

First 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 10 June, 2010 at Conference Room, Indian Spinal Injuries Center, Vasant Kunj.

List of Participants Annexed

The Chairperson welcomed the members. She acknowledged the hard work of many groups in preparing the basic material—and for carrying out extensive research and preparation of papers which would of great assistance in drafting of the Act. Special mentions were made to two papers submitted by HRLN (Human Rights Law Network) and DRG (Disability Rights Group). She also emphasized that the new law should be in consonance with the UNCRPD, and should be rights based.

The Chairperson further said that the Committee had the onerous responsibility of drafting the new legislation for PwDs which would have an impact on millions of lives. The procedure adopted would have to be transparent and all inclusive. She further emphasized that the process of formulation of this new legislation would have to be through an open process. Some of the meetings of the Committee could be held in an open forum to give opportunities to stakeholders from civil society to participate in the discussions. The minutes of each meeting would be posted on the MSJE website and comments invited from stakeholders.

After introduction of the members agenda Points were taken up for discussion.

Agenda 1: Discussion on Terms of Reference of the Committee

Dr. Arbind Prasad, JS (DD) also welcomed the members and outlined the composition of the committee which was constituted with representatives from various stakeholders including civil society organizations and then briefly enumerated the terms of reference of the committee. He emphasized that while drafting the new legislation for persons with disabilities the committee should keep in mind the following points:

- Provisions laid down in the Constitution of India and other laws of the land.

- Financial, Logistic and Administrative feasibility of the various provisions in the draft law should be taken care off.
- Financial implications whether recurring or non-recurring on the Central Govt., State Govt. or other Local Authorities should be considered.

He further stated that the committee was given a time frame of 31st August for submission of the draft legislation.

Agenda 2

Appointment of Centre for Disability Studies, NALSAR University of Law as Legal Consultant to provide technical support to the Committee.

It was noted that the drafting of a new legislation requires Legal expertise. The committee also required support in the preparation of papers for discussions and Secretarial assistance for drafting of minutes and follow-up. After detailed deliberation and looking at various alternatives it was finally decided that the rich experience of Dr Amita Dhandra in Disability legislations and NALSAR being the only Law University with a Center for Disability Studies should be availed off. The Committee resolved to appoint Centre for Disability Studies of NALSAR University of law as legal consultant to the committee. The tentative budget for the consultancy charges was 10 lakhs and Rs.40000/- per meeting of the committee.

Ms G Syamala and Mr. J P Gadkari emphasized that not one institution, but a panel of experts should also look at various legal provisions. It was felt that wide ranging consultations with legal experts should be done.

Many members stressed on the fact that the new law must reflect the spirit of the UNCRPD. Mr. Rajiv Rajan with the permission of Chair distributed a paper on the non-negotiable rights of PwDs to be included in the new Act.

Responding to the discussions on the nature of the new law, the Chairperson observed that at this stage the committee will look into various provisions of present PwD Act, align them with UNCRPD, look into the addition of some more chapters if necessary, so that all the articles of UNCRPD based on rights of PwDs are covered including a focus on women with disabilities, non negotiable rights etc.

Agenda 3: Report on Existing Proposals and Discussions on the PwD Act

Dr. Arbind Prasad, JS (DD), made a power point presentation giving background of constitution of the committee, the need for amendment, process followed in formulation of amendments, response received from various sources on the proposed amendments etc.

Dr Uma Tuli highlighted the drawback in the implementation of the existing PwD Act, 1995 due to lack of finance. She suggested for creation of a “National Fund” and utilizing the same for implementation of various programmes for PwDs. Mr. Rajive Raturi reiterated this demand and said that after the Supreme Court ruling the un-utilized fund lying with the Banks could be used for the benefit of PwDs as far as possible in the new legislation. The modalities for its proper utilization and decision on various budgetary allocations in the new Act would require expertise. The same could be provided by the representative Planning Commission and M/o Finance as they are part of the Committee. The committee decided that first Draft when prepared would be handed over to the Finance expert Group for working out the financial implications.

Agendas 4: Procedural and Operational Plans for the Committee.

While debating on the methodology to be followed for preparation of the draft, Ms Rukmani stated that there was a need for strong and effective laws which could be implemented at the grass root level. Most of the Acts failed in this respect. Mr. Bhushan Punani emphasized on consideration of country specific issues like certification which is a feature typical to the Indian scene, while UNCRPD is an international convention. Therefore, each country should also be keeping in mind its specific requirements while formulating their laws. Dr. Karna, stressed that the Preamble to the new Act should be carefully drafted and the Hindi translation of the new legislation should be simultaneously prepared.

Mrs. Poonam Natarajan and Ms G Syamala felt that constitution of working groups on different areas may not be the best idea. They wanted each article of UNCRPD to be discussed, so that it was fully understood. The members felt that all these points could be well taken care off if the committee constituted in small sub groups to study each and every area/chapter. On the request of Chairperson, Mr. Bhushan Punani laid out broad areas to be looked into for the participants and enlisted 10 groups. The areas were then debated

and a consensus was reached on having sub groups who would prepare the first Draft of different chapters on their areas in consonance with UNCRPD. Ms. Jayshree Ravindran, Ms Rukimini, Mr. Rajiv Rajan once again showed concern that the new Act must be rights based and did not reflect any discrimination to PwDs. The subgroups, formed based on the consent and interest of each member, are as under:

Group Name	Members
Preamble and Definition	Mr. Akhil, Dr. Karna (Team Leader), Ms. Poonam Natarajan (Ms. Merry Barua will provide her suggestions on Autism to this group)
Rights and Legal Capacity	Dr. Govinda Rao, Ms G Syamala (Team Leader), Mr. J P Gadkari, Mr. Rajiv Rajan, Ms Jayshree Raveendran.
Civil and Political Rights	Ms Bhargavi (Team Leader), Mr. Rajiv Rajan, Ms G Syamala, Ms Jayshree Raveendran.
Education	Mr. Punani, Ms Poonam Natarajan, Dr. Uma Tuli, Mr. Narayanan, Ms Merry Barua.
Health and Rehabilitation	Dr. Srikala Bharath, Dr. Dharmendra Kumar, Ms Rukimini (Team Leader), Mr Vikas Amte, Rep. from M/o Health.
Employment and Occupation	Mr. Rajive Raturi, Ms Jayshree Raveendran (Team Leader), Mr. Ramakrishna, Mr. Punani, Ms Srikala, Mr. J P Gadkari, Mr. K.G. Verma (Rep. of DoPT).
Accessibility	Ms Rukmini, Mr. Narayanan, Mr. Rajive Raturi, Mr. Rajiv Rajan (Team Leader) .
Human Resource Development	Mr. Cordozo, Ms G Syamala (Team Leader), Mr. Akhil Paul, Rep. of M/o HRD, Dr. Govinda Rao
Authoritiies	Dr. Uma Tuli, Mr. Pitam, Ms Poonam Natarajan (Team Leader), Mr. Cordozo, Comm (D) Assam, Comm (D), WB.
Financial Authority	Mr. Ramakrishnan, Mr. Mukherjee, Dr. Govinda Rao.

Each Group was requested to select a Team Leader by the Chairperson and report back to the Committee. The Team Leader would keep the Chairperson apprised of the progress of the group discussions. The Chairperson also said that each Group could invite different stakeholders to participate in the group discussions. The Ministry was requested to provide a budget for the Group meetings.

Agenda 5: Time Frame for Submission of Report:

The Chairperson stated that the committee was aware of the onerous task given to it and was committed to complete Draft -1 by the end of year 2010 with the following time line:

The sub groups would present their work in third week of July 2010 when the committee would meet again. The sub groups would exchange their views/suggestions/comments via email and if they feel the need to meet they could do so just once with prior approval of the Chairperson.

After discussions on the work of sub groups a basic draft would be prepared by the Legal Consultant which will be open for consultation with Legal experts and sent to the Finance members for their inputs.

The meeting ended with vote of thanks to Chair.

List of participants:

Chairperson

Dr. (Mrs) Sudha Kaul

Members

I Expert/NGO representatives

- 1) Shri. Bhushan Punani
- 2) Dr. Vikas Amte
- 3) Smt. Jayshree Raveendran
- 4) Dr. G.N.Karna
- 5) Dr. L. Govinda Rao
- 6) Shri Akhil Paul
- 7) Ms Merry Barua
- 8) Ms G. Syamala
- 9) Shri Rajive Raturi
- 10) Dr. Uma Tuli
- 11) Ms. Rukmani Pillai,
- 12) Ms. Bhargavi Davar,
- 13) Shri Rajiv Rajan
- 14) Shri K. Ramakrishnan
- 15) Shri J.P. Gadkari
- 16) Prof. Srikala Bharat

II Representatives of the State Governments

- i) Ms. Malabika Barua, Commissioner for PwDs, Govt. of Assam
- ii) Shri. Mahavir Gupta, Dir. SJED, Jaipur, Govt. of Rajasthan
- iii) Shri. M.S. Savant, Commissioner for PwDs, Govt. of Maharashtra
- iv) Ms. Mita Benerjee, Commissioner for PwDs, Govt. of West Bengal

III Representatives of Central Ministries/Departments

- i) Dr. S.Y. Kothari, Addl. DGHS, M/o Health and Family Welfare
- ii) Shri. S.C. Khuntia, Joint Secretary, M/o HRD
- iii) Shri K.G. Verma, Director, Representing DOPT

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) Chairman, Rehabilitation Council of India (RCI)
- iii) Dr. Pitam Singh- 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. S N Menon
- 2) Mr. A.S.Narayanan
- 3) Major H.P.S. Ahluwalia

Ministry of Social Justice & Empowerment

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