**Draft answers to questionnaire:**

**Question** – 1. � � � � Has your country adopted legislation establishing disability as a prohibited ground of discrimination, including denial of reasonable accommodation as discrimination? Please provide details on any related legal reforms.

**Answer**: Article 14 of the Constitution of India guarantees to all persons equality before the law and equal protection of the law. Obviously, this includes persons with disabilities. Likewise, Article 15 of the said Constitution enlists prohibited grounds of discrimination. It states that The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Although disability does not explicitly figure amongst prohibited grounds of discrimination, one can presume with a measure of justification that it also includes persons with disabilities. However, explicit inclusion of disability amongst prohibited grounds of discrimination is desirable. Article 16 of the Indian Constitution provides for equality of opportunity to all citizens in public employment which also includes citizens with disabilities.

Sections 44 to 47 of the Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Act, 1995 also explicitly provide for non-discrimination on road, in transport, in built environment, and in Govt. service. Besides, sub-section 3 of Section 3 of the Rights of Persons with Disabilities Bill which is currently pending with the Indian parliament also seeks to prohibit discrimination on ground of disability.

It also goes without saying that the Indian judiciary has also favoured the idea of positive discrimination in favour of persons with disabilities albeit the expression ‘reasonable accommodation’ may not have been explicitly used.

**Question - 2**. � � � �Does your country apply an objective test to determine if an accommodation requested by a person with disability is undue or disproportionate? If so, please describe the tests and their different elements (500 words).

**Answer:** The Govt. of India has launched a massive campaign called ‘Sugamya Bharat’ meaning ‘Accessible India’. One understands that the principle of reasonable accommodation is in-built into the campaign. This campaign seeks to make India accessible including its roads, buildings, transport systems, websites, ETC. **Details are annexed.**

**Question - 3**. � � � �Does your country apply affirmative actions for combating structural discrimination against persons with disabilities? If so, please describe how are these measures being applied and enforced (500 words).

**Answer:**

The Persons with Disabilities Act as referred to above, contains a range of provisions on prevention and early detection, education, affirmative action, non-discrimination and social security. It also provides for Central Coordination Committee at the central/federal level, and State Coordination Committee at the state level, inter alia, to facilitate continuous evolution of comprehensive policy on disability. These committees include both official and non-official members including representatives of organizations working in the field of disability and also representatives of women and of Scheduled Casts and Scheduled Tribe communities. It also provides for Chief Commissioner for Persons with Disabilities at the national/central level and state Commissioner for persons with disabilities at the state level whose mandate is to safeguard rights and facilities available to persons with disabilities, and also to function as watchdogs to redress their grievances and to take up with concerned authorities cases of deprivation of rights suffered by them.

The affirmative action measures include not less than statutory 3% reservation in Govt. jobs, quota of not less than 3% in all poverty alleviation schemes, free education in appropriate environment upto the age of 18 years, not less than 3% reservation for admission to all govt. and govt.-aided educational institution, preferential allotment of land at concessional rates for certain purposes, unemployment allowance, ETC.

It goes without saying that India is a party to the United Nations Convention on the Rights of Persons with Disabilities which is a very progressive international human rights instrument. Thus, All the relevant domestic laws and policies are being revisited as a part of Govt. of India’s larger efforts to align/harmonize them with the said international human rights instrument/treaty.

**Question - 4**. � � � � Does your country have laws, policies and strategies for combating discrimination against women and children with disabilities? Please, describe how these policies are reflected in legislation and policy frameworks (500 words).

**Answer:** India has an elaborate legislative and policy framework for women and children in general, in the first place which also covers women and children with disabilities. The Persons with Disabilities Act also apply to women and children with disabilities as well. The Rights of Persons with Disabilities Bill which is currently pending with the Indian parliament contains specific and elaborate provisions for women and children with disabilities on the lines of the principles enunciated in the United Nations Convention on the Rights of Persons with disabilities, which, inter alia, provides for equality between men and women, and also for respect for the evolving capacities of children and also their right to preserve their identity.

**Question - 5**. � � � � Is your country monitoring and collecting disaggregated data on discrimination against persons with disabilities, including gender, age and impairment disaggregation?

**Answer**: The Chief Commissioner for Persons with Disabilities at the national level and the State Commissioner for Persons with Disabilities at the state level are statutory bodies and they do take cognizance of grievances/complaints of persons with disabilities in respect of deprivation of rights. It therefore follows by necessary implication that records are available with them. However, there is much to be desired in the matter of proper and systematic disaggregation by gender, age and impairment in a manner that they are immediately available at a glance. The National Human Rights Commission of India also reviews, through its thematic Special Rapporteur, status of implementation of the Persons with Disabilities Act in various states of the country. The said Act envisages important entitlements of persons with disabilities and is therefore, a socially beneficial piece of legislation. The various high courts and the apex/supreme court of the country have also come up with many important pronouncements in relation to rights and entitlements of persons with disabilities and have given progressive interpretation to the said Act.

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**ANNEXURE**

Accessible India Campaign (Sugamya Bharat Abhiyan)

For Persons with Disabilities (PwDs), universal accessibility is critical for enabling them to gain access for equal opportunity and live independently and participate fully in all aspects of life in an inclusive society. The ‘Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1955’ under Sections 44, 45 and 46 categorically provides for non-discrimination in transport, on the road, and in-built environment respectively. The UN Convention on the Rights of Persons with Disabilities (UNCRPD), to which India is a signatory, under Article 9, casts obligations on the Governments for ensuring to PwDs, accessibility to (1) information, (2) transportation, (3) physical environment, (4) communication technology, and (5) accessibility to services, including emergency services.

It is the vision of the Government of India to have an inclusive society in which equal opportunities and access is provided for the growth and development of PwDs to lead productive, safe, and dignified lives. In furtherance of this vision, it is imperative to launch a nation-wide awareness campaign towards achieving universal accessibility for all citizens including PwDs in creating an enabling and barrier-free environment.

To this end, the Department of Empowerment of Persons with Disabilities (DEPwD) and the Ministry of Social Justice and Empowerment have jointly launched the ‘Accessible India Campaign’ [ *Sugamya Bharat Abhiyan*] as a nationwide flagship campaign for achieving universal accessibility for PwDs. The Campaign seeks to achieve among others, the following objectives:

* **Built Environment Accessibility**: This is sought to be achieved by enhancing the proportion of accessible government buildings, converting 50% of all the government buildings of National Capital and all the State capitals into fully accessible buildings by July, 2018, and conducting audit of 50% of government buildings and converting them into fully accessible buildings in 10 most important cities / towns of all the States by July, 2019.
* **Transportation System Accessibility**: This is sought to be achieved by enhancing proportion of accessible airports, enhancing the proportion of accessible railway stations, as well as the proportion of accessible public transport.
* **Information and Communication Eco-System Accessibility**: This is sought to be achieved by enhancing the proportion of accessible and usable public documents and websites that meet internationally recognized accessibility standards, enhancing the pool of sign language interpreters, and developing and adoption of national standards on captioning and sign-language interpretation in consultation with national media authorities by July, 2016.

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