

# RIGHTS OF PEOPLE WITH DISABILITIES ACT 2016

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Support to persons requiring mobility aids when visiting Public Places--what does the law say in India. This question boggles my mind when I see the dilapidated condition of wheelchairs provided at large and highly decorated shopping malls in many cities in India. What is the relevant law on this subject.

The current Law is **the Rights of People with Disabilities Act 2016**. When this Act came into force, the previous Law, known as the Persons with Disabilities [ equal opportunities, Protection of Rights and full Participation ] Act 1995 was repealed. I can safely say here that all the provisions contained in the Act of 1995 are included in the new Act of 2016, which is more exhaustive and inclusive. It should not be concluded that the Government of India did not implement the provisions of the Act of 1995, but a lot more had to be done, and still there is lot to be done now and in future , as soon as possible.

There can be no better way to assess the basic objectives of the Act , but to repeat the introduction to the Act, which appears before Chapter 1. This I am obliged to do as given below.

## THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016 ACT NO. 49 OF 2016

[27th December, 2016]

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006. AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,—

(a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007; AND WHEREAS it is considered necessary to implement the Convention aforesaid. BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

### CHAPTER I PRELIMINARY 1.

Short title and commencement.—

(1) This Act may be called the Rights of Persons with Disabilities Act, 2016

Having learnt the above, let us now discuss the Act in some detail, and try to understand as to what it aims to achieve for the persons with disability, in the light of the aims provided in the convention.

The major difference, with the previous enactment of 1995, is that the current Act covers a wider panorama, viz, the community in general, both public and private establishments, and specifies the public authorities who can be approached in case of violation of the provisions of the Act. The Act defines, in specific terms, provisions related to barrier free access, communications, discrimination etc. and with details, so that these words do not remain mere words, and there is little confusion as to what is meant by them. The persons concerned, various authorities have just to read these definitions again and again, to fully understand their respective responsibilities in this area of governance.

We will understand it better, if we have a look at some of the definitions given in the Act. They are being repeated, verbatim, below.

. **Definitions.**—2. (c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society; 1. 19th April, 2017 vide notification no. S.O. 1215 (E) dated 19th April, 2017 see Gazette of India, Extraordinary, Part II, Section 3 (ii).  
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2(f) “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, video, visual displays, sign language, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology;

2(h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

**2 (i) “establishment” includes a Government establishment and private establishment;**

**Note** –This a one of the major differences between the Act of 1995, where the definition was restricted to aided establishments or aided establishments, and the present Act.

2(l) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;

2 (m) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;

2(n) “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services;

2(r) “person with benchmark disability” means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

2 (s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

2 (t) “person with disability having high support needs” means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;

2 (v) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify;

**2(w) “public building”** means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial fora’s, railway stations or platforms, roadways bus stands or terminus, airports or waterways;

Please note here, the shopping malls and cinema halls will come under the definition of Public building and should provide easy access to persons with disabilities. This access should be of such that such persons are able to enjoy the shopping experience and leisure activities at par with other persons , as far as physically and economically viable. Here a little focus on cinema halls will be good as everybody wants to watch the movies on a big screen and persons with disability should not be forced to watch it from the lowest level front space, which is the case with most cinema halls in India.

Let us have a look at what is the scenario in other countries . Given below parts of the Article that appeared in the Chaz,s Journal

### **Disability Theater Access in 2018**

**Kristen Lopez** March 28, 2018

The Cinemark movie theatre I frequent in Sacramento boasts four wheelchair spaces. As a movie lover with disabilities this is a process not unlike fitting in additional guests at a dinner party. You wonder how friends will sit together and have optimal access to the food on hand. A trip to my local theatre to see “[Black Panther](#)” in February saw my metaphorical dinner party end with the equivalent of thrown plates and wasted food, a sad reminder of how movie theatres in America continuously fail patrons with mobility issues.

At this particular screening I was told what was left was “front row only,” a term I followed with a mirthless chuckle. The ticket taker probably didn’t want to assume, but considering I can’t do anything but wear my wheelchair, with pride, it seemed they’d forgotten the layout of the theater and the fact that the front row’s stairs were inaccessible to wheelchair patrons. My usual response in times such as these is to ask to be seated in one of

the four open wheelchair spaces on tap, a mandatory requirement per the [Americans with Disabilities Act](#) (ADA). The response was the seats had been reserved online...

Advocating for a seat and aiding the ticket taker into reconfiguring the theatre to make it work left my emotions high. Anxiety plagued me for the inevitable confrontation I knew would happen with the people who had “reserved” the seats I was sitting adjacent to and the one my companion was sitting in. Call me crazy, but I had little faith the theatre would be able to spot these people and explain the situation to them. As the lights went down and the feature started my eyes went back to the two empty seats. These people obviously weren’t coming. What was the harm in sitting in an empty seat? It may surprise you to hear, but those of us who live in wheelchairs 24/7 enjoy relaxing in a comfy seat not attached to us. ....As if my sitting down in the seat released a clarion call, three able-bodied—I use the term in the sense they could easily go up a stair to sit elsewhere—young adults arrived, like the three bears asking why someone was sitting in their chair (literally). I prepped for a fight; this wasn’t the first time I’d had to tell people, teeth gritted, that the seats were for the handicapped. The group left and I waited to let the theatre do what they’d promised: explain the issue and reseat them, or maybe offer them tickets to another show.

The arrival of the manager himself told me all I’d need to know. Whispering through the dialogue of a movie already 10 minutes in, the manager said the three didn’t want to give up their seats. I would have to get back into my wheelchair and my companion would have to be moved to an empty seat away from me. Could I have refused to move? Sure. ....I asked how they felt for taking seats they knew were for the handicapped? Their reply, “We paid for these seats.”

I’d like to believe they didn’t know where they were sitting but disbelief only goes so far. Those booking tickets online who reserve handicap seats see a pop-up, a reminder telling you

that, in the event a person with a disability arrives you might be asked to move. So the indignant trio in my theatre doubled down on their “right” to those seats. My trip to Humiliation Station complete, I asked for recompense. I knew what’d I get; I’d been here before. I could practically recite the manager’s sincere apology for any misunderstanding. He’d be willing to give me free tickets to come back (Cinemark’s unspoken policy is to never give refunds). .....How does one fix a problem that only affects a presumably small portion of people?

Theatres are mandated to make approximately 10% of the theatre seats accessible, so obtaining the two to four wheelchair spaces in my theatre can be like a terrible game of musical chairs. Wheelchair users are often stuck sitting in the front rows, on flat ground with no elevation to keep a clear view. The changeover to wider, recliner-style chairs has actually decreased the number of handicap seats, and many of these new chairs come with oversized footrests or outward facing tray tables that prevent wheelchair users from transferring into them to begin with.

With less seating available theatres must take action to protect the few seats for those who need it or otherwise send a message to patrons with disabilities that they should stay home.

Is this discriminatory? Yes and no. From a functional standpoint the utter inaccessibility of the rest of the theatre leaves wheelchair and mobility-impaired users segregated to individual sections. Take the seat or leave. Access becomes a weapon against the disabled, yet the seats are open to everyone through lack or absence of proper enforcement. In some cases, the employees themselves don’t know the policy for handling seating disputes with regards to people with disabilities. Situational and functional discrimination aren’t legal forms of discrimination, yet more often than not building legal teams fall back on blaming the ADA for their own ableism.

So where does that leave me? And, more importantly, where does it leave people with disabilities who want to enjoy movies?

As a critic, I'm fortunate that press screenings don't have reserved seating in the same way. But as with any travel, disabled people understand we have to prepare in advance. Online reservations are the best way of ensuring you won't have to argue with someone. ....

2 (x) "public facilities and services" includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice , public utilities , transportation.

2(y) "reasonable accommodation" means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;

2(za) "rehabilitation" refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels;

2 (zb) "Special Employment Exchange" means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding— (i) persons who seek to engage employees from amongst the persons with disabilities; (ii) persons with benchmark disability who seek employment; (iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed

2 (zc) "specified disability" means the disabilities as specified in the Schedule;

2(zd) "transportation systems" includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc;

2(ze) "universal design" means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply



to assistive devices including advanced technologies for particular group of persons with disabilities.

## **CHAPTER II RIGHTS AND ENTITLEMENTS**

### **3. Equality and non-discrimination.—**

(1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability. 8

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities. 4. Women and children with disabilities.—(1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others. (2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.”.

### **5. Community life.—**

(1) The persons with disabilities shall have the right to live in the community.

(2) The appropriate Government shall endeavour that the persons with disabilities are,—

(a) not obliged to live in any particular living arrangement; and

(b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.

## **6. Protection from cruelty and inhuman treatment.—**

(1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

(2) No person with disability shall be a subject of any research without,— (i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and (ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (z) of section 2.

**7. Protection from abuse, violence and exploitation.—**(1) The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall—

(a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;

(b) take steps for avoiding such incidents and prescribe the procedure for its reporting; (c) take steps to rescue, protect and rehabilitate victims of such incidents; and

(d) create awareness and make available information among the public.

## **Role of Executive Magistrates**

(2) Any person or registered organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.

(3) The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as 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 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.

9 (4) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of— (a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance; (b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;

**(c) the right to free legal aid; and**

(d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence: Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code (45 of 1860), or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter.

8. Protection and safety.—(1) The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

**Role of the Disaster Management Authorities.**

(2) The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 (53 of 2005) for the safety and protection of persons with disabilities.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 (53 of 2005) shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness.

(4) The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the concerned State Commissioner, in accordance with the accessibility requirements of persons with disabilities.

9. Home and family.—(1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

(2) Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

10. Reproductive rights.—(1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.

(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

11. Accessibility in voting.—The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

12. Access to justice.—(1) The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of dis

(2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.

(3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 (39 of 1987) shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

(4) The appropriate Government shall take steps to— (a) ensure that all their public documents are in accessible formats; (b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and (c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.

13.

**Legal capacity.**—(1) The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

(2) The appropriate Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as any other person before the law.

(5) Any person providing support to the person with disability shall not exercise undue influence and shall respect his or her autonomy, dignity and privacy.

This is an important provision, which is difficult to implement in real life situations. Control over finances and property, how does one disabled person ensure this so he or she does not totally depend on some one else and his integrity? How can the regulators help here? Let us take a simple example, the BANK ATM. How many ATMs can be accessed by the blind, the wheel chair bound and what support is available on site? Is the list of such enabled ATMs available with RBI?

Now take the second example, of transfer of property by the disabled in favour of the able bodied persons. How does the registering authority ensure that this transfer is not taking place due to undue influence of the person providing support to the person having disability? It is not uncommon to come across cases of transfer of property by will ,to someone totally unrelated to the person making it. All that the document says, generally un registered, that the will is being made in the favour of such person as he has looked after him or her in the old age. It may be true, or it may be under undue influence.

Access to courts of Law and other forums, including government offices is another aspect to be examined. Here there is great scope for access through video conferencing. Will the collector connect with some of the complainants, specially with the persons with disability.

Can the judge give hearing to the person with disability through video conferencing, a facility which is already being used in some legal cases. Government and the Apex judiciary push is needed here.

14.

Provision for guardianship.—(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the State Government: Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

Explanation.—For the purposes of this sub-section, “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

15.

**Designation of authorities to support.**—(1) The appropriate Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disability.

I find very little mobilisation of support of community and creation of

awareness about the need of support . Take one example. In a country like Sri Lanka, in Colombo, we found, that the traffic comes to stand still when pedestrians and wheel chairs are crossing the road. Not so in Jaipur city, for and instance, where near the monuments, wheel chair bound persons will find it impossible to cross the roads.

Take second example, total absence of push button, pedestrian operated traffic lights to cross the roads in Lucknow or most part of Delhi, Mumbai Bangaluru. Anybody monitoring such light poles in India, how many are they and functioning.

Third example, in most cities, zebra crossings mean nothing for the vehicles which mostly park themselves right on top of them when the light goes red.

It all shows, total lack of community awareness efforts and their effectiveness if they are there.

Fourth example, the speeding vehicles everywhere, and no speed limit signs in the city lanes. Why can the authorities implement speed limits in residential areas?

Fifth, total lack of design control over haphazard construction of pedestrian foot paths, where ever they are made at all. Most of the time they are covered by road side vendors etc. No regulatory controls here.

**29. Culture and recreation.**—The appropriate Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include,

— (a) facilities, support and sponsorships to artists and writers with disability to pursue their interests and talents;

(b) establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities.

(c) making art accessible to persons with disabilities;

(d) promoting recreation centres, and other associational activities;

(e) facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities.

(f) redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities.

(g) developing technology, assistive devices and equipment's to **facilitate access** and inclusion for persons with disabilities in recreational activities; and

**Facilitating access to Cinema Halls** is a hot topic of discussion among the people active in this area of development. One can say here that our cinema halls , in majority of the cases, are ill equipped to give comfortable seating in appropriate classes of viewing, to persons with locomotive disability, and especially to those who use wheel chairs to commute and can not shift from wheel chair to the ordinary cinema seat on their own. The solution is simple. Provide wheelchair access to the designated place, where there is no seat but a space , in line with other seats, with some maundering space. Even those cinema halls ,which claim wheel chair space, have ordinary seats, and there is no space for the wheel chair to be parked. A prime example is the Gold Class in Wave cinema in Lucknow, where there is no ramp, only granite steps, where they lift the wheel chair with lot of hue and cry.

Here is a scope, for the authorities granting licence to new cinema halls and the old ones being remodelled for insisting on small design change to ensure complete wheel chair access.

For those who have hearing disability, screening of films with sub titles ? Just as they do in Netflix and many other channels. Our National Anthem, being sung in all cinema halls, has this feature after all. Sign language is used here.

### **Railway rules for the persons with disabilities.**

Detailed rules are available in the Indian railway website, under the banner, Railway rules for Handicapped/Divvyng.

The rules include the following guidelines, procedures, reservations etc.

Quota for persons with disability in all classes of travel. A photo ID card , which can be applied for on [divyangjanid.indianrail.gov.in](http://divyangjanid.indianrail.gov.in)

Ticket booking online for availing the concession,

Facilities for handicapped at Railway Stations,

Yatri Mitra Seva,

Battery operated cars,

Reserved parking,

Concessions on rail tickets



Signages in Brail etc.

The list is long, but the ground situation on various Railway stations may be different. One must add here the chaotic conditions of traffic outside the railways stations throughout India. As the land outside is not owned by the railways, there are multiple agencies, controlling the traffic and the result is chaos, not suitable for any person with disabilities.

### **Air Travel**

Detailed and comprehensive guidelines have been issued by the Ministry of Civil Aviation and generally the help is available for persons with disability. Lack of sensitivity is noticed in airports like that of Lucknow, when wheel chair bound passengers are parked near the base of the ladder, in shining sun in summer months, before being boarded. But, air travel remains most convenient for Persons with disability. Ticket concessions, are missing in this industry, except a few airlines like Air India.

(h) ensuring that persons with hearing impairment can have access to television programmes with sign language interpretation or sub-titles.

30. Sporting activities.—(1) The appropriate Government shall take measures to ensure effective.....

## **CHAPTER VII SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH HIGH SUPPORT NEEDS**

Sec. 31 Free education ...

Sec. 32 Reservation in Higher Educational Institutes of Governments and aided Institutions.....Not less than five percent....

Sec. 33. Identification of posts for reservations...

Sec. 34...Reservation in Government Establishments

Sec. 35. **Incentives to Employers in the Private sector.** This is laudable provision with little visibility in the media, social media or by the recruiting agencies. One estimate puts the percentage of persons with disability employed in the private sector in India at 0.4 percent. Source...National Centre for Promotion of Employment for Disabled People [ NCEPD ].

SEC.2 (l) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;

SEC. 38. Special provisions for persons with disabilities with high support.

—(1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her 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.

Persons with intellectual and developmental disabilities. Providing , guardianship, even when it is possible to enable such persons to make their own decisions, can do more harm to such persons life and liberty. This needs to be avoided. Assessment of such disabilities is a task with many challenges before the competent authorities.

(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.

The question here is , in relation to section 38[4] , what kind of support will be provided by the appropriate government. The support needed may include, walking or movement support devices, personal shifting devices, personal attendants for those who totally depend on some other person for daily cores, including those who are totally bed ridden. I have yet to come across any examples of the kind of support provided by the government

authorities. Once in while one reads in the newspapers, that certain number of wheelchairs were distributed in a certain highlighted function. But are these distributions are result of the process carried out in accordance to provision of section 38 of the Act.

Complete dehumanisation of such persons by calling them, for example, retarded has to be discouraged among the communities and awareness to be enhanced.

Two government schemes are worth mentioning here. The

Now let us have a close look at one of the most important provisions of the Act. Accessibility. The provision is as Follows,

40. Accessibility.—The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

41. **Access to transport.**—(1) The appropriate Government shall take suitable measures to provide,— (a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;

(b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;

(c) accessible roads to address mobility necessary for persons with disabilities.

(2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

(a) incentives and concessions;

(b) retrofitting of vehicles; and

(c) personal mobility assistance.

As we have discussed above, concessions are available in the Railways and Government owned bus services, but not in the airlines, if we are talking of ticket prices, except the Indian Airlines in India. However, all airlines do provide assistance to such persons, as is the case internationally.

Many vehicles are being retrofitted by individual garages , but there seems to be little organised efforts or aid to the individuals doing this work. Retrofitting by vehicle manufacturers are non existent. Suggestion to allow retrofitting by one of the leading Brands in India, brought muted response. There is need of government push here.

Personal mobility assistance, is not visible and it is not known as how to get it and where. Mostly, it is the family members, or high cost health assistants hired from various sources. Often, such persons are themselves not trained by the providers, and are unregulated.

### **Persons with disability, the Constitution , the law and the courts of law.**

Constitutional Provision----Article 41 of the Constitution of India, lays down Right to work, to education and to public assistance in certain cases . The state shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance, in case of unemployment, old age, sickness and disablement, and other cases of underserved want.

Here the concept of Public assistance may be interpreted as financial grants to such persons. Some of the state governments have used this provision for granting pensions to persons who do not always fit into the purview of this Article of the Constitution of India.

Various state governments have been granting disability pension subject to economic criteria, but the amounts given are minimal....a few thousand rupees a month. Governments will do well to revise these limits.

### **Leading court cases.**

My search for the court cases on the above subject, resulted in finding two cases. First, [2019) 07 SIK CK 0011, in Sikkim High court, Ganga Maya Gurung vs State of Sikkim and another, related to allotment of a plot, and was dismissed on merits. The second one is 2021) 02 P&H CK 0427, In The High Court Of Punjab And Haryana At Chandigarh

**Case No :** Civil Writ Petition No. 28831 Of 2017 (O&M)

Kulbir Jakhar Vs Stat of Haryana and others and this was allowed. In this second case, the petitioner was granted his appeal to get his entire salary which was not released to him as he was not able to attend to his duties, due to sever illness.

Do the persons with disability have political voice?

There are no reservations in Assembly or Lok Sabha seats. Only one state government , Namely Chhattisgarh has fixed a quota for the persons with disability. It needs to be examined if there is a case for reservation of seats in The state Assembly and THE Lok Sabha for such persons.

## **Conclusion**

The new laws and regulations have stirred the governments to the needs of the persons with disability. As far as the issuing of directions , framing of rules etc is concerned, efforts have been made. But their implementation of the ground leaves much to be desired. Awareness is one thing that is missing in most of the cutting edge level government offices, while the private sector considers it not their baby, mostly. They reluctantly comply, where the regulation is tough, but mostly ignored where we leave it to their economic capability.

The Indian courts are not exactly flush with cases dealing with persons with disability. Does it reflect on the in capacity of such persons to reach the doors of the courts, or does it show lack in sensitivity of parts of the common people. Why no sue moto cognizance being taken when some persons with disability are mistreated at various public places, when there are barriers galore to mobility of such persons.

More needs to be done by all stake holders, and , most importantly by the persons with disability or their guardians by raising their voice at appropriate forums.

I Strongly recommend , the readers to go through Annexure x, y and Z. Annexure Z throws some light on the Scenario in the USA.

Kishore Kumar Sinha  
Advocate High Court UP  
Lucknow  
21<sup>st</sup> February 2023.

Annexure x

UN CONVENTION ON RIGHTS OF PERSONS WITH DISABILITIES

**Entry into force: 3 May 2008, in accordance with article 45(1).**

Preamble

(a) Recalling the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

(b) Recognizing that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

(c) Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

(d) Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

(e) Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

(f) Recognizing the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

(g) Emphasizing the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,

(h) Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

(i) Recognizing further the diversity of persons with disabilities,

(j) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

(k) Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

(l) Recognizing the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,

(m) Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the

promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

(n) Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

(o) Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

(p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

(q) Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

(r) Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

(s) Emphasizing the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

(t) Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

(u) Bearing in mind that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

(v) Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

(w) Realizing that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,

(x) Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,



(y) Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows :

## Article 1 - Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

## Article 2 - Definitions

For the purposes of the present Convention:

"Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

"Language" includes spoken and signed languages and other forms of non-spoken languages;

"Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

"Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

## Article 3 - General principles

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

## Article 4 - General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
  - a. To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
  - b. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
  - c. To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
  - d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
  - e. To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
  - f. To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
  - g. To undertake or promote research and development of, and to promote the availability

- and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
- h. To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
  - i. To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
  3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.
  4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.
  5. The provisions of the present Convention shall extend to all parts of federal states without any limitations or exceptions.

## Article 5 - Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any

discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

## Article 6 - Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

## Article 7 - Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

## Article 8 - Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
  - a. To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

- b. To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
  - c. To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
- a. Initiating and maintaining effective public awareness campaigns designed:
    - i. To nurture receptiveness to the rights of persons with disabilities;
    - ii. To promote positive perceptions and greater social awareness towards persons with disabilities;
    - iii. To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;
  - b. Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
  - c. Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
  - d. Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

## Article 9 - Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
  - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
  - b. Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures to:

- a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- c. Provide training for stakeholders on accessibility issues facing persons with disabilities;
- d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

## Article 10 - Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

## Article 11 - Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

## Article 12 - Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

## Article 13 - Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

## Article 14 - Liberty and security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
  - a. Enjoy the right to liberty and security of person;

- b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

## Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.
2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

## Article 16 - Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological



recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

## Article 17 - Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

## Article 18 - Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
  - a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
  - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
  - c. Are free to leave any country, including their own;
  - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

## Article 19 - Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate

measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

## Article 20 Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- a. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- b. Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
- c. Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
- d. Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

## Article 21 - Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of

- communication of their choice by persons with disabilities in official interactions;
- c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
  - d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
  - e. Recognizing and promoting the use of sign languages.

## Article 22 - Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.
2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

## Article 23 - Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:
  - a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
  - b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
  - c. Persons with disabilities, including children, retain their fertility on an equal basis with others.
2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall

- be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.
3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.
  4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.
  5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

## Article 24 - Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
  - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
  - c. Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
  - a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - b. Persons with disabilities can access an inclusive, quality and free primary education and secondary

- education on an equal basis with others in the communities in which they live;
- c. Reasonable accommodation of the individual's requirements is provided;
  - d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
    - a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
    - b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
    - c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
  4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
  5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- c. Provide these health services as close as possible to people's own communities, including in rural areas;
- d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

## Article 26 - Habitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:
  - a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

- b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

## Article 27 - Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
  - a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
  - c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
  - d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
  - e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

- f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
  - g. Employ persons with disabilities in the public sector;
  - h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
  - i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
  - j. Promote the acquisition by persons with disabilities of work experience in the open labour market;
  - k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

## Article 28 - Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
  - a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
  - c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related



- expenses, including adequate training, counselling, financial assistance and respite care;
- d. To ensure access by persons with disabilities to public housing programmes;
- e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

## Article 29 - Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
  - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
  - iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
  - i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
  - ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

## Article 30 - Participation in cultural life, recreation, leisure and sport

- 1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in

cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

- a. Enjoy access to cultural materials in accessible formats;
  - b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
  - c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.
2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.
  3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.
  4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.
  5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:
    - a. To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
    - b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;
    - c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues;
    - d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
    - e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

## Annexure Y

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (Department of Empowerment of Persons with Disabilities) NOTIFICATION New Delhi, the 8th March, 2019 G.S.R.209(E).

—Whereas a draft of certain rules to amend the Rights of Persons with Disabilities Rules, 2017 was published as required by sub-sections (1) and (2) of section 100 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) vide number G.S.R. 1053(E), dated the 22nd October, 2018 inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of thirty days from the day on which the copies of the Official Gazette containing the said notification was made available to the public;

And whereas the copies of the Official Gazette in which the said notification was published were made available to the public on the 23rd October, 2018; And whereas the objections and suggestions received from the public were considered by the Central Government; Now, therefore, in exercise of powers conferred by sub-sections (1) and (2) of section 100 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016), the Central Government hereby makes the following rules, to amend the Rights of Persons with Disabilities Rules, 2017, namely:-

1. Short title and extent.-

(1) These rules may be called the Rights of Persons with Disabilities (Amendment) Rules, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette. 2. In the Rights of Persons with Disabilities Rules, 2017, after Chapter V, the following Chapter shall be inserted, namely:- "CHAPTER VA 14A.

(1) The State Governments or Union Territory Administrations shall notify the authority to whom a person with benchmark disability can apply for the high support requirement as per sub-section (1) of Section 38 of the Act.

(2) Only the persons with benchmark disabilities having permanent certificate of disability shall be eligible for applying for high support requirement. (3) The State Governments shall constitute Assessment Board at the District level or Division level based on the number of persons with benchmark disabilities comprising the following:-

(a) District Chief Medical Officer or Civil Surgeon  
or  
Medical Superintendent.....Chairperson  
; 4

THE GAZETTE OF INDIA : EXTRAORDINARY [PART II—SEC. 3(i)] (b) District Social Welfare Officer.....Member;

(c) Five rehabilitation specialists [Physical Medicine and Rehabilitation or Orthopaedic specialist, ENT specialist, Ophthalmologist, General Physician (if the applicant is 18 years or above) or Pediatrician (if the applicant is less than 18 years), Psychiatrist].....Members;

(d) Occupational therapist or speech therapist or Clinical Psychologist or Physiotherapist (as per requirement).....Member;

(e) Any other expert as the Chairperson deems appropriate.....Member.

(4) The authority notified under sub-rule (1) shall refer every case to the Assessment Board for assessment of applicant's high support requirement.

(5) The Assessment Board shall invite the applicant of high support requirements for assessment and may, if necessary, seek clinical assessment.

(6) The Assessment Board shall assess the applicant on the basis of the six parameters (a) to (f) and assign scores on the basis of the 100 point graded weightage indicated below:-  
Parameters Weightage

(a) Severity of physical disability (Max. weightage – 25) (a) 40% - 59%

(b) 60% - 79%

(c) 80% - 100% 15 20 25 (b) Severity of mental/developmental disability (which restricts the person to take any informed decision) (Max. weightage – 25) (a) 40% - 59% (b) 60% - 79% (c) 80% - 100% 15 20 25 (

c) The extent to which daily activities in a person is hampered (Max. weightage – 35)

(i) Bathing, Brushing, combing, Dressing

(ii) Toilet hygiene (getting to the toilet, cleaning oneself, getting backup etc)

(iii) Functional mobility (ability to work, get in and out of bed, get in and out of a chair, moving from one place to other while performing activities)

(iv) Self-feeding (not including cooking) 10 10 10 5

(d) Cognitive Abilities like ability to take safety measures to use transport, logistics, gadgets, not to get lost (Max. weightage – 5) – 5

(e) Environmental Barriers like access to health care or support systems for rehabilitation or health needs (Max. weightage – 5) – 5

(f) Socio-economic status (Max. weightage – 5)

APL BPL 0 5 Total 100 (7)

Any person with benchmark disability with a score 60 out of 100 point mentioned in sub-rule (6) may be recommended by the Assessment Board for high support needs. 1Hkkx llμ[k.M 3(i)º Hkkjr dk jkti=k % vlk/kj.k 5

(8) The Assessment Board shall submit its recommendations to the authority notified under sub-rule (1) within a period of 90 days from the date of receiving request for assessment from the said authority.

(9) The State Government or Union Territory Administrations may develop dedicated schemes to provide high support to such persons with benchmark disabilities.

(10) The authority notified under sub-rule (1) shall consider the application for high support requirement on the basis of the recommendations of the Assessment Board keeping in view the schemes or programmes of

the respective State Governments or Union Territory Administrations, as the case may be.” [

## Annexure z

On September 15, 2010, the United States Department of Justice (DOJ) published revised Americans with Disabilities Act (ADA) regulations in the Federal Register that update and amend some of the provisions in the original 1991 ADA regulations.

These changes include revised accessibility standards, called the 2010 Standards for Accessible Design (2010 Standards), which establish minimum criteria for accessibility in design and construction. This tipsheet highlights some of the revisions that have a specific effect on cultural venues, such as theatres or museums. It is not intended to be comprehensive.

To view the revised regulations in their entirety with guidance, please see these two definitive resources:

- U.S. Department of Justice at [www.ada.gov/regs2010/ADAregs2010.htm](http://www.ada.gov/regs2010/ADAregs2010.htm)
  - U.S. Access Board at [www.access-board.gov/ada-aba/ada-standards-doj.cfm](http://www.access-board.gov/ada-aba/ada-standards-doj.cfm)
- The material contained herein was drawn from or excerpted from both of these resources.

### WHO IS IMPACTED BY THE NEW REGULATIONS?

The revised regulations apply to the following entities, which have until March 15, 2011, to comply:

- State and Local Governments (ADA Title II, 28 CFR, Part 35)

This includes any non-federal department, agency, district, or instrumentality of a State or local government.

For example: State arts commissions and councils, city-owned or -operated cultural centers, recreational venues and parks, libraries, state colleges, and universities. •

Places of Public Accommodation (ADA Title III, 28 CFR, Part 36)

This includes any facility operated by a private, non-governmental entity and open to the public. For example: Theaters, museums, concert halls, arts and performing arts centers, stadiums, private colleges and universities, lecture halls, galleries, parks, zoos, other places of exhibition or entertainment, and asse F. No. 16-16/2017-DD-III] DOLLY CHAKRABAR

At least two areas in the revised regulations merit attention from cultural arts administrators: 1) Policies, Procedures, and Practices i) Service animals ii) Mobility devices iii) Ticketing 2) Physical Access and Barrier Removal i) 2010 Standards ii) Safe Harbor iii) Reduction of Elements

A “service animal” is now defined as any dog\* individually trained to do work or perform tasks benefitting an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. \* There is a limited exception for miniature horses.

The definition of mobility devices has expanded to include not only traditional devices, such as wheelchairs and scooters, but any power-driven mobility devices used by a person with a mobility disability including, but not limited to, Segways.



All such devices must be permitted in any area that pedestrians use unless it would result in a fundamental alteration, is a direct threat, or creates a safety hazard.

## **TICKETING**

The revised regulations include a new eight-part section devoted exclusively to the regulation of ticketing for wheelchair spaces and companion seats. The highlights of the new ticketing regulations include, but are not limited to, the following requirements:

- 1) Tickets for accessible seating must be available for purchase during the same times and in the same ways as the purchase of other tickets;
- 2) Accessible seating must be identified to the same level of specificity as other seats on maps, seating charts, and brochures, and, if asked, the location of all available accessible seating must be identified;
- 3) Tickets for accessible seating must be available at all price levels;
- 4) A wheelchair user may purchase up to three companion seats that are contiguous and in the same row so long as such seats are available and all patrons may purchase that number of seats;
- 5) Accessible seating may only be released when all other tickets are sold out or all other tickets in a specific price range or area are sold out;
- 6) Individuals with disabilities must be able to transfer their tickets to others under the same terms and conditions as other ticket holders;

7) Venues must honor tickets for non-accessible locations purchased on the secondary market (i.e. tickets that are re-sold by the original purchaser) by a wheelchair user so long as comparable accessible seats are available at the time the ticket is presented; 8) Venues may not ask for proof of disability or ask what the individual's specific disability is, but may ask if the individual is purchasing tickets for someone with a mobility disability. The venue may investigate if it has reason to believe fraud has been committed.

### **Standards Specific to Assembly Areas**

Assembly areas include spaces such as classrooms, lecture halls, meeting rooms, movie theaters, auditoriums, theaters, concert halls, performing arts centers, amphitheaters, arenas, and stadiums. Most of these changes can be found in sections 221 and 802 of the 2010 Standards. The following are some of the relevant standards for arts and cultural organizations:

**Dimensions:** A single wheelchair space must be 36 inches wide, while two wheelchair spaces adjacent to one another need only be 33 inches wide each.

**Path of Travel:** Wheelchair spaces must be on an accessible route but may not overlap another wheelchair space or the circulation path.

- Note: This means that access to a wheelchair space cannot be through another wheelchair space, nor can the wheelchair space stick out into the aisle.

2010 Revised Regulations Page: 4

**Dispersion of Wheelchair Spaces:**

- Wheelchair spaces must be dispersed vertically, horizontally, to all levels, and around the performance area, if seating encircles the stage.
- Wheelchair spaces must provide spectators with choices of seating locations and viewing angles that are substantially equivalent to, or better than,

seating for other spectators. • In stadium-style movie theaters, wheelchair spaces must be located within the rear 60% of the seats in the auditorium. • Wheelchair spaces generally should not be on temporary or movable platforms. Box Seats: Wheelchair spaces must be provided and located in not fewer than 20% of all boxes. Lawn seating: There must be a wheelchair-accessible path of travel to lawn seating and any exterior overflow seating. Companion Seats: At least one companion seat (fixed or movable, adjacent, and on the same level) must be provided for each wheelchair space, and be equivalent in size, quality, and comfort to other seats in the area. Designated Aisle Seats: Designated aisle seats are those seats with folding or retractable armrests. Five percent of all aisle seats must be a designated aisle seat, identified as a designated aisle seat, and located close to accessible routes. Number of Wheelchair Spaces Required: Use the following table to calculate how many wheelchair spaces must be provided: 2010 ADA Standards Number of Wheelchair Spaces in Assembly Areas Capacity of Seating (i.e. # of Seats) Minimum # of Required Wheelchair Spaces 4 to 25 1 26 to 50 2 51 to 150 4 151 to 300 5 301 to 500 6 501 to 5000 6, plus 1 for each 150, or fraction thereof, between 501 through 5000 5001 and over 36, plus 1 for each 200, or fraction thereof, over 5000.