

**P A R I V A A R**

**NATIONAL CONFEDERATION OF PARENTS’ ORGANISATIONS**

**For Persons with Intellectual and Developmental Disabilities**

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**Submission to the CRPD Committee on General Comment 8 on Art 27 of CRPD**

1. **Introduction**

**Introduction of Parivaar, India**

Parivaar NCPO is a National Confederation of Parents’ Organizations in India. The Parent Organizations provide services to Persons with Intellectual & Developmental disabilities [Intellectual disabilities, Autism, Cerebral Palsy & Multiple disabilities]. Parivaar has over 300 parent & non-parent civil society organizations affiliated to it who are present all over India. Parivaar’s principle objective is to advocate for the rights and inclusion of persons with intellectual and developmental disabilities. In addition, we also create awareness among the parents and society. We also undertake initiatives which can be trailblazer for the rights and wellbeing of our beneficiaries.

Parivaar also enabled formation of Self Advocates’ Forum of India (Safi), a designated DPO of persons with intellectual and developmental disabilities. Self Advocates Forum of India has over 900 members and has been active in advocating for the rights of persons with intellectual and developmental disabilities.

Parivaar has initiated a livelihood project in five rural geographies in five states of India(one district-taluka in each state). The baseline survey is getting completed and the statistics included in our response in the section 3 of this paper are taken from this survey.

**Art 27 of CRPD**

India was one of the early signatories of UNCRPD and followed it up with an Act of Parliament namely Rights of Persons with Disability Act. The Act brings as at par with UNCRPD as far as the intent and legislation is concerned. The implementation has been slow. We welcome the preparation of General Comments on Article 27 – the right to work and employment. We are hopeful that General Comments will provide required guidance to member countries and recommend means to implement the provisions for the most discriminated and marginalized persons.

The persons with intellectual disabilities are the most discriminated persons who are often outcastes in the society and shunned in the family, thereby depriving them to attain their potential. Many mainstream schools, skill building institutions and employers consider them ‘not trainable or not employable or not fit for work’, a situation that still persists in most countries. On this matter, the Committee has also undertaken an inquiry under article 6 of the Optional Protocol to the Convention (CRPD/C/15/4). In its report on the inquiry, the Committee noted that work capability assessments to deem persons with disabilities “fit to work” have been focused on a functional evaluation of skills and capabilities and have put aside personal circumstances and needs and the barriers faced by persons with disabilities in returning to employment, particularly those of persons with intellectual and/or psychosocial disabilities[[1]](#footnote-1). Parivaar fully subscribe to it and consider it to be one of the factors that must be considered by states in devising their program and schemes for the implementation of Art 27 of CRPD.

Based on the above context that Parivaar has analysed the implementation of Article 27 utilizing the experience and state of affairs experienced by its affiliated organization. Our recommendations are specific to ‘State Parties Obligations’ and therefore appended under it.

1. **Normative content: Legal analysis and links to the general principles of the Convention: the right to work and employment as a fundamental and transversal human right.**

Parivaar is in consonance with legal analysis and normative content provided by CRPD team. Wherever we have observation on the normative content, the same is included under the respective sub-para.

1. **Interpretation of article 27.1**
2. **Interpretation of article 27.1 (a): Discrimination in the workplace, including workplace segregation**

The Committee outlined in its Concluding Observations that States parties are required under the Convention to move away from sheltered and segregated work employment,[[2]](#footnote-2) and has called on States parties to modify and abolish discriminatory laws and policies. Many Sheltered workshops are started by group of Parents of persons with intellectual disabilities who recognize the ‘work capacity’ and ‘employability’ of their wards, but unable to find any avenue for their adult son/ daughter for livelihood or even occupation. An adult with intellectual disability who has to sit at home, without purpose 24X7, may develop mental illness resulting in behaviour issues. A Sheltered workshop does not necessarily mean discriminatory workplace. It may be a segregated workplace, not by design but by circumstances. The primary reason being that the state has not enabled education and skill building inputs as required by the person with intellectual disability. Besides, the community is not aware enough to welcome such workshops since the general perception remains that persons with intellectual disabilities cannot work and needed to be kept at a distance. The state has to create awareness and encourage community participation. The parents and their adult son/ daughters with intellectual disabilities will welcome it, and feel relieved. Because as on date these are the main avenues available for Persons with intellectual disabilities to work and interact socially at workplace. Therefore, the need of the day is to transform ‘sheltered workplaces’ in to ‘Community assisted workplaces’.

The committee may consider whether terming a group of persons with intellectual disabilities and their parents, who form ‘sheltered workshops’ as an inappropriate group (or a segregated group) in itself is a form of discrimination. For example Mensa International (<https://www.mensa.org/>) is not considered a segregated group. The segregation is practiced by an unaware society and oblivious state. There are many similar groups of like-minded individuals having common interest or qualities who form groups for defined purposes. That do not deny members of these groups not to interact with and within their communities. The state obligation should be to end discrimination and segregation of such groups by creating awareness in the society.

1. **Interpretation of article 27 (b): The right to equal remuneration for work of equal value**

Concur

1. **Interpretation of article 27 (b) part II: Applying health and safety considerations in a non-discriminatory way**

Concur

1. **Interpretation of article 27 (b) part III: Measures to eliminate discriminatory attitudes and harassment, particularly against women, migrants and refugees with disabilities**

Concur

1. **Interpretation of article 27 (c): Labour and trade union rights on an equal basis with others**

**Concur**

1. **Interpretation of article 27 (d) and (j): Access to inclusive education and inclusive vocational training**

In case of persons with disabilities the “one fit all” skill building cannot apply. Different types and extent of disabilities require different type, extent and additional content of training inputs. The intensity of training will also differ. In case of Persons with intellectual disability the skill building consists of 1) Soft skills for self-realization and social adaptability 2) job skill for performing the assigned job. This needs to be articulated to the state because one fit approach will not do justice to the provisions of Article 27 and resultant employability. The persons with intellectual disabilities have been disadvantaged because of such approach.

1. **Interpretation of article 27 (f): Self-employment, microfinance, business development services**

The ‘sheltered workshops’ can also be transformed into Self Help Groups with judicial mix of persons with disabilities and mainstream women coming from economically weak families.

1. **Interpretation of article 27(g) Employment of persons with disabilities in the public sector**

**Concur**

1. **Interpretation of article 27 (h): Affirmative action programs and special attention to persons with disabilities who are particularly excluded from the labour market**

Concur

1. **Interpretation of article 27 (i): The obligation to provide reasonable accommodation in the workplace and the denial of reasonable accommodation as a form of disability-discrimination, including in recruitment processes**

The reasonable accommodation has largely interpreted to include measures required for physical and neurological disabilities. The reasonable accommodation should also involve special assistance or provisions required by persons with intellectual disabilities, Mental behaviour and those with high support needs. For persons with intellectual disabilities the reasonable accommodation would require provision of Mentor on as required bases and Self Advocacy training as part of continuous education program - CEP.

1. **Interpretation of article 27 (k) Return-to-work programmes**

Concur

1. **Interpretation of 27 (2) forced or compulsory labour**

Concur

**1. Transforming the Sheltered work employment into Self Help Group OR Assisted Workshop format:** The sheltered workshops are at present the mainstay of engagement of persons with intellectual disabilities for work, in India. The parents get together and work on mostly volunteer basis to manage and run the workshops where their own as well as neighbouring persons with intellectual disabilities work. There are models like “Self Help Groups (SHGs)” that can be emulated and community participation encouraged. The governments should enable such linkages by training the management of Sheltered workshops for product value enhancement, formation of market linkages and product viability studies. The Self Help Groups protocol would achieve the threefold objectives of employment, inclusion and empowerment. At present in most states the statute indicates SHGs to comprise of women only. This is to be amended and Persons with Disabilities included for formation of SHGs. In India State Livelihood Mission and National livelihood missions are promoting SHGs and their rules to consider Persons with Disabilities (who are part of sheltered workshop) as Below Poverty Line (BPL) persons, and given facilities available for BPL population. As mentioned earlier the Sheltered Workshops need to be transformed into ‘Community Assisted workshops’ or SHGs.

**2. Creating Awareness regarding the Rights of Persons with Disabilities among the administrators & Judiciary:** It is not unusual to find bureaucracy at many positions and levels to be unaware about Rights of Persons with Disability Act 2016, which was legislated consequent to India signing UNCRPD. This lack of sensitization results in inaction on the part of government departments to expedite the plans and schemes formed to benefit Persons with disabilities, especially for employment. Introduction of UNCRPD/ State Act in the training curriculum at Training institutes for Civil Service, Administrative staff Colleges, Judiciary Training colleges will provide necessary knowledge.: Therefore a subject on Rights of Persons with Disabilities, community based rehabilitation, various govt rules regulations and schemes and equal opportunity policies along with positive and negative case studies should be introduced in initial joining-in training for officials joining Police departments, Central & State administrative services, Judiciary. A capsule form of such program may be also introduced as in service training for officials.

**3. Quota/ Reservation in Boards/ Executive Council of Trade unions & Workers Consultative Committees, Confederations & Federations of Industry and Trade, Public trusts, Cooperative societies, Civil societies in public domain:** India has notified 4% reservation in all public jobs for persons with disabilities. These employees/ workers form the unions for collective bargaining and also internal administration. However, the quota does not apply to entities that can influence its implementation such as trade unions, industry federations, public trusts and endowments, confederations in large public sector entities, consultative committees, advisory committees etc. This 4% reservation should be extended to all such bodies since they have large affiliations where in turn priority for employment of persons with disabilities and reasonable accommodation at work place can be assured.

**4. Payment of Minimum wages and Equal Remuneration for Work by a campaign with Industry & Business leaders:** On the issue of equal remuneration, the CRPD Committee has called on States parties to ensure that persons with disabilities are paid no less than the minimum wage. On the ground there is a perception issue (during employment of persons with disabilities) in low-paid jobs where many times the employer considers it an act of charity or at best sympathy in employing a person with disability. There are also many instances where unequal wages are paid as an exploitation of supply-demand equation in remunerative employment. An effective campaign by state among the employers, Industry leaders, and Trade bodies is required to apprise them about the rights of persons with disabilities.

**II Provision of Reasonable Accommodation**

1 Reasonable accommodation is generally construed for persons with physical and neurological disabilities. The persons with intellectual disabilities have requirement to consult their Mentor or Personal Assistant who acts as their friend and guide in some social and interpersonal situations. There remains a need of person with intellectual disability to convey and accept the circumstances for inter-personal relationship management, for which advice from Mentor is desirable. This also enable the person to sustain the job as well as enjoy working in the team. Therefore over and above accessibility of physical space, data and information; the persons with intellectual disabilities will require access to his/ her Mentor periodically.

**2. Re-thinking on Skill Requirement & Training for Persons with Intellectual Disabilities:**

The persons with intellectual disabilities have abysmally low record of employment since the skill building and training requirements for persons with disability are generally focused on job skill, accessibility and reasonable accommodation during the training and later at work place. The persons with intellectual disabilities, who are generally segregated in society for long time, are unable to adjust socially. The key to the employment plan for the persons with intellectual disabilities is Self-Advocacy Training in a socially inclusive environment. The Self-Advocacy training for persons with intellectual disabilities is a soft skill based training which focus on Personality development and Awareness of their Rights & Responsibilities.

Thereafter these Self Advocates are trained on the job skill required for the type of job she/ he has the aptitude. The job may range from joining Self Help Group with a family member to pursue a livelihood, running a small business, working in a workshop operated by the parents’ cooperative, joining family business or employment in a local enterprise. The job skill training will have to include basic numeracy/ literacy, concept of money, time, space and technical skills because many adult persons with intellectual disabilities may not be literate in above aspects.

**III Particular obligations within the context of article 27**

1. **Data Collection and Analysis for Impact Assessment**

State parties have to regularly collect data to be able to assess the impact of their policies and their implementation. Relying on the general census, that takes place once in ten years, may lead to delays and states will miss out on timely course correction and feedback. For example in the rural regions of five states in India where Parivaar is implementing livelihood project for persons with intellectual disabilities the following figures derived from baseline survey provide a very different situation regarding employment. In a sample size of 284 persons with intellectual disabilities, living in rural areas and in working age group, only 6.69% were ever employed. Further this survey indicates only 5.53% of persons with intellectual disabilities have received remuneration. Only 15.8% of surveyed persons with intellectual disabilities have been through any skill development training. The persons surveyed are all in employable age. This is in spite of reservation of jobs in poverty alleviation/ employment guaranty schemes in rural areas, where not even a fraction of reserved vacancies are utilized by persons with disabilities.

1. **Relationship with other provisions of the CRPD**
2. **Consultations with DPOs in the context of social dialogue**

Persons with disabilities and their families and organizations have vital role to play in policy planning, drafting of legislations, provisions of plans and schemes and providing grass root feedback. Therefore apex level bodies may lay special emphasis on such consultation – both formal and informal. The representatives should be involved from each type of disability and extent of disability because there are bound to be some common and some specific needs. The articulation of their needs may be direct or through their families or the organizations.

The consulting agencies also have the responsibility to share their views, data, analytics and proposed course of action, in advance, giving due time for consultation among the members of DPOs.

There are many geographies having different communities, rural-urban, castes/tribes and income. Therefore representation from such plural societies is ideal when the groups within a geographies are well represented in DPOs. Wherever the persons themselves require support from their parents or mentors or assistants it should be provided and such persons should be included as representatives of persons with disabilities along with them. Reasonable accommodation and accessibility, both physical, information and dialoguing should be available.

The consulting partners should be provided with feedback on the outcome of the consultation and periodically informed about the final outcome in a progressive manner.

1. **Implementation at national level**

Some of the positive highlights of disability legislations in India are given below

* 1. Distribution of reserved quota among the various types of disabilities. The Rights of Persons with Disabilities provides for 4% reservation of all state jobs at every level of government. This 4% is further sub divided into 4 sets for the disabilities specified for respective set. This has the advantage of even spread of reserved vacancies among the various types of disabilities.
  2. There are penal provisions provided in the Rights of Persons with disability Act for violating the law. Stricter provisions are laid down for humiliating, intimidating a person with disability.

We wish to thank UNCRPD team for giving us the opportunity to express Parent’s views on behalf of our children with intellectual disabilities.

We request that the Ms. Aditi Verma, President of Safi (Self Advocates’ Forum of India) be given an opportunity during the deliberations of CRPD Committee to express views of over 900 persons with intellectual disabilities who are members of Safi.

Warm regards

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1. CRPD/C/15/4, para 102. [↑](#footnote-ref-1)
2. See for example, CRPD/C/MDA/CO/1, para. 48. [↑](#footnote-ref-2)