



Two Years of The Rights of Persons with Disabilities (RPWD) Act 2016 - Status of implementation in the States and UTs of India

Disability Rights India Foundation (DRIF)

National Centre for Promotion of Employment for Disabled People (NCPEDP)

and

National Committee on the Rights of Persons with Disabilities (NCRPD)

Supported by

Titan Company Limited

3rd December 2018

Table of Contents

INTRODUCTION	3
METHODOLOGY OF THE STUDY	3
LIMITATIONS	4
STATE RESPONSES	4
HIGHLIGHTS OF THE FINDINGS	5
DETAILED FINDINGS	6
1. TRANSLATION OF THE ACT IN LOCAL LANGUAGES.....	6
2. NOTIFICATION OF THE STATE RULES.....	7
3. STATE ADVISORY BOARDS (SAB) AND THEIR COMPOSITION.....	7
4. DISTRICT COMMITTEES.....	8
5. STATE COMMISSIONER FOR PERSONS WITH DISABILITIES.....	8
6. ADVISORY COMMITTEE TO ASSIST THE STATE COMMISSIONER.....	9
7. SPECIAL COURTS AT DISTRICTS AND SPECIAL PUBLIC PROSECUTORS.....	10
8. EXECUTIVE MAGISTRATES.....	11
9. STATE FUND FOR PERSONS WITH DISABILITIES.....	11
10. ASSESSMENT BOARD FOR HIGH SUPPORT NEEDS.....	12
11. DESIGNATED AUTHORITIES FOR SUPPORTING PEOPLE WITH HIGH SUPPORT NEEDS.....	12
12. EMPLOYMENT RELATED PROVISIONS.....	13
<i>I. Reservation in Government and Public Sector Jobs.....</i>	<i>13</i>
<i>II. Grievance Redressal Officer.....</i>	<i>14</i>
<i>III. Equal Opportunity Policy.....</i>	<i>15</i>
13. NODAL OFFICER IN DISTRICT EDUCATION OFFICE.....	15
14. DISABILITY CERTIFICATES FOR NEWLY ADDED DISABILITIES IN THE ACT.....	16
15. INCREASE IN QUANTUM OF ASSISTANCE IN SOCIAL SECURITY SCHEMES.....	16
RECOMMENDATIONS	18
ANNEXURE 1: LIST OF PARTNERS WHO RESPONDED/PARTICIPATED	21
ANNEXURE 2 COMPREHENSIVE SCORES	22
ANNEXURE 3: ABOUT THE RPWD ACT, 2016	23
ANNEXURE 4: ABOUT THE ORGANISATIONS	25

Introduction

The Rights of Persons with Disabilities (RPWD) Act was passed by both houses of the Parliament on 16th December 2016. The Act has several provisions, which if implemented, could be a “game changer” for people with disabilities in India. It will now be two years in December 2018 since the passage of the Act. Therefore, Disability Rights India Foundation (DRIF) in collaboration with National Centre for Promotion of Employment for Disabled People (NCPEDP) and National Committee on the Rights of Persons with Disabilities (NCRPD) with the support of Titan Company Limited decided to undertake a Study to evaluate the progress made vis-a-vis the implementation of The RPWD Act in the States and Union Territories of India.

Methodology of the Study

DRIF framed a Questionnaire in order to gather information regarding the status of implementation of The RPWD Act, 2016. As this was the first study on the Act, we decided to focus on the State’s administrative machinery i.e. rules, administrative structures, notifications, funds, appointments, etc., which facilitate the implementation of the Act. The Questionnaire comprised of 19 questions relating to the system/machinery for implementing The RPWD Act in the States and UTs.

The questions were on:

1. Notification of State Rules
2. Constitution of State Advisory Board (SAB)
3. Composition of SAB
4. Formation of District Committees
5. Appointment of State Commissioners for Persons with Disabilities
6. Constitution of Advisory Committee
7. Specification of Special Courts
8. Appointment of Special Public Prosecutors
9. Specification of Executive Magistrates
10. Constitution of State Fund
11. Establishment of Assessment Board for certifying people with high support need
12. Establishing/specifying Designated Authority for deciding the manner of support for people with high support needs
13. Constitution of Expert Committee for identifying posts for people with benchmark disabilities
14. Notification issued regarding the increase in employment quota from 3% to 4%.
15. Number of establishments that have registered an Equal Opportunity (EO) Policy with the Commissioner
16. Number of establishments the have notified the authorities regarding the appointment of Grievance Redressal Officers (GROs)

17. Appointment of Nodal Officer for education in the District
18. Issuance of disability certificates for newly added disabilities
19. Notification for increasing the quantum of assistance in social security schemes

NCPEDP identified partners/organisations/individuals in each State and UT (hereafter referred as "Partners" in the Study) who could gather the information from reliable source/s and fill the Questionnaire. Partners collected information from Social Welfare Department officials/State Commissioners and some filed RTIs to collect the information. List of partners is given in Annexure 1. We also asked queries on the responses received to ensure that the data is authentic. We collated the information in a Excel Sheet and analysed the data. Please refer to Annexure 2 for the scores.

Limitations

The Study does not cover all the provisions in the Act. As mentioned above in the 'Methodology' section, the focus of this Study was to assess if the systems were in place to facilitate the implementation of the Act.

State Responses

Number of the States and UTs: 36

Responses Received: 24 States and UTs

Response Rate: 66.7%¹

The States and UTs that have responded are given below.

1. Andaman & Nicobar Islands
2. Andhra Pradesh
3. Assam
4. Bihar
5. Chandigarh
6. Delhi
7. Goa
8. Haryana
9. Himachal Pradesh
10. Jammu & Kashmir¹
11. Kerala
12. Madhya Pradesh
13. Manipur
14. Meghalaya
15. Nagaland
16. Odisha

¹ Jammu and Kashmir is yet to enact the Act in their State.

17. Puducherry
18. Punjab
19. Tamil Nadu
20. Telangana
21. Tripura
22. Uttar Pradesh
23. Uttarakhand
24. West Bengal

Highlights of the Findings

Based on the responses from 24 States and UTs, the major findings were:

1. Majority of the States (58.3%) have not notified the State Rules, inspite of the Act mandating that it should be notified within six months of the enforcement of the Act.
2. Government has translated the Act *only* in two languages i.e. Hindi and Odiya, out of 21 official languages. (The Act has been translated by NCPEDP in 9 languages and in Sign Language.).
3. 50% of the States and UTs have not constituted State Advisory Boards (SAB) and 83.3% have not constituted the District Committees.
4. 37.5% of the States have not appointed Commissioners for Persons with Disabilities. Even in the 62.5% of the States where there are Commissioners, the progress has not been substantial. The reason could be that many States do not have full time commissioners. Only 3 States (12.5%) have constituted Advisory Committees, comprising of experts, to assist the State Commissioner.
5. 79.2% of the States have not constituted the State Fund for implementing the Act.
6. Only 4 States (16.7%) have appointed a Nodal Officer in the District Education Office to deal with all matters relating to admission of children with disabilities.
7. 58.3% of the States have not notified Special Courts in the Districts for the purpose of trying offences under the Act and 87.5% have not appointed Special Public Prosecutors as mandated by the law.
8. 87.5% of the States do not have Designated Authorities to decide the nature and manner of support to persons with high support needs for exercising their legal capacity.
9. As per the Act, every establishment (private and government) has to formulate an EO Policy and register it with the Disables Commissioner. However, 91.7% of States have reported NIL to the question as to how many EO policies that they have received from the Government. Only two States - Delhi and Himachal Pradesh have reported they have received 1244 and 1 EO policy respectively from the establishments. 54.2% have

not issued notifications for increasing reservation in employment from 3% to 4% in the government and public sectors.

10. Only one State has taken some action with regard to providing increased quantum of assistance by (at least twenty-five per cent) for people with disabilities in social security schemes. Only 50% Of the States have started issuing disability certificates pertaining to the new disabilities that have been added in the Act.

Out of the 24 States/UTs, Madhya Pradesh and Odisha have scored the highest i.e they have answered in affirmative for 12 out of 19 questions (63.2%) regarding the existence of state machinery for implementing the Act. 10 States/UTs have scored extremely low i.e. that is they have answered in the affirmative for less than 25% of the questions, indicating that very few of the systems required for implementing the Act are in place. (Details of the State Scores are in Annexure 2).

Detailed Findings

1. Translation of the Act in local languages

As per the responses received, the Act has been translated by the Central Government only in two languages, i.e. Hindi and Odiya, out of the 21 official languages present in the country. (see the website https://en.wikipedia.org/wiki/Languages_of_India).

Considering the importance of making the Act available in a local language in order to ensure wider dissemination, NCPEDP with the support of the State Partners have translated the Act in ten languages, including Sign language. These are given below.

1. Assamese
2. Bengali
3. Gujarati
4. Kannada
5. Marathi
6. Odiya
7. Sign Language
8. Tamil
9. Telugu
10. Urdu

The State Governments are urged to adopt the translations and make it available on their official websites and disseminate copies to all the relevant stakeholders.

2. Notification of the State Rules

The States that have notified the State Rules are:

1. Bihar
2. Chandigarh
3. Madhya Pradesh
4. Manipur
5. Meghalaya
6. Odisha
7. Tamil Nadu
8. Telangana
9. Uttar Pradesh
10. West Bengal

Out of the 24 responses received, only 10 States (41.7%) have notified the State Rules. A few States have mentioned that they have drafted the Rules but haven't notified them.

As per Section 101 (1) of the Act, State Governments are required to notify the State Rules within six months from the date of commencement of this Act.

Notifying State Rules is the first the step towards implementing the Act in the State. The Rules provide the manner in which the committees/boards have to be constituted, the procedures for transaction of business in the meetings of the Boards/Committees, the salaries and allowances of Commissioners and staff and other members and several other aspects.

3. State Advisory Boards (SAB) and their Composition

The following States have constituted the SAB:

1. Assam
2. Goa
3. Himachal Pradesh
4. Kerala
5. Madhya Pradesh
6. Manipur
7. Meghalaya
8. Nagaland
9. Odisha
10. Punjab
11. Tamil Nadu
12. Uttarakhand

It is seen that only 12 out of 24 States (50%) have appointed a State Advisory Board (SAB).

SABs have an important role to play in ensuring the implementation of the Act in the State. The Board is chaired by the Minister in charge of the Department in the State Government dealing with disability matters and the members include the Secretaries of various concerned departments, members of the State Legislature and 15 representatives from the disability sector (5 experts and 10 from NGOs/DPOs).

Further, the law states that the ten members of NGO/DPOs, as far as practicable, should be persons with disabilities and among them, at least five should be women and at least one person each should be from the Scheduled Castes and the Scheduled Tribes. However, some States seem to have ignored these mandates while constituting their SAB. For example, as per the response, in one State, out of the 10 representatives from NGO/DPOs, only 4 were women. Most notifications do not mention the disability of the member. Hence, it was not possible to check the number of people with disabilities in the Boards. Similarly, it is not clear how many belong to the SC and ST categories.

4. District Committees

The States/UTs that have constituted District Committees are:

1. Chandigarh
2. Madhya Pradesh
3. Meghalaya
4. Odisha

It is seen that only 4 States/UTs (16.7%) have constituted District Committees.

As per Section 101 (1) (k) of the Act, the State Rules should detail the composition and the functions of the District Level Committee.

The District Committee has an important role to play in ensuring implementation of the Act at the District level. Further, in Section 23 (1) (4) of the Act, it is mentioned that an aggrieved person can file a complaint with the District Level Committee in case she /he is not satisfied with the action taken on her/his complaint by the Grievance Redressal Officer of an establishment.

The earlier law (Disability Act 1995) did not have any mechanism to implement the Act at the District level. Therefore, this clause is an improvement over the previous Act.

5. State Commissioner for Persons with Disabilities

The States/UTs that have appointed a Commissioner for Persons with Disabilities are listed below.

1. Assam

2. Bihar
3. Chandigarh
4. Delhi
5. Haryana
6. Madhya Pradesh
7. Manipur
8. Odisha
9. Puducherry
10. Punjab
11. Tamil Nadu
12. Telangana
13. Tripura
14. Uttar Pradesh
15. West Bengal

15 States/UTs (62.5%) have Commissioners for Persons with Disabilities. However, some of the Partners have said in their responses that their Commissioner is not full time and the Secretary who is in charge of Welfare has been given additional charge of the Disability Commissioner. In some States where there are full time Commissioners, their position is comparatively low in hierarchy and hence, the person is less effective in working with various Ministries to implement the Act or to strictly enforce the law.

State Commissioners have a crucial role to play in implementing and enforcing the provisions of the Act. They are meant to have the power of a Civil Court. The Act clearly states that the State Commissioner must have special knowledge or practical experience in respect of matters relating to rehabilitation.

The previous Act (Disability Act, 1995) also mentioned the appointment of a State Commissioner. It is therefore really a sorry state of affairs that 37.5% of the States still do not have a State Commissioner.

6. Advisory Committee to assist the State Commissioner

The States that have constituted the Advisory Committee are:

1. Assam
2. Goa
3. Himachal Pradesh

Only 3 States (12.5%) have constituted an Advisory Committee to assist the State Commissioner.

As per Section 78 (7) of the Act, the Committee should comprise of not more than five members drawn from experts in the disability sector.

There are technical aspects concerning disability, like accessibility, rehabilitation, inclusive policy etc., and hence, this expert Committee has a crucial role to play in providing the technical expertise needed to implement the Act.

7. Special Courts at Districts and Special Public Prosecutors

Special Courts are specified in the following States/UTs:

1. Andhra
2. Assam
3. Madhya Pradesh
4. Meghalaya
5. Odisha
6. Puducherry
7. Punjab
8. Telangana
9. Tripura
10. Uttarakhand

The following States which have appointed Special Public Prosecutors are:

1. Madhya Pradesh
2. Tripura
3. Uttarakhand (INA)

It is seen that 10 States (41.7%) have notified Special Courts in the Districts for the purpose of trying offences under the Act and only 3 States have appointed Special Public Prosecutors/advocate.

As per Section 84 of the Act, for the purpose of providing speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Session to be a Special Court to try the offences under this Act.

As per Section 85, for every Special Court, the State Government should specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court. The Special Public Prosecutor is entitled to receive fees or remuneration as prescribed by the State Government.

Every District having a Special Court and a Special Public Prosecutor is a significant provision in The RPWD Act as it makes it easier for people to access the justice system. In the previous Act (Disability Act 1995) a person had to go to the State Commissioner located in the State Capital to file a complaint.

8. Executive Magistrates

The following States/UTs have designated Executive Magistrates for the purpose of this Act. They are:

1. Goa (only in North Goa)
2. Madhya Pradesh
3. Puducherry
4. Punjab
5. Uttarakhand

Only 5 (20.8%) States have designated Executive Magistrates (EM) to provide the required support to victims with disability who have experienced abuse/violence/exploitation. Delhi has stated that designating an EM is not required because there are EMs already in the Districts, as per Section 20 in The Code of Criminal Procedure. Even if the existing EMs are to play the role as defined by the Act, they not only need to be informed about the Act but also need to be provided the necessary training in order to implement it effectively

The role of EM is quite clearly stated in the Act. As per the Act, "the Executive Magistrate on receipt of information of abuse, exploitation, violence, she/he should take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as she/he deems fit for the protection of such person with disability including an order -

- a) to rescue the victim of such act, authorising the police or any organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such a person, or both, as the case may be;
- b) for providing protective custody to the person with disability, if such person so desires;
- c) to provide maintenance to such person with disability."

The Act also states that the Police Officer who receives a complaint also should provide the particulars of the EM in that area to the complainant.

9. State Fund for persons with disabilities

Following States have constituted State Funds for implementing the Act:

1. Himachal Pradesh
2. Madhya Pradesh
3. Odisha
4. Tamil Nadu
5. Uttarakhand

It is seen that only 5 States (20.8%) have constituted a State Fund for implementing the provisions of the Act. Odisha has allocated Rs. 2 crores, Himachal Pradesh Rs. 5 crores, Tamil Nadu Rs. 10 crores and no amount has

been fixed in for the Uttarakhand fund (it is stated that the penalties and fines levied by the Special Court and Magistrate will constitute the Fund).

The funds allocated is extremely low given the population of persons with disabilities present in the above States.

As per Section 88 (1) of the Act, there shall be constituted a Fund to be called the State Fund for persons with disabilities by a State Government in such manner as may be prescribed by the State Government.

10. Assessment Board for High Support Needs

None of the States have constituted an Assessment Board to certify people with high support needs. The Central Government Rules, as per Section 100 (f) of the Act, contains the guidelines for the composition of the Board and manner of Assessment for people with high support needs. However, the RPWD Rules as framed by the Central Government in June 2017 did not include these Guidelines.

As per the information received through an RTI, the Central Government has notified the draft RPWD (Amendment) Rules, 2018 specifying the composition of the Assessment Board and the manner of assessment of high support needs vide notification dated 22nd October 2018 seeking objections and suggestions from the public within a period of 30 days. Once the final notification is issued, the State Governments would be required to take appropriate actions accordingly.

- (1) As per Section 38 (1) of the Act, any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on her or his behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support.
- (2) On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Central Government.
- (3) The Assessment Board shall assess the case referred to it under sub-section (1) in such manner as may be prescribed by the Central Government and shall send a report to the authority certifying the need of high support and its nature.
- (4) On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the appropriate Government in this behalf.

11. Designated Authorities for supporting people with high support needs

The following States have specified designated authorities for supporting people with high support to exercise their legal capacity:

1. Chandigarh
2. Himachal Pradesh
3. Odisha

It is seen that only 3 States (12.5%) have specified designated authorities to provide support to persons with disabilities. In Odisha, Local Level Committee (LLC) and State Nodal Agency Centre (SNAC) under the National Trust Act have been notified as the designated authorities.

As per Section 14 of the Act, Designated Authorities provide support to persons with disabilities in exercising their legal capacity and decide regarding any further support required in terms of limited guardianship or total support to take legally binding decisions on their behalf in consultation with such persons.

As per Section 15 of the Act, the designated authorities are required to mobilise the community and create social awareness to support persons with disabilities to exercise their legal capacity. They should also take measures for setting up suitable support arrangements for persons with disabilities living in institutions and those with high support needs.

12. Employment related provisions

I. Reservation in Government and Public Sector Jobs

The Act provides for 4% reservation in Government and public sector jobs. The earlier Act (Disability Act 1995) only provided for 3% reservation. It was restricted to people with locomotor disability, visual disability and hearing disability. The 1% increase in the present Act is for people with intellectual disabilities, mental illness, multiple disabilities, autism and specific learning disabilities.

The following States have constituted an Expert Committee to identify suitable jobs which could be reserved for persons with benchmark disabilities:

1. Himachal Pradesh
2. Kerala
3. Madhya Pradesh
4. Meghalaya
5. Odisha
6. Tamil Nadu
7. Telangana
8. Tripura

The following States have issued Notifications to all concerned departments for increasing reservations from 3% to 4% for persons with benchmark disabilities:

1. Chandigarh

2. Haryana
3. Himachal Pradesh
4. Madhya Pradesh
5. Meghalaya
6. Odisha
7. Puducherry
8. Tamil Nadu
9. Telangana
10. Uttar Pradesh
11. Uttarakhand

It is seen that only 8 States (33.3%) have constituted expert committees with representation of persons with benchmark disabilities for identification of posts in the establishments which can be held by the respective category of persons with benchmark disabilities (Section 33 (ii)).

11 States/UTs (45.8%) have issued notifications for increasing the reservation quota from 3% to 4%. In the absence of such notifications, establishments may not adhere to the new provision or interpret in their own way, like it happened with State Bank of India (SBI) when they advertised for recruitment for probationary officers. They increased the percentage, but they did not include reservation for people with learning disabilities, mental illness, multiple disabilities, etc. as per the provision of the Act.² However, this was brought to their notice by a person with specific learning disabilities and an immediate court intervention was done to correct the notification. Therefore, it is crucial that all relevant organisations are sent the notification for adhering to the mandates of the Act in recruitment.

Section 34 (1) of the Act provides 4% reservation to people with benchmark disabilities - one per cent for each category, namely:—

- a) blindness and low vision;
- b) deaf and hard of hearing;
- c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- d) autism, intellectual disability, specific learning disability, mental illness and multiple disabilities

II. Grievance Redressal Officer

The following States have received information about the appointment of Grievance Redressal Officers from Government establishments:

1. Assam (2 establishments)

² Announcement for the recruitment for probationary officers by State Bank of India for 2018-19, (Advertisement No.: CRPD/ PO/ 2018-19/ 01)

2. Delhi (81 establishments)
3. Goa (1 establishment)
4. Himachal Pradesh (3 establishments)
5. Meghalaya (24 establishments)
6. Odisha (33 establishments)
7. Puducherry (5 establishments)
8. Uttarakhand (1 establishment)

It is seen that in just 8 States (33.3%) have the Commissioners received information about the appointment of Grievance Redressal Officers (GROs) in establishments. In total, only 168 establishments have pointed GROs in the country (the highest is Delhi with 81 establishments appointing GROs next are Odisha with 33, Meghalaya with 24 and the rest with 5 or less establishments.)

As per Section 23 (1) of the Act, every Government establishment should appoint a Grievance Redressal Officer and should inform the Chief Commissioner or the State Commissioner, as the case may be.

III. Equal Opportunity Policy

The following States have received Equal Opportunity (EO) Policy from establishments:

1. Delhi (1244 establishments)
2. Himachal Pradesh (1 establishment)

It is seen that in 22 States out of the respondent 24 States (91.7%) the State Commissioners have not received a single Equal Opportunity Policy from establishments. Himachal Pradesh has received the EO policy from only one establishment and Delhi from 1244 establishments. This implies that there are many establishments (private and government) in the country who are violating the mandate of the Act.

As per Section 21 (1), every establishment (Government and private) shall notify equal opportunity policy and should register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

13. Nodal Officer in District Education Office

The States that have appointed Nodal Officers in District Education Office are given below.

1. Delhi
2. Madhya Pradesh
3. Meghalaya (8 out of 11 districts)
4. Odisha

It is seen that only 4 States (16.66%) have appointed a Nodal Officer in the District Education Office as per the requirement of the law.

As per Section 7, in The RPWD Rules, there shall be a Nodal Officer in the District Education Office to deal with all matters relating to admission of children with disabilities and the facilities to be provided to them in schools.

14. Disability Certificates for newly added disabilities in the Act

The following States/UTs have started issuing Disability Certificates to the newly added categories in the RPWD Act:

1. Chandigarh
2. Delhi
3. Madhya Pradesh
4. Manipur
5. Meghalaya
6. Odisha
7. Puducherry
8. Punjab
9. Tamil Nadu
10. Telangana
11. Uttar Pradesh
12. West Bengal

It is seen that 12 States/UTs (50% of those who responded) have started issuing disability certificates to the new disabilities that have been added in the Act (i.e. Blood disorders, Specific learning disabilities, Acid attack victims, dwarfism, chronic neurological condition, multiple sclerosis etc.) The earlier Act covered only 7 disability categories.

In Uttarakhand, only people with Thalassemia are getting certificates but not people who belong to other categories of disabilities (among the newly added ones). 50% of the States who have responded have not even started issuing Disability Certificates to the newly added disabilities, in spite of the guidelines issued by the Central Government. It is crucial that people with disabilities get their certificates in order to access benefits provided in the Act.

15. Increase in Quantum of Assistance in social security schemes

Only one State i.e. Tamil Nadu, has taken some action with regard to providing an increased quantum of assistance (at least twenty-five per cent) for people with disabilities in social security schemes. This was a result of a case filed in the Madras High Court by Mr. S. Namburajan, Tamil Nadu Association for the Rights of all Types of Differently Abled and Caregivers, to enhance the quantum of subsidy under the Amma Two-wheeler Scheme to Rs. 31,250 to people with disabilities i.e. 25% higher than Rs. 25,000 available to other categories of

beneficiaries. (The order was issued on 27th September 2018 by the Rural Development and Panchayat Raj Department (W.W.NP.No.3550/2018) (GO No. 43)). It is seen that the remaining States/UTs need to take action in this regard.

As per Section 24(1), schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living, to enable them to live independently or in the community, should be formulated and the quantum of assistance to the persons with disabilities under such schemes and programmes should be at least twenty-five per cent. higher than similar schemes applicable to others.

Recommendations

The status of implementation of The RPWD Act, 2016, even after two years of its enactment is disappointing. Most States do not appear to have even started the implementation. About 60% of the States who have responded to our Survey have not notified the State Rules.

The following are some recommendations for the State Governments and Civil Society organisations for facilitating the speedy and effective implementation of the Act:

State Governments

We recommend the following four recommendations:

1. **Administrative Mechanisms** and plans should be put in place by the Nodal Ministry and other relevant Ministries
 - ❖ The Nodal Ministry (which is the Department in charge of Disability) and Disability Commissioners should notify the State Rules, constitute the various Boards and Committees, specify Special Courts, appoint Commissioners and relevant staff, translate the Act in official languages, constitute the State Fund, issue the needed notifications etc. as per the provisions given in the Act.
 - ❖ Other relevant Ministries/Departments: There are 16 Ministries/Departments listed in the Act, the Secretaries of which are part of the State Advisory Board. They have to put the required structures/mechanisms in place to implement the concerned provisions in the Act. The following are some examples (note that these are just indicative. Each Ministry should look at the provisions and develop their own rules/plans).
 - The Department of Education should appoint Nodal Officers in Districts; issue necessary circulars to all recognised schools and institutions of higher education specifying the requirements of the law, etc.
 - The Urban Development Ministry should update the byelaws and the processes for issuing permits and NoCs for buildings as per the law and set up a system of periodic audits.
 - The District Disaster Management Authority should create a system to collect and maintain records of details of persons with disabilities.
 - The State Legal Services Authorities under the Law Ministry should create a system to provide reasonable accommodation for people with disabilities to access justice.
 - The Rural Development Ministry should revise its schemes to ensure accessibility, accommodations to increase the quantum

of assurance in the various social security schemes as per the law.

2. **Adequate resources** should be allocated by not only constituting the State Fund as per the Act but also asking the various concerned Ministries/Departments to allocate necessary funds to implement the provisions of the Act. Disability Budgeting should be introduced in the various relevant Ministries/Departments.
3. **Awareness** should be raised, and capacities should be built among various stakeholders regarding the provisions of the Act in a structured way. The Rehabilitation Council of India (RCI) along with the State Commissioner's Office and relevant training bodies should devise a plan for ensuring that disability is included in the curriculum of the relevant professional courses and that capacity is built of the personnel who have a role to play in implementing the Act.
4. **Accountability** of stakeholders should be ensured. There are very specific mandates and timelines given in the Act. For example, the State Rules should be notified within six months; services should be made accessible within two years; existing buildings should be made accessible in five years; every establishment should register their EO Policy with the Commissioner and so on. Disability Commissioners should ensure accountability from the relevant stakeholders. Relevant quantitative and qualitative data should be collected periodically to measure progress in various aspects in line with the Sustainable Development Goals. Social Audits should be undertaken periodically as mandated by the Act, which would help in monitoring the progress and improving the various schemes and programmes.

Civil Society (DPOs and NGOs)

Civil Society has played a huge role in ensuring that The RPWD Act is not only enacted but is also more comprehensive. The Act will not implement on its own. A focussed effort is required to educate and push the stakeholders to implement the Act. We recommend the following four recommendations:

1. **Push for implementation:** Civil society has to be more vigilant. It is not only important to know the provisions in the Act but one should keep track of what is happening by following the media/meeting up with the policy makes, etc. It is not just the Government that we should focus on. Private sector should also be made accountable. Unless there is an active push by the disability sector, change may not take place. There are many tools available for advocacy and these have to be utilised strategically to demand accountability and to ensure effective implementation of the Act.
2. **Participation of people with disabilities:** There are provisions in the Act where it explicitly mentions the representation of people with disabilities in the Boards and Committees. It is important that these positions are carefully filled. The principle of "Nothing about us without

us" should be propagated to ensure that people with disabilities are consulted at all levels of decision making.

3. **Partnership:** Civil society can work in partnership with Government bodies, wherever possible, and share their expertise in various aspects.

Annexure 1: List of Partners who responded/participated

1. Andaman & Nicobar Islands: Rajnish Acharya, Disability Rights Activist
2. Andhra Pradesh: Network of Persons with disAbility Organisations (NPdO)
3. Assam: Shishu Sarothi
4. Bihar: Adarsh Viklang Sewa Sansthan
5. Chandigarh: RTI response (RTI filed by Fateh Whig, Student, Faculty of Law, Punjab University)
6. Delhi: Sneha Chandna, NCPEDP
7. Goa: Disability Rights Association of Goa
8. Haryana: Pawan Kumar, Disability Rights Advocate
9. Himachal Pradesh: Chinmaya Organization for Rural Development (CORD)
10. Jammu & Kashmir: Humanity Welfare organization Helpline
11. Kerala: RTI response
12. Madhya Pradesh: Joint Director of Social Justice and Disability Welfare Department
13. Manipur: Handicapped Development Foundation
14. Meghalaya: Bethany Society
15. Nagaland: Shri Diethono Nakhro, Disability Rights Activist
16. Odisha: Swabhiman
17. Puducherry: Sathya Special School
18. Punjab: Punjab State Federation of Parents of Persons with Intellectual and Developmental Disability (PWIDD)
19. Tamil Nadu: Disability Law Unit, Vidya Sagar
20. Telangana: Network of Persons with disAbility Organisations (NPdO)
21. Tripura: Telephonic interview with Deputy Commissioner, Disability
22. Uttar Pradesh: Handicare
23. Uttarakhand: Latika Roy Memorial Foundation
24. West Bengal: Dr. Bubai Bag, Assistant Professor, Department of History, Bagnan College, University of Calcutta

Annexure 2 Comprehensive Scores

S. No.	State/UT	Score (out of 19)	Percentage
1	Madhya Pradesh	12	63.2%
2	Odisha	12	63.2%
3	Meghalaya	11	57.9%
4	Himachal Pradesh	9	47.4%
5	Tamil Nadu	8	42.1%
6	Telangana	6	31.6%
7	Assam	6	31.6%
8	Puducherry	6	31.6%
9	Punjab	6	31.6%
10	Uttarakhand	6	31.6%
11	Chandigarh	6	31.6%
12	Delhi	5	26.3%
13	Manipur	5	26.3%
14	Tripura	4	21.1%
15	Uttar Pradesh	4	21.1%
16	Goa	4	21.1%
17	West Bengal	3	15.8%
18	Kerala	3	15.8%
19	Bihar	2	10.5%
20	Haryana	2	10.5%
21	Nagaland	1	5.3%
22	Andhra Pradesh	1	5.3%
24	Andaman and Nicobar Islands	0	0.0%
23	Jammu & Kashmir	0	0.0%

Annexure 3: About The RPWD Act, 2016

The RPWD Act provides for:

1. All rights to persons with disabilities on an equal basis with others, without any discrimination - right to equality, liberty, home and family, participation in sports and cultural life, living in the community, political, financial, legal rights, protection from abuse and violence, health, justice, adequate standard of living and rights specific to women and children.
2. Access and accommodations to enjoy their various rights.
3. Free and compulsory education for all children with disabilities free education in a neighbourhood school, or in a special school, of his choice upto 18 years of age.
4. Admission without discrimination in all recognised schools. Individualised accommodation and support should be provided to children with disabilities.
5. 5% reservation in higher education (in government and government aided institutions) for people with benchmark disabilities.
6. 4% Reservation in jobs (government and public sector) for persons with benchmark disabilities - one percent for each clause from (a) to (d) namely: —
 - a. blindness and low vision;
 - b. deaf and hard of hearing;
 - c. locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
 - d. autism, intellectual disability, specific learning disability, mental illness and multiple disabilities including deaf-blindness.
7. 5% Reservation in poverty alleviation and other development programmes for persons with benchmark disabilities.
8. All establishments including private establishment should frame an Equal Opportunity Policy and register it with the Commissioner's office and maintain a record of employees with disabilities.
9. Every government establishment should appoint a Grievance Redressal Officer.
10. Establishments should ensure accessibility of built infrastructure, ICT, transportation and services as per the standards.
11. Incentives to employers in private sector to ensure that at least five per cent of their workforce is composed of persons with benchmark disability.
12. All service providers (including private) should make their services accessible in two years (i.e by June 2019).
13. All existing buildings accessed by public should be made accessible in five years time (i.e by June 2022).
14. Free of cost aids and appliances, medicine and diagnostic services and corrective surgery to persons with disabilities with such income ceiling as may be notified.

15. Disability pension and unemployment allowance to persons with disabilities
16. Care-giver allowance to persons with disabilities with high support needs
17. Comprehensive insurance scheme for persons with disability.
18. Free healthcare in the vicinity especially in rural area subject to such family income as may be notified;
19. Barrier-free access in all parts of Government and private hospitals and other healthcare institutions and centres.
20. The quantum of assistance to the persons with disabilities under social security schemes and programmes should be at least twenty-five per cent. higher than the similar schemes applicable to others
21. Central and State Advisory Board and District Level committees with representation from all stakeholder groups should be constituted.
22. Chief Commissioner and State Commissioner with the power of the civil court to enforce the Act.
23. Special Courts at the District for providing for trying the offences under this Act.
24. Authorities to be designated for supporting persons with disabilities in exercise of their legal capacity.
25. Executive Magistrates to take specific steps when she/he receives complaints regarding any abuse /violence abuse, violence or exploitation.
26. Disaster Management activities should be inclusive. Data of persons with disabilities should be maintained by District level Disaster Management Authority,
27. Central and State Funds for ensuring resources for implementing the Act.
28. Punishments and penalties for any contravention of provisions of Act.

Annexure 4: About the Organisations

Disability Rights India Foundation (DRIF)

Disability Rights India Foundation (DRIF) is a non-profit organisation established in 2018 to promote the implementation of The Rights of Persons with Disabilities Act, 2016, through research, advocacy and capacity building. It also aims to support organisations and individuals in their advocacy work, thus strengthening the disability movement across India.

National Centre for Promotion of Employment of Disabled People (NCPEDP)

National Centre for Promotion of Employment of Disabled People (NCPEDP) is a cross disability, advocacy organisation, working with the government, the private sector, international agencies and voluntary organizations to empower people with disabilities through equal opportunities in employment, education and access to public spaces, services and technology. Its work is focused around six core principles: education, employment, accessibility, legislation, awareness and youth empowerment. NCPEDP has been instrumental in getting many policy changes in the country including the passage of The Rights of Persons with Disabilities Act in 2016.

National Committee on the Rights of People with Disabilities (NCRPD)

The National Committee on the Rights of Persons with Disabilities (NCRPD) was constituted by NCPEDP in 2008, as a think tank to plan strategies and develop advocacy campaigns for inclusion of disability into the national agenda. Comprising of about 30 leaders and experts from across the country representing different disabilities and regions, this Committee has led key advocacy campaigns which have led to several policy changes. The idea of the new law on disability emerged from this forum in 2009. NCRPD has been instrumental in several policy changes like the National Policy on Universal Electronics Accessibility, making the National Building Code more comprehensive and so on. The Committee's current focus is on improving accessibility, with advocacy efforts ongoing with the Ministries of Railways, Communications & Information Technology, Information & Broadcasting, Consumer Affairs, Food & Public Distribution and Urban Development.