**National Human Rights Commission of India**

**CONTRIBUTION OF NATIONAL HUMAN RIGHTS COMMISSION OF INDIA ON**

**QUESTIONS PERTAINING TO ARTICLE 8 OF UNCRPD**

**1(a) Does your country have laws, policies, plans, strategies or guidelines at any level of government relating to raising awareness about persons with disabilities, in particular initiatives to:**

* **foster respect for the rights and dignity of persons with disabilities;**
* **combat stereotypes, prejudices and harmful practices relating to persons with disabilities; or**
* **promote awareness of the contributions of persons with disabilities?**

Government of India enacted Rights for Persons Act (RPD Act) in 2016 which has a stand-alone Section on awareness building. Section 39, of the said Act, obliges Governments, in consultation with the Chief Commissioner for Persons with Disabilities and State Commissioner for Persons with Disabilities, to conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities (PWDs) provided under the said Act are protected. The various aspect in which the awareness programmes are to be undertaken according to the Act:

* Promotion of values of inclusion, tolerance, empathy and respect for diversity;
* Recognition of skills, merits and abilities of persons with disabilities and contribution to their workforce;
* Respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children;
* 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;
* Orientation and sensitisation on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers;
* ensure that the rights of persons with disabilities are included in the curriculum in Universities, colleges and schools.

Further to promote awareness about the contributions of persons with disabilities, the Department for Empowerment of Persons with Disabilities of Ministry of Social Justice and Empowerment, Government of India confers National Awards to Individuals/ Institutions/ States/ Districts for their outstanding achievements for the empowerment of persons with disabilities. The awards are conferred on the occasion of ‘International Day of Disabled Persons’ i.e. 3rd of December every year.

**2(a) What legislative and policy measures are taken to address hate crimes, hate speech and harmful practices against persons with disabilities?**

Section 92 of the RPD Act has made provisions for penalty of imprisonment for a term not less than six months and extended upto five years and monetary fine for cases of:

* Intentional insult or intimidation intended to humiliate a person with disability in any place within public view;
* Assault or use of force to any person with disability with an intent to dishonour him or outrage the modesty of a woman with disability;
* A person having charge or control over a person with disability voluntarily or knowingly denying food or fluids to him or her;
* Sexually exploit child or woman with disabilities;
* Voluntarily injuring, damaging or interfering with the use of any limb or sense or any supporting device of a person with disability;
* Performing, conducting or directing any medical procedure on a woman with disability which would lead to termination of pregnancy without her express consent, except in cases where medical procedure for 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.

The Juvenile Justice (Care and Protection of Children) Act, 2015 which mainly pertains to children alleged or found to be in conflict with law and children in need of care and protection, has provisions to penalize people for offences against children. The offences include engaging in cruelty towards children, employing of children as beggars, intoxication of a child, sale of children, among others. The Section 85 of the said Act doubles the penalty in cases where the offence is against children with disabilities.

The Protection of Children from Sexual Offences Act, 2012 aims at protecting children from offence of sexual assault, sexual harassment and pornography and provide for Special Courts for the trails of such offences. The said Act also provides penalties for offences against children with mental and physical disabilities.

* For ‘aggravated penetrative sexual assault’ against children with mental and physical disabilities, Section 6 of the Act provides for a punishment of rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life or death penalty and shall also be liable to fine.
* For ‘aggravated sexual assault’ against children with mental and physical disabilities, Section 10 of the Act provides for a punishment of imprisonment of either description for a term which shall not be less than 5 years but which may extend to 7 years and shall also be liable to fine.

The Act further has provisions allowing a Magistrate, Police Officer and Special Court to record the aggrieved child with disabilities’ statement and evidence respectively by seeking help of a Special Educator or persons familiar with the manner of communication of the child.

**2(b) In particular, are there legal remedies available for persons with disabilities seeking compensation and reparation? Are there legal provisions to sanction perpetrators, including criminal law? Please provide information on their application in practice (e.g. Cases of persons condemned for hate crimes against persons with disabilities)**

Article 32 of the Constitution of India provides for constitutional remedies in case of violation of fundamental rights provided in the Constitution. The said Article gives right to move to the Supreme Court by appropriate proceedings for the enforcement of the rights guaranteed.

There are several redressal mechanisms as per RPD Act, 2016 to provide remedies and reparation in cases where rights of person with disabilities are breached:

* Section 23 obligates every Government establishment is to appoint a Grievance Redressal Officer for the purpose of investigating matter of discrimination against persons with disabilities in matters relating to: non-provision of reasonable accommodation, denial of promotion, demotion of an employee on acquiring disability.
* The RPD Act provides for appointment of Chief Commissioner for Persons with Disabilities at the national level and State Commissioner for Persons with Disabilities at the State level. Both of the said authorities are mandated to inquire, suo motu or otherwise, deprivation of rights of persons with disabilities and safeguards available to them and take up the matter with appropriate authorities for corrective action.

The National Human Rights Commission is mandated to inquire complaints (suo motu or on a petition presented by a victim or any person on his behalf) of: (i) violation of human rights or abetment thereof; or (ii) negligence in the prevention of such violation, by a public servant

**4(a) Please provide information on the existence and implementation of programme and activities, including successful examples of campaigns, related to raising awareness about persons with disabilities and their rights, and combating negative attitudes through initiatives of:**

* **Training, including human rights education;**
* **Research, including studies on perception and attitudes;**
* **Surveys and data collection.**

The Department of Empowerment of Persons with Ministry of Ministry of Social Justice and Empowerment, Ministry of Social Justice and Empowerment has been implementing the ‘Scheme for Implementation of Rights of Persons with Disabilities Act, 2016’ (SPIDA) towards effective implementation of the RPD Act. In this Scheme, financial assistance is provided to implementing agencies for the following activities, apart from others:

* Awareness campaign and sensitization programme for various stakeholders.
* Research and development activities in the field of disability rehabilitation.
* In service training and sensitization of key functionaries of Central and State Government and local bodies and other service providers.

In 2008, National Trust, a statutory body set up under the “National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities” Act, 1999 enacted primarily to address the future guardianship concerns of parents/guardians of persons belonging to the said categories of disabilities. The National Trust envisioned “Badhte Kadam” as a pan-India campaign to:

* create awareness about the UNCRPD and the National Trust,
* create community awareness, sensitisation, social integration and mainstreaming of persons with disabilities.
* encourage persons with disabilities’ inclusion in the society, social integration and participation of persons with disabilities in all aspects of life.
* publicize and maximize benefits of the National Trust schemes for Registered Organization(RO), PWDs and for families of PWDs.
* spread awareness about myths and misconceptions about disability, disability etiquette etc.

Rehabilitation Council of India in collaboration with the Media Lab Asia (MLA) has developed a comprehensive national web portal namely “www.punarbhava.in” on disability. The portal is designed to provide all related information relating to different disability issues on one platform.

“We Care” Film Fest is an annual international festival of documentary films on disability issues. It is organized by the Brotherhood, a Delhi-based NGO, with the support of National Trust and in association with the United Nations Information Centre for India and Bhutan, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Asian Academy of Film and Television. ‘Care film’ festivals aims to:

* create awareness about disability issues through the medium of films.
* foster integration in society by spreading the message of ability.
* remove the myths, misconceptions, prejudices and stereotypes about disabled and disability among society through the medium of films.

Further, the festival is also aimed at giving a boost to the rights-based approach where persons with disability are considered persons first.

**4(b) Please indicate their objective, scope, target audience, impact (including available data), partners and participants, particularly the participants of, and role of persons with disabilities and their representative organizations, and any key factors of success**

The “Badhte Kadam” campaign has enlisted the following as audience of the scheme:

* Public and Society
* Stakeholders:
  + Government officials (including Public representative like Panchayat member, Sarpanch, MLA, MP)
  + Medical fraternity
  + Legal professionals
  + Banks / Financial Institutions
  + Educational Institutes, Students, Teachers etc.
* Families/ guardians of PWDs.
* NGOs and people of areas where The National Trust is not represented.

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