**Questionnaire on good practices to ensure effective access to justice for persons with disabilities (English)**

Natural justice is a basic and fundamental human right not only enshrined in UN and other human rights instruments, treaties, conventions or covenants but also has reference in ancient writings, sociological and politically grounded theories. Justice is also a basic human need without which human beings cannot live a life with dignity. Justice (social, economic, political, religious, cultural and language) cannot be denied and one should make justice. It is important to make justice for those who are affected by discrimination, exploitation, violence, abuse in all forms and manifestations, inequities, inequality and injustice.

Adoption of convention on the rights of persons with disabilities by UN general assembly; signing and ratification by the states parties has significantly contributed in improving the justice system and mechanism for persons with disabilities.

Enactment or amendment of specific legislations or laws in order to harmanise the domestic legal framework in line with convention on the rights of persons with disabilities by the national governments has contributed in enabling persons with disabilities to access justice relatively better.

The good practices which have enabled persons with disabilities to access effectively without much hustle or difficulty are summarised below as per the questions:

1. ***Please provide information on any existing good practices in legislation, policies and/or institutional measures taken in your country to ensure effective access to justice for persons with disabilities on an equal basis with others, as required by article 13 of the Convention of the Rights of Persons with Disabilities.***

Section 12, sub-sections 1-4 and clause A-C of “The Rights of Persons with Disabilities Act (2016) of India (RPDA)” is reads as follows:

**12.** (*1*) The appropriate Government shall ensure that persons with disabilities are ableto 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.

(*2*) The appropriate Government shall take 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

(*3*) 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.

(*4*) The appropriate Government shall take steps to—

(*a*) Ensure that all their public documents are in accessible formats;

(*b*) 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

(*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

The institutional framework stated in the act include: Chief Commissioner, two deputy chief commissioners, state commissioners, assistant commissioners, special district court and special prosecutor for speedy disposal of grievances.

***2. Please provide information on any existing good practices in place in your country, including strategies and guidelines, to facilitate the direct or indirect participation of persons with disabilities in judicial and other legal proceedings (e.g., as concerned parties, witnesses, jurors, judges, lawyers, experts.) including in the areas of:***

*** Recognition of the right to legal standing;***

Section 14, sub-section (2-5) of RPDA (2016) states as follows:

(*2*) 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.

(*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.

(*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.

(*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.

*** Accessibility and access to information;***

Section 12, sub-section (4) and clauses (a-c) of RPDA 2016 states as follows:

(*4*) The appropriate Government shall take steps to—

(*a*) Ensure that all their public documents are in accessible formats;

(*b*) 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

(*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

*** Procedural, gender- and age-appropriate accommodations; and***

Section 12, Sub-section (2) of RPDA 2016 states as:

(*2*) The appropriate Government shall take 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

Section 14, sub-section (1-3), explanation 1 and 2 of RPDA 2016 states:

**14.** *(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 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 behalf in consultation with such person, in such manner, as may be prescribed by the State Government

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

*Explanation*.— For the purposes of this sub-section, “limited guardianship” means asystem of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability

(*2*) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.

(*3*) Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose.

*** Provision of legal aid.***

There is already the provision of legal aid for persons with disabilities to access justice through the legal aid cell designed by the appropriate government;

According to RPDA (2016) the legal aid is provided by the district court through special prosecutor appointed by the chief justice of the high court of the state for the speedy disposal of grievances and cases;

There are civil society agencies such as Human Rights Law Network (HRLN) and other agencies also provide legal aid to persons with disabilities to access justice through filing of Public Interest Litigations (PILs) in high court or Supreme Court;

1. ***Please provide information on any existing good practices in jurisprudence in your country related to the effective access to justice for persons with disabilities.***

The general laws with regard to marriage, divorce, adoption, succession, inheritance, property, conjugal rights and other laws are positive towards persons with disabilities and do not discriminate on any of these matters. These legislations facilitate them to access justice effectively with the help of sensitive legal fraternity.

***4. Please provide information on any existing good practices in your country to promote access to effective remedies and reparations in cases where the rights of persons with disabilities have been breached.***

Section 74, sub-section (1) and (2) of RPDA (2016) mandates the national government to appoint chief commissioner and two deputy chief commissioners to address the grievances and enable persons with disabilities to access justice effectively on a timely manner;

Section 79, sub-section (1) appointment of state commissioner and assistant commissioner to enable persons with disabilities to access justice and address grievances in a speedy manner;

Section 84, sub-section (1) and section 85, sub-section (1-2) mandates the national government for designating the special district court and appointment of special prosecutor by the chief justice of high court of the state for speedy disposal of grievances of persons with disabilities.

Civil society agencies have initiated legal aid cells to enable persons with disabilities to access justice effectively;

***5. Please provide information on any innovative initiatives that have been taken in your country to promote and ensure effective access to justice for persons with disabilities.***

Enhanced sensitivity of legal fraternity to support persons with disabilities in accessing justice through free legal aid, adequate and appropriate information, affirmative actions to provide support and in-depth understanding on the laws specific to persons with disabilities, general laws which can be applied in a particular instance and international human rights regime;

Parent’s groups, federations and confederations of children/persons with intellectual disabilities have been facilitating children and persons in to decision making circles in order to enable them for decision making;

Civil society agencies have been training and building the capacity of women/girls with disabilities on legal literacy in order to combat against exploitation, violence, abuse in all its forms and manifestations as a result of which the cases of reporting instances were increased and registered with the law administering agencies and competent court of law;

Mobilisation strategy has significantly contributed for both male and female with disabilities to access justice through effective bargaining and collective socio political actions of groups, federations, confederations, networks, mass based organisations, alliances and membership based organisations;