

**RIGHTS OF PERSONS WITH
DISABILITIES ACT, 2016
- AN OVERVIEW**



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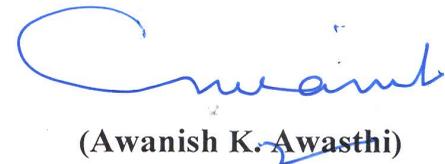
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FOREWORD

It gives me a great pleasure to know that NASSCOM has decided to launch a Summarized version of Rights of Persons with Disabilities Act, 2016 – an Overview' during the NASSCOM Diversity & Inclusion Summit.

India is a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the passage of the Act will ensure rights based approach for all PwDs. I am also happy that this summarised version is prepared by Shri P.K.Pincha, whose depth of knowledge in this area will surely help in taking this mission forward through this guide. I congratulate NASSCOM Foundation and the entire team for this endeavour and I look forward to inputs from the experts to further fine tune the efforts in this area.



(Awanish K. Awasthi)





— Shrikant Sinha, CEO —

The enactment of rights of persons with disabilities act, 2016 by the Indian parliament institutionalizes a much-awaited robust rights regime for all persons with disabilities in the country. This progressive legislation has come in the aftermath of India signing and ratifying the United Nations Convention on the Rights of Persons with Disabilities a human rights treaty.

Census 2011 puts the population of persons with disabilities at 2.13% of the total population of the country although non-official estimates are much higher. Even going by the official statistics, in absolute numbers, the total population of persons with disabilities in the country is over two crore sixty-eight lakhs. Whatever be the statistics, it can safely be said that the population of persons with disabilities is sizeable; and that these figures would be much higher when one counts the population of such persons based on the categorization of persons with disabilities given in the current act.

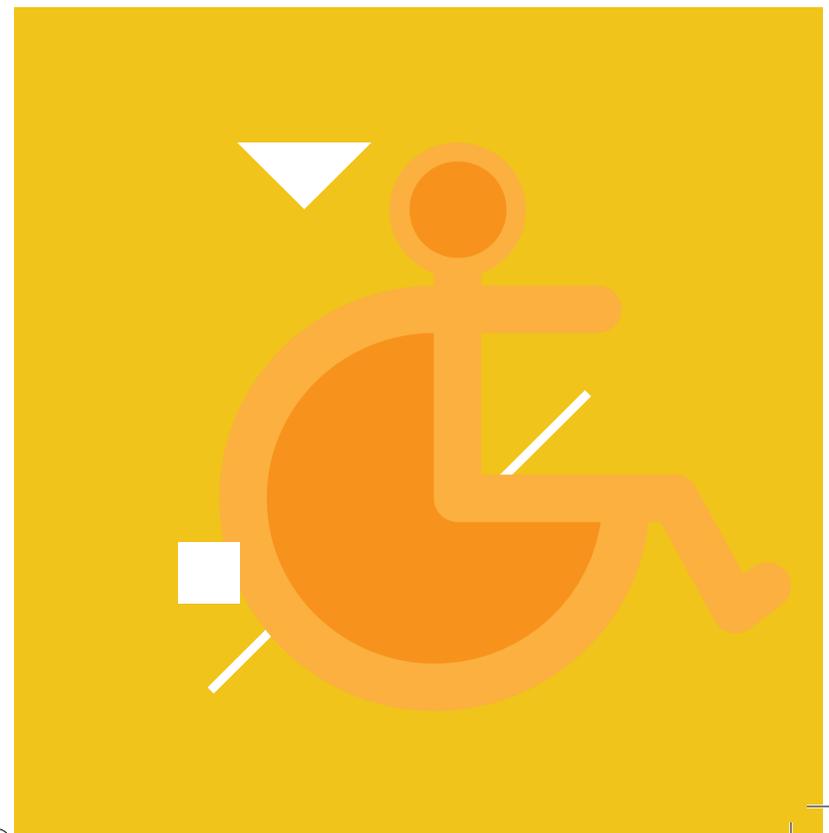
The national policy on persons with disabilities 2006, recognizes persons with disabilities as a valuable human resource. It is therefore important that this untapped human resource is harnessed and put to use in the task of nation building. It goes without saying that persons with disabilities have proved beyond any doubt that given equality of opportunity, they have the inherent potential of becoming active agents of change rather than remaining passive recipients of benefits.

MESSAGE FROM THE CEO

It is against the above backdrop that the enactment of the RPD Act, 2016 assumes utmost relevance. This is an enabling legislation aimed at ensuring to all persons with disabilities human rights and fundamental freedoms on an equal basis with others.

It is with an abiding sense of both duty and satisfaction that NASSCOM presents this small document containing a brief narrative and overview of the act with a view to enabling the corporates, social workers, human rights activists, rehabilitation professionals, academia etc. to acquire an overall understanding of this important legislation so that they are able to do their bid in the matter of its implementation. The narrative also contains a segment that focuses on the role and obligations of the private sector.

I would like to stress upon the need for coordinated and concerted efforts amongst the government, the corporate/private sector, civil society organizations etc. Who have to work in tandem to see that the provisions of this act translate on ground as a living reality. There will be obstacles; but there will also be opportunities; and, together, we can overcome the obstacles and make the most of the opportunities.



STRUCTURE

This brief narrative has been divided into seven parts or segments.

Part one gives the background in an attempt to contextualise the enactment of this new piece of legislation which seeks to replace the Persons with disabilities [Equal Opportunities, protection of Rights and Full Participation] Act, 1995. Part two discusses some salient features of this new legislation and briefly alludes to some basic points of comparison between the new legislation and the outgoing Act of 1995. Part three dwells upon the categorization of persons with disabilities vide the new legislation and also refers to some important definitions given in the said Act. Part four contains the composition and a Bird's eye view of the Act. Part five highlights illustrative glimpses of some specific provisions across diverse thematic areas for persons with certain specified categories of disabilities. Part six mentions the regulatory, monitoring and grievance redressal mechanisms as envisaged in the Act. Part seven discusses the role of the private sector vis-a-vis the Act.

The schedule appended to the RPD Act, 2016 containing definitions of different 'specified disabilities' is also appended to this brief narrative.

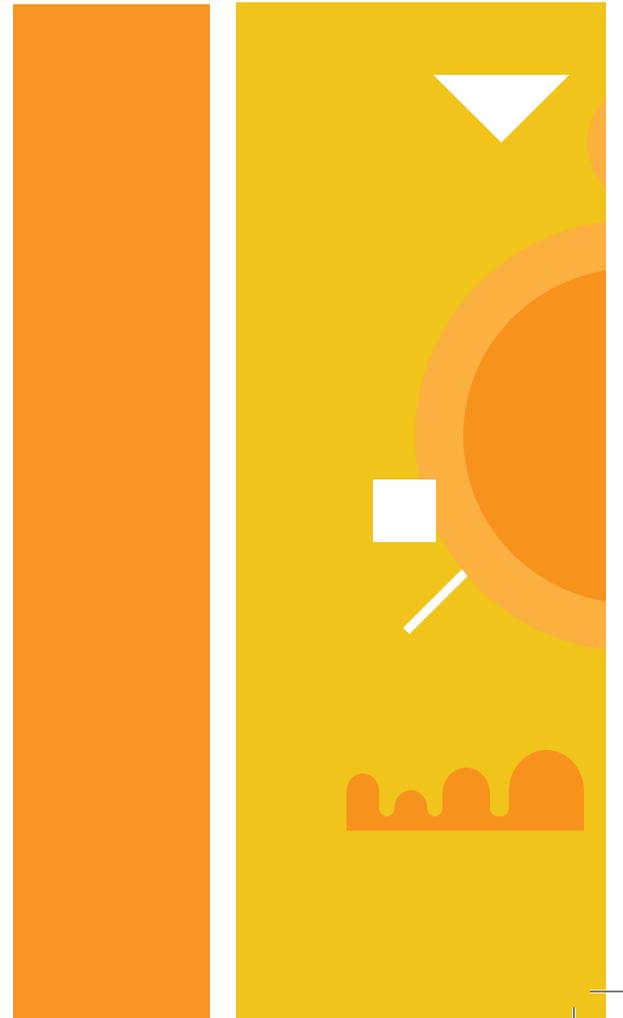
CLARIFICATION

It is hereby clarified that this narrative is intended to give to the reader only a broad idea of the Rights of Persons with Disabilities Act, 2016 together with some specific focus on the role of the private sector. Thus, it does not contain a thorough, threadbare and comprehensive discussion and nuanced and critical analysis of the legislation.



PART

ONE



BACKGROUND

International human rights norms stipulate in no uncertain terms that any member nation of the United Nations Organization [UNO] who becomes a state party to any international human rights instrument by signing and ratifying it is under a pious obligation to harmonize and align all its corresponding domestic laws and policies with that human rights instrument. India became a state party to the United Nations Convention on the Rights of Persons with Disabilities [UNCRPD] which is a human rights instrument by both signing and ratifying the same in March and October 2007 respectively. Thus, the enactment of this new piece of legislation, namely, the RPD Act, 2016 has happened as a part of the larger harmonization process undertaken by the Government of India in fulfillment of its solemn commitment and international obligation arising out of India becoming a state party to the UNCRPD. Here, it may be mentioned in passing that the other disability specific legislation will also have to be revisited, reviewed and harmonized either by suitable amendments, or by repeal, or by enactment of fresh legislation as may be required. Besides, the so-called mainstream laws which have a definite and distinct bearing on the rights

guaranteed by and under the UNCRPD will also have to be reviewed, revisited and harmonized. The process of the RPD Act got kick-started way back in 2010 with the constitution of a committee comprising of primary stakeholders from the civil society and Government representatives. The said committee submitted its report together with a draft legislation in 2011 after due deliberations and also after holding elaborate consultations with the primary and other stakeholders. After the Right to Information Act, the RPD Act, perhaps, has been the only legislation which was preceded by such elaborate consultations with the primary stakeholders in keeping with the spirit of Article 4.3 of the UNCRPD which explicitly mandates consultations with persons with disabilities while deciding upon matters which have a bearing on their lives.

It goes without saying that the PWD Act, 1995 stands repealed with the enactment of RPD Act, 2016.



PART

TWO



SALIENT FEATURES

One significant factor that distinguishes the RPD Act, 2016 from its predecessor the PWD Act, 1995 is that the former amplifies and elaborates the human rights and fundamental freedoms of persons with disabilities with unprecedented emphasis with the result that it is more compatible with the UNCRPD. Highlighted below are some illustrative salient features which also serve to bring out some fundamental points of comparison of this new legislation with the outgoing PWD Act and bring to the fore a very strong rights flavor:

- Unlike the PWD Act, the RPD Act explicitly envisages civil and political rights of persons with disabilities in addition to envisaging the economic, social, and cultural rights of such persons. For example, it talks about equality and non-discrimination, protection from cruelty and inhuman treatment, accessibility in voting etc.
- This new legislation adopts a social and human rights-based approach to disability and recognizes that persons with disabilities are capable of human rights and fundamental freedoms on an equal basis with others.
- The RPD Act explicitly recognizes all persons with disabilities as any other person before the law and enjoins it upon the appropriate Government to ensure that they are able to enjoy their legal capacity equally with others.
- The Act seeks to address inter-sectional concerns of gender and age with disability. It adopts a twin-track approach in respect of the matter with the result that in addition to making dedicated and specific provisions for women and children with disabilities, it also mentions them in other appropriate places as well.
- The RPD Act expands the categorization of persons with disabilities so as to cover 21 conditions as against 7 in the outgoing PWD Act. Besides, the new legislation also envisages a nuanced categorization of persons with disabilities as may be seen in the subsequent part. (Part three)
- The scope of entitlements also stands enhanced and expanded in the aftermath of enactment of the RPD Act so that, for example, the quota of reservation in Government jobs, in admission to institutions of higher education, in poverty alleviation schemes, etc covers more categories of persons with disabilities compared to the PWD Act which now stands repealed.
- Compared to the PWD Act, the current RPD Act strengthens the regulatory, monitoring, and grievance redressal mechanisms in terms of their functions and composition. It also stipulates designation of special court at the district level for fast tracking cases of persons with disabilities under the Act.
- The RPD Act provides for representation of persons with disabilities including representation of women with disabilities in the various bodies to be created under this new legislation. Thus the value and indispensability of experiential expertise also stands recognized.
- The Act provides for time-limit for compliance with some of its substantive provisions which includes provisions in respect of compliance with accessibility norms.
- The Act contains a dedicated chapter (chapter 16) which prescribes penal provisions, inter alia, for contravention of provisions of the Act, or of rules and regulations framed thereunder; and, also for fraudulently availing of benefit by any person under the Act etc.
- The Act also provides for enabling persons with disabilities to access justice.
- Provisions for persons with disabilities in the event of situations of risk, natural disaster and humanitarian emergencies have also been made in the new legislation.
- The Act also provides for creation of National and State Fund for the benefit of persons with disabilities.
- The RPD Act also explicitly stipulates that no person with disability shall be discriminated against on ground of disability unless it is shown that the impugned act or omission is to achieve a legitimate aim.
- This Act also provides that certificate of disability issued under Section 58 of the Act shall be valid across the country. This will save persons with disability the hassle of obtaining fresh disability certificate when and if they move from one state to another

PART

THREE



Categorization of persons with disabilities, and some important definitions

This segment of the narrative discusses categorization of persons with disabilities as envisaged in the RPD Act, 2016; and also refers to some, and not to all the 31 definitions given in Section 2 of the Act.

It goes without saying that this new and current legislation stipulates a nuanced categorization of persons with disabilities, more particularly, for the purpose of conferring certain specific entitlements. A total number of 21 conditions have been listed and defined in the schedule appended to the Act. These 21 conditions are recognized as specified disabilities. Section 2 zc of the Act stipulates that ‘specified disability means the disabilities as specified in the schedule.’. These 21 conditions have been broadly categorized and distributed under physical disability, intellectual disability, mental behavior, disability caused due to

- A. Neurological condition
- B. Blood disorders, and multiple disabilities

Persons with specified disabilities have further been subdivided into two categories, namely, persons with benchmark disabilities; and persons with disabilities having high support needs.

Section 2 R of the Act says ‘person with benchmark disability’ means a person with not less than forty percent 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. Thus, for example, persons with blindness, persons with low vision, and deaf persons and persons who happen to be hard of hearing constitute persons with benchmark disabilities having measurable parameters in-built into their respective definitions as given in the schedule of the Act. In their case, the degree of disability is irrelevant as they fall within the ambit of measurable parameters. On the contrary, persons with locomotor disabilities, for example, do need to have a minimum of forty percent degree of disability since measurable parameters are not in-built into their definitions as given in

the schedule. The schedule is appended to this narrative for reference.

From the above, it follows by necessary implication that all persons with benchmark disabilities are also necessarily persons with specified disabilities; but the converse is not correct; i.e., all persons with specified disabilities are not necessarily persons with benchmark disabilities.

Section 2 T of the Act says ‘person with disability having high support needs’ means a person with benchmark disability certified under clause [a] of sub-section 2 of section 58 who needs high support. Section 2 [l] stipulates that “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy.

Thus all persons having high support needs are necessarily also persons with benchmark disability; but all persons with benchmark disabilities are not necessarily persons having high support needs.

Section 2 [s] of the Act also gives a generic definition of a person with disability, and it says: “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. This definition sets out the generic condition of a person with disability.

While all the definitions are important, the following are also particularly noteworthy:

Section 2 [h]: “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is 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 and includes all forms of discrimination and denial of reasonable accommodation.

Section 2 [c]: “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society.

Section 2 [f]: “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, video, visual displays, sign language, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology.

Section 2 [i]: “establishment” includes a Government establishment and private establishment.

Section 2 [k]: “Government 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 a Department of the Government.

Section 2 [v]: “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organization, union, factory or such other establishment as the appropriate Government may, by notification, specify.

Section 2 [w]: “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial for as, railway stations or platforms, roadways bus stands or terminus, airports or waterways.

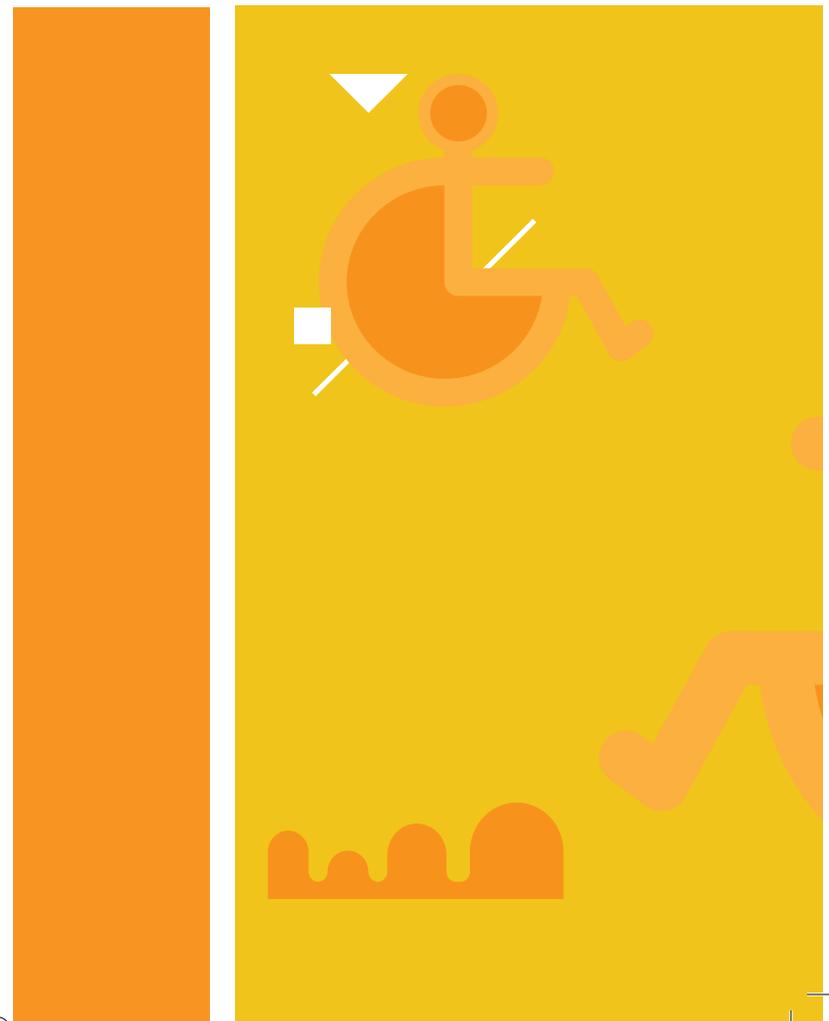
Section 2 [n]: “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services.

Section 2 [x]: “public facilities and services” includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation.

Section 2 [y]: “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.

Section 2 [zd]: “transportation systems” includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc.

Section 2 [ze]: “universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialized design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.



PART

FOUR



Composition and bird's Eye View

The RPD Act 2016 comprises the following:

- A. A Preamble
- B. 102 sections spread across some 17 chapters
- C. A schedule comprising a list and definitions of 21 conditions recognized as specified disabilities.

Following is the chapter-wise breakup of the Act:

Chapter 1 is Preliminary. It contains short title and provision regarding commencement of the Act.

Chapter 2 is on Rights and Entitlements. It comprises a whole range of provisions including provisions in respect of equality and non-discrimination, women and children with disabilities, community life, protection from cruelty and inhuman treatment, protection from abuse, violence and exploitation, home and family, reproductive rights, accessibility in voting, access to justice, legal capacity, and provision for guardianship where and to the extent needed, designation of authorities to support, etc.

Chapter 3 is on Education. It envisages duty of educational institutions, measures to promote and facilitate inclusive education and adult education.

Chapter 4 is on Skill development and employment. It comprises a comprehensive gamut of provisions which includes provisions relating to vocational training and self-employment, non-discrimination in employment, appointment of grievance redressal officer, institutionalization of equal opportunity policy, etc.

Chapter 5 is on Social Security, health, rehabilitation, and recreation. Provisions include those on social security, healthcare, rehabilitation, research and development, culture and recreation, and sporting activities, etc.

Chapter 6 is on Special provisions for persons with benchmark disabilities which is referred to in the subsequent segment, namely, part five of this narrative.

Chapter 7 is about Special provisions for persons with disabilities with high support needs which is

also referred to in the subsequent segment, part five of this narrative.

Chapter 8 is on Duties and Responsibilities of Appropriate Governments. These duties and responsibilities are essentially around awareness-raising about rights of persons with disabilities, and also around their accessibility of infrastructure, transport, information and communication, consumer goods, mandatory observance of accessibility norms and compliance with time-limit therefore, etc. These are further referred to in part seven as the private sector is an important player and partner in ensuring accessibility. This chapter also stipulates provisions in respect of human resource development and social audit to be undertaken from time to time.

Chapter 9 is on Registration of Institutions for Persons with Disabilities and Grants to such Institutions.

Chapter 10 is on Certification of Specified Disabilities.

Chapter 11 is on Central and State Advisory Boards on disability and District Level Committee.

Chapter 12 is about Chief Commissioner and State Commissioner for Persons with Disabilities. This is referred to at some length in part six of the narrative.

Chapter 13 is on Special Court. This too is referred to in part six.

Chapter 14 is on National Fund for Persons with Disabilities.

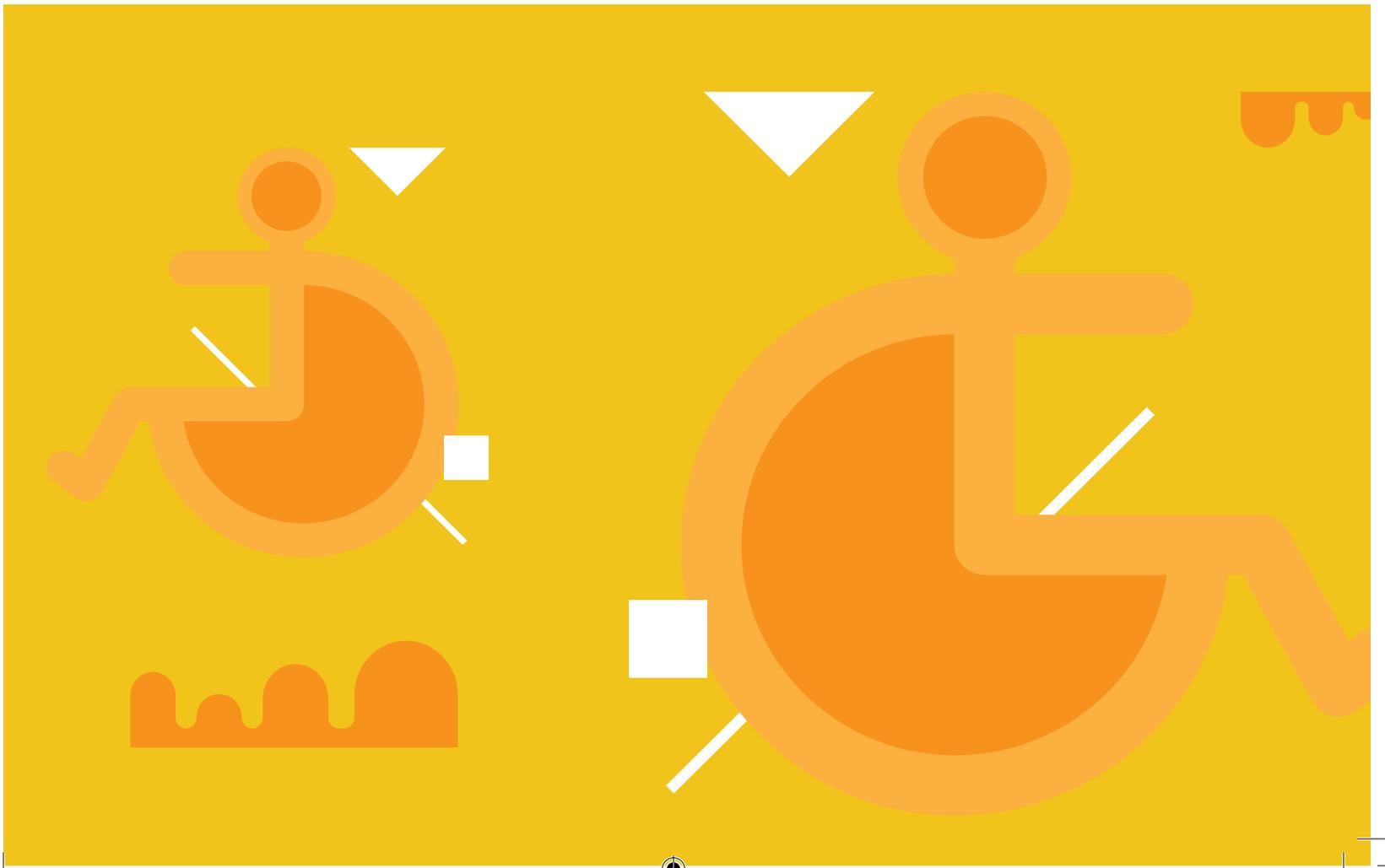
Chapter 15 is on State Fund for Persons with Disabilities.

Chapter 16 is regarding offences and penalties briefly alluded to in part two of this narrative.

Chapter 17 is Miscellaneous. It confers powers to frame rules under this Act both on the central as well as the state Governments and contains usual provisions in respect of repeal and savings, etc.

PART

FIVE



Illustrative glimpses of some specific/special provisions

This segment briefly touches upon some special/specific provisions for persons with benchmark disabilities across diverse thematic areas, and also for persons with disabilities with high support needs. These provisions are envisaged in chapter 6 and chapter 7 respectively.

Given below are some special provisions for persons with benchmark disabilities:

EDUCATION

Section 31 [1] stipulates that every child with a benchmark disability between the age of six to eighteen years shall have the right to free education in a neighborhood school or in a special school of his or her choice.

Subsection [2] of section 31 further enjoins it upon the appropriate government and local authorities to ensure that every child with a benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

Section 32 [1] provides for reservation of not less than five per cent seats for students with disabilities in government higher education institutions and in other higher education institutions receiving aid from the government.

Section 32 [2] stipulates upper age relaxation of five years for admission for students with benchmark disabilities.

EMPLOYMENT

Section 34 provides for reservation of not less than four per cent jobs in government establishment against total number of vacancies in the cadre strength in each group of posts meant to be filled by persons with benchmark disabilities in the manner given below:

Persons with blindness and persons with low vision - one per cent

Deaf and hard of hearing persons - one per cent

Persons with locomotor disabilities, including persons with cerebral palsy, leprosy-cured, dwarfism, acid attack victims, and muscular dystrophy - one per cent

Persons with autism, intellectual disability, specific learning disability, mental illness, and persons with multiple disabilities including the deafblind - one per cent

ALLOTMENT OF LAND

Section 37 provides for 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 disability. It further provides for five per cent reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disability.

There is also provision for five per cent reservation in allotment of land on concessional rate, where such land is to be used for the purposes of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres, and production centres

Special Provision for persons with disabilities with high support needs

Section 38 of the Act states that any person with a benchmark disability who considers himself in need of high support, or any other person or organization on his or her behalf may apply to an authority to be notified by the appropriate government requesting for high support. The said authority will then refer the case to an Assessment board to be constituted for the purpose. The assessment board shall examine the case and submit a report to that authority certifying that the person does need high support. The authority on being satisfied about the genuineness of the case shall take steps to provide high support to that person in accordance with government norms.

It would be in the fitness of things here to note that elsewhere in this Act, there is provision for limited guardianship where required. Limited guardianship has been explained as an arrangement of joint decision-making which operates on mutual trust. It also provides for supported decision-making in appropriate cases. Thus one gets a sense that limited guardianship is to be granted only as a last resort, i.e., if even the supported decision-making arrangement is not enough. It goes without saying that limited guardianship and supported decision-making has been provided for primarily keeping in mind the needs of persons with severe/profound intellectual disability, persons with severe psycho-social disability, and persons with multiple disabilities.

PART

SIX



Regulatory, Monitoring and Grievance Redressal Mechanisms

This segment briefly touches upon the important statutory institutions under the Act, namely, Chief Commissioner for Persons with Disabilities, [CCPD] and State Commissioner for Persons with Disabilities, [SCPD]; Central and State Advisory Boards [DAB and SAB respectively] on Disability, and District Level Committee; and, Special Court.

Chief Commissioner for Persons with Disabilities:

To put it very briefly, one important function of the Chief Commissioner is in the matter of grievance redressal with the result that s/he can take cognizance of complaints/grievances against any entity/establishment that comes under the central government. Needless to say that the CCPD can also take cognizance of cases of deprivation of rights suffered by persons with disabilities. Under the RPD Act, the functions of the CCPD have been significantly widened compared to the outgoing PWD Act; but there is no commensurate enhancement in the powers of CCPD, or for that matter, of SCPD at the state level. Section 75 of the Act enumerates as many as ten statutory functions of the CCPD which include, among other things, identifying inconsistencies in the existing laws and policies in relation to the Act for corrective action, studying relevant international instruments and making recommendations to the central Government for their implementation, grievance redressal as indicated above, monitoring utilization of funds disbursed by the central government for disability related work, awareness-raising and capacity building on rights of persons with disabilities, monitoring implementation of disability related legislations including provisions of this Act, programmes and schemes, etc.

The Act further stipulates that the Chief Commissioner shall be assisted by two Commissioners of whom one shall be a person with disability, and also by an advisory Committee of not less than eleven members drawn from experts in different disabilities.

Needless to say that the CCPD and the SCPD enjoy powers of a civil court for certain purposes as provided in the Act which are similar to those mentioned in the outgoing PWD Act, 1995.

State Commissioner for Persons with Disabilities:

The jurisdiction of the SCPD is the concerned state. His/Her functions are by and large similar at the state level to the functions of the CCPD at the national level. Hence, repetition would be redundant. Section 80 lists out as many as nine statutory functions of the SCPD. Regarding grievance redressal, it is to be noted that the SCPD can take cognizance of complaints/grievances arising out of any action or inaction of any authority under the concerned state Government. The SCPD shall be assisted by an advisory Committee of not less than five members drawn from experts in different disabilities. At the state level, powers of the SCPD are similar to the powers of the CCPD at the national level.

CAB and SAB, and District Level Committee

The Act provides for Central Advisory Board on disability and the State Advisory Board on disability to advise the central government and the state government respectively on matters relating to persons with disabilities including policy formulation. These Boards will be chaired by the Respective and concerned ministers of the central and the state governments. These Boards can be likened to the Central Coordination Committee and the State Coordination Committee as envisaged in the outgoing PWD Act which now stands repealed. The composition of these boards however is way more elaborate.

District level Committee

The Act also provides for District Level Committee to oversee implementation of the various provisions of the Act at the district level.

Special Court

Section 84 of the Act provides that the state government, with concurrence of the Chief Justice of the High Court shall notify sessions court in every district as Special Court to ensure speedy trial of offences committed under this Act. Section 85 of the Act provides for appointment of special public prosecutor for conducting cases in the special court.

PART

SEVEN



Role of private sector vis-a-vis The RPD Act

The UNCRPD is all-encompassingly inclusive. The RPD Act is an effort to align the corresponding Indian law with UNCRPD. Hence, it cannot be otherwise. It also has to be all-encompassingly inclusive with the result that this finds resonance in the said Act.

The UNCRPD is a visionary document which, inter alia, is alive to the emerging trends of globalization, liberalization, and privatization with the result that services to public are getting transferred to the private sector. This explains why the private sector has emerged as a major player in the scheme of things. This also explains why the UNCRPD enjoins it upon the private entities to make services which are open or provided to the public, accessible to persons with disabilities.

Going by the provisions of the Act, the private sector has a significant role and obligation, particularly, in the matter of ensuring accessibility to persons with disabilities. It also has a role in the matter of employment of persons with disabilities. Section 35 of the RPD Act stipulates that the appropriate government shall incentivize private entities to ensure that five per cent of their total workforce comprises of persons with disabilities.

In order to understand the role of the private sector on accessibility which is fairly comprehensive, it would be in the fitness of things for the author of this narrative to suggest that the accessibility related provision contained in Sections 40 to 46 of the Act be read together with some relevant definitions given in Section 2 such as those of 'establishment', 'private establishment', 'public building', 'public facilities and services', 'reasonable accommodation', and 'universal design', etc.

Without getting into the legal semantics, one may safely say that the role and obligations of both the appropriate government and the private sector extends to the physical environment including all kinds of infrastructure, transport, information and communication technology including all technologies and systems, public services and facilities, consumer goods, etc. They are under a legal obligation to comply with and incorporate

accessibility features in accordance with the accessibility standards and guidelines to be notified by the central government in consultation with the Chief Commissioner for Persons with Disabilities under Section 40 of the Act.

Here, it would be quite in context for us to remember that there are many privately owned public buildings such as shopping malls; similarly, many transport establishments/companies of different description meant for the public are owned by private individuals. So on and so forth.

The definitions of 'private establishment', 'public building', and 'public facilities and services', etc. are so all-embracing that they probably exclude only private property meant for private use and enjoyment only and personal services from their purview.

The Act also, inter alia, prescribes time-limit for mandatory observance of accessibility rules.

Sections 41 to 46 are reproduced below verbatim in this context:

41. (1) 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, toilets, ticketing counters and ticketing machines;
- (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;
- (c) accessible roads to address mobility necessary for persons with disabilities.

(2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

- (a) incentives and concessions;
- (b) retrofitting of vehicles; and
- (c) personal mobility assistance

42. The appropriate Government shall take

measures to ensure that,—

- (i) all contents available in audio, print and electronic media are in accessible format;
- (ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;
- (iii) electronic goods and equipment which are meant for every day use are available in universal design

43. 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.

44. (1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.

45. (1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification of such rules;

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 parameters;

(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.

46. The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules:

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.

Here, for example, one notices explicit reference to private service providers in Section 46. Likewise, one also notices reference to 'establishment' in Section 44 and to 'public buildings' in Section 45.

From the above, it follows by necessary implication that both the government and the private sector which includes the corporate and business houses, non-governmental/voluntary organizations, trusts, associations, etc., must work in tandem to make the provisions of this progressive piece of legislation a living reality on ground.

Concluding remarks

Anyone with a sane and sensible head over his shoulders is bound to agree that law is not an end in itself. It is one of the many tools of social change. In the ultimate analysis, what matters the most is the goodwill and solidarity of all. It needs to be recognized that disability is not synonymous with inability; much less with inability to perform.

THE SCHEDULE

[See clause (zc) of section 2]

SPECIFIED DISABILITY

1. Physical disability:--

A. Locomotor disability (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), including--

(a) "leprosy cured person" means a person who has been cured of leprosy but is suffering from--

(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;

(ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(iii) extreme physical deformity as well as advanced age which prevents him/her from undertaking any gainful occupation, and the expression "leprosy cured" shall construed accordingly;

(b) "cerebral palsy" means a Group of non-progressive neurological condition 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;

(c) "dwarfism" means a medical or genetic condition resulting in an adult height of 4 feet 10 inches (147 centimeters) or less;

(d) "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 and 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;

(e) "acid attack victims" means a person disfigured due to violent assaults by throwing of acid or similar corrosive substance.

B. Visual impairment--

(a) "blindness" means a condition where a person has any of the following conditions, after best correction:--

(i) total absence of sight; or

(ii) visual acuity less than 3/60 or less than 10/200

(Snellen) in the better eye with best possible correction; or

(iii) limitation of the field of vision subtending an angle of less than 10 degree.

(but) "low-vision" means a condition where a person has any of the following conditions, namely:--

(i) visual acuity not exceeding 6/18 or less than 20/60 upto 3/60 or upto 10/200 (Snellen) in the better eye with best possible corrections; or

(ii) limitation of the field of vision subtending an angle of less than 40 degree up to 10 degree.

C. Hearing impairment--

(a) "deaf" means persons having 70 DB hearing loss in speech frequencies in both ears;

(b) "hard of hearing" means person having 60DB to 70 DB hearing loss in speech frequencies in both ears;

D. "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 neuro-logical causes.

2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior which covers a range of every day, social and practical skills, including--

(a) "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;

(b) "autism spectrum disorder" means a neuro-developmental 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 behaviors.

3. Mental behavior--

"mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behavior, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially

characterised by subnormality of intelligence.

4. Disability caused due to--

(a) chronic neurological conditions, such as--

- (i) "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;
- (ii) "parkinson's disease" means a progressive disease of the nervous system marked by tremor, muscular rigidity, and slow, imprecise movement, chiefly affecting middle-aged and elderly people associated with degeneration of the basal ganglia of the brain and a deficiency of the neurotransmitter dopamine.

(b) Blood disorder--

- (i) "haemophilia" 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;
- (ii) "thalassemia" means a group of inherited disorders characterised by reduced or absent amounts of haemoglobin.
- (iii) "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.

5. Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.

6. Any other category as may be notified by the Central Government.

ABBREVIATIONS/ ACRONYMS

Given below are some of the abbreviations and acronyms used in this document in the interest of brevity

RPD Act or simply, the Act - Rights of Persons with Disabilities Act, 2016

PWD Act Persons with Disabilities [Equal Opportunities, Protection of Rights, and Full Participation] Act, 1995

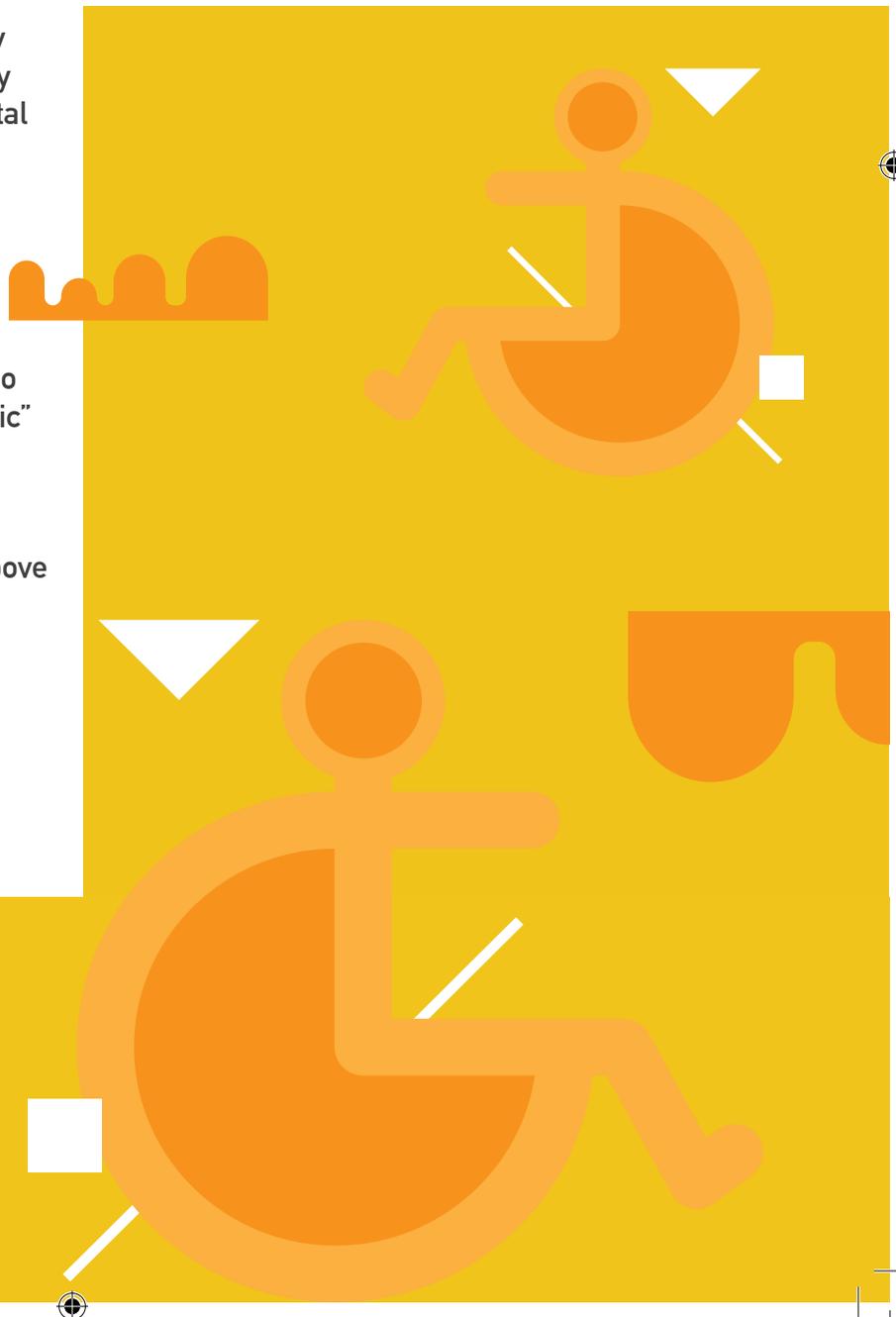
UNCRPD - United Nations Convention on the Rights of Persons with Disabilities

CCPD - Chief Commissioner for Persons with Disabilities

SCPD - State Commissioner for Persons with Disabilities

CAB - Central Advisory board on Disability

SAB - State Advisory board on Disability



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