sub-section (7) of section 50;</p> <p>(f) the period within which an appeal to be made under sub-section (1) of section 52;</p> <p>(g) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 58;</p> <p>(h) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 66;</p> <p>(i) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 69;</p> <p>(j) the composition and functions of District Level Committee under section 71;</p> <p>(k) salaries, allowances and other conditions of services of Chairperson and Members of the State Commission under section 91;</p> <p>(l) the salaries, allowances and conditions of services of officers and staff of the State Commission under sub-section (3) of section 94;</p> <p>(m) the form, manner and content of annual and special reports to be prepared and submitted by the State Commission under sub-section (3) of section 96; and</p> <p>(n) the fee or remuneration to be paid to the Special Public Prosecutor under subsection (2) of section 99.</p> <p><b>As per the Notice of Amendments, following new Sub Clause to be inserted:</b></p> <p><b>(b)the manner of providing support of a limited guardian under subsection (1) of section 13;</b></p>	

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
114 (3)	Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.	No suggestion

### **Clause 115: Power of National Commission to make regulations**

<b>Sub Clause</b>	<b>Current text</b>	<b>Suggestions</b>
115 (1)	The National Commission may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.	<p>Comment:</p> <ul style="list-style-type: none"> <li>The National Commission shall involve persons with disabilities and experts from the Disability sector as members of the committees concerned while making regulations and rules thereof. The process shall also ensure that the voices of all the stakeholders across the State are heard. - DLU South</li> </ul>
115 (2)	In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:— (a) standards for accessibility under section 39; and (b) the rules of procedure for transaction of business under section 80.	No suggestion
115 (3)	Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately	No suggestion

Sub Clause	Current text	Suggestions
	following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	

### Clause 116: Power of State Commission to make regulations

Sub Clause	Current text	Suggestions
116 (1)	The State Commission may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act: Provided that where any regulation has already been issued in any such matter by the National Commission, such regulations shall prevail over the regulations of the State Commission pertaining to the said matter.	Comment: <ul style="list-style-type: none"> <li>The State Commission shall involve persons with disabilities and experts from the Disability sector as members of the committees concerned while making regulations. The process shall also ensure that the voices of all the stakeholders across the State are heard.</li> </ul> - DLU South
116 (2)	In particular, and without prejudice to the generality of the foregoing power, the State Commission shall make regulations relating to the rules of procedure for transaction of business under section 93.	No suggestion
116 (3)	Every regulation made by the State Commission under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two	No suggestion

Sub Clause	Current text	Suggestions
	Houses, or where such State Legislature consists of one House, before that House	

## Clause 117: Repeal and savings

Sub Clause	Current text	Suggestions
117 (1)	The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed.	Comment: <ul style="list-style-type: none"> <li>We would have liked in one stroke that all the discriminating Acts could be repealed by introducing a relevant provision in the Bill. This has not happened. - OSDN</li> </ul>
117 (2)	Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.	Modified text: <ul style="list-style-type: none"> <li>Notwithstanding the repeal of the said Act:               <ol style="list-style-type: none"> <li>anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.</li> <li><u>the disability certificates issued under the said Act shall remain valid as per the conditions under which they were issued.</u></li> <li><u>the change in nomenclature of certain impairments and the recognition of new impairments shall not invalidate any existing disability certificate.</u><sup>295</sup> - Inclusive Planet and DRA</li> </ol> </li> </ul>

<sup>295</sup> In light of the challenges faced by persons with disabilities in accessing entitlements and benefits a statement reaffirming the validity of all issued certificates is extremely important. Also, there are certain issues of reconciliation which may lead to some issues which require to be clarified by this legislation. These include the derecognition of the disability identified in the 1995 Act as "Mental Retardation". Persons who are possessing certificates which identify themselves as persons with "mental retardation" need reaffirmation that their certificates will be valid and that they do not need to go in for a recertification as any of the now recognized specific impairments before being able to avail of any entitlements.

## THE SCHEDULE

[See clause (x) of section 2] Specified Disabilities

S. No.	Current text	Suggestions
1.	<p>"Autism Spectrum Disorder" means a neuro-psychological condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.</p> <p><b>As per the Notice of Amendments:</b>                      "Autism Spectrum Disorder" means a <b>neuro-developmental</b> condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>"Autism Spectrum Disorder" - to be redrafted<sup>296</sup> - Inclusive Planet and DRA</li> </ul>
2.	<p>"blindness" means a condition where a person has any of the following conditions, after best correction,—</p> <p>(i) total absence of sight; or                      (ii) visual acuity not exceeding 3/60 or 10/200 (Snellen) in the better eye; or                      (iii) limitation of the field of vision subtending an angle of 10 degree or worse.</p>	No suggestion
3.	<p>"cerebral palsy" means a group of non-progressive neurological condition of a person affecting body movements and muscle coordination caused by damage to one or more specific areas of the brain, usually occurring before, during or shortly after birth.</p>	No suggestion
4.	<p>"chronic neurological conditions" means a condition that has its origin in</p>	No suggestion

<sup>296</sup> This suggestion is based on the un amended Bill

S. No.	Current text	Suggestions
	some part of person's nervous system lasting for a long period of time or marked by frequent recurrence.	
5.	<p>"deafblindness" means a condition in which a person may have a combination of hearing and visual impairments causing severe communication, developmental, and educational problems and include,—</p> <p>(i) moderate to profound hearing and significant visual impairments;</p> <p>(ii) moderate to profound hearing and significant visual impairments and other significant disabilities;</p> <p>(iii) central processing problems of vision and hearing;</p> <p>(iv) progressive sensory impairments or significant visual impairment; and</p> <p>(v) possible loss of auditory processing mechanisms (associated with severe physical disability or severe cognitive disability) and severe communication delay.</p>	No suggestion
6.	"hemophilia" means an inheritable disease, usually affecting only male but transmitted by women to their male children, characterised by loss or impairment of the normal clotting ability of blood so that a minor wound may result in fatal bleeding.	<p>Comment:</p> <ul style="list-style-type: none"> <li>• Hemophiliacs with factor deficiency less than 5% must be included in benchmark disability, and Also Thallasemia Major must be in benchmark disability. - Hemophilia Federation (India)</li> </ul>
7.	"hearing Impairment" means loss of sixty decibels hearing level or more in the better ear in the conversational range of frequencies.	<p>Replace:</p> <ul style="list-style-type: none"> <li>• the category of "hearing impairment" with "Deafness and Hard of Hearing". The definition is given below.- NAD, DAF, Inclusive Planet and DRA</li> </ul> <p>Suggested text:</p>

S. No.	Current text	Suggestions
		<p>By NAD:</p> <ul style="list-style-type: none"> <li>• Any person who was a Deaf from birth He /she user sign language this means Deaf culture including, their specific cultural and linguistic identity, including sign languages and deaf cultural. They cannot speech but sign language well. But some of them may be speech well including sign language. <b>Deaf</b> means loss of 90 decibels hearing level or more in the better ear in the conversational range of frequencies.</li> <li>• Any person who was birth and hearing but later he /she is become to not properly hearing. This is called Hard of hearing. They can really speech well or including sign language. <b>Hard of hearing</b> means loss of between 60 and 90 decibels below hearing level in their best ear - NAD</li> </ul> <p>By Inclusive Planet and DRA:</p> <ul style="list-style-type: none"> <li>• Deafness - means a condition where a person has a hearing loss of more than 71 db.</li> <li>• "Hard of hearing" means a condition where a person has a hearing loss of more than 60db.</li> </ul> <p>By DAF:</p> <ul style="list-style-type: none"> <li>• "hard of hearing" means hearing</li> </ul>

S. No.	Current text	Suggestions
		loss more than 60 db (moderate hearing loss ) and "deafness" means hearing loss more than 71 db (severe loss) and more than 90 db (profound hearing loss).
8.	"intellectual disability" means a condition characterised by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour, which covers a range of everyday social and practical skills.	No suggestion
9.	<p>"leprosy cured person" means a person who has been cured of leprosy but is suffering from—</p> <p>(i) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;</p> <p>(ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;</p> <p>(iii) extreme physical deformity as well as advanced age which prevents him or her from undertaking any gainful occupation, and the expression "leprosy cured" shall be construed accordingly.</p>	<p>Comment:</p> <ul style="list-style-type: none"> <li>• The leprosy disabled persons are assessed under orthopedic disability guidelines. There is a need to develop special guidelines exclusively for assessment of leprosy disabilities (including Loss of Sensation) - Association of People Affected by Leprosy</li> </ul>
10.	"locomotor disability" means a person's inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both.	No suggestion
11.	<p>"low-vision" means a condition where a person has any of the following conditions, namely:—</p> <p>(i) visual acuity not exceeding 6/18 or 20/60 and less than 6/60 or 20/200 (Snellen) in the better eye with correcting lenses; or</p> <p>(ii) limitation of the field of vision subtending an angle of more than 10 and up to 40 degree.</p>	<p>Suggested text:</p> <ul style="list-style-type: none"> <li>• "Low -vision" means a condition where a person has any of the following conditions, namely: (i) Visual acuity not exceeding 6/18 or 20/60 and not less than 3/60 or</li> </ul>



S. No.	Current text	Suggestions
	<p><b>As per the Notice of Amendments:</b>  <b>"Low vision" as may be notified by the Central Government".</b></p>	<p>10/200 (Snellen) in the better eye with correcting lenses." (ii)  Limitation of the field of vision subtending an angle of more than 10 and upto 40 degree - Inclusive Planet and DRA</p> <ul style="list-style-type: none"> <li>• "Low Vision" refers to an impairment where a person has any of the following conditions, namely:- <ol style="list-style-type: none"> <li>(i) Visual acuity not acceding 6/18 or 20/60 and better than 3/60 or 10/200 (Snellen) in the better eye with correcting lenses; or</li> <li>(ii) Limitation of the field of vision subtending an angle of more than 10 and up to 40 degrees.<sup>297</sup> - AIDA</li> </ol> </li> </ul> <p>Comment:</p> <ul style="list-style-type: none"> <li>• Definition of low vision should include persons with visual acuity between 6/60 and 3/60. Blindness starts from 3/60 and low vision ends at 6/60. - VIBEWA</li> </ul>
12.	<p>"mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence</p>	<p>Replace:</p> <ul style="list-style-type: none"> <li>• the term "mental illness" with "psycho-social disabilities". - DLU South</li> </ul>

<sup>297</sup>The definition of blindness given in the Sec 2 of the Schedule provides that if anyone has a vision not exceeding 3/60 or 10/200 (snellen) in the better eye. At the same time the definition of low vision provides that if anyone has a vision not exceeding 6/18 or 20/60 and less than 6/60 or 20/200 (snellen) in the better eye with correcting lenses, he may be certified as low vision. It implies that a person could fall in both the categories at the same time and so be certified both blind and low vision. The suggested draft of the definition in question is in line with the WHO definition of low vision.

S. No.	Current text	Suggestions
13.	"muscular dystrophy" means a group of hereditary genetic muscle disease that weakens the muscles that move the human body and persons with multiple dystrophy have incorrect or missing information in their genes, which prevents them from making the proteins they need for healthy muscles. It is characterised by progressive skeletal muscle weakness, defects in muscle proteins, and the death of muscle cells and tissue.	No suggestion
14.	"multiple sclerosis" means an inflammatory, nervous system disease in which the myelin sheaths around the axons of nerve cells of the brain and spinal cord are damaged, leading to demyelination and affecting the ability of nerve cells in the brain and spinal cord to communicate with each other.	No suggestion
15.	"specific learning disabilities" means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia.	No suggestion
16.	"speech and language disability" means a permanent disability arising out of conditions such as laryngectomy or aphasia affecting one or more components of speech and language due to organic or neurological causes.	No suggestion
17.	"thalassemia" means a group of inherited disorders characterised by reduced or absent amounts of hemoglobin.	No suggestion
18.	"sickle cell disease" means a hemolytic disorder characterised by chronic anemia, painful events, and various complications due to associated tissue and organ damage; "hemolytic" refers to the destruction of the cell membrane of red blood cells resulting in the release of hemoglobin.	No suggestion
19.	"multiple disability" means two or more of the specified disabilities	Comment:

S. No.	Current text	Suggestions
	mentioned at serial numbers 1 to 18, occurring in a person at the same time.	<ul style="list-style-type: none"> <li data-bbox="1360 272 1875 427">• The definition for multiple disabilities shall be clarified (Is deaf blindness included in multiple disabilities or separate disability?). - DLU South</li> </ul>
20.	Any other category as may be notified by the Central Government.	No suggestion

## New Sub Clauses

### Add to Schedule

- “Metabolic disorders, Lysosomal storage disorders, achendroplasia and short people”.

### Comments

- This list should not be exhaustive and should not be part of the schedule but as an annexure that shall be reviewed periodically, i.e. every 3 years.- DLU South

## NEW CLAUSES

Given below are suggestions for New Clauses to be added in the Bill.

### 1. Women with Disabilities

#### • Suggested text by DRG, AADI and DAF

- (1) The appropriate Government and local authorities shall take measures to ensure the full and equal enjoyment of all rights by women and girls with disabilities.
- (2) The appropriate Government and local authorities shall take measures to ensure the full development, advancement and empowerment of women and girls with disabilities, for the purpose of guaranteeing them exercise and enjoyment of the human rights on an equal basis with others.- DRG<sup>298</sup>, AADI and DAF

#### • Suggested text by NAD

##### ➤ Women and Girls with Disabilities

- (1) All women and girls with disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law;
- (2) States Parties recognize that women and girls with disabilities are subject to multiple discrimination and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

##### ➤ Right to Work and Employment of Women with Disabilities

- (1) No woman with disability shall be directly or indirectly discriminate against in recruitment, promotion, or any other related matter arising in the course of or through the length of employment.
- (2) The appropriate governments shall take all effective and appropriate measures, including formulation of schemes and programmers, to ensure that women with disabilities have access to opportunities for employment, vocational training, micro-credit and self-employment on an equal basis with others;
- (3) Ensuring that all establishments have appropriate toilet facilities for women with disabilities.

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<sup>298</sup> Women with disability face multiple discriminations, therefore a specific section on women with disabilities ensuring their rights and programmatic interventions would need to be inserted. This would also ensure conformity with UNCRPD.

- Right of Women and Girls with Disabilities to be protected against all Forms of Abuse, Violence and Exploitation
  - (1) The appropriate governments shall take all necessary measures to protect every woman and girl with disability from all forms of abuse, violence and exploitation including physical, mental, sexual, and emotional on the person of such woman with disability in all settings at all places including, home, care-houses, educational institutions, institutions, workplaces, and any other place where a woman with disability works or resides whether temporarily or permanently;
  - (2) Without prejudice to the generality of sub-section (1), the appropriate governments shall take measures for:
    - (a) Provision of accessible, safe and confidential complaint mechanism to report instances of abuse, violence and exploitation and to address such complaints in a time-bound manner<sup>8</sup>;
    - (b) Enable the use of short stay and other protection facilities established for women who are victims of abuse, violence and exploitation<sup>9</sup>;
    - (c) Provision of gender, disability and age sensitive protection services, assistance and support for victims of abuse, violence or exploitation, for physical, cognitive and psychological recovery and development, rehabilitation and social reintegration, in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person;
    - (d) Dissemination of information on avoidance, recognition and report of instances of abuse, violence and exploitation.
  
- Access to Justice by Women with Disabilities
  - (1) The appropriate governments shall take measures to ensure that all police stations, courts, tribunals, or any other body having adjudicatory powers or otherwise connected to the legal system are accessible to women with disabilities.
  - (2) Women and girls person with deaf or hard of hearing through communication including sign language interpreter and video.
  - (3) The Committee has to enquire into complaint cases of sexual harassment in the Central/State government as well as complaints against officers of the attached/subordinate offices including person with Disabilities.

• **Suggested text by AIDA**

- Rights of women with disabilities
  - (1) All women and girls with disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law;

- (2) The appropriate governments and concerned establishments shall take all suitable measures, including devising and implementing gender specific programmes and schemes, to ensure the full and equal enjoyment of all rights by women and girls with disabilities;
- (3) The appropriate governments and concerned establishments shall accord due recognition to the concerns of women and girls with disabilities by making adequate provision for them in all existing and future women specific schemes and programmes;
- (4) Every scheme or programme devised for the benefit of persons with benchmark disabilities under this Act or any other law for the time being in force shall make a proportionate allocation for women and girls with disabilities and maintain records in such manner as maybe prescribed of the utilization of such allocation;
- (5) Nothing in this section shall prevent the appropriate government or any establishment from taking specific measures for, or providing special entitlements to, women and girls with disabilities to promote full and equal enjoyment of their rights.
- (6) Right to Education of women and girls with disabilities:
- (7) All appropriate governments and concerned establishments shall take all necessary steps to ensure that no girl or woman with disability shall be excluded from the education system on the grounds of sex or disability;
- (8) All appropriate governments shall take all suitable measures to ensure that all girls and women with disabilities have access to an inclusive education system, without discrimination and on an equal basis with others, at all levels;
- (9) In order to devise the aforesaid suitable measures for girls with disabilities the appropriate government shall whilst conducting the local survey in Section 36 of this Act, specially collect data of the number of girls with disabilities in the locality, nature of their impairment and the barriers faced by them to realize the right to education;
- (10) Without prejudice to the measures that may devised pursuant to the local survey the appropriate government may: provide scholarships for girls with disabilities and special allowance for families of girls with disabilities to meet expenses incurred on their education or vocational training; Ensure that all girls with disabilities have access to necessary, adequate and appropriate support for the completion of elementary, secondary and higher education such as accessible transport facilities or other financial incentives to parents and guardians to enable girls with disabilities to attend schools and accessible residential facilities if such facilities are provided for other students; Ensure that all schools have appropriate toilet facilities for girls with disabilities;
- (11) Right to work and employment of women with disabilities. No woman with disability shall be directly or indirectly discriminated against in recruitment, promotion, or any other related matter arising in the course of or through the length of employment; The appropriate government shall take all effective and appropriate measures, including formulation of schemes and programmes, to ensure that women with disabilities have access to opportunities for employment, vocational training, micro credit and self employment on an equal basis with others; Without prejudice to the generalities of sub section(2), such measures shall include: According access to working women’s hostels for women with disabilities; mechanism of support such as personal assistants; motherhood allowance; extended maternal leave; flexible working hours and accessible crèches; Ensuring that all establishments have appropriate toilet facilities for women with disabilities; All

- committees against sexual harassment shall be under a duty to promote and protect the rights of all women with disabilities to a safe working environment; In fulfillment of this duty the committee shall interalia undertake appropriate awareness programmes and devise accessible complaint mechanism.
- (12) Rights of women and girls with disabilities to be protected against all forms of abuse, violence and exploitation. The appropriate government shall take all necessary measures to protect every woman and girl with disability from all forms of abuse, violence and exploitation including physical, mental, sexual and emotional on the person of such woman with disability in all settings at all places, home, care houses, educational institutions, work places and any other place where a woman with disability works or resides whether temporary or permanently; Without prejudice to the generality of sub section(1) the appropriate government shall take measures for : provision of accessible , safe and confidential complaint mechanism to report instances of abuse, violence and exploitation and to address such complaints in a time bound manner; Enable the use of short stay and other protection facilities established for women who are victims of abuse, violence and exploitation; Provision of gender, disability and age sensitive protection services, assistance and support for victims of abuse, violence and exploitation, for physical, cognitive and psychological recovery and development, rehabilitation and social reintegration, in an environment that fosters the health, welfare, self respect, dignity and autonomy of the person; Dissemination of information on avoidance, recognition and report of instances of abuse, violence and exploitation.
- (13) Right of women and girls with disabilities to health: The appropriate government shall take all suitable measures to ensure that all women and girls with disabilities have access to the highest attainable standard of health and health care in accessible environments through accessible procedures with reasonable accommodation without discrimination on the basis of disability or sex; The appropriate government shall take all suitable measures to ensure that full and effective enjoyment of the right to health by women with disabilities, including measures to: ensure that all health care services , including family planning programmes and service aimed at early identification and intervention, are gender sensitive, and are available and accessible to women with disabilities, whether in rural or urban areas; Provide information in accessible formats in relation of all areas of health care, including sexual and reproductive health to women with disabilities; The surveys investigations and research undertaken or caused to be undertaken by appropriate governments and establishments under Sec 72 of this Act shall specifically include data or information with respect to women with disabilities.
- (14) Right of women with disabilities to home and family: The appropriate government shall take all suitable measures to eliminate discrimination against women with disabilities in all matters relating to marriage, family, parent hood and relationships, whether the disability is acquired before or after marriage. Such measures include: Providing early and comprehensive information, service and support to abandonment, neglect and segregation of women with disabilities in relation to home and family life; Providing and making accessible information on reproductive health and family planning to enable women with disabilities to take decisions involving their reproductive rights and family planning freely and responsibly.

- (15) Access to justice by women with disabilities: The appropriate government shall take measures to ensure that all police stations, courts, tribunals, or any other body having adjudicatory powers or otherwise connected to the legal system are accessible to women with disabilities.
- (16) Obligations of the National Commission for Women: The National Commission for Women constituted under Sec 3 of the National Commission for Women Act 1990 (Act No 20 1990) shall in addition to the functions assigned to it under the Act, also perform the following functions namely, Examine the extent to which the concerns of women with disabilities have been inducted in existing statutes, rules and regulations on women and make appropriate recommendations for such inclusion in consultation with women with disabilities; Scrutinize whether all proposed legislations for protecting the rights of women duly incorporate the concerns of women with disabilities; Examine the extent to which the concerns of women with disabilities have been incorporated in existing schemes and programmes for women and to recommend requisite modifications in consultation with women with disabilities.

The above provisions are in addition to the constitutional and statutory rights and safeguards accorded to women in general as well as schemes and programmes being formulated and implemented by the appropriate govt. for empowerment of women and not in derogation thereof.

### **Comments**

- Women with disabilities shall be given special focus and special mention in the Act to ensure safe social security measures and their holistic development & empowerment. - DLU South
- All medical facilities should be provided to women with disabilities on priority basis in all Govt or Private Hospitals. Especially in Maternity. Special allowance should be provided by all state Govts in Maternity to all women with disabilities. Maternity leave and Child care leave should be provided to all women with disabilities in all Govt or Private sector included contractual basis employee women with disability. Child care allowance should be provided to all women with disabilities in all Govt or Private sector included contractual basis employee women with disability. - Association for Disabled People
- No Women and girl with disabilities shall be directly or indirectly discriminate in recruitment and promotion or any other services benefits. The competent authority shall take all appropriate steps, measures to formulate schemes and programmes to ensure women with disability have access to opportunity for employment, Self employment, vocational training and Microcredit on equal basis with others. The competent authority shall ensure that every establishment has proper toilet facilities for women with disabilities. - CORD



## 2. Children with Disabilities

- **Suggested text by DRG<sup>299</sup>, AADI and DAF**

- (1) The appropriate Government and local authorities shall take measures to ensure children with disabilities enjoy human rights on an equal basis with other children.
- (2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have on an equal basis with all other children a right to freely express their views on all matters affecting them; and provide them age and disability appropriate support for the exercise of this right.

- **Suggested text by AIDA<sup>300</sup>**

- Rights of children with disabilities

- (1) The registrar General appointed under Section 3 of the Births and Deaths Registration Act 1969 shall whilst carrying out the superintendence duties of registering births and deaths in the country ensure, including by issuing general directions to all Chief Registrars and other concerned officials, that the registration of births and deaths of all children with disabilities is undertaken with the procedure specified in the Births and Deaths registration Act of 1969;
- (2) All children with disabilities have the right to equality before the law and equal treatment of the law and not to be denied any of the guaranteed rights by reason of their age or disability;
- (3) The appropriate governments and concerned establishments shall ensure that all children with disabilities enjoy their human rights and fundamental freedoms on an equal basis with other children and ensure that no child is discriminated on the basis of disability;
- (4) The appropriate governments and concerned establishments shall accord due recognition to concerns of children with disabilities with reasonable accommodations in all existing child specific schemes and programmes.
- (5) All children with disabilities have on an equal basis with all other children a right to freely express their views on all matters affecting them, and all appropriate governments and concerned establishments are under a duty to provide them age and disability appropriate support for the exercise of this right.

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<sup>299</sup> Children with disabilities face vulnerabilities which would need to be recognized and the specific section would need to be inserted to ensure that they are treated on an equal basis with other children.

<sup>300</sup>The present draft does not make any provision for protection of rights of children with disabilities nor does it make any special provision for their empowerment. As such, in order to protect their interest it is necessary to include a new provision as was suggested in Draft Bill 2011

## Comments

- Women with disabilities shall be given special focus and special mention in the Act to ensure safe social security measures and their holistic development & empowerment.- DLU South
- Residential homes run for disabled, destitute, orphans and abandoned children to impart appropriate education and vocational training as per individual need. - OSDN

## 3. Accessibility Officer

### • Suggested text by Inclusive Planet and DRA

Every public authority (as defined under the Right to Information Act) shall, within a period of 100 days following the enforcement of this Act, appoint an Accessibility Officer. The Accessibility Officer shall be responsible for ensuring that the built environment and communication facilities of the public authority, including services rendered by it, are accessible for persons with disabilities. The Accessibility Officer shall cause to be performed an Accessibility Audit of the public authority within a period of six months from the date of his or her appointment which shall include the necessity for provision of reasonable accommodation for persons with disabilities. This report shall be forwarded to the State Commission for sanction of funds/appointment of interpreters etc. (Note: the duties of the State Commission will have to be expanded to include this) Any person has the right to request for any reasonable accommodation and accessibility measure to the Accessibility Officer, and the Officer shall cause such accommodation/accessibility measure to be made.

## 4. Political Participation and Reservation

### Comments

- Reservation for persons with disabilities in Parliament and other institutions of democracy.<sup>301</sup> - Association for Disabled People
- Political participation and reservation of seats has not been mentioned. - OSDN
- Ensure to provide accessible structure in the Panchayat level therefore people with disability can easily access the services in local level. Provide 2% reservation for people with disabilities in the Panchayat level. – CORD
- To include political reservations as per SC/ST from pachayath to parliament and provide reservations in all nominated positions/policy making bodies and local government like panchayath, municipalities levels. One nominated person with

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<sup>301</sup>Though there is reservation for those with disabilities in the field of education, job opportunities and their rights, without political empowerment, vision of an equal and inclusive India is not possible.

disability should be appointed in the Parliament and all states assemblies on the analogy of Anglo Indian members - NPDO

## 5. Freedom of expression and opinion

### Comments

- (1) There shall be established, for the purposes of promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms of all persons with disabilities.
- (2) All persons with disabilities have the freedom to express their thoughts and opinions on an equal basis with others;
- (3) Recognizing and promoting the use of sign languages.
- (4) Article 29 (i) in the constitution of India- 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. - NAD

## 6. Higher Education

### • Suggested text by DAF<sup>302</sup>

#### ➤ 16. A.

- (1) No person with disability particularly women with disabilities shall be denied admission in a higher education institution on the grounds of his or her disability; Provided that, if a person with disability is unable to seek admission to a higher educational institution at or before the age prescribed for such admission then he or she shall be given admission in such institution if he or she fulfils all other eligibility requirements.
- (2) All appropriate governments and educational authorities will ensure equality of opportunity according to prescribed procedure of relaxation the minimum qualification criteria required to be obtained by persons with disabilities who seek admission to a higher education institution. Every person with disability appearing for an entrance examination for any higher educational institution has a right to adequate, necessary and appropriate support for the purposes of such examination;
- (3) Every person with disability has the right to receive necessary, adequate and gender sensitive support including reasonable accommodation for the completion of higher education and for any other extra – curricular and co – curricular activities;
- (4) All universities and other institutions of higher learning shall establish equal opportunity offices to ensure dedicated provision of such support.

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<sup>302</sup>Higher education and adult education are not same. Hence a separate clause on higher education is added here.

## 7. Right to Habilitation

- **Suggested text by DAF**<sup>303</sup>

Habilitation is a process by which persons born with impairments learn life skills.

- (1) In furtherance of the right to life recognized by Article 21 of the Constitution of India all persons with disabilities have a right to habilitation in order to realize the rights guaranteed under this Act;
- (2) The appropriate governments and establishments shall in furtherance of the right recognized in sub-section (1) take effective and appropriate measures to enable persons with disabilities to maximize their physical, mental, personal, social, educational, vocational and professional abilities to enable them to live a full, inclusive and dignified life. In devising these measures the diversity of disability; gender; age; and socio-economic status shall be relevant considerations;
- (3) Without prejudice to the generality of the obligation in sub-section (2), in order to ensure that children with disabilities have the same life development opportunities as other children, the appropriate governments and local authorities shall formulate habilitation plans for children with disabilities with strategies for ensuring that it starts as early as possible;
- (4) These plans shall inter alia provide for:
  - (a) Appropriate support and guidance to parents of infants and young children with disabilities to enable them to perform their parenting responsibilities;
  - (b) The training of children and young persons with disabilities in self care and self reliance depending upon the nature of impairment;
  - (c) The promotion of total communication among children and adults with different types of impairments;
  - (d) Provision of social skills and social networking between children with disabilities; other children; extended family and larger community;
  - (e) Therapeutic, surgical or other corrective (appropriate) interventions and for aids and appliance;
  - (f) Ensuring the provision of adequate training in mobility, orientation of environment, use of assistive devices and application of technology.
- (5) In order to ensure that every child with disability obtains access to habilitation at the earliest possible time the appropriate government shall:
  - (a) Proactively survey the presence of infants and children with disabilities;
  - (b) disseminate information on nature of disabilities and the plan of habilitation to the community generally; and to community workers
- (6) The habilitation plan shall have a dynamic approach and would change in its interventions and outcomes in accordance with the age, gender, local environment and functional goals of the persons with disabilities;

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<sup>303</sup>Habilitation is not at all touched upon in this bill. For all children who have a disability from birth this is a crucial part. Hence it has been included here.

- (7) Every person with disability shall have the right to take a decision with regarding their own habilitation plan; and due consideration should be given to the evolving capacity of children in supporting and obtaining their participation.
- (8) For the purposes of sub-section (2), the appropriate Government and the local authorities may grant financial assistance to non-Government Organisations.

## 8. Access to inclusive services

### • Suggested Text by DAF

#### ➤ 42.A

- (1) All appropriate governments and establishments shall ensure that all services and facilities provided by them are available to persons with disabilities on an equal basis with others; and that such services are provided in such mode or format which is responsive to the needs of persons with disabilities but at no extra cost to them; These would include sign language interpreters, personal assistance, augmentative and alternative communications.
- (2) All appropriate governments and establishments shall ensure that all announcements inviting public response including those made for procurement, entitlement, employment, public health and disaster preparedness must be accessible to all persons with disabilities;
- (3) The Central and State Advisory Boards shall make available to all service providers information on how they can make their services accessible to persons with disabilities.

## 9. Implementation

### • Suggested Text by DAF

#### ➤ Implementation

- (1) The appropriate govt. and local authority shall ensure that each concerned ministry or department will work out appropriate strategies and activities, budgetary allocation, mechanisms of implementation and monitoring that includes segregated data and is transparent and accountable.
- (2) The central and state advisory board may provide appropriate support to facilitate this process.
- (3) This should be reflected in the annual reports of all the department and ministries and coming to effect within one year of enactment of this act.

## 10. Education

- **Suggested Text by AIDA**<sup>304</sup>

- 17A(1)  
All children with disabilities, irrespective of their disability, shall be entitled to receive free education till they complete the school curriculum irrespective at which they attain completion.
- 17A(2)  
No student with disability shall be held back in any class due to lack of attendance or failure to meet the minimum attendance requirements for reason of their disability.
- 17A(3)  
All children with disabilities shall have the right to access specialized education in special schools or bridge schools in order to equip them and bring them on par with non-disabled children in mainstream schools.
- 17A(4)  
The appropriate Government shall formulate and adopt standardized curriculums and examination procedures, facilities, accommodations and assistance such as scribes for all children with disabilities which is disability specific, age appropriate and gender sensitive within one year of the commencement of this Act.
- 17A(5)  
The department of education shall ensure that Braille and sign language are taught to all students till class five and for this purpose the Central Government shall notify within one year from the commencement of this Act a dictionary of Indian Sign Language.
- 17A(6)  
The Central and State Governments shall ensure that a post of disability education officer is created in every district of the country within three years from the commencement of this Act and the said post shall be filled by suitable persons selected by a committee of experts from the field of disability and education combined.
- 17A(7)  
The committee of experts shall also act as a grievance redressal forum for any complaints, provided that all complaints shall be registered on a public website where complaints and redressals can be accessed by all. Provided further that if the complaints relates to sexual harassment, abuse or assault, another option with a privacy setting shall be available on the website for the complainant/student to access.
- 17A(8)  
For the purposes of this chapter access and reasonable accommodation shall mean and include accessible format information and materials, modified curriculums, modified furniture, accessible infrastructure and labs, aids and

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<sup>304</sup>Various important provisions in the form of obligations of every appropriate Govt. to promote education of students with disabilities even those which are available in the existing act have not been included therefore new additional provisions are suggested.

appliances including AAC devices (like disabled-friendly computer technology), inclusive sports and recreational facilities and trained staff.

Provided that the above enumeration shall be inclusive and not exhaustive in nature.

## **11. Allocation of Disability Budget in every Ministry/Department at State and Central Government**

- **Suggested Text by NPDO**

Not less than 5% budget should be allocated by Finance commission/ planning commission in all ministries, departments at state and central government level and monitored by the persons with disability from Panchayath/block/district/state level to national level - NPDO