

***White Paper on achieving
Infrastructural Accessibility in India
& 5 year Action Plan***

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Submitted to:

The Ministry of Social Justice & Empowerment,

GOJ

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1. ABBRIVIATIONS

PwD – Persons with Disabilities

UNCRPD – United Nations Convention on Rights of People with Disabilities

CPWD – Central Public Works Department

MCD – Municipal Corporation of Delhi

PWD – Public Works Department

NDMC – New Delhi Municipal Corporation

ICT – Information and Communication Technology

NBC – National Building Code

DTC – Delhi Transport Corporation

O/o CCPD – Office of Chief Commissioner for Persons with Disabilities

UN ESCAP – United Nations Economic & Social Commission for Asia and the Pacific

ITO – Income Tax Office

DPO – Disabled Peoples Organisation

NGO – Non Government Organisation

2. ABOUT THE AUTHOR

Shivani Gupta has been involved with the Barrier Free movement in India since the year 2000. Participation in a 15 day 'Master Training Course on Non Handicapping Environments organized by the UN ESCAP in the year 2000, was a turning point for her to become a part of this movement.

In the year 2000 she was the Course developer and coordinator of the first ever sensitization training workshops organized by the Office of Chief Commission Disabilities (o/fCCPD) under the Ministry of Social Justice & Empowerment. There were a series of 5 such workshops that were held in Delhi, Hyderabad and Guwahati, with participation from all States and Union territories. She also co-authored 'Planning a Barrier free Environment' as a training manual for these workshops.

Although having experienced inaccessibility very closely and being disabled, she could easily claim to have gained enough knowledge to be professing the subject, but not content with the depth of knowledge she gained from the UN ESCAP training, she decided to study the subject further before prophesizing and undertaking audits. She became a full time student of HND in Architecture Technology from EDEXCEL UK and then further went on to specialize at a Masters level in Inclusive Environment: Design & Management from the University of Reading, UK.

On her return she co-Founded AccessAbility a leading Universal Design and Disability Employment Specialist empowering organisations to welcome, engage, and service diversity by facilitating them to create an inclusive and barrier free environment.

3. PREFACE

This white paper is an outcome of my 8 years of experience in promoting Inclusive Environments. The reason for writing this paper is primarily to get a focused National plan of action for providing accessibility. The approach that has been taken so far has been primarily of making models, but after 12 years of having the Person with Disability Act (PwD Act), I firmly believe that we need to move further and have a more effective policy framework to ensure inclusion.

This White Paper is due to the disappointment one experienced during the workshop on 'A Holistic Approach for Access to Physical Environment', where one expected some comprehensive recommendations; instead it was mostly about NGO's showcasing their work.

The White paper has taken into account interviews that I had conducted of several key persons in the disability sector both from the Government & Non Government (NGO) to write my dissertation on 'Impact of PwD Act on Accessibility in India'. It also considers a survey that was conducted with practicing architects for the same.

The aim of the white paper is to bring to the notice of the authorities some shortcoming and make recommendations in a form of a roadmap for improving accessibility of built environment.

It is expected that the white paper may not be appreciated by all, but then without healthy criticism our situation will never improve. I apologise in advance for any shortcomings in my recommendations and do hope that some good points can be drawn from this by the Government.

4. INTRODUCTION

It has been over 12 years since the PwD Act was enacted. Considering that India is only 12 years old to the whole concept of recognizing and giving civil rights to a minority group of people with disabilities we have scored pretty well.

Before the PwD Act there were absolutely no rights inferred on the disabled for fighting any discrimination that they may face. The constitution itself covered many minority groups assuring non-discrimination but does not specifically cover disability.

The disability minority can be equaled to no other minority groups because unlike other minority groups while people with disabilities may face similar medical conditions but cut across varied socio-economic and cultural backgrounds. Therefore educational, rehabilitative and vocational interventions required may be varied, but irrespective of background physical accessibility is a basic requirement to overcome handicaps.

Physical accessibility is a prime tool for inclusion. It is also a basic requirement for the disabled to have access to any service or facility that may be provided to them. While not all disabled persons may avail of the grants, schemes and benefits provided by the government but accessibility ensured by the government will benefit one and all.

Considering that accessibility is crucial to the disabled people realizing their fundamental right of equality, this white paper explores the scope of accessibility, present status, existing gaps and the requirements for the Ministry of Social Justice and Empowerment to be able to develop a plan of action for ensuring accessibility nation wide rather than in an ad hoc fashion. Also this white paper can be looked at from the point of

understanding the priority areas we need to focus on for the next five years to get a system in place.

5. SCOPE OF ACCESSIBILITY

5.1 As per the PwD Act

Accessibility has been covered in Chapter 8 on Non Discrimination of the Act in section 44 to 46. Accessibility is a provision that needs to be addressed by the transport sector, pedestrian environment and the public buildings. There is a list of design specifications for all these three areas that is required to be fulfilled by the appropriate authorities but within their economic capacity.

(Reference: PwD Act 1995)

5.2 As per UNCRPD

The United Nations Convention on Rights of Persons with Disabilities (UNCRPD) clearly specifies the right that is expected to be given to PwD by the State Parties by fulfilling the requirements in Article 9 of the convention. The right ensures that PwD are able to 'live independently and participate fully in all aspects of life'. It also mentions a parameter against which this will be measured – 'on an equal basis as others'.

The convention expands the scope of accessibility to cover all service providers both in the public and the private sector. It also covers very clearly access not only to physical environments but also access to information and communication technology.

In section 2 of article 9, the convention list down area of interventions and actions that the States may take to ensure the rights of the disabled.

(Reference: UNCRPD)

5.3 Comparison between the PwD Act and the UNCRPD

The most basic and crucial difference between the two is that while the convention entrusts a right, to be able to live independently and participate fully, as an outcome of ensuring article 9, but the PwD Act does not take a right based approach and fails to give a direction or a reason that is to be fulfilled by ensuring accessibility.

Secondly the UNCRPD specifies a yard stick against which this right will be measured by say 'on an equal basis as others' whereas the PwD Act has no yard stick to measure efforts, progress, initiatives, outcome of section 8. While all access provisions come under the section on Non Discrimination, the meaning of non discrimination itself is unclear.

The UNCRPD covers issues related to access of ICT and also is applicable to the all service providers in the private sector, whereas the PwD Act has no mention of access to ICT and is applicable only to public buildings.

The reasonability check as per the CRPD continues to ensure that services/environment/facilities etc are provided to people with disabilities so as to ensure the enjoyment or exercise on an equal basis with others. The PwD Act's reasonability clause is the biggest lacuna in the Act that gives a get away clause to any authority by them not providing access due to lack of funds. There exists no means testing mechanism to evaluate the economic capacity of the authorities.

5.4 Present Status of Accessibility

The provisions on access for people with disabilities in the PwD Act are framed as contingent entitlements, but the nature of the legal obligations is somewhat vague. Indeed, there are no specific enforcement provisions or sanctions for failure of authorities to be proactive in undertaking their obligations under the Act. Nor is a mechanism spelt out for how authorities should move to implement the Act's provisions, e.g. amendment of bye-laws etc. While the PwD Act can be considered as a starting point in promoting accessibility, there is clearly a significant need to build on it.

Soon after the Act was enforced, in 1996, the Ministry of Urban Development compiled 'Guidelines and Space Standards for Barrier Free Built Environment for Disabled and Elderly Persons' in 1998 as the first step towards achieving accessibility. Apart from compiling the space standards, the scope and responsibilities of various organizations were identified which are stated as follows:

Academic Institutions

Requirement of conscious efforts to educate the budding architects/planners on issues of non handicapping environments. Also a requirement of a design exercise to be carried out in all schools of Architecture in their curriculums as an essential subject of architecture education.

State & Central Government Agencies

The Govt. departments to follow the standards along with the general guidelines.

Municipal Bodies/Corporations

Building codes to include basic requirements for making a building barrier free with regular up-dation of the codes by the local authorities. Additionally the municipal bodies/corporations to ensure that basic access is provided in a building before granting necessary approvals for construction.

(Reference ; CPWD Guidelines)

Simultaneously along with the compiling of space standards, under a UN ESCAP project, a one km radius around the ITO building was made barrier free with the inclusion of pedestrian and building accessibility. Several local bodies such as the MCD, NDMC, PWD and the CPWD worked together to create this accessible radius as a model.

Apart from creating this model there were also many awareness building workshops organized by the UN ESCAP both in Delhi and in Bangkok. The participants to these workshops were architects of local bodies, teachers at school of architecture and the disabled people themselves.

All these activities were undertaken with the Ministry of Urban Development as the nodal body. Soon after the UN involvement in the accessibility initiative ceased, all the requirements in the space standards, the model 1 km radius and further awareness trainings stopped. Today the officers who were trained by the UN ESCAP and the 1 km model around ITO are both not traceable.

It was in the year 2000 that the Ministry of Social Justice and Empowerment undertook the first active project to improve accessibility. The Ministry held five Master Training Workshops a week each for participants from all States and Union Territories of India. There was also a training manual 'Planning a Barrier Free Environment' that was developed for these training. While the workshops were successful but due to poor

selection of participants, the intended regional level sensitization did not take off. Strangely though, the training manual 'Planning a Barrier Free Environment' started to be used as a design guideline, besides the CPWD's space standards. In addition, the latest 2005 revision of the National Building Code (NBC) includes provisions for buildings, services, and facilities for people with disabilities. These documents do not have direct force, though are of course important reference guidelines. In order to make them legally binding, they need to be adopted into local building bye-laws for construction and systems for approvals. To date, only around 16 states have modified their bye-laws to adopt accessibility into them.

Following these workshops there were several short sensitization workshops organized by the O/o CCPD for participants from the municipal corporations, development authorities, DPO, disabled persons etc. Again due to poor participant selection, training content and non expectations from the participants, the initiative showed very poor results.

One of the major issues identified in promoting access for people with disabilities is that of poor or no institutional coordination. Particularly for the built environment, there are in most cases a multiplicity of line agencies and other local authorities responsible for the infrastructure. This frequently results in no single agency considering itself responsible for making the built environment accessible. The institutional issues in promoting access reflect deeper challenges of accountability. In this respect, the PWD Act itself is not of great use in terms of establishing clear lines of accountability for ensuring that accessibility standards are adhered to. A further important weakness in improving accessibility has been poor prioritization of investments, and in monitoring access outcomes.

Also, while tremendous amount of public money has been spent on having access audits done, there has to date been no impact assessment of the audits conducted, both from the point of view of implementation and also quality of recommendations given in the audits.

6. MAJOR ISSUES IDENTIFIED

6.1 Primary legislation and its impact on secondary legislation

It is evident that weak primary legislation and the implementation of it may be considered as the most important issue inhibiting an inclusive environment. The primary legislation fails to give any vision or direction towards accessibility. Furthermore in these 12 years there has been poor or no implementation on what has already been provided for or addressed in the Act.

One major drawback due to the lack of vision of the Act is the primary legislation's inability to guide the secondary legislation's to incorporate or address inclusion of persons with disabilities. For Example the Act lists down a series of design requirement for making transport and pedestrian environment accessible to people with disabilities, but it does not mention the reason for providing these, which may be to encourage mobility of persons with disabilities. This is evident from the fact that none of the National Policies under the Ministry of Urban Development address inclusion. For example the National Transport Policy does not mention inclusion in spite of the PwD Act having a whole section on transport accessibility. Even the recent Jawahar Lal Nehru National Urban Renewal Mission has not considered inclusion of people with disabilities.

Another major drawback of the Act is that it fails to put accountability of ensuring accessibility on any agency. As a result, the inter

operability of agencies in creating and managing infrastructure makes accessibility no ones responsibility and hence it is not addressed. For example, the DTC is spending large amount of public money in a recent attempt to make the bus transport system accessible to people with disabilities, by getting low floor buses and renovating all bus stops in the NDMC area (elevated in height to match with the height of the bus). While work on this project progresses fast and new bus stops keep emerging everywhere, but the very critical requirement of having kerb cuts for wheelchair users to be able to get on to the pavement where the bus stops are located is missing. In a meeting with the Chairman DTC, he clearly stated that the pavements where under the purview of PWD and DTC could not do much about it. The whole issue remains that without having accessible pavements there is no point in wasting public money on bus shelters and claiming them to be accessible.

Monitoring the effectiveness of the act is also another issue, when there are no monitoring mechanisms provided, neither in the Act nor in any of the secondary legislations. Till date there have been numerous training programmes and access audits that have been conducted by the Ministry of Social Justice and Empowerment, but there has been absolutely no impact assessment of the public money spent on these activities in terms of how many audits have actually been implemented and the benefit of having held these training workshops and reviewing their course content.

The Recourse mechanism under the Act is poor. This is amplified because the Act does not state any punitive action for non compliance. Even though there have been several cases that are filed under the O/o CCPD, the prevalence of cases pertaining to inaccessibility may be just a handful. Also due to the absence of any timeframes, by when authorities/agencies/departments etc. must have their building made accessible, makes it difficult to ensure

accessibility. Due to an absence of timeframes and deadlines, there is also a non seriousness by building owners to become accessible.

To sum up the major shortcoming in the Act pertaining to infrastructure accessibility are:

- Inability of primary legislation (PwD Act) to provide a direction and a vision for the secondary legislations;
- Lack of accountability/responsibility of any agency to ensure access;
- Lack of monitoring mechanisms;
- Poor recourse mechanism
 - No timeframes
 - Lack of clarity on what is expected;
- No monitoring mechanism.

6.2 Lack of awareness

There is a lack of awareness amongst the several stakeholders about what is expected from them. For example the planner, In - charge of approving the plans before construction begins, in most instances is not aware of the access design specifications he should be looking for. This is critical that the planning permission/ approval officers are aware of the basic accessibility features that an upcoming public use building must meet.

Apart from this, the building owners, builders, designers, architect, planners, general public, engineers, bureaucrats etc. need to be aware of what their duties are towards providing an inclusive environment. It is not important for them to undergo training on design specifications, but what is important is that they know what the law requires them to do. Unless there is awareness on this subject (like what was brought about for disaster management construction) one cannot expect effective change in the status of accessibility.

In a survey conducted with practicing architects, it was revealed that only 42% of them knew how the PwD Act affects their work, out of the good 82% of them who were aware of the PwD Act. This clearly shows that it is not enough to just have an Act but it is equally important that stakeholders are aware of the role they need to play.

6.3 Poor professional capacity

Professional capacity on the subject is negligible in our country. This is mostly because as a subject, it is not dealt with in educational institutes. A designer/architect does not receive adequate information/education on the subject of inclusion and therefore when they pass out, they lack the required knowledge to be able to reflect inclusion in their professional work.

Based on a survey undertaken on architects it was found that while 63% of them had studied barrier free design as a part of their education, but surprisingly inspite of studying it in college, only 57% felt that access features were important enough to be incorporated in a building. This is indicative of the approach their curriculum takes on the subject of inclusion, where they do not consider accessibility as key enablers and more so an important feature in their designs.

The lack of basic education on the subject in educational institutes also inhibits the budding professionals from becoming interested in the subject and taking it up in their higher education. There is also a lack of research on an institutional level in the area of accessibility, as most educational institutes do not recognise its importance.

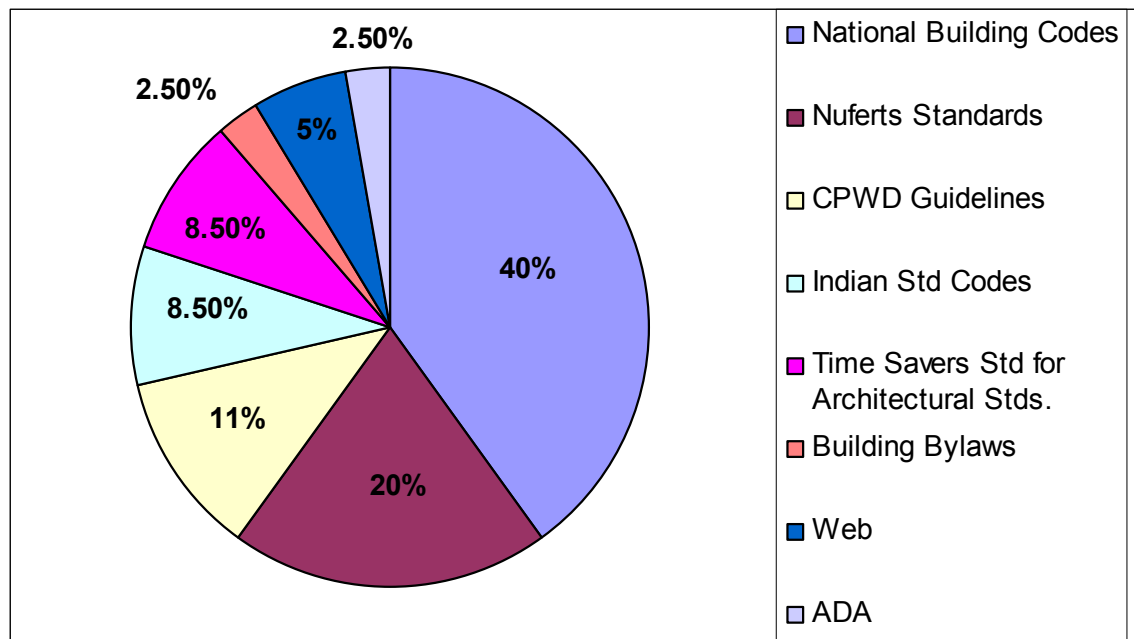
Not being a part of the curriculum it makes these issues not as important to the professional and hence they do not address them

with sincerity in the projects they undertake. Also there has been a regular mistake of considering user inputs as professional inputs and hence a belief in the 3-5 day workshops to make users pro access auditors.

While it is very important to educate the user group to be aware of their rights to have equal access and demand for specialized design but it is quite another thing to put the entire onus of suggesting architectural and design modifications on them. If dwelled into, it will be found that most audits reports are not implemented because of impractical design recommendations that the site engineer may not understand.

6.4 No standards for achieving accessibility

India as a country does not prescribe any standards for creating accessibility. There is an ambiguity amongst the designers on which standard to use and therefore there are many different sources which are referred before designing. The following pie chart is based on a survey conducted on practicing architects to find out the sources used for information on barrier free environment.



very specifically compiled for practicing architects to follow. The main reason for it not being followed is that these are just guidelines and not mandatory requirements. Also from the survey it came out that while 60% were satisfied with the information they received, a good majority of 83% felt that we need to have indigenous standards that worked well within the local constraints.

The CPWD space Standards were compiled in 1998, Planning a Barrier Free Environment was published by the O/o CCPD in 2000. In 2005 the NBC developed a section in the annexure on barrier free environment. While all of these are similar in nature but they have been compiled based on anthropometry of people from other parts of the world who use assistive technology that may be very different from what we use locally in India. For example the four wheeled scooter, tricycle and floor carts are commonly used mobility aids that are specific to India, and the design standards have to be developed in context to these also. Additionally none of these address rural needs and designs.

6.5 Building Management Issues

Building management is not an issue that has been addressed so far. All efforts have been only towards infrastructural access. Addressing building management is important to ensure that the accessibility features are used to the fullest and address access needs as intended.

Examples:

- When there are alternate accessible routes provided for access to the buildings, there is no specified system to ensure that the alternate route (like a side entrance with ramp) is kept open for use when a disabled person arrives. Commonly in such cases, someone is required to inform the authorities to open the

entrance gate which makes it both discriminatory and inaccessible. (presently so in Vigyan Bhawan)

- There is an accessible parking identified for the disabled within the VIP parking area but to get to the accessible parking bay the disabled persons or his carer needs to first get a pass from the authorities. This again is discriminatory and makes the facility inaccessible (presently so at the domestic airport in Delhi).
- There may be an accessible parking with an accessible approach route at a building premises, but is not managed well due to which non disabled are able to park in the accessible parking bay and block both the parking and the accessible route.
- There is a ramp built to get into a space but it is usually blocked by cars or is un-kept to be used by anyone, forget a disabled person (presently so at Bikhaji Cama Place in Delhi).
- People with sensory impairments are particularly at a disadvantage in new surroundings. Having a tactile route to the entrance of a building with the warning blocks at the entrance covered with a foot mat, is another example of poor building management. Also provision of information in alternate formats with the UNCRPD is going to be mandated. Unless building management procedures are inclusive, it will become difficult to maintain a barrier free environment.

7. RECOMMENDATIONS

7.1 Primary Legislation

The main recommendations for strengthening the primary legislation and aligning it with the UNCRPD are:

- Develop and clearly document the direction and vision of the PwD act towards providing access to people with disabilities.

The vision needs to include the intent of providing access (such as live independently, participate fully, enhance mobility etc.) and it being non-discriminatory (on an equal basis as others).

- The access provision has also to be for services and facilities rather than just buildings. This is important to include the private sector into the scope of accessibility. There could be a 'reasonability clause' which may be used to measure the level of accessibility that each service provider needs to impart. To avoid any ambiguity, the 'Reasonability' criterion needs to be very clearly defined.

Example:

- Theatres, being a service provider, have to be accessible.
 - All private restaurants and hotels, irrespective of their star ratings, have to be accessible because they are providing a service to the general public.
 - All schools have to be accessible because they are providing a public use facility
 - All banks have to be accessible because they are providing a facility to the public.
 - A small barber must be accessible because they are providing a service to the general public. But if they are just a small and single unit, and making their premises accessible will seize them from existence then they can, under the reasonability clause, apply for permission to the notified authority for their barber to give a home visit to a disabled person at no extra cost.
- Apart from these two main recommendations there is a list of recommendations for amendments to the PwD Act. These are attached as annexure.

7.2 Increasing Awareness

There has to be an increased awareness with the general public and especially the professionals concerned with planning, design, maintenance and management of buildings, services and facilities about their responsibility towards people with disabilities under the Act. There is no point in having an Act unless the nation is aware of its obligations under it. The concerned professionals comprise of architects, planners, designers, builders, service & facility providers, bureaucrats, engineers, building owners etc.

The awareness campaign must be at a National level covering both rural and urban environment. It has to be made specific with focused messages for the receivers.

One way could be to have public awareness campaigns through the radio, TV, internet and print etc.

Another way could be to develop handy booklets/leaflets well illustrated with examples and pictures to be circulated to the focus group (all those responsible for creating access). The booklet/leaflet will talk about their duty as per the Act. These leaflets can be made available online and in print. Message specific posters can also be made.

7.3 Building Professional Capacity

The National Policy for People with Disabilities, which is a very forthcoming policy, mentions;

“(iii) Modification of Curriculum of Architects and Civil engineers will be undertaken to include issues relating to construction of barrier free buildings. In-service trainings will be provided

on these issues to the government architects and engineers.”

The UNCRPD in Article 9 on accessibility mentions:

“(c) To provide training for stakeholders on accessibility issues facing persons with disabilities;”

Considering that the Government and the UNCRPD both require capacity building of professionals, working in both the rural and urban environments, the following procedure is recommended:

Identify a Nodal body/institute that will be the coordinating agency for inclusive education. This has to be a body/institute with adequate resources in the form of funds, space, man power etc. and adequate influence amongst all institutes (for example the School of Planning and Architecture can be the nodal institute).

This nodal body/institute will be responsible for getting local educational institutes involved (private or government) from all across India as Satellite Institutes. The Nodal body will be the main coordinating body for promoting academics on Inclusive Environments. Some of their main responsibilities to include coordinating activities such as:

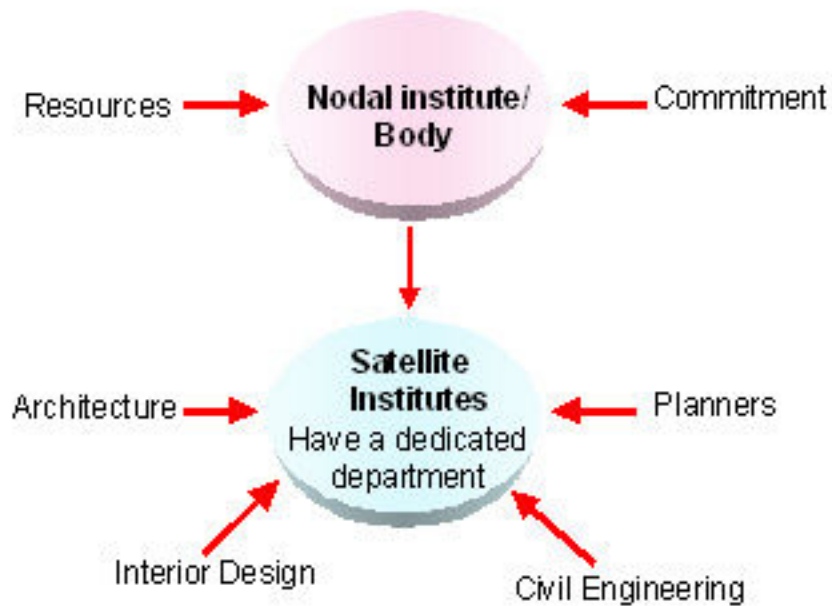
- Curriculum development efforts
 - Bachelor's Curriculum
 - Training of Trainers courses
 - Advance Refresher course
 - Access Auditors training
- Coordinating/networking efforts with the satellite institute
- Curriculum review every 5 years

- Documenting all regional research that happens at satellite centres and other places

The responsibility of the satellite institute which are actually the local implementing institutes may include:

- Nominate minimum one staff member to be trained as a trainer
- Include the curriculum in the already running course
- Keep constant touch with the nodal institute
- Encourage regional research and other activities
- Organize refresher trainings and access audit trainings
- Network with regional disability/user groups
- Networking with other satellite institutes

Schools of Architecture to take a lead



Curriculum Development

Having the right course curriculum is critical to any education, therefore it is important that a proper curriculum be developed by

participations of professionals and academicians in the field of inclusive environment. This curriculum should be standardized and to be taught across the country. Curriculum to be developed for three core areas:

1. Curriculum for bachelor's courses:

It is not adequate that study of inclusive environments form a part of an elective subject. Fundamentals of Inclusive Environments should be included in the core subjects. Also it is not adequate that only one design exercise is conducted in the course duration of 5 years. All design exercises conducted in the entire course duration must include disabled access as a mandatory feature. Inclusive education should be plugged into all existing modules rather than having a separate module. For example anthropometry to also include space requirements for persons with disabilities, Materials to include information about materials that may be comfortable for disabled, lighting to include inputs on lighting that is comfortable for disabled, interior design to talk about issues such as internal wayfinding, colour contrasts etc. and their effect on usability by persons with disabilities.

2. Curriculum for in-service advance training of staff:

Considering the in-service staff is already well established in their profession, it may be advisable to have just half day advance trainings for them. These half day trainings will not be elementary in nature but more specific and detailed. These can be customized to focus on one relevant topic on issues such as:

- Toilet design for the disabled
- Navigation and Wayfinding for persons with Vision Impairments
- Emergency Evacuation
- Minimum access requirements in a building

- Internal access considerations

All persons in service should be required to attend minimally 4 of such half day trainings before an appraisal or increment. These trainings should be imparted to professionals working in both the rural and urban setups. Such training can be held at Satellite Institutes. The training should also be open to private sector professional, who can pay and attend the short courses.

3. Training of Trainers:

The Nodal body needs to coordinate an extensive training programme (of about 15 day's duration) for participants from all satellite institutes. It is important to build on the knowledge of the trainers from these satellite institutes, to enable them to take this forward in their respective areas. The training of trainers will be based on the bachelor's curriculum and the in-service advance training. This will be the most crucial first step to ensure the success of the programme.

The training of trainers should ideally happen in Delhi because of the availability of resources not only in terms of trainers but also model sites to visit.

4. Access Auditors Training:

While a 3-5 day training may be enough for sensitization it is not so for access auditors training. Auditing since is a paid exercise, the eligibility for being an auditor should be clearly laid down, with a certificate course run by an architectural or civil engineering institute, based on a laid down standardized curriculum, culminating in an examination. The duration of the course to be decided based on the curriculum but no less than a fortnight. The participants for the course should all pay a course fees as the idea is to create professional auditors who will be earning through the

services they provide. Moreover paying for the course will ensure their commitment. Making a standardized curriculum will enable the course to be run anywhere in the country.

7.4 Accessibility Standards

It is important for a large and diverse country like ours to have one nationally accepted standard on accessibility. This standard needs to be mandatory rather than being just a guideline. Having a unified standard is the most critical and basic requirement which needs to be fulfilled before attempting to creating an accessible environment. It is important that this national standard is more meaningful and advanced than the previous and existing guidelines on accessibility. The standard should be specific to:

- Urban Environments
- Rural Environments
- Vehicle/vessel Design

The standard needs to incorporate the best out of western standards (but only after careful evaluation of its applicability to the local environments) and must insist on standards developed locally after exhaustive research and studies. The importance of local research to develop standards cannot be negated simply because western standards are deemed as conclusive in most parts of the world, especially with the social, political and economic landscape of our country changing every 500 kilometers. The complexities and inconsistencies available in our country make it imperative that each standard is well researched and applicable to the widest possible situations.

Apart from providing extensive design specifications, the national standard must have minimum requirement specifications, which are mandated for implementation.

The process for developing the National Standards must be very participatory, transparent and exhaustive. It is important that the standard covers all types of situations and topography. The committee for development of these should be carefully chosen from relevant backgrounds and adequate experience. Draft standards should be released for public review with inputs encouraged from all around the country. Also public review meetings may be organized in regions.

The importance of Standards is emphasized in the Article 9 of the UNCRPD

“2(a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;”

Considering the importance of this exercise the whole project needs to be well thought out with clear budgetary allocations for implementing the process.

7.5 Building Management Policy

Having the right building management policy requires no extra effort. With the required emphasis by the UNCRPD on access to “communication, information and other services, including electronic services and emergency services,” it will be important that all public buildings, services & facility providing agencies have a fair access policy for their management.

Such a policy should be mandated like the Citizen Charter requirement, where information in all formats should be made available for the disabled user of how to use their building easily.

Considering this is a no cost requirement, it must be mandated as soon as possible. It will be useful to develop an information booklet on what may be considered under the building management policy as a guiding tool for the concerned agencies.

8. SUMMARY

- Primary and Secondary Legislation
 1. Amend the PwD Act in line with the UNCRPD to make it stronger and more useful.
 2. Review all National Policies (from all ministries) to be inline with the amended Act and the UNCRPD.
- Raising Awareness
 1. Based on the revised Act, plan focused awareness campaigns to make various stakeholders and the general public to become aware of their obligations under the Act.
- Capacity Building
 1. Develop a National Consortium amongst Architectural and Planning Institutes to include and give equal importance to accessibility in their curriculum.
 2. Develop various focused curriculums for:
 - a. Bachelor's students
 - b. In practice professionals Advance Training
 - c. Training of Trainers
 - d. Access Auditors Training
- Making Standards
 1. National accessibility standard made through a transparent and participatory effort for :

- a. Urban Spaces
 - b. Rural Environments
 - c. Vehicle/vessel Design
- Building Management Policy
 - 1. To be mandated at the earliest as is a no cost process.
 - 2. Develop a booklet for Building owners to understand the requirement.

9. ANNEXURE

Proposed Amendments Recommendations to THE PERSONS WITH DISABILITIES (Equal Opportunities, protection Of Rights and Full Participation) ACT, 1995 submitted by AccessAbility to the MSJE on August 14, 2008

**APPENDED TO ACT EITHER WHOLLY OR PARTLY
TO BE DELETED FROM THE ACT**

Chapter	Section	Existing Provision	Proposed Amendment	Our Recommendations	Remarks/Statements
	general	none	none	The rider " within the limit of their economic capacity & development " to be deleted from all/every part of the act which mentions it.	The use of this rider allows organizations an excuse (limited economic capacity) to refute responsibility. The rider if at all used, needs to specify the limits of economic capacity (either as a numerical range or clearly describe how the term should be perceived) in order to bring some accountability amongst the organizations using the excuse.
	general	none	none	Inclusion to be a criteria for all public spending.	This is a general recommendation and should be incorporated to uplift the spirit of the Act, and to ensure equality and non discrimination from the planning/conceptualization stage of any project which may seek the use of public funding.
	general	none	none	All implementable/actionable parts of the act to be amended with deadlines or timeframes within which the implementing agencies must work	This is one of the key areas in which the Act in its present state lacks strength; there is no mention of strict timeframes or deadlines which need to be followed for various actionable parts of the Act, thereby diluting its power.
	general	None	none	All implementation (actionable and non actionable) to be enforceable and monitored with strict penalty clauses for non implementation.	This has been observed as another key area where the Act, by not dictating any strict punitive measures in case of non implementation has failed to see adherence. It is highly recommended that for the Act to see successful implementation on the ground, it has to include action to be taken, responsibility, timeframes and accountability, without which the Act only remains as a guideline.
I.PRELIMINARY	2(zzz)	None	None	Accessibility means: A barrier free environment which complies to the National Accessibility Standards	A definition of Accessibility to be added in the set of existing definitions. This definition should clearly state in unambiguous terms what does one mean by accessibility and what standards will it

I.PRELIMINARY	2(i)	<p>"disability" means-</p> <ul style="list-style-type: none"> (i) blindness ; (ii) low vision; (iii) leprosy-cured; (iv) hearing impairment ; (v) locomotor disability ; (vi) mental retardation; (vii) mental illness; 	<p>"disability" means a physical or mental impairment, which has a substantial and long-term adverse effect on the ability of a person to carry out normal day-to-day activities and</p>	<p>drafted/adopted/specified by the MSJE which may include (but are not limited to) accessibility standards for:</p> <ol style="list-style-type: none"> 1. Built Infrastructure 2. Transport 3. Information 4. Services <p>These standards are to be reviewed and updated (within a specified timeframe) and are applicable universally throughout India.</p>	<p>refer to.</p> <p>The proposed National Accessibility Standards must be drafted/adopted by the Ministry for the benefit of standard applicability throughout the country and to remove ambiguity which has been prevalent because of the "open to interpretation" theme followed in certain parts of the Act.</p>
			<p>"disability" means a physical or mental impairment, which has a substantial and long-term adverse effect on the ability of a person to carry out normal day-to-day activities and it includes (but is not restricted to) –</p> <ul style="list-style-type: none"> (i) blindness; (ii) low vision; (iii) leprosy-cured; (iv) hearing impairment ; (v) locomotor disability ; (vi) mental retardation; (vii) mental illness; 	<p>"disability" means a physical or mental impairment, which has a substantial and long-term adverse effect on the ability of a person to carry out normal day-to-day activities and it includes (but is not restricted to) –</p> <ul style="list-style-type: none"> (i) blindness; (ii) low vision; (iii) leprosy-cured; (iv) hearing impairment ; (v) locomotor disability ; (vi) mental retardation; (vii) mental illness; 	<p>The existing definition defines a finite list of disabilities which completely ignores speech impairments, chronic and progressive illnesses such as HIV/AIDS and cancer which can severely affect activities of daily living, and developmental, cognitive, and intellectual disabilities that are neither mental illnesses nor mental retardation such as learning disabilities</p> <p>The proposed amendment copies language from UK's Disability Discrimination Act (DDA) and says "disability means a physical or mental impairment, which has a substantial and long-term adverse effect on the ability of a person to carry out normal day-to-day activities." But then it again goes on to mention a list of eligible disabilities, which makes the above statement pointless. If the Ministry intends to include such a list, it should say that it "includes but is not restricted to" which will then extend the protections of the Act to the above mentioned</p>

V. EDUCATION	26 (a)		<p>cured; (iv) hearing impairment ; (v) locomotor disability ; (vi) mental retardation; (vii) mental illness;</p>	<p>Reservation in admission in Educational Institutions for Persons with Disabilities.</p> <p>All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats</p>		<p>Reservation in admission in Educational Institutions for Persons with Disabilities.</p> <p>All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for admission for persons with disabilities. A disabled candidate who scores above the cut off point will be taken in the non disabled quota if the admission of such candidates will be an offence</p>	<p>It has been observed that in many cases, candidates qualifying for general seats (for which the cut offs are generally higher) are refused admissions on the grounds that the disability quota for that year has been fulfilled, taking refuge in the ambiguity of the reservation statement made under this clause.</p> <p>By appending the recommended text, the Act will ensure that any candidate who fulfills the qualifying requirements set by the institution are not refused admission on the ground of disability quota being full, if there are seats vacant in the general category.</p>	<p>excluded disabilities which have been well recognized by international governments and world bodies.</p>
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V. EDUCATION	26 (b)	Endeavor to promote the integration of students with disabilities in the normal schools;	for admission for persons with disabilities.	Endeavor to promote the integration of students with disabilities in the normal schools, both public and private.	Integration should not be limited to government and government aided schools. This is also in-line with the Sarva Shiksha Abhiyan policy that the government is committed to. It has come to light on several occasions that private schools continue to flout their responsibilities to disabled children. Therefore the act needs to tighten this loophole and explicitly include 'private schools' in the generic statement.
V. EDUCATION	30 (b)	The removal of architectural barriers from schools, colleges or other institution, imparting vocational and professional training;		The removal of architectural barriers in conformance to the (proposed) National Accessibility Standards from all schools, colleges or other institution, including those imparting vocational and professional training, both public and private. Where school-bus facilities are provided, the schools must make provisions for accommodating transport	Accessible infrastructure is the baseline to promote inclusion but, unfortunately, most schools continue to decline admission to disabled students on the pretext that they lack supporting architectural accommodations. Therefore, it is imperative that the Act explicitly promotes accessible infrastructure, in both private and public schools. It is also important to define what is meant by 'accessibility' as most schools seem to think that they have met their obligations by installing steep un-negotiable ramps. In addition, MSJE should mention clear deadlines and timeframes within which the existing schools

V. EDUCATION	31	All educational institutions shall provide or cause to be provided amanuensis to blind students and students with or low vision		<p>needs of disabled students.</p> <p>The schools must ensure that students with disabilities are given adequate support to perform, especially during exams, on an equal platform with their able bodied peers. The support may include provision of:</p> <ol style="list-style-type: none"> 1. Amanuensis to the vision impaired 2. Extra exam time to those with poor hand dexterity of learning disabilities 3. Assistive writing aids such as use of adapted writing aids or computer 4. Separate examination room for those with attention deficit disorders 	must meet the recommended accessibility standards.
VI. EMPLOYMENT	31 A		<p>Non-discrimination in Employment.</p> <p>No persons with disability shall be discriminated against only on the ground of</p>	<p>No person with disability shall be discriminated against only on grounds of disability, inaccessibility of work place or unavailability of assistive aids or any such requirement, that may be required for the person to perform the functions of the position.</p> <p>Or</p>	

VI. EMPLOYMENT			disability.	<p>No persons with disability shall be discriminated on the grounds of disability, provided that the person can perform the essential tasks of the position with or without suitable adjustments and reasonable accommodations</p> <p>Employers, in both public and private sector, shall not discriminate against disabled job seekers or employees.</p> <p>Discrimination in employment terms applies denial (or less favorable treatment) of a job opportunity, promotion, training or other incentives purely on the basis of a person's disability.</p> <p>Government and public sector establishments shall reserve not less than three per cent for persons or class of persons with disability. Where this reservation quota is full, establishments may not discriminate against disabled job seekers who are as meritorious as their able bodied counterparts and these disabled applicants must then be given a fair chance to</p>	<p>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-</p> <p>(i)</p>	<p>Categories of disabled people, outside the 3 categories (i.e. OH, VI, PH), have been excluded from the reservation.</p> <p>Moreover, once the 3% quota is full, employers tend to discriminate against disabled candidates even though these disabled applicants may be more meritorious than their able bodies counterparts.</p> <p>Also there is no requirement for private sector employers not to discriminate against disabled job seekers.</p>	
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VI.EMPLOYME NT		Blindness or low vision; (ii) Bearing impairment; (iii) Loco motor disability or cerebral palsy, in the posts identified for each disability		compete with others in the general job quota.	
VI.EMPLOYME NT	33B			<p>Any NGO's applying for grant to the MSJE must have at least 30% of the work force comprising of people with disability.</p> <p>Any service tender advertised by the MSJE shall have a pre-requisite that the applicant must demonstrate proof of their being 'equal opportunity employers'</p>	
VI.EMPLOYME NT	38B	Formulate schemes to		The removal of architectural barriers in conformance to the	Accessible infrastructure is the prerequisite for supporting employment of disabled people.

VI.EMPLOYMENT		provide for:- H&S measures & creating non- handicapped environment in places where PWD are employed		(proposed) National Accessibility Standards from government, public and private sector work environments.	Unfortunately, the 12 years following the implementation of the act, provision 38B has failed to achieve much. Therefore, it is the need of the hour that the MSJE mandates that all office and other work related infrastructure be accessible as per the prescribed accessibility standards. To enforce and monitor this provision, MSJE should introduce timeframes and deadlines for the existing work environments to be made accessible. The accessibility provisions should apply to government, public and private sector work environments.
VI.EMPLOYMENT	41 a			The appropriate Governments shall by notification frame a scheme for payment of a mobility allowance to persons with disabilities for traveling to work, keeping in view the status of mobility of such individuals where it is affected to the extent whereby making public transport inaccessible. All major cities to have working people's hostels especially designed as per (proposed) National Accessibility Standards and run for persons with disabilities, where they are provided accessible accommodation, accessible transport facility, fitness gymnasium and carer	
VI.EMPLOYMENT	41 b				

VI.EMPLOYMENT				<p>facility.</p> <p>The employer will be responsible for providing the appropriate aids and assistive technology that are essential for fulfillment of the job responsibilities of disabled employees.</p>	
VIII.NON-DISCRIMINATION	44 (c)	--		<p>Non Discrimination for this chapter will mean: that no person or group of persons will be denied access to a facility or a service only on the basis of their disability. The building owners will be responsible to ensure that the infrastructure provided is accessible in compliance with the (proposed) National Accessibility Standards, while the building managers will be responsible of ensuring that there are appropriate steps in place to make the use of the public space is as easy to a disabled person as it is for the non disabled person.</p>	<p>The Act needs to extend the spirit of non-discrimination beyond the government sector.</p>
VIII.NON-DISCRIMINATION	44(d)			<p>Non discrimination must be clearly demonstrated in terms of:</p> <p>i) Infrastructure Accessibility ii) Transport Accessibility</p>	<p>The non-discrimination policies should apply both to public and private sector establishments, facilities and services.</p> <p>Compliance to this policy should be enforceable</p>

				<p>iii) Information Accessibility iv) Access to services and for the purpose of better implementation the Ministry of Social Justice and Empowerment will draft/adopt (proposed) National Accessibility Standards that need to be followed for all these four areas that will be applicable universally throughout the country. The Standards set will be reviewed and revised (within a specified timeframe) to keep up with latest developments.</p> <p><u>(I) INFRASTRUCTURAL ACCESSIBILITY</u></p> <p>a) All future infrastructure, services and transport will need to comply with these (proposed) National Accessibility Standards with immediate effect from the date of implementation of the amended PWD Act. The MSJE will also lay down specific deadlines for existing infrastructure, services and transport vessels to comply with the (proposed) National Accessibility Standards within</p>	<p>and measurable.</p> <p>There should be clear deadlines for existing providers of goods and services to meet the (proposed) accessibility guidelines.</p>
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				<p>a set time frame.</p> <p>b) The Infrastructure Accessibility Standards will be applicable to:</p> <ul style="list-style-type: none"> i. the public sector ii. Private sector that offer facilities and services to the public iii. All such public or private infrastructure that utilize State funds either as a grant or loan iv. All NGO's that utilize State funds either as a grant or loan. v. All privately built infrastructural development meant for sale or to lease. vi. All infrastructure development projects undertaken by the Ministry of Urban Development and the Ministry of Rural Development along with all autonomous bodies under its purview and control. vii. All infrastructures built, maintained and renovated by the State Municipal Corporations. viii. Any Public or Private establishment which benefits or is provided incentives as referred to in chapter VII (41) ix. All autonomous bodies 	
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				<p>under the purview/control of the Ministry of Urban Development and the Ministry of Rural Development involved with infrastructure development, refurbishment and maintenance throughout the country.</p> <p>c) All new policies and legislations announced by the Ministry of Urban Development, the Ministry of Rural Development and all autonomous bodies under the purview/control of the said ministries must be inclusive and shall consider beside others, infrastructural accessibility needs of persons with disabilities.</p> <p><u>(ii) TRANSPORT ACCESSIBILITY</u></p> <p>a) The transport Accessibility standards will be applicable to:</p> <p>i. All companies whether public or private who are involved with the designing and manufacture of public transport vehicles/vessels</p> <p>b) The Ministry of Surface</p>	
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Transport, Ministry of Railways and Ministry of Civil Aviations will required to submit to the MSJE, a 5 yearly action plan on how they will provide, improve, refurbish or maintaining public transport (in all classes and categories of travel) that is accessible to PWD. The action plan will include detailed strategy of how they plan to refurbish/ replace the existing rolling stock of busses, trains, etc within the deadlines set by MSJE. Additionally the three ministries will ensure that all their policies are inclusive in nature.

(iii) INFORMATION ACCESSIBILITY

- a) Information Accessibility Standards will be applicable to:
 - i. All policies and legislations under the Ministry of Information and Broadcasting and all autonomous bodies under its purview/control.**
 - ii. All policies and legislations under the Ministry of Information Technology and all autonomous bodies under its purview/control.****

				<p>iii. All service providing public or private agencies</p> <p>iv. All information providing public or private agencies including private television channels and all Indian websites.</p> <p>b) All State Governments in the absence of accessible transport system complying to the (proposed) National Accessibility Standards, to ensure a monthly mobility allowance to persons with disability to travel to :</p> <ul style="list-style-type: none"> • work (both private and public sector) • education (both private and public educational institutes) • health (both private and public health institutes) <p>c) The MSJE will provide incentives to companies who undertake projects which aim at providing viable personal transport (as services or by introducing such products that offer such solutions) for/to persons with disability.</p> <p>(iv) <u>ACCESS TO GOODS and</u></p>	
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VIII.NON-DISCRIMINATION	44(e)			<p><u>SERVICES</u> All providers of goods and services to the public, in the public and private sector, to ensure non-discrimination in provision of these to persons with disabilities. This must be achieved by making adequate accommodations in terms of:</p> <p>a) infrastructural accessibility b) requisite policies, procedures and practices</p> <p>While this will apply with immediate effect to the providers of future goods and services, but existing providers will have to meet these requirements within the timeframes and deadlines proposed by the MSJE.</p>	
				<p>Monitoring</p> <p>a. The MSJE will under it have three separate technical committees comprising of experienced persons with extensive domain knowledge from all the three areas namely: Infrastructural accessibility, Transport</p>	

				<p>accessibility and information accessibility.</p> <p>b. The function of the committees will be to assist in the implementation of the act by providing technical support in the areas of their domain. The committees may also assist the ministry by undertaking programmes for increasing awareness and knowledge amongst the stakeholders.</p> <p>c. The membership of the committee will comprise of nominated members who elect a chairperson from within themselves. Chairpersonship will be valid for a year after which the chairperson needs to be re-elected. Members too will be on the committee for a maximum of five years after which new members will be appointed.</p> <p>d. Apart from the committee all State</p>	
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IX. RESEARCH AND MANPOWER DEVELOPMENT	48			<p>g. Assistance is provided to the district to ensure that all new construction is accessible as per the (proposed) National Accessibility Standards and ensure that all infrastructures constructed before the amendments to the act are retrospectively made accessible within a stipulated timeframe. The Access Inspector will work closely with the municipal corporations and local disability groups.</p> <p>e. All new building (except individual private dwelling) will be required to get a certificate of compliance to the (proposed) National Accessibility Standards, from the respective municipal corporation/body and strict punitive action to be taken for non-compliance.</p>	
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