

**Third Meeting of the Committee to Draft A New Legislation To Replace The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 , held on 12th August , 2010 at Conference Room, Indian Spinal Injuries Center, Vasant Kunj.**

**Item 1 Confirmation of Minutes:**

Minutes of the meeting on 22<sup>nd</sup> July 2010 as amended (Copy enclosed) were confirmed. The members were informed that earlier minutes of the meeting were already on the Ministry's website and all subsequent minutes shall be similarly uploaded. To facilitate members being able to access the website the link to the specific page shall be provided.

**Item 2 Discussion of sub group reports:**

The committee deliberated upon concerns arising from the work of the sub groups on preamble and definitions; civil political rights; legal capacity; education; employment; health and rehabilitation; and authorities.

The groups on civil political rights and legal capacity informed that they needed to deliberate further on their themes in order to work out how the general propositions of the CRPD needs to be inducted into national law. The interplay between the right to legal capacity and the safeguards to prevent abuse of support evoked detailed discussion. The procedures by which persons requiring support would be identified; the relationship between earlier laws and the new law were other issues listed as requiring deliberation by the sub-group. Subsequent to the deliberations it was decided that due to the natural convergence of the issues it would be appropriate that the sub groups on civil political rights and legal capacity merged and deliberated on the two themes concurrently.

The Preamble and definition group generated a fair amount of discussions on the definition of disability and how the transition from a medical to a social model be worked out. Questions were also raised on extent of detail required in the definition and whether the detailed definition should find place in the new Act or in the attendant rules. It was also decided that the chapter on

definitions would be examined in greater detail after the substantive chapters of the new Act had been settled.

The sub group on authorities generated discussion on continuing with the existing structure of Commissioners and Chief Commissioners with enhanced powers or to go for a more elaborate structure of Commissioners / Disability Commission/ Tribunal. The need to examine the pros and cons of both options was accepted and to that end, it was also suggested that the utility of the Central and State Co-ordination Committees needed to be examined.

Whilst discussing the theme of health and rehabilitation, it was acknowledged that rehabilitation was larger than just medical rehabilitation. Consequently, it was decided that the rights of health and rehabilitation would be addressed in separate chapters of the new law.

The theme of education was discussed in great detail and members put forth their opinions on the importance of inclusive education, special education needs and institutions as also the necessity of aligning the education of persons with disabilities with the Right to Education Act and the ongoing initiatives under it. The Convener informed the Committee of the various ways in which the suggestions were incorporated in the report of the sub-group.

The theme of employment was also deliberated upon by the Committee where the issue of mode and percentage of reservation evoked a fair amount of discussion. Suggestions on examining economic empowerment from developmental programmes and exploration of the link between corporate social responsibility and employment rights were also made. The sub group was also asked to reflect on the language in which question of employment was addressed.

The Chairperson and the Convener's of all groups urged members to send their recommendations to the Convener of the sub-group at the earliest to enable the sub group to discuss with the legal consultant.

### **Item 3: Submissions before the Committee**

Mr Javed Abidi Convenor DRG was invited by the Chairperson to present the views of his network to the Committee. Mr Abidi in his submission urged the Committee to see their mandate as a mandate to formulate a comprehensive which addressed all rights of all groups. He also impressed upon the committee the need to complete this task in a time bound manner and transparently so that the sector at all points would be cognizant of the deliberations of the committee.

Subsequently Dr Amita Dhanda in her presentation outlined the legal issues before the Committee and the tasks of the Legal Consultant in assisting the Committee to fulfill its mandate.

### **Item 4: Allocation of unallocated issues**

In order to ensure that all the rights guaranteed by the CRPD were accorded due recognition in the new law, the Committee allocated the remaining rights as follows:

- Women with disabilities would be dealt with by the legal capacity and civil political rights group (Convenors : Shyamala and Bhargavi).
- Children with disabilities and leisure, culture and sport by the Education sub group (Rukmini and Shyamala would also join this group)
- Social Security by the Employment group ( Convenor: Jayshree)
- Right to Live Independent and in the Community [ Poonam Natrajan (Convenor) Merry Barua Rajive rajan Ramakrishnan Akhil Paul ]

The Chairperson urged the sub-group members to actively involve stakeholders and other experts consultations with whom would enrich the work of the sub-groups.

## **Item 5: Discussion of work plan**

The Committee discussed the work plan circulated by the Chair at great length. Consequent to the discussion it was decided that the sub-groups would conclude their intra and inter group discussion and finalize their reports necessarily by the end of August in order to enable deliberation to begin with the Legal Consultant.

All the Sub-Groups were to interact with the Sub-Group through August and September. The Committee would meet again on 29<sup>th</sup> 30<sup>th</sup> September and 1<sup>st</sup> October to reach consensus on contentious questions.

On the strength of the mandate provided by the Committee the Legal Consultant would provide a working draft to the Committee by the end of October. This working draft would be widely disseminated to disabled people and their organizations through all means and modes of communication.

The working draft would also be evaluated by the financial consultant for its financial implications and this report would be presented to the Committee at the National Assembly.

The Committee would deliberate on this working draft in a National Assembly in Delhi in the latter half of November. Attendance to this Assembly would be open to Disabled People and their Organizations. Suggestion was also made for holding regional consultations.

The Committee strongly and unanimously recommended for provision of funds which would provide financial support to disabled people and organizations of and for disabled people from all parts of the country to attend the Assembly. This was especially required because the Committee due to constraints of time could not hold regional consultations. The guidelines of participation would be formulated to ensure equitable geographical, gender and disability specific representation.

On the strength of the decisions reached at the Assembly the legal text of the New Law would be drafted by the Legal Consultant in December and presented to the Committee and other legal experts by the third week of December. On the strength of the recommendations made at this meeting the final draft would be submitted to the Ministry by the end of December. Consequent to this Work Plan being approved it was decided that the Chairperson would write to the Ministry to seek an extension of the term of the Committee till the 31st of December 2010.

The meeting adjourned after recording its thanks to the Chair.

## **Annex**

### **List of participants:**

#### **Chairperson**

Dr. (Mrs) Sudha Kaul

#### **Members**

##### **I Expert/NGO representatives**

- 1) Shri. Bhushan Punani
- 2) Smt. Jayshree Raveendran
- 4) 5) Dr. L. Govinda Rao
- 5) Shri Akhil Paul
- 6) Ms Merry Barua
- 7) Shri Rajive Raturi
- 8) Dr. Uma Tuli
- 9) Ms. Rukmani Pillai,
- 10) Ms. Bhargavi Davar,
- 11) Shri Rajiv Rajan
- 12) Shri K. Ramakrishna
- 13) Shri J.P. Gadkari
- 14) Dr. Anupam Gupte

##### **II Representatives of the State Governments**

- i) Shri. Mahavir Gupta, Dir. SJED, Jaipur, Govt. of Rajasthan
- ii) Ms. Mita Benerjee, Commissioner for PwDs, Govt. of West Bengal
- iii) Shri S.S. Jawahar, Secretary to Govt., Differently Abled Welfare Dept. Chennai.

##### **III Representatives of Central Ministries/Departments**

- i) shri Sharad Kumar Srivastava, Under Secreatry, Representing DOPT
- ii) Shri A. Kachhap, Dy. Advisor (AH), Planning Commission

#### IV Representative of the National Institute of Public Finance and Policy

Prof. Chandan Mukherjee, National Institute of Public Finance and Policy.

#### V Members, ex officio

- i) Poonam Natarajan, Chairperson, National Trust
- ii) Shri. T.D. Dhariyal- Representative of Chief Commissioner for Persons with Disabilities

#### VI Member Secretary

Dr Arbind Prasad, Joint Secretary (Disability Division), Ministry of Social Justice & Empowerment.

#### **Special Invitees:**

- 1) Mr. A.S.Narayanan
- 2) Major H.P.S. Ahluwalia
- 3) V.B Arora, Dy. Director (Media & Communication), Press Information Bureau

#### **Centre for Disability Studies, NALSAR University of Law ( Legal Consultant)**

- i. Dr. Amita Dhanda (Professor and Head)
- ii. Mr Nilesh Singit (Research and Advocacy Officer)
- iii. Ms Subhadra Banda [Research Associate]
- iv. Mr Arun Mohan [Research Associate]
- v. Mr Manav Kapoor [Research Associate]

#### **Ministry of Social Justice and Empowerment**

- 1) Shri Dharmender Kumar, Director IPH
- 2) Shri. Sunil Kumar Pattanayak, Director, Disability Division, M/o SJ&E

#### **Observers from Disability Rights Group**

- i. Shri. Javed Abidi
- ii. Shri. G. Ramanathan
- iii. Shri. M. Srinivasulu
- iv. Ms. Subhadra Banda

- v. Shri Arun Mohan
- vi. Shri Manav Kapur
- vii. Shri. M.A.Khokhar
- viii. Shri. A. Dhanasekar
- ix. Shri. Arman Ali
- x. Shri. Amitabh Malhotra
- xi. Shri. Suhas karni
- xii. Shri. Aatam Kothari
- xiii. Ms. Meenakshi
- xiv. Ms. Marry
- xv. Ms. Bertha G. Adhkar
- xvi. Ms. Shivani Gupta
- xvii. Shri. Nilesh Singit
- xviii. Shri. R.C. Sharma
- xix. Shri. Javed Ahmad