

Module 10

Chapter 1

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

Preliminary

1. This Act may be called the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It extends to the whole of India except the State of Jammu and Kashmir.

It shall come into force on such date as the Central Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,

“appropriate Government” means, in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, the Central Government; in relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government; in respect of the Central Coordination Committee and the Central Executive Committee, the Central Government; in respect of the State Coordination Committee and the State Executive Committee, the State Government;

“blindness” refers to a condition where a person suffers from any of the following conditions, namely:- total absence of sight; or visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses; or limitation of the field of vision subtending an angle of 20 degree or worse;

“Central Coordination Committee” means the Central Coordination Committee constituted under sub-section (1) of section 3; “Central Executive Committee” means the Central Executive Committee constituted under sub-section (1) of section 9; “cerebral palsy” means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development;

“Chief Commissioner” means the Chief Commissioner appointed under sub-section (1) of section 57;

“Commissioner” means the Commissioner appointed under sub-section (1) of section 60;

“competent authority” means the authority appointed under section 50;

“disability” means blindness; low vision; leprosy-cured; hearing impairment; locomotor disability; mental retardation; mental illness;

“employer” means, in relation to a Government, the authority notified by the Head of the Department in this behalf or where no such authority is notified, the Head of the Department; and in relation to an

establishment, the chief executive officer of that establishment; “establishment” means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 617 of the Companies Act, 1956 and includes Departments of a Government; “hearing impairment” means loss of sixty decibels or more in the better ear in the conversational range of frequencies; “institution for persons with disabilities” means an institution for the reception, care, protection, education, training, rehabilitation or any other service of persons with disabilities; “leprosy cured person” means any person who has been cured of leprosy but is suffering from loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity; manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity; extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation, and the expression “leprosy cured” shall be construed accordingly; “locomotor disability” means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy; “medical authority” means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government; “mental illness” means any mental disorder other than mental retardation; “mental retardation” means a condition of arrested or incomplete development of mind of a person which is specially characterized by sub-normality of intelligence; “notification” means a notification published in the Official Gazette; “person with disability” means a person suffering from not less than forty per cent of any disability as certified by a medical authority; “person with low vision” means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device; “prescribed” means prescribed by rules made under this Act; “rehabilitation” refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels; “Special Employment Exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, respecting persons who seek to engage employees from amongst the persons suffering from disabilities; persons with disability who seek employment; vacancies to which person with disability seeking employment may be appointed; “state Coordination Committee” means the State Coordination Committee constituted under sub-section (1) of section 13; “state Executive Committee” means the State Executive Committee constituted under sub-section (1) of section 19.

The Central Coordination Committee

3. (1) The Central Government shall by notification constitute a body to be known as the Central Coordination Committee to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.
- (2) The Central Coordination Committee shall consist of - the Minister in charge of the Department of Welfare in the Central Government, Chairperson, ex officio; the Minister of State in-charge of the Department of Welfare in the Central Government, Vice-Chairperson, ex officio; Secretaries to the Government of India in-charge of the Departments of Welfare, Education, Woman and Child

Development, Expenditure, Personnel, Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Legal Affairs, Public Enterprises, Members, ex officio; Chief Commissioner, Member, ex officio; Chairman Railway Board, Member, ex officio; Director-General of Labour, Employment and Training, Member, ex officio; Director, National Council for Educational Research and Training, Member, ex officio; three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States, Members; three persons to be nominated by the Central Government to represent the interests, which in the opinion of that Government ought to be represented, Members; Directors of the—National Institute for the Visually Handicapped, Dehradun; National Institute for the Mentally Handicapped, Secundrabad; National Institute for the Orthopaedically Handicapped, Calcutta; Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai, Members, ex officio; four Members to be nominated by the Central Government by rotation to represent the States and the Union territories in such manner as may be prescribed by the Central Government: Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory; five persons as far as practicable, being persons with disabilities, to represent non-governmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes; Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio.

- (3) The office of the Member of the Central Coordination Committee shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.
- 4.
- (1) Save as otherwise provided by or under this Act a Member of Central Coordination Committee nominated under clause (i) or clause (1) of sub-section (2) of section 3 shall hold office for a term of three years from the date of his nomination; Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
 - (2) The term of office an ex officio Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
 - (3) The Central Government may if it thinks fit remove any Member nominated under clause (i) or clause (1) of sub-section (2) of section 3, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
 - (4) A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.
 - (5) A casual vacancy in the Central Coordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

- (6) A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 shall eligible for renomination.
- (7) Members nominated under clause (i) and clause (1) of sub-section (2) of section 3 shall receive such allowances as may be prescribed by the Central Government.
5. (1) No person shall be a Member of the Central Coordination Committee, who- is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or is of unsound mind and stands so declared by a competent court, or is or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or is or at any time has been convicted of an offence under this Act, or has so abused in the opinion of the Central Government his position as a Member as to render his continuance in the Central Coordination Committee detrimental to the interests of the general public.
- (2) No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 4, a Member who has been removed under this section shall not be eligible for renomination as a Member.
6. If a Member of the Central Coordination Committee becomes subject to any of the disqualifications specified in section 5, his seat shall become vacant.
7. The Central Coordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.
8. (1) Subject to the provisions of this Act, the function of the Central Coordination Committee shall be to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.
- (2) In particular and without prejudice to the generality of the foregoing, the Central Coordination Committee may perform all or any of the following functions, namely: -

review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters relating to persons with disabilities; develop a national policy to address issues faced by persons with disabilities; advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability; take up the cause of persons with disabilities with the concerned authorities and the international organizations with a view to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies; review in consultation with the donor agencies their funding policies from the perspective of their impact on persons with disabilities; take such other steps to ensure barrier free environment in Public places, work places, public utilities, schools and other institutions; monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities; to perform such other functions as may be prescribed by the Central Government.

9. (1) The Central Government shall constitute a Committee to be known as the Central Executive Committee to perform the functions assigned to it under this Act.
- (2) The Central Executive Committee shall consist of the Secretary to the Government of India in the Ministry of Welfare, Chairperson, ex officio; the Chief Commissioner, Member, ex officio; the Director-General for Health Services, Member, ex officio; the Director-General, Employment and Training, Member, ex officio; six persons not below the rank of a Joint Secretary to the Government of India, to represent the Ministries or Departments of Rural Development, Education, Welfare, Personnel Public Grievances and Pension and Urban Affairs and Employment, Science and Technology, Member, ex officio; the Financial Adviser, Ministry of Welfare in the Central Government, Member, ex officio; advisor (Tariff) Railway Board, Member, ex officio; four members to be nominated by the Central Government, by rotation, to represent the State Governments and the Union territories in such manner as may be prescribed by the Central Government; one person to be nominated by the Central Government to represent the interest, which in the opinion of the Central Government ought to be represented, Member; five persons, as far as practicable, being persons with disabilities, to represent non-governmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes: Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio.
- (3) Member nominated under clause (i) and clause (i) of sub-section (2) shall receive such allowances as may be prescribed by the Central Government.
- (4) A Member nominated under clause (i) or clause (i) of sub-section (2) may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.
10. (1) The Central Executive Committee shall be the executive body of the Central Coordination Committee and shall be responsible for carrying out the decisions of the Central Coordination Committee:
- (2) Without prejudice to the provisions of sub-section (1), the Central Executive Committee shall also perform such other functions as may be delegated to it by the Central Coordination Committee.
11. The Central Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.
12. (1) The Central Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the Central Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
- (2) A person associated with the Central Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the Central Executive Committee relevant to

that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.

- (3) A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the Central Government.

The State Coordination Committee

13. (1) Every State Government shall, by notification, constitute a body to be known as the State Coordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

- (2) The State Coordination Committee shall consist of -

The Minister in-charge of the Department of Social Welfare in the State Government, Chairperson, ex officio; the Minister of State in-charge of the Department of Social Welfare, if any, Vice-Chairperson, ex officio; Secretaries to the State Government in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Public Enterprises, by whatever name called, Members, ex officio; Secretary of any other Department which the State Government considers necessary, Member, ex officio; Chairman Bureau of Public Enterprises (by whatever name called) Member, ex officio; five persons, as far as practicable, being persons with disabilities, to represent non-governmental organizations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes; three Members of State Legislature, of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any; three persons to be nominated by that State Government to represent agriculture, industry or trade or any other interest, which in the opinion of State Government ought to be represented, Members, ex officio; the Commissioner, Member, ex officio; Secretary to the State Government dealing with the welfare of the handicapped, Member-Secretary, ex officio.

- (3) Notwithstanding anything contained in this section, no State Coordination Committee shall be constituted for a Union territory and in relation to a Union territory, the Central Coordination Committee shall exercise the functions and perform the functions of a State Coordination Committee for the Union territory: Provided that in relation to a Union territory, the Central Coordination Committee may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

14. (1) Save as other wise provided by or under this Act, a Member of a State Coordination Committee nominated, under clause (f) or clause (h) of sub-section (2) of section 13 shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

- (2) The term of office of an ex officio Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
 - (3) The State Government may, if it thinks fit, remove any Member nominated under clause (f) or clause (h) of sub-section (2) of section 13, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
 - (4) A Member nominated under clause (f) or clause (h) of sub-section (2) of section 13 may, at any time, resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.
 - (5) A casual vacancy in the State Coordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.
 - (6) A Member nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall be eligible for renomination.
 - (7) Members nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall receive such allowances as may be prescribed by the State Government.
15. (1) No person shall be a Member of the State Coordination Committee, who
is, or at any time, has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or is of unsound mind and stands so declared by a competent court, or is or has been convicted of an offence which in the opinion of the State Government involves moral turpitude, or is or at any time has been convicted of an offence under this Act, or has so abused, in the opinion of the State Government his position as a member as to render his continuance in the State Coordination Committee detrimental to the interests of the general public.
 - (2) No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
 - (3) Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 14, a Member who has been removed under this section shall not be eligible for renomination as a Member.
16. If a Member of the State Coordination Committee becomes subject to any of the disqualifications specified in section 15, his seat shall become vacant.
 17. The State Coordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.
 18. (1) Subject to the provisions of this Act, the function of the State Coordination Committee shall be to serve as the state focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.
 - (2) In particular and without prejudice to the generality of the foregoing function the State Coordination Committee may, within the State perform all or any of the following functions, namely:-

review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters relating to persons with disabilities; develop a State policy to address issues faced by persons with disabilities; advise the State Government on the formulation of policies, programmes, legislation and projects with respect to disability; review, in consultation with the donor agencies, their funding policies from the perspective of their impact on persons with disabilities; take such other steps to ensure barrier free environment in public places, work places, public utilities, schools and other institutions; monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities; to perform such other functions as may be prescribed by the State Government.

19. (1) The State Government shall, constitute a committee to be known as the State Executive Committee to perform the functions assigned to it under this Act.
 - (2) The State Executive Committee shall consist of—
 - (a) the Secretary, Department of Social Welfare, Chairperson, ex officio.
 - (b) the Commissioner, Member, ex officio.
 - (c) nine persons not below the rank of a Joint Secretary to the State Government, to represent the Departments of Health, Finance, Rural Development, Education, Welfare, Personnel Public Grievances, Urban Affairs, Labour and Employment, Science and Technology, Members, ex officio.
 - (d) one person to be nominated by the State Government to represent the interest, which in the opinion of the State Government ought to be represented, Member.
 - (e) five persons, as far as practicable being persons with disabilities, to represent non-governmental organisations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members.

Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes.
 - (f) Joint Secretary dealing with the disability division in the Department of Welfare, Member-Secretary, ex officio.
 - (3) Members nominated under clause (d) and clause (e) of sub-section (2) shall receive such allowances as may be prescribed by the State Government.
 - (4) A Member nominated under clause (d) or clause (e) may at any time resign his office by writing under his hand address to the State Government and the seat of the said Member shall thereupon become vacant.
20. (1) The State Executive Committee shall be the executive body of the State Coordination Committee and shall be responsible for carrying out the decisions of the State Coordination Committee.

- (2) Without prejudice to the provisions of sub-section (1), the State Executive Committee shall also perform such other functions as may be delegated to it by the State Coordination Committee.
21. The State Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.
22. (1) The State Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the State Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
- (2) A person associated with the State Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the State Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
- (3) A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the State Government.
23. In the performance of its functions under this Act, -
the Central Coordination Committee shall be bound by such directions in writing, as the Central Government may give to it; and the State Coordination Committee shall be bound by such directions in writing, as the Central Coordination Committee or the State Government may give to it: Provided that where a direction given by the State Government is inconsistent with any direction given by the Central Coordination Committee, the matter shall be referred to the Central Government for its decision.
24. No act or proceeding of the Central Coordination Committee, the Central Executive Committee, a State Coordination Committee or a State Executive Committee shall be called in question on the ground merely on the existence of any vacancy in or any defect in the constitution of such Committees.

Prevention and Early Detection of Disabilities

25. Within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall -
undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities; promote various methods of preventing disabilities; screen all the children at least once in a year for the purpose of identifying “at-risk” cases; provide facilities for training to the staff at the primary health centres; sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation; take measures for pre-natal, perinatal and post-natal care of mother and child; educate the public through the pre-schools, primary health centres, village level workers and anganwadi workers; create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

Education

26. The appropriate Governments and the local authorities shall ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years; endeavor to promote the integration of students with disabilities in the normal schools; promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools; endeavor to equip the special schools for children with disabilities with vocational training facilities.
27. The appropriate Governments and the local authorities shall by notification make schemes for conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis; conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above; imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation; imparting education through open schools or open universities; conducting class and discussions through interactive electronic or other media; providing every child with disability free of cost special books and equipments needed for his education.
28. The appropriate Governments shall initiate or cause to be initiated research by official and non-governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.
29. The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organizations to develop teachers' training programmes specializing in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.
30. Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme, which shall make provision for transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools; the removal of architectural barriers from schools, colleges or other institutions imparting vocational and professional training; the supply of books, uniforms and other materials to children with disabilities attending school; the grant of scholarship to students with disabilities; setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with disabilities; suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision; restructuring of curriculum for the benefit of children with disabilities; restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.
31. All educational institutions shall provide or cause to be provided amanuensis to blind students and students with or low vision.

Employment

32. Appropriate Governments shall -
identify posts, in the establishments, which can be reserved for the persons with disability; at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.
33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from -
- (i) blindness or low vision;
 - (ii) hearing impairment;
 - (iii) locomotor disability or cerebral palsy, in the posts identified for each disability:

Provided, that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

34. (1) The appropriate Government may, by notification, require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.
- (2) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.
35. Any person authorized by the Special Employment Exchange in writing, shall have access to any relevant record or document in the possession of any establishment and may enter at any reasonable time and premises where he believes such record or document to be, and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information.
36. Wherein any recruitment year any vacancy under section 33, cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:
- Provided that if the nature of vacancies in an establishment is such that a given category of person can not be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government.
37. (1) Every employer shall maintain such record in relation to the person with disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate government.

- (2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by general or special order by the appropriate Government.
38. (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide the training and welfare of persons with disabilities; the relaxation of upper age limit; regulating the employment; health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed; the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and constituting the authority responsible for the administration of the scheme.
39. All Government educational institutions and other educational institutions receiving aid from the Government shall reserve not less than three per cent seats for persons with disabilities.
40. The appropriate Governments and local authorities shall reserve not less than three per cent in all poverty alleviation schemes for the benefit of persons with disabilities.
41. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide incentives to employers both in public and private sectors to ensure that at least five per cent of their work force is composed of persons with disabilities.

Affirmative Action

42. The appropriate Governments shall by notification make schemes to provide aids and appliances to persons with disabilities.
43. The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for -
- house;
 - setting up business;
 - setting up of special recreation centres;
 - establishment of special schools;
 - establishment of research centres;
 - establishment of factories by entrepreneurs with disabilities.

Non-Discrimination

44. Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons; adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.
45. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for installation of auditory signals at red lights in the public roads for the

benefit of persons with visual handicap; causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users; engraving on the surface of the zebra crossing for the blind or for persons with low vision; engraving on the edges of railway platforms for the blind or for persons with low vision; devising appropriate symbols of disability; warning signals at appropriate places.

46. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for ramps in public building; adaptation of toilets for wheel chair users; Braille symbols and auditory signals in elevators or lifts; ramps in hospitals, primary health centres and other medical care and rehabilitation institutions.
47. (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:
- Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuating, whichever is earlier.
- (2) No promotion shall be denied to a person merely on the ground of his disability: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

Research and Manpower Development

48. The appropriate Governments and local authorities shall promote and sponsor research, inter alia, in the following areas:
- prevention of disability; rehabilitation including community based rehabilitation; development of assistive devices including their psycho-social aspects; job identification; on site modifications in offices and factories.
49. The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and non-governmental research units or institutions, for undertaking research for special education, rehabilitation and manpower development.

Recognition of Institutions for Persons with Disabilities

50. The State Government shall appoint any authority as it deems fit to be a competent authority for the purposes of this Act.
51. Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except under and in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that a person maintaining an institution for persons with disabilities immediately before the commencement of this Act may continue to maintain such institution for a period of six months from such commencement and if he has made an application for such certificate under this section within the said period of six months, till the disposal of such application.

52. (1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.
- (2) On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and where it is satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder it shall grant a certificate of registration to the applicant and where it is not so satisfied the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate the competent authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

- (3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and maintain such standards as may be prescribed by the State Government.
- (4) A certificate of registration granted under this section, shall, unless revoked under section 53, remain in force for such period as may be prescribed by the State Government may be renewed from time to time for a like period; and shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.
- (5) An application for renewal of a certificate of registration shall be made not less than sixty days before the period of validity.
- (6) The certificate of registration shall be displayed by the institution in a conspicuous place.
53. (1) The competent authority may, if it has reasonable cause to believe that the holder of the certificate of registration granted under sub-section (2) of section 52 has made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may, after making such inquiry, as it deems fit, by order, revoke the certificate:

Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate should not be revoked.

- (2) Where a certificate in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:

Provided that where an appeal lies under section 54 against the order of revocation, such institution shall cease to function where no appeal has been preferred immediately on the expiry of the period

prescribed for the filing of such appeal, or where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.

- (3) On the revocation of a certificate in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be restored to the custody of her or his parent, spouse or lawful guardian, as the case may be, or transferred to any other institution specified by the competent authority.
 - (4) Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.
54. (1) Any person aggrieved by the order of the competent authority refusing to grant a certificate or revoking a certificate may, within such period as may be prescribed by the State Government, prefer an appeal to that Government against such refusal or revocation.
- (2) The order of the State Government on such appeal shall be final.
55. Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or State Government.

Institution for Persons with Severe Disabilities

56. (1) The appropriate Government may establish and maintain institutions for persons with severe disabilities at such places as it thinks fit.
- (2) Where, the appropriate Government is of opinion that any institution other than an institution, established under sub-section (1), is fit for the rehabilitation of the persons with severe disabilities, the Government may recognize such institution as an institution for persons with severe disabilities for the purposes of this Act:
- Provided that no institution shall be recognized under this section unless such institution has complied with the requirements of this Act and the rules made thereunder.
- (3) Every institution established under sub-section (1) shall be maintained in such manner and satisfy such conditions as may be prescribed by the appropriate Government.
 - (4) For the purposes of this section “person with severe disability” means a person with eighty per cent or more of one or more disabilities.

The Chief Commissioner and Commissioners for Persons with Disabilities

57. (1) The Central Government may, by notification, appoint a Chief Commissioner for Persons with Disabilities for the purposes of this Act.
- (2) A person shall not be qualified for appointment as the Chief Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
 - (3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chief Commissioner shall be such as may be prescribed by the Central Government.

- (4) The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.
 - (5) The officers and employees provided to the Chief Commissioner shall discharge their functions under the general superintendence of the Chief Commissioner.
 - (6) The salaries and allowances and other conditions of service of officers and employees provided to the Chief Commissioner shall be such as may be prescribed by the Central Government.
58. The Chief Commissioner shall coordinate the work of the Commissioners; monitor the utilization of funds disbursed by the Central Government; take steps to safeguard the rights and facilities made available to persons with disabilities; submit reports to the Central Government on the implementation of the Act at such intervals as that Government may prescribe.
59. Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to—deprivation of rights of persons with disabilities; non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with appropriate authorities.
60. (1) Every State Government may, by notification appoint a Commissioner for Persons with Disabilities for the purposes of this Act.
- (2) A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
- (3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.
- (4) The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.
- (5) The officers and employees provided to the Commissioner shall discharge their functions under the general superintendence of the Commissioner.
- (6) The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.
61. The Commissioner within the State shall coordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities; monitor the utilization of funds disbursed by the State Government; take steps to safeguard the rights and facilities made available to persons with disabilities; submit reports to the State Government on the implementation of the Act as such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

62. Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to deprivation of rights of persons with disabilities; non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with the appropriate authorities.
63. (1) The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely: summoning and enforcing the attendance of witnesses; requiring the discovery and production of any document; requisitioning any public record or copy thereof from any court or office; receiving evidence on affidavits; and issuing commissions for the examination of witnesses or documents.
- (2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
64. (1) The Chief Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the Central Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the Central Government.
- (2) The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein in so far as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part.
65. (1) The Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.
- (2) The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein in so far as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.

Social Security

66. (1) The appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities.
- (2) For purposes of sub-section (1), the appropriate Governments and local authorities shall grant financial assistance to non-governmental organizations.
- (3) The appropriate Governments and local authorities while formulating rehabilitation policies shall consult the non-governmental organizations working for the cause of persons with disabilities.

67. (1) The appropriate Government shall by notification frame an insurance scheme for the benefit of its employees with disabilities.
- (2) Notwithstanding anything contained in this section, the appropriate Government may instead of framing an insurance scheme frame an alternative security scheme for its employees with disabilities.
68. The appropriate Governments shall within the limits of their economic capacity and development shall by notification frame a scheme for payment of an unemployment allowance to persons with disabilities registered with the Special Employment Exchange for more than two years and who could not be placed in any gainful occupation.

Miscellaneous

69. Whoever fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term, which may extend to two years or with fine which may extend to twenty thousand rupees or with both.
70. The Chief Commissioner, the Commissioners and other officers and staff provided to them shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
71. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.
72. The provisions of this Act, or the rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force or any rules, order or any instructions issued thereunder, enacted or issued for the benefit of persons with disabilities.
73. (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely : -
- the manner in which a State Government or a Union territory shall be chosen under clause (k) of sub-section (2) of section 3; allowances which members shall receive under sub-section (7) of section 4; rules of procedure which the Central Coordination Committee shall observe in regard to the transaction of business in its meeting under section 7; such other functions which the Central Coordination Committee may perform under clause (h) of sub-section (2) of section 8; the manner in which a State Government or a Union Territory shall be chosen under clause (h) of sub-section (2) of section 9; the allowances which the Members shall receive under sub-section (3) of section 9; rules of procedure which the Central Executive Committee shall observe in regard to transaction of business at its meetings under section 11; the manner and purposes for which a person may be associated under sub-section (1) of section 12; fees and allowances which a person associated with the Central Executive Committee shall receive under sub-section (3) of section 12; allowances which members shall receive under sub-section (7) of section 14; rules of procedure which a State Coordination Committee shall observe in regard to transaction of business

in its meetings under section 17; such other functions which a State Coordination Committee may perform under clause (g) of sub-section (2) of section 18; the allowances which Members shall receive under sub-section (3) of section 19; rules of procedure which a State Executive Committee shall observe in regard to transaction of business at its meetings under section 21; the manner and purposes for which a person may be associated under sub-section (1) of section 22; fees and allowances which a person associated with the State Executive Committee may receive under sub-section (3) of section 22; information or return which the employer in every establishment should furnish and the Special Employment Exchange to which such information or return shall be furnished under sub-section (1) of section 34; the form and the manner in which record shall be maintained by an employer under sub-section (1) of section 37; the form and manner in which an application shall be made under sub-section (1) of section 52; the manner in which an order of refusal shall be communicated under sub-section (2) of section 52; facilities or standards required to be provided or maintained under sub-section (3) of section 52; the period for which a certificate of registration shall be valid under clause (a) of sub-section (4) of section 52; the form in which and conditions subject to which a certificate of registration shall be granted under clause (c) of sub-section (4) of section 52; period within which an appeal shall lie under sub-section (1) of section 54; the manner in which an institution for persons with severe disabilities shall be maintained and conditions which have to be satisfied under sub-section (3) of section 56; the salary, allowances and other terms and conditions of service of the Chief Commissioner under sub-section (3) of section 57; (za) the salary, allowances and other conditions of service of officers and employees under sub-section (6) of section 57; (zb) intervals at which the Chief Commissioner shall report to the Central Government under clause (d) of section 58; (zc) the salary, allowances and other terms and conditions of service of the Commissioner under sub-section (3) of section 60; (zd) the salary, allowances and other conditions of service of officers and employees under sub-section (6) of section 60; (ze) intervals within which the Commissioner shall report to the State Government under clause (d) of section 61; (zf) the form and time in which annual report shall be prepared under sub-section (1) of section 64; (zg) the form and time in which annual report shall be prepared under sub-section (1) of section 65; (zh) any other matter which is required to be or may be prescribed.

- (3) Every notification made by the Central Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme framed by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, notification or scheme, both Houses agree that the rule, notification or scheme should not be made, the rule, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or scheme, as the case may be.

(4) Every notification made by the State Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme made by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such legislature consists of one House before that House.

74. In section 12 of the Legal Services Authorities Act, 1987, for clause (d), the following clause shall be substituted, namely:-

“(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.”

Chapter 2

Regional Training Workshop on Promotion of Accessible Tourism (24-28 September 2000)

Asia-Pacific Conference on Tourism for People with Disabilities (24-27 September 2000)

Denpasar, Bali, Indonesia

REPORT

I. RECOMMENDATIONS

A. Issues

People with disabilities and older persons are growing groups and consumers of tourism services. Families with young children are beginning to travel more. These three groups have similar needs for accessible tourism. However, the majority of tourism service providers in the ESCAP region do not, as yet, understand the economic and social significance of early action to create barrier-free tourism.

The built environment (buildings, streets, parks, public transportation and communication infrastructure) has a major impact on the quality of tourism experience, especially concerning its safety, convenience, efficiency and enjoyment aspects. There is insufficient integration of the planning and development of the built environment and tourism development, both within and across countries.

To create tourism that caters to the full range of consumer needs, there is a need to improve the useability of transportation, accommodation, tourism sites and services, and tour programmes.

B. Promotion of Tourism for All

1. Guiding Principles

Persons with disabilities have equal right of access to all tourism infrastructure, products and services, including employment opportunities and benefits that the tourism industry can provide. The tourism industry should provide the same choices for all consumers to ensure the full participation of persons with disabilities, and protection of the individual's right to travel with dignity.

Tourism master plans, policies and programmes should incorporate the principle of universal access to tourism infrastructure, products and services. Furthermore, access improvement in tourism benefits many other groups, including older persons and families with young children. The inclusion of universal design in tourism development can create environments, products and services that are useable by a wide spectrum of consumers, irrespective of their experience, knowledge, skills, age, gender, as well as their physical, sensory, communication and cognitive abilities. Thus the spirit of barrier-free tourism means the reduction of all physical and non-physical barriers and dangers so that they do not adversely affect tourism experiences and activities.

With regard to tourism access improvement, it is important for all concerned to take into consideration the rights and needs of diverse user groups, including single disability groups, persons with multiple disabilities, and women and girls with disabilities.

2. Strategic Actions

(a) People with disabilities and disabled persons' organizations should:

- (1) Develop empowerment programmes focusing on skills for advocacy and negotiation with the tourism industry.
- (2) Acquire skills in appraising tourism facilities, programmes and services, and in recommending action to raise their quality, as appropriate.
- (3) Learn to conduct access surveys.
- (4) Document and share information on the quality of tourism components and user experiences (accommodation, transportation, tourism sites and services, tour programmes, and information and communications systems).
- (5) Create local access guides and maps for in-country and foreign visitors.
- (6) Serve as resource persons or advisors to training institutions and policy-making bodies concerned with tourism services.
- (7) Communicate rights and needs in an effective manner to people encountered in the course of travel, especially those who are unaware and inexperienced concerning disabled persons or discriminatory in their behaviour.
- (8) Strengthen craft production and marketing skills among persons with disabilities as an economically viable interface with the tourism industry.
- (9) Support disabled persons in acquiring training and employment in the tourism industry.

(b) Government authorities should:

- (1) Train immigration officers and ministry of foreign affairs staff concerned with visa applications on disabled person-friendly procedures to be observed in a systematic manner.
- (2) Work towards uniform disabled person-friendly immigration procedures at the sub-regional level.
- (3) Improve the accessibility of immigration offices to facilitate travel document application by all tourists including tourists with disabilities.
- (4) Exempt from customs duty all assistive devices required by disabled persons for supporting their activities of daily living, including computers required by blind persons.
- (5) Update annually a list of items that should be exempted from customs duty.
- (6) Simplify customs clearance procedures for all assistive devices required by disabled persons for supporting their activities of daily living, including computers required by blind persons.

- (7) Train customs officers on ways of communicating with disabled persons, especially with deaf and hard of hearing persons.

(c) Tourism service providers should:

- (1) Develop in-house programmes to raise awareness, sensitivity and skill levels to provide more appropriate services for persons with disabilities.
- (2) Communicate more with disabled persons and their organizations to exchange accurate and reliable information for strengthening tourism services to better meet diverse consumer needs.
- (3) Encourage tourism service providers to make their websites accessible for disabled persons, especially blind persons.
- (4) Involve disabled persons with the requisite experience and skills in conducting access surveys of premises and to serve as resource persons and advisors in improving tourism services.
- (5) Introduce barrier-free tourism into the agendas of their regular meetings.
- (6) Introduce accessibility as a criterion in the ranking of hotels and restaurants.

(d) Tourism training institutions should:

- (1) Include in training curricula (for all levels) the following contents concerning a client focus that respects the rights and needs of diverse consumer groups, including persons with disabilities: attitude, knowledge and skills development, as well as cross-cultural understanding and appreciation.
- (2) Develop and use training modules for sensitizing front-line service staff to relate, in an appropriate manner, with disabled travelers.

(e) Inter-governmental organizations should:

- (1) Foster inter-country exchange and networking concerning experiences and practices on endeavors towards barrier-free tourism;
- (2) Identify, inter-regionally and within the ESCAP region, best practices in the promotion of barrier-free tourism for wider reference and possible adaptation in the ESCAP region.
- (3) Facilitate, in cooperation with sub-regional organizations, inter-country discussion towards the adoption of uniform disabled person-friendly immigration procedures.
- (4) Work towards the lifting of discriminatory and restrictive conditions, such as the requirements of an accompanying person and medical certification that are imposed on travelers with disabilities.
- (5) Explore possible means of granting accreditation to tourism industry establishments that are accessible by disabled persons.
- (6) Develop an outline of core contents for training tourism personnel.
- (7) Develop training content and capability to strengthen passenger services at transport interchanges (bus, railway, ferry, ship and airplane terminals).

- (8) Promote the application of universal design principles to improve the accessibility of tourism sites, especially cultural, heritage and pilgrimage sites.

II. ORGANIZATION OF THE WORKSHOP-CUM-CONFERENCE

A. Background

ESCAP organized the Regional Training Workshop on Promotion of Accessible Tourism (24-28 September 2000) in conjunction with the Asia-Pacific Conference on Tourism for People with Disabilities (24-27 September 2000). The Workshop was co-funded by the Department of Economic and Social Affairs (DESA), United Nations, New York, through its Development Account Project H: "Capacity building and institutional development for equalization of opportunities for persons with disabilities". The Workshop-cum-Conference was held at Denpasar, Bali, Indonesia, under the auspices of the Ministry of Culture and Tourism and the National Social Welfare Board, Government of Indonesia. It was organized by the Community Based Rehabilitation Development and Training Center, Solo, Indonesia, and co-sponsored by ESCAP, the Nippon Foundation and the Indonesian Society for the Care of Disabled Children. The hosting of both events constituted a contribution of the Government of Indonesia to regional cooperation in support of the Asian and Pacific Decade of Disabled Persons.

B. Objectives

The Conference was organized to provide a forum for the discussion of major issues related to accessible tourism for people with disabilities, with a view to identifying key policy and strategy elements for promoting barrier-free tourism. The proposal for such a Conference had been discussed at the Eighteenth Session of the Regional Interagency Committee for Asia and the Pacific Subcommittee on Disability-related Concerns held in November 1999.

The Workshop was organized to provide participants from ESCAP developing countries with training on a multisectoral approach to the promotion of barrier-free tourism.

C. Attendance

Two hundred participants attended the Workshop-cum-Conference seminar. They were from Australia, Cambodia, China, India, Indonesia, Japan, Malaysia, Philippines, Sri Lanka, Thailand and Viet Nam. They included persons with disabilities, tourism officials, tourism industry representatives and human resources development experts from hospitality management institutions.

There were three resource persons from Peru, Singapore and South Africa. Their expertise covered the following areas: promotion of the rights of persons with disabilities, and citizens' participation on accessibility issues, training persons with disabilities as trainers on the conduct of access surveys, access-related awareness raising among professionals responsible for the design and maintenance of the built environment, barrier-free design and its strategic application.

D. Opening

The First Lady of Indonesia inaugurated the Conference. His Excellency Mr. Abdurrahman Wahid, President of Indonesia, delivered the keynote statement at the opening session. His Excellency Mr. I Gede Ardika, Minister of Culture and Tourism addressed the participants. There was a rich programme of performances by local persons with diverse disabilities.

E. Programme

The substantive programme of the Workshop-cum-Conference was composed of eight plenary sessions of technical presentations and two group discussion sessions. The technical presentations covered the following: regional overview of universal design principles, rights and needs of persons with disabilities, priorities for strategic action, quality of life and tourism, tourism for people with disabilities, human resources development in tourism, travel health, and the access survey as an empowerment tool.

A field visit programme was organized for the participants to observe Balinese cultural activities and interact with Balinese disabled persons who were engaged in those activities, as well as in craft production.

The resource persons conducted a special training session for the Workshop participants on: strategic interventions for the promotion of accessible tourism; collaboration with tourism authorities on access improvement; and working on access improvement among disabled persons living in urban poverty, and the rights of persons with disabilities.

F. Adoption of the Report and Closing

The participants adopted their report, including the recommendations and the Bali Declaration on Barrier-free Tourism for People with Disabilities, on 27 September 2000. The Bali Declaration is annexed to this report.

In adopting the report, nine participants formed a networking group on tourism for people with disabilities. The group agreed to disseminate the recommendations and the Bali Declaration through their respective networks. Group members also agreed to maintain e-mail contact with one another, and to provide mutual support and encouragement on follow-up action.

HE the Minister of Culture of Tourism, Government of Indonesia, received the finalized Bali Declaration from the participants and pledged his commitment to follow-up action in support of the implementation of its operative provisions.

Annexure

Bali Declaration on Barrier-Free Tourism for People with Disabilities

We, the participants of the Asia-Pacific Conference on Tourism for People with Disability, held at Bali, Indonesia, from 24 to 27 September 2000:

Recognizing that tourism is a rapidly growing industry in the Asian and Pacific region and that people with disabilities, older persons and families with young children are growing groups of consumers of travel, sports, and other leisure-oriented products and services,

Appreciating that the Community Based Rehabilitation Development and Training Centre (CBRDTC), Solo, Indonesia, under the auspices of the Ministry of Culture and Tourism, and the National Social Welfare Board, Government of Indonesia, and with the co-sponsorship of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), the Nippon Foundation and the Indonesian Society for the Care of Disabled Children (YPAC), have taken the initiative to organize the above Conference, the first of its kind in the Asia-Pacific region, to discuss major issues relating to accessible tourism for people with disabilities, with a view to identifying key policy and strategy elements for promoting barrier-free tourism,

Recalling that the governments of the Asian and Pacific region have declared the period 1993 to 2002 as the Asian and Pacific Decade of Disabled Persons,

Further recalling that the Economic and Social Commission for Asia and the Pacific (ESCAP), at its fifty-sixth session held in Bangkok in June 2000, recognized the need for universal access to transport and tourism facilities for people with disabilities and older persons, and requested the secretariat to support such activities,

Noting that, while barrier-free tourism facilities and services would benefit larger numbers of tourists, including parents with young children and multi-generation family travellers, most tourism service providers in the Asian and Pacific region do not yet recognize the importance of this issue, in the absence of explicit government policies and strategies for promoting barrier-free tourism, as well as a lack of training for tourism personnel on the access rights and needs of tourists with disabilities, and a shortage of tourism programmes that are accessible by people with disabilities,

Noting further that barrier-free tourism is becoming an increasingly important feature in a competitive global tourism market and can serve as an effective tool for enhancing the socio-economic benefits of the tourism sector for the overall development of the countries and areas in the ESCAP region,

- 1. Affirm** our commitment to promoting barrier-free tourism in the Asian and Pacific region;
- 2. Urge** all parties concerned with tourism policy and practice, including the tourism industry, to strengthen Asian and Pacific tourism infrastructure, facilities, services and programmes by enhancing universal access to meet the needs of all tourism consumers, in consonance with changes in social and demographic trends;

3. **Request** disabled persons and their organizations to develop and implement empowerment programmes focusing on advocacy, facilitation and negotiation so that they may work more effectively with the tourism industry, government authorities and ESCAP to improve existing practices relating to accessibility, as well as to support the tourism industry in introducing universal access principles to ensure tourism for all;
4. **Urge** governments to include in tourism development plans measures for, and to develop action programmes to promote, barrier-free tourism for people with disabilities, older persons and families with young children;
5. **Request** governments of the ESCAP region to cooperate with the tourism industry to adopt and implement measures that respect the rights of persons with disabilities to have equal access to tourism facilities, programmes and services;
6. **Request** governments to strengthen craft production, entrepreneurial and marketing skills among persons with disabilities as an economically viable interface with the tourism industry and as a vehicle for poverty alleviation;
7. **Request** governments to support and strengthen cooperation with ESCAP, International Civil Aviation Organization (ICAO), the World Tourism Organization (WTO), UNESCO, International Air Transport Association (IATA), the Pacific-Asia Travel Association (PATA) and other international tourism organizations, to develop regional and inter-regional initiatives on the promotion of barrier-free tourism;
8. **Urge** ESCAP to extend its technical assistance to governments of the Asian and Pacific region in promoting barrier-free tourism for people with disabilities, older persons and families with young children through, inter alia, the following:
 - (a) Organization of forums to facilitate inter-country exchange and cooperation on human resources development concerning initiatives to promote tourism for all;
 - (b) Supporting the development of training materials on disability awareness in tourism education and training for use in government and private sector training programmes.



Photograph of UNESCAP participants at the Conference

Chapter 3

Biwako Millennium Framework

Lake “Biwa” is the largest freshwater lake in Japan, in the City of Otsu. It is in this city that the High-level Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons is held. Hence, the name of the framework “Biwako” (“ko” means a lake).

The word “*Millennium*” indicates that the Framework is being adopted at the beginning of the new millennium and that it is also structured to supplement the UN Millennium Development Goals and targets. “An Inclusive, Barrier-free and Rights-based Society” represents the guiding principles of this framework.

An “inclusive” society is a society for all, and a “barrier-free” society refers to a society free from institutional, physical and attitudinal barriers, as well as social, economic and cultural barriers.

A “rights-based” society means a society based on the human rights of all individuals where peoples with disabilities are valued and placed at the centre of all decisions affecting them.

DRAFT BIWAKO MILLENNIUM FRAMEWORK FOR ACTION TOWARDS AN INCLUSIVE, BARRIER-FREE AND RIGHTS-BASED SOCIETY FOR PERSONS WITH DISABILITIES IN ASIA AND THE PACIFIC

In May 2002, ESCAP adopted the resolution “Promoting an inclusive, barrier-free and rights-based society for people with disabilities in the Asian and Pacific region in the twenty-first century”. The resolution also proclaimed the extension of the Asian and Pacific Decade of Disabled Persons, 1993-2002, for another decade, 2003-2012.

The “Draft Biwako Millennium Framework” outlines issues, action plans and strategies towards an inclusive, barrier-free and rights based society for persons with disabilities.

To achieve the goal, the framework identifies seven priority areas for action, in each of which critical issues and targets with specific time frames and actions follow. In all, 18 targets and 15 strategies supporting the achievement of all the targets are identified.

The next decade will ensure the paradigm shift from a charity-based approach to a rights-based approach to protect the civil, cultural, economic, political, and social rights of persons with disabilities.

To pursue the targets and strategies, consultations with and involvement of civil society, inter alia, self-help organizations and concerned NGOs are essential.

The following sections summarize the seven priority areas for action, the targets, strategies, time-frames, and the supporting/monitoring mechanisms.

(1) ***Self-help organizations of persons with disabilities***

Persons with disabilities and their self-help organizations are the most equipped, best informed to speak on their behalf and can contribute to solutions on issues that concern them. Two targets are set to make the difference:

- (1) By 2004, Governments, international funding agencies and NGOs should establish policy to support and develop self-help organizations.
- (2) By 2005, Governments and civil society organizations should fully include self-help organizations in decision-making processes. Actions for the targets include the participation of persons with disabilities in policy-making, political representations and capacity building.

Self-help organizations should include marginalized persons with disabilities such as women and girls with disabilities, persons with intellectual disabilities, persons who are HIV-positive and affected by leprosy.

(2) ***Women with disabilities***

Women with disabilities are multiply disadvantaged through their status as women, as persons with disabilities, and majority numbers as persons living in poverty. Three targets are set to solve these problems:

- (1) By 2005, Governments should ensure anti-discrimination measures to protect women with disabilities.
- (2) By 2005, self-help organizations adopt policies to promote full representation of women with disabilities,
- (3) By 2005, women with disabilities should be included in the membership of national mainstream women's associations.

(3) ***Early intervention and education***

Less than 10 per cent of children and youth with disabilities have access to any form of education compared with an enrolment rate of over 70 per cent for non-disabled children and youth in primary education in the Asian and Pacific region. This exclusion from education for children and youth with disabilities results in exclusion from opportunity for further personal, social and vocational development. Three targets are set for these problems:

- (1) Children with disabilities will be an integral part of the population targeted by Millennium Development Goal Target 3, which is to ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.

- (2) By 2010, at least 75 per cent of children and youth with disabilities will be able to complete a full course of primary schooling.
- (3) By 2012, all infants and young children (0–4 years) will have access to and receive community-based early intervention services.

Actions in this area include adequate legislation for inclusive education and national data collection on children with disabilities (0-16 years).

(4) *Training and employment, including self-employment*

Persons with disabilities remain disproportionately undereducated, untrained, unemployed, underemployed and poor. They have insufficient access to the mainstream labour market partially due to social exclusion, lack of trained and competent staff and adequate training for independent workers. Three targets follow:

- (1) By 2012, at least 30 per cent of the signatories (member states) will ratify ILO Convention 159 concerning Vocational Rehabilitation on Employment (Disabled Persons).
- (2) By 2012, at least 30 per cent of all vocational training programmes in signatory countries will include persons with disabilities.
- (3) By 2010, reliable data on the employment and self-employment rates of persons with disabilities will exist in all countries.

(5) *Access to built environment and public transport*

Inaccessibility to the built environment, including public transport systems, is still the major barrier for persons with disabilities. This problem will only exacerbate, as the number of older people with disabilities increase in the region. Universal design approaches benefit all people in society including older persons, pregnant women and parents with young children. Its economic benefits have been legitimized, yet substantive initiatives at policy level have not been taken. Two targets are set to improve the situation:

- (1) Governments should adopt and enforce accessibility standards for planning of public facilities, infrastructure and transport, including those in rural/agricultural contexts.
- (2) By 2012, existing public transport systems and all new and renovated public transport systems should be accessible.

(6) *Access to information and communication including ICT*

In the last 10 years, there has been much progress in Information and Communication Technology (ICT) development, and it opens up many opportunities for people with disabilities in networking, solidarity employment and independent living. But it has also widened the gap between persons with disabilities and the non-disabled. The Digital divide includes inaccessibility to

infrastructure for ICT, Internet, and ICT skills. These problems are acute in rural areas. The multi-media environment is creating barriers for people with visual disabilities. Three targets are set to improve the situation:

- (1) By 2005, persons with disabilities should have at least the same rate of access to the Internet and related services as the rest of citizens in a country of the region.
- (2) By 2004, international organizations should incorporate accessibility standards for persons with disabilities in their international ICT standards.
- (3) Governments should adopt, by 2005, ICT accessibility guidelines for persons with disabilities in their national ICT policies.

(7) Poverty alleviation through social security and livelihood programmes

Persons with disabilities are the poorest of the poor. It is estimated that 160 million persons with disabilities, over 40 per cent of disabled persons are living in poverty, unable to benefit from their socio-economic rights. Poverty and disability worsens each other when persons with disabilities are socially excluded and adequate social services are not provided. Pursuant to the UN Millennium Development Goal target 1:

- (1) Governments should halve, between 1990 and 2015, the proportion of persons with disabilities whose income/consumption is less than one dollar a day. Actions call for Governments to integrate disability dimensions into MDG baseline data collection and analysis, to allocate a certain percentage of the total rural development / poverty alleviation funds towards persons with disabilities.

National plan of action (five-year) on disability

Strategy 1 calls for Governments to develop and adopt, by 2004, a five-year comprehensive national plan of action to implement the targets and strategies of the framework.

Promotion of rights-based approach to disability issues

Strategy 2 calls for Governments to adopt and implement non-discrimination policies. Strategy 3 draws attention to National Human Rights Institutions as agencies to protect disabled people's rights. Strategy 4 calls for Governments to actively involve persons with disabilities in any policy development. Strategy 5 calls for Governments to ratify the core international human rights treaties. Strategy 6 calls for Governments to support the Ad Hoc Committee for the comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities

Disability statistics/common definition of disabilities for planning

A common system of definition and classification of disability is not uniformly applied in the region. Two strategies are set to solve the problem. Strategy 7 calls for Governments to develop, by 2005, their system in disability-related data collection and analysis. Strategy 8 calls for Governments to adopt, by 2005, definitions on disability based on the United Nations publication "Guidelines and Principles for the Development of Disability Statistics.

Strengthened community development approach to prevention, rehabilitation and empowerment of persons with disabilities

Community-based approach is augmenting and replacing traditional institutional and centralized rehabilitation programmes for disabled people's economic, social and other human rights enhancement. Strategy 9 calls for Governments to immediately develop national policies to promote community-based approaches.

Cooperation and support for action: sub-regional, regional and inter-regional

Special focus is on strengthening cooperation among governments at the sub-regional level. Strategy 10 and 11 call for formulating sub-regional priorities and plans of action, by 2004, to achieve the targets. At a regional level, strategy 12 calls for Governments, the United Nations system, civil society organizations and the private sector to collaborate, support and take advantage of the training and communication capability of the Asia-Pacific Development Center on Disability. This center is to be opened in 2004 in Bangkok, as a legacy of the Asian and Pacific Decade of Disabled Persons. It has the capacity of one of the most powerful focal points in the region. Strategy 13 and 14 call for Governments, civil society organizations and the private sector to establish a network of centres of excellence in focused areas to maximize cooperation and collaboration. ESCAP and other United Nations agencies should assist in the establishment of a network of centres of excellence. Strategy 15 emphasizes cooperation between ESCAP and other regional agencies for exchange of information, experiences and expertise.

Monitoring and review

ESCAP should convene biennial meetings to review achievements and to identify actions that may be required to implement the Biwako Millennium Framework for Action. At these meetings, the representatives of national coordination committees on disability matters comprising Government ministries/agencies, NGOs, self-help organizations and the media will be invited to present reports to review progress in the implementation of the framework.

The mid-point review of the Biwako Millennium Framework for Action should be conducted. Based on the review, the targets and strategic plans for the second half of the Decade may be modified and new targets and strategic plans formulated.

Bibliography

1. India. Ministry of Tourism. Annual Report. (2001-02). New Delhi. India.
2. Ministry of Information and Broadcasting, (2003). *India 2003*, New Delhi, India: Publications Division, Government of India.
3. (27th September 1998). India Tourism Glorious Legacy, *The Pioneer*, New Delhi, India.
4. (2003). [on line]. Available at <http://disabilityindia.org/>
5. Borpujari J; 1977; "Production and Monetization in the Subsistence Sector" in *Money and Monetary Policy in Less Developed Countries*, W L Coats, Jr and D R Khatkhate (eds), Pergamon Press, 1980, Oxford.
6. Connerley Ed and Schroeder L; 1996; *Rural Transport Planning: Approach Paper*; SSATP Working Paper No.19; KNIT, Africa Region, World Bank.
7. Daw J and Barwell, I; 1993; *Roads are Not Enough*; Intermediate Technology Publications, London.
8. Dennis R; 1998; *Rural Transport and Accesibility*; ILO, Switzerland.
9. (2003). [on line]. Available at <http://tourismofindia.com/>
10. (2003). [on line]. Available at <http://unescap.org/>
11. (2003). [on line]. Available at <http://webmaster@incredibleindia.org/>
12. *Accessibility Law and Its Implementing Rules and Regulations*, National Council for the Welfare of Disabled Persons, Metro Manila, Philippines, 1990.
13. Code on Barrier-Free Accessibility in Buildings-1990, Public Works Department, Building Control Division, Singapore; Barrier-Free Design: A National Standard of Canada, Canadian Standards Association, Canada, 1990.
14. Parker, K. (1999) *Developing and Interfacing Non-Discriminatory Buildings, Streets and Transportation Systems*. CityTrans Asia City. Singapore.
15. (2003). COST 322. [on line]. Available at <http://www.cordis.lu/cost-transport/>

16. (2003). [on line]. Delhi Metro. Available at <http://delhimetrorail.com/>
17. (2003). International Centre for Accessible Transportation, Canada. [on-line] Available at <http://icat-ciat.org/>
18. Benar, M.J. (1977) "Barrier Free Environment" Dowden, Hutchinson and Ross, Inc., Community Development Services, Vol. 33.
19. Central Public Works Department (1998), "Guidelines and Space Standards for Barrier Free Built Environment for Disabled and Elderly Persons", CPWD, Ministry of Urban Affairs and Employment, India.
20. Gary, S.D. and Beth, T. (2001) "Universal Design New York" Center for Inclusive Design and Environment Access, School of Architecture and Planning, University of Buffalo, The State University of New York.
21. IS: 4963 (1987), *Recommendations for Physically Challenged*, Bureau of Indian Standards.
22. (2004). [on line]. Available at <http://www.ap.buffalo.edu/~idea>
23. Singh, B. (2004), *Barrier Free Considerations for Rural Buildings*, IIT, Delhi.
24. Ghosh, D. and Sarkar A.K.; 1998, Transportation and (Rural) *Poverty Alleviation in Market Based Economy; South African Transport Conference*, Vol. 2B.
25. ILO, 1997, *A Guide to Integrated Rural Accessibility Planning in Tanzania*; Dar Es Salaam.
26. Mashiri, M.A.M. and Sarkar A.K., 1998, Putting Rural Accessibility on the Agenda: Evidence from *Bochum-My Darling Transitional Local Council*; South African Transport Conference, Vol. 2B.