

Concept Note

Virtual Consultation on the draft National Policy for Persons with Disabilities

Every public policy, in order to be effective, must be predicated on Global, National and Local benchmarks. Thus, the draft National Policy for Persons with Disabilities must be informed by, and be sensitive to:

- Principles underlying United Nations Convention on the Rights of Person with Disabilities (UNCRPD);
- Objectives of Incheon Strategy for Asia Pacific Decade for PwDs: 2013-2022;
- Sustainable Development Goals
- The Sendai Framework for Disaster Risk Reduction; and
- Goals set out in the Indian Constitution, and Rights of PWD Act 2016.

The Policy must also be cognisant of State and District level situations of Persons with Disabilities.

It is also crucial to examine whether the top-down or bottom-up approach is more result-oriented. As this policy has been drafted by the Department of Empowerment of Persons with Disabilities in the Ministry of Social Justice, a vital question to ask here would be this: Is it adequately representative of particularities and diversity of situations or circumstances of PWDs throughout India? It is interesting to note that although disability is a State subject under Entry Nine, List II, Seventh Schedule under the Constitution of India, indifference on the part of the States to the same is striking, with hardly any State enacting the legislation; absence of normative engagement on the part of the States on this issue is bound to have consequences for effective engagement of the policy.

In order to make the policy representative and inclusive, would it not have been appropriate to have a bottom-up audit of situations and circumstances of PWDs at least in some parts of India? This is a key question. Since several PWDs live in rural areas and small towns, the emphasis of the policy must also be on involvement of local self-government institutions and DPOs. In other words, responses from all the 3 tiers of government and transparent inputs from multi-stakeholders at the District and State level needs to inform the National Policy for Persons with Disabilities.

Presently, the draft policy does not have empirically documented inputs on the situations of Persons with Disabilities from Districts/States, NGOs, civil society, and individuals.

Need for clearly defined scientific indicators/timelines:

The draft policy also does not have clearly defined scientific indicators, targets and timelines. Indicators play a crucial role in ensuring that the design of the policy is translatable into actionables. Further, clear indicators help to ensure that the policies and their implementation on the ground is progressive and not regressive. In this context, the reference in the draft policy to the Incheon strategy, SDGs, and Sendai Framework is appropriate and provides direction to the policy which needs to be linked to clear outcomes.

Best Practices:

This policy must align with the best practices evolved from the aforementioned global benchmarks. Especially, the policy must be cognisant of the Disability Indicators prescribed by the Incheon Strategy for Asia-Pacific, a pioneering and pathbreaking UN initiative ([ESCAP Guide on Disability Indicators for the Incheon Strategy](#))

The policy must amplify the dignity and worth inherent in every individual with disability and move away from an instrumental and utilitarian ideal. In other words, the policy must foreground a rights framework in consonance with UNCRPD. In its present design, the draft policy appears to have foregrounded prevention of disability and the rights framework seems to have been backgrounded. In this light, we intend to organize a multi-stakeholder consultation to have a threadbare, analytical and open discussion on the overall design of this policy. As a premier law school, we consider it our constitutional duty and mandate to promote inclusion and advocate for the fundamental freedoms and human rights of Persons with Disabilities.

Key Points for Discussion:

The issues requiring detailed deliberation may include:

- 1) Funding for implementation of the National Policy: While the draft policy acknowledges the increasing use of CSR in the disability sector, it also recognises that funding through CSR to the disability sector is meagre.
- 2) Fixing accountability of implementing institutions: We need to deliberate on the functioning of machinery set out by the RPWD Act across India.
- 3) Problematizing and questioning ableism in State, Society, and the Market

- 4) Exploring Public-Private Partnerships to foreground and mainstream the principle of respect for difference and to promote disability as a part of diverse humanity
- 5) Acknowledging the role of intersectionality in understanding the vulnerability of PWDs in general and women with disabilities in particular, and in compounding indirect discrimination.
- 6) Role of capability approach in creation of robust disability policy: This approach has the potential to contest and challenge the binary social/medical perspective.

Besides these, other relevant issues may also be raised during this consultation.