

# Study on the Rights and Protection of the Persons with Disabilities Act 2013

Adaptation, Application and Recommendation





**“Study on the Rights and Protection of the Persons with Disabilities Act 2013”  
Adaptation, Application and Recommendation**

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**And**

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**Executive Summary**



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Marking the significance of disability issues, United Nations implemented an international Convention on Rights of Persons with Disabilities in 2006. Bangladesh became a ratifying state in 2007. Following its own national provisions, Bangladesh incorporated the international convention by legislating the Rights and Protection of Persons with Disabilities Act 2013. A Schedule was enclosed with this Act. This Act repeals the prior Disability Welfare Act 2001 in Bangladesh. Subsequently, the Government of Bangladesh formulated the Rights and Protection of Persons with Disabilities Rules in 2015 for further clarification of the 2013 Act.

This report has been prepared based on the major findings from the research in collaboration between Centre for Peace and Justice, BRAC University and BRAC Advocacy for Social Change. In preparation of this report, initial desk research and a Focus Group Discussion (FGD) has been conducted. The FGD included individuals with personal experience being related to persons with disabilities as well as representatives from various stakeholder non-government organizations, such as, HelpAge International, Centre for the Rehabilitation of the Paralyzed (CRP), Society for the Welfare of the Intellectually Disabled (SWID) and Turning Point Foundation, Society of the Deaf & Sign Language Users (SDSL), BRAC Advocacy for Social Change, School of Public Health at BRAC University and Centre for Peace and Justice at BRAC University. Expert opinion has also been sought from Barrister Manzoor Hasan OBE, Executive Director of Centre for Peace and Justice, BRAC University and Dr Caroline Brassard of Lee Kuan Yew School of Public Policy at National University of Singapore.

Recommendations have been provided at the end of this paper for policy advocacy by BRAC Advocacy for Social Change at the national level.

### **Acronyms and Abbreviations**

BRAC	Building Resources across Communities
BRAC ASC	BRAC Advocacy for Social Change
BUET	Bangladesh University of Engineering and Technology
CPJ	Centre for Peace and Justice, BRAC University
FGD	Focused Group Discussion
Government of Bangladesh	Government of the People's Republic of Bangladesh
PCA	Parliamentary Commissioner for Administration
PWD	Persons with Disabilities
RAJUK	Rajdhani Unnayan Karttripakkha
RPPDA	Rights and Protection of Persons with Disabilities Act 2013
Rules 2015	Rights and Protection of Persons with Disabilities Rules 2015
Schedule 2013	Schedule to the Rights and Protection of Persons with Disabilities Act 2013
Schedule 2015	Schedule to the Rights and Protection of Persons with Disabilities Rules 2015
The Constitution	Constitution of the People's Republic of Bangladesh
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

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## 1 Introduction

### 1.1 Background

Disability is a growing concern not only nationally but also internationally. United Nations (UN) has established the rights and protection of Persons with Disabilities (henceforth, PWD) through United Nations Convention on the Rights of Persons with Disabilities (hereafter, UNCRPD) adopted on 13 December 2006 and entered into force on 3 May 2008. When it was made available for ratification in 2007, the then Government of Bangladesh ratified it and simultaneously agreed to implement state measures in compliance with the provisions of the convention.

Bangladesh, within about half a century of its birth, has been experiencing rapid socio-economic growth. Throughout its process of progression, this country has never stopped moving forward despite experiencing ebb and flow. The Government of Bangladesh, as part of its inclusivity initiative, has enacted the Rights and Protection of Persons with Disabilities Act 2013 (hereby, RPPDA) as a logical follow up of ratifying the Convention. The RPPDA has repealed the Disability Welfare Act 2001 through its Section 44(1). Within two years, the Government of Bangladesh formulated the Rights and Protection of Persons with Disabilities Rules 2015 and published through an official gazette notification. This initiative demonstrates the promptness of the Government of Bangladesh in dealing with this issue.

In Bangladesh, the Constitution is the Supreme Law of the Republic. Article 7 of the Constitution ensures its supreme power and warrants that every law of this country has to be enacted in compliance with the Constitution. Whereas the preamble of the Constitution ensures that rule of law, fundamental human rights and freedom, equality and justice, political, economic and social rights shall be secured for all citizens, Article 15(d) of the Constitution specifically mentions the right to social security, that is to say, to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases. Article 19, 27, 28 and 29 reiterates similar issues. Although the fundamental principles of the constitution are not legally enforceable, they provide the guidance for the governance of the country and dictate the relationship between the state and the citizens. This paper examined whether the rights enshrined in the Constitution for the PWD has been secured by this 2013 Act or not. This paper also examines how far the aim of ratifying UNCRPD has been achieved by the RPPDA and enclosed Schedule to the Act by taking into account the Rules published by the Ministry of Social Welfare in Bangladesh on 24 November 2015.

The RPPDA includes forty four sections and is structured in the following manner:

Section 2	Definition of Upazilla committee, Inclusive education, Committee, National executive committee, National Co-ordination Committee, Zilla Committee, Schedule, disability, PWD, organization of PWD, accessibility, reasonable accommodation, access to justice, sign language, discrimination etc.
Sections 3 to 15	Explains different types of disabilities
Section 16	Enlists the rights available for PWD
Sections 17 to 31	Indicates as to how different committee are going to be formed, their functions, their roles and responsibilities, eligibility requirement applicable to the persons who are going to be selected as a member of these committees, the responsibility of public and private organizations and how these committees play a role in registering the deserving candidates as PWD so that these persons can eventually enjoy their rights after being successfully registered
Section 32	Accessibility in public transport
Section 33	Discrimination and protection against discrimination in educational institution
Section 34	Accessibility of PWD in public infrastructures
Section 35	Employability issues
Section 36	Elimination of discrimination and damages
Sections 37 to 40	Criminal process
Section 41 to 44	Other general provisions regarding rule making powers, translation of the Act, repeal etc.

The 2015 Rules give clarification as to the roles of the committees at different levels, registration process of the PWD and how the District Committee will deal with complaints of discrimination and these respective committees will also decide the quantum and standard of compensation.

An assessment and review is required to be undertaken of the rights, capacity building and compliance procedure along with gap analysis of the national laws in light of UNCRPD provisions. BRAC Advocacy for Social Change (ASC) Programme is focusing on policy reform to ensure greater inclusivity and implementation of existing laws in Bangladesh. ASC is working in collaboration with CPJ to identify policy gaps regarding the rights and protection of PWD. Based on the identified gaps, ASC will advocate with the relevant stakeholders to ensure the rights of PWD to realize their full potential.

#### Scope of the study

As part of One BRAC strategic policy priority, ASC has partnered with the Centre for Peace and Justice (CPJ), BRAC University to conduct a review. In this context, CPJ has undertaken a review of the 'Rights

and Protection of the Persons with Disabilities Act 2013', within some agreed parameters by using a systemic approach to identify the key policy gaps and recommendations for future policy changes.

## 1.2 Aim(s) and objective(s)

The aim of this research paper is to identify the major policy gaps and required changes in the law for effective implementation in mainly the following two areas of 'rights' which evolve around other basic rights:

1. Accessibility, which is mentioned in Article 9 of UNCRPD, and Sections 16, 32 and 34 of the RPPDA; and
2. Access to justice, which is related to Article 12 and 13 of UNCRPD and Section 16 of the RPPDA.

The specific objectives include:

1. Review of the provisions relating to the rights of accessibility and access to justice in both the international convention and national laws including:
  - i. International Convention:
    - a. United Nation Convention on Rights of Persons with Disabilities 2006
  - ii. National laws in Bangladesh
    - a. Rights and Protection of Persons with Disabilities Act 2013
    - b. Schedule to the Rights and Protection of Persons with Disabilities Act 2013
    - c. Rights and Protection of Persons with Disabilities Rules 2015
    - d. Schedule to the Rights and Protection of Persons with Disabilities Rules 2015
    - e. Code of Criminal Procedure 1898
    - f. Penal Code 1860
2. Identify the major policy gaps between the international and national provisions regarding right of accessibility and access to justice;
3. Identify the key gaps between national and implementation; and
4. Provide recommendations to fill the gaps.

## 1.1 Methodology

The methodology for this research was developed initially through different collaborative meetings between BRAC ASC and CPJ, BRAC University. As agreed, the framework includes the following:

1. Initial desk research on the UNCRPD, secondary literature review and national laws;
2. Focus Group Discussion (FGD) with some of the key stakeholders dealing with PWD;

3. Lead researcher attended two other workshops organized by School of Public Health BRAC and Bangladesh Visually Impaired People's Society;
4. Identification of the major gaps both in policy and practice;
5. ASC and CPJ team members exchange views;
6. Further desk research to produce a report and presentation referenced following OSCOLA Reference Guide;
7. Presentation of the findings at the national level with relevant stakeholders; and
8. Preparation of the final report.

## **Details of Focus Group Discussion**

### **1.1.1 Key Stakeholders who participated in the FGD:**

The FGD included participants from diverse background working with or for PWD for several years both organizationally and individually. Below is the alphabetical list of some major stakeholder organizations; representatives from these organizations participated in the discussion:

1. BRAC Advocacy for Social Change
2. Centre for Peace and Justice- BRAC University
3. School of Public Health- BRAC University
4. HelpAge International
5. Centre for the Rehabilitation of the Paralyzed (CRP)
6. Society for the Welfare of the Intellectually Disabled (SWID )
7. Turning Point Foundation, Society of the Deaf & Sign Language Users (SDSL)

### **1.1.1 Aim of the FGD**

The FGD was held with the aim of identifying the major gaps between the UNCRPD and subsequent laws passed in Bangladesh in light of experience and expertise of the participants.

### **1.1.1 Recommendation(s) from the FGD**

- 2 There should be probation officers in each and every police station who will be trained to cater to the special needs of a PWD, be he/she a victim or accused.

- 3 There should be a separate set of guideline apart from the Criminal Procedure Code for dealing with custodial issue of PWDs.
- 4 Victim or accused should have the right to a litigation friend to voice her input in trial proceedings. Example: A mentally impaired person may elect her mother to testify on an alleged crime of rape.
- 5 Employment should not be based on a blanket generalization of disability, if disability does not affect the particular line of work then that person has the right to seek employment as every other citizen.

### 1.1 Issue(s)

The initiative undertaken by the Government of Bangladesh to ensure the rights and protection of PWD through implementation of law and rules is commendable. Section 16 of the RPPDA provides an exhaustive list of rights that a PWD can enjoy, the list ranges from right to live and develop on full swing to accessibility, employability in regard of their personal capacity, right to education to right to health services and so on. Section 32 and 34 of the Act also specifies that PWD should have access to public transport and public infrastructure to the extent it is applicable and reasonable. As mentioned earlier, this piece of work, will focus on only two areas of these rights:

1. Accessibility including universal design, personal mobility, training of people dealing with PWD, education, work and employment and finally the administrative procedure; and
2. Access to justice including equal recognition before law, administrative interference with right to access to justice and eventually legal procedure that PWD need to exhaust.

Based on these discussions, the major recommendations provided at the end of this paper address the following issues:

1. 'Universal design' to ensure accessibility of PWD;
2. Fixing a time-frame under the current law;
3. Training of personnel dealing with PWD at all levels of governance;
4. Accountability of the committees working at different levels;
5. Access to 'education and employment';
6. The overlapping of executive and judicial power by the executive committees in investigating process and awarding compensation to PWD; and
7. Appropriateness of the criminal justice system to deal with PWD.

### 1.1 Key Stakeholders who can work on the recommendations

1. Public bodies who are responsible on behalf of the Government of Bangladesh for implementation of international and national provisions, e.g.
  - i. Ministry of Social Welfare, Ministry of Health and Family Welfare and other concerned ministries and their respective sub-parts,



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- ii. National Disability Foundation under Department of Social Services.
2. Development Partners, e.g. respective UN organizations
3. Private bodies representing civil society:
  - i. Non-government organizations working with PWD and in some instances led by PWD

## 2. Accessibility

Article 9 of the UNCRPD emphasizes on accessibility in ensuring the rights of PWD. While prioritizing this right, the UNCRPD also highlights the need for a 'Universal Design' for all alongside right of personal mobility of the PWD. It is commendable that the Government of Bangladesh has incorporated this right in its laws addressing rights of the PWD. However, the RPPDA lacks procedures on how various rights mentioned in Sections 16, 32, 34 and other provisions can be made accessible to PWD.

While defining accessibility in Article 9, the UNCRPD emphasizes on ability to live independently and participate fully in all aspects of life including access to physical infrastructure open for all irrespective of their urban or rural belonging. This Article primarily requires identification and elimination of obstacles and barriers to accessibility. Subsequently, the measures adopted by the state can be made applicable to all physical infrastructure of both indoor and outdoor facilities including schools, housing, medical facilities and workplaces as well as information, communications and other services including electronic services and emergency services.

It is notable that the Government of Bangladesh has initiated the registration of PWD under the RPPDA. The supplementary rules published in 2015 provides further clarification as to the registration process. The registration process, if carried out effectively, can provide a clearer scenario along with statistics which will eventually make the adaptation of relevant measures under the Act smooth. However, given the fact that disability, as recognized in this law, is a multifaceted disorder and hence an exhaustive list of type of disability and PWD has limited scope. For example, in 2014 European Union Court of Justice at Luxembourg established a precedent that obesity can, in severe cases, constitute disability<sup>1</sup>. Also, restricted movement due to age is not covered within the ambit of the Act. Registration itself does not suffice; rather recognition of type of disability is also important. The RPPDA leaves the door open for anyone to establish themselves as PWD even if their type of disability is not included in the exhaustive list under the Act. The process as to how a particular disease can be recognized as a disability is not clearly mention in the RPPDA.

Moreover, the UNCRPD in its Article 9 (under the heading of Accessibility) requires the obstacles and barriers to be enlisted so that the implementation mechanism can be mapped accordingly and the government still lacks such initiative. The adaptation of the UNCRPD is not limited to enacting a national law, rather it is an evolving concept which needs to be developed and promulgated through the

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<sup>1</sup> Owen Bowcott, 'Obesity can be a disability, EU court rules' (2014) the Guardian

<<https://amp.theguardian.com/society/2014/dec/18/obesity-can-be-disability-eu-court-rules>> accessed on 7 May 2018

implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.

## 2.1 Universal Design

According to Article 4(1) of the UNCRPD every signatory state provides an undertaking to ensure and promote full realization of all human rights and fundamental freedoms for all PWD without discrimination of any kind on the basis of disability. The same article also includes promotion of research and development of universally designed goods, services, equipment and facilities. Nevertheless, the UNCRPD in the same Article (Article 4(1) (f)) refers to requiring minimum possible adaptation and the least cost to meet the specific needs of a PWD alongside promoting their availability and use. It also calls upon state parties to use and to promote universal design in the development of standards and guidelines. The RPPDA in Bangladesh misses this scope while incorporating accessibility as a right. Whilst Section 16(1) (f) includes accessibility as one of the rights of any PWD, this section or any other section in this Act does not specify any means of adapting 'Universal Design'.

*Article 2 of the UNCRPD defines "Universal Design" as the design of products, environments, programs 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 PWD where this is needed.*

Taking this definition into account, the question that arises is whether Government of Bangladesh has designed any product, environment, programs and services which can be used by any person regardless their physical and/or mental adaptability. However, this notion is not considered in the RPPDA itself. In Clause 4 and 6 of the Schedule to the RPPDA, Bangladesh has expressed its ambition for production of such goods and rendering of such services, but did not state how it is going to do it. For example, in Clause 6(4) of the Schedule to the RPPDA, the government has envisioned production of disable friendly communication technologies which is a very technical topic and requires a standalone production facility. In the absence of any definite layout, much is left to speculation which again adds to the ambiguity of the law.

Whilst demonstrating accessibility, the UNCRPD notes in its Article 9(2) (d) that the state needs to provide in buildings and other facilities open to the public signage in braille and in easy to read and understand forms so that communication can be made accessible for PWD. Communication as defined in Article 2 of the UNCRPD 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.

As the UNCRPD emphasizes, the Government of Bangladesh should have a 'universal design' available for all in order to ensure accessibility. The question that arises now is how the Government of Bangladesh can incorporate 'universal design' in all levels for PWD. Following steps can be undertaken to create policies and institutional frameworks for adopting 'universal design' :

1. By way of creating research and production facility that will consult with relevant authorities possessing respective expertise, e.g. National Housing Authority could be consulted for updating the national building code, Rajdhani Unnayan Kortripokkho (RAJUK) can be consulted for ramps and/or footpath, Bangladesh University of Engineering and Technology (BUET) can be consulted requiring engineering assistance for hearing aid devices and others;
2. By way of providing assistive devices at minimum cost to persons who are enlisted as PWD under the RPPDA with the Ministry of Social Welfare;
3. By way of making the governing bodies responsible for their respective sectors, e.g. Rajdhani Unnayan Kortripokkho (RAJUK), City Corporation and others depending on the locality and relevant local authority;
4. Sanction for any non-compliance with the rules and regulations
5. By following the international standard for construction of public and private infrastructures and reflect this objective by updating the existing Building Code.

**Recommendation 1: Adaptation of 'Universal Design' for all, including PWD which will be supervised and monitored by respective bodies, e.g. RAJUK, City Corporation and others.**

## 2.2 Personal mobility

Article 20 of the UNCRPD entrusts the signatory state to take effective measures ensuring personal mobility with the greatest possible independence for PWD. Article 20(a) includes facilitating personal mobility of PWD in the manner and at the time of their choice and at affordable cost. In order to ensure accessibility, Article 9(2)(e) also requires the state to 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.

Given the socio-economic context of Bangladesh, i.e. its status as a developing nation, facilitating such measures may take time. Even though the RPPDA specifies in Section 32 that public transportation shall have five percent seat reserved for PWD, this provision, like the sections discussed above, vastly lacks clarification which in this case is related to accessibility.

Personal Mobility has been discussed at length in Clause 7 of the Schedule to the RPPDA. Among other things, it promises of rendering PWDs with assistive mobility devices of their choice as far as it is practicable, tax rebate on import of assistive mobility devices, training staffs on the mobility needs of PWDs. However, this section too does not bridge the gap well. Clause 7(d) to the Schedule states that there is to be seat allocation in all modes of transport and there is to be fare concession. In our initial observation of the Act we found out that the 5% allocation was not enough given our status quo as a populous country. The Schedule does not clarify if that allocation is to increase and does not state exactly what percentage of the actual fare is to be paid by a PWD.

Section 34 in the RPPDA also incorporates accessibility into public infrastructure as far as possible and as soon as possible which is also relevant to personal mobility of a PWD. However, the Act does not clarify the timeline as well as the standard form as to how to make it accessible. This linguistic vagueness leaves doors open for further measures to be adapted which are compatible with the Constitution and the UNCRPD but in practice this makes it difficult to implement such measures given the ambiguity regarding time and standard.

Article 20(b) recognizes the need of PWD and requires the ratifying state to facilitate access by PWD to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost. This clause is inter-relatable with clause (d) in the same Article which requires state to encourage entities who produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for PWD. Furthermore, Section 16 of the RPPDA in Bangladesh demonstrates that access to health services is also a right of a PWD,

however, that right is exercisable based on availability. This provision qualifies yet another right, again, leaving linguistic ambiguity as to the extent of rights a PWD can avail.

Recommendation 2: **Specifying a time limit, e.g. 5 years, through publication of a gazette by the Government of Bangladesh for public and other infrastructures to be made disable friendly to ensure 'personal mobility'**

### **2.3 Training people dealing with persons having disability**

Article 20 alongside Article 4 and 9(2) (c) of the UNCRPD marks the importance of sensitization of persons and promotion of training of personnel providing assistance and services guaranteed in the UNCRPD. Even though Clause 9 of the Schedule to the RPPDA includes that staffs in the education sector dealing with PWD should be trained, Section 26 of the RPPDA does not mention any special training or sensitization of people working in various committees. The UNCRPD and the RPPDA both emphasizes in its respective provisions on this issue that PWD are those who do not enjoy full and effective participation in society on an equal basis with others. The implementation of both UNCRPD and national provisions are necessary for a better inclusion of these people in the society. It is imperative that efficient and effective training of people dealing with persons having disability are addressed for establishing equal rights for such special category of people.

**Recommendation 3: Provisions to be made regarding 'Training of personnel' dealing with PWD at each and every level starting from the registration process to exercise of rights.**

**N.B. This training should not be limited to Education sector only. For example, administrators in the root level registering PWD, doctors providing medical certificate confirming a person as a PWD, law enforcement agencies should have a representative (or, a litigation friend) trained in sign language or Braille.**

## 2.4 Administrative Procedure

The UNCRPD also gives a direction in Article 33 and its subsequent articles as to implementing and monitoring measures prevailing rights and protection of PWD at national level. Nevertheless, the UNCRPD allows the states to design the implementation mechanism in accordance with their national system of organization whereby they shall designate focal points consisting one or more within the government itself and due consideration should also be given to the establishment of a coordination mechanism within the country. The same Article also emphasizes on principles relating to the status and functioning of national institutions for protection and promotion of human rights whilst promoting, protecting and monitoring implementation of the present Convention. The UNCRPD also requires state to maintain, strengthen, designate or establish within its own territory, a framework, including one or more independent mechanisms in accordance with their legal and administrative systems.

As per the RPPDA, 5 layers of committee namely National Coordination Committee, National Executive Committee, District Committee, Sub-district Committee and City Committee are to be established to oversee implementation of this Act. It is commendable that the Government recognizes the implementation mechanism from the root level to the national level. The government has successfully incorporated establishment of National Coordination Committee under Section 17 of the RPPDA and this Committee is to be chaired by the Minister of Ministry of Social Welfare and consisting 28 members out of which 21 members directly being Executive members of the Government, e.g. Secretaries of different Secretariats. According to the same Section, only 7 people (4 women and 3 men) are allowed in this Committee from the civil society, i.e. non-government organizations, organizations of PWD or any other self-dependent organization which has to be selected by the Government. Thus, civil society has only 25% representation in this Committee whereas the UNCRPD specifically emphasizes in its Article 33(3) that civil society, in particular PWD and their representative organizations, shall be involved and participate fully in the monitoring process.

The state is required, under Article 33 of the UNCRPD, to consider principles relating to the status and functioning of national institutions for protection and promotion of human rights whilst designating or establishing its own implementing authority. The crucial question here is that how far the National Coordination Committee, National Executive Committee and other committees are equipped to carry out the same.

Article 34 and other subsequent Articles require a Committee to be formed internationally and provides a mapping as to how to keep check and balance between the Committee and the state parties who become the ratifying signatory acknowledging and incorporating this UNCRPD into their own state

mechanisms. Even though an international mechanism is provided to monitor the implementation of this UNCRPD, no such mechanism is directed at countries. Rather the states are given the freeway to adapt such monitoring tools following their own national system. In such instance, Government of Bangladesh has missed this part entirely in the RPPDA. There is no clause that expressly says which committee is answerable to which. Since accountability is a succinct feature, it must be expressive not implied. The National Coordination Committee, National Executive Committee and other sub-committees formed under the RPPDA undeniably play the major role in implementing the rights and protection of PWD.

However, the accountability of such committee is questionable as no such provision is mentioned in this RPPDA. Even though the RPPDA recognizes discrimination against PWD as a crime which can be dealt under Criminal Procedure Code of Bangladesh (CrPC). The CrPC does not itself provide any clear definition and provision for such a crime. There should be a Terms of Reference for the committees, which should incorporate provisions on effectiveness, accountability and transparency of the said committees. In that way the committees will also have legitimacy in the eyes of the aggrieved since the committee too has to answer to a higher authority.

Rather a Parliamentary Commissioner for Administration (PCA) or an Ombudsman process can be established. The PCA will be an independent body and aggrieved PWD can complain to the PCA against any hurdles they face in exercising their legal rights, be it administrative or any other hurdles. Even though, it has appeared in Paragraph 15 of the draft Progress Report, prepared by Government of Bangladesh and submitted to the Office on the High Commissioner on Human Rights (OHCHR) in April 2017, that a Disability Rights Commission has been formed separate from the National Human Rights Commission in Bangladesh. This Disability Rights Commission is responsible for ensuring rights and privileges of PWD on an equal footing with others. The Commission can also be given the distinct responsibility of a watch-dog, to ensure proper implementation of the national legal provisions as well as the complaint body where aggrieved PWD can submit their appeals to earlier decisions taken by the Committees. Thus, this Disability Rights Commission will work more like an Ombudsman and will oversee that Committees including the National Co-ordination Committee is answerable to it for its actions.

The National Coordination Committee, being the most superior committee in the level of hierarchy of committees, can also play a role in monitoring and supervising other subordinate committees established under the RPPDA and will function in accordance with a Terms of Reference which will include its accountability and transparency. The Disability Rights Commission will be the higher authority

according to hierarchy, deal with unresolved appeals from the Committees. In that way the complaints and grievance procedure will become more accessible and compensation will become more attainable.

**Recommendation 4: To ensure accountability of the committees, Disability Rights Commission will oversee the function of the various different committees and deal with appeals from such committees, its role will be akin to Ombudsman dealing with complaints (including those against the public bodies who deal with PWD).**

## 2.5 Education

Right to education is one of the basic necessities as recognized under Article 15 of the Constitution of Bangladesh which is reiterated in the RPPDA highlighting rights of PWD. The Constitution of Bangladesh vests a responsibility on the state to secure to its citizens the provision of the basic necessities of life including food, clothing, shelter, education and medical care so that productivity and improvement in the material and cultural standard of living of the people can be attained through planned economic growth. Bangladesh has recognized the importance of education long before the UNCRPD and subsequent national legal provisions came into force.

However, following Article 24 of the UNCRPD, state has to ensure an inclusive education system at all levels and lifelong learning. Even though Section 16 of the RPPDA incorporates this right in all level of education, it leaves a remarkable gap for educational institutions by mentioning 'subject to availability'. This vague term causes uncertainty for the PWD.

The same Article of the UNCRPD also requires states to ensure reasonable accommodation towards PWD to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. This Article also emphasizes on training teachers on how to use sign language in teaching in order to overcome the linguistic barrier. With a view to establishing universal and inclusive education system for all, facilitating the learning of braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitation of peer support and mentoring is also required.

Nevertheless, whilst Section 33 of the RPPDA ensures that any educational institution cannot refuse admission of a PWD in their respective educational institution on the ground of disability, the persons with disability has to satisfy other eligibility requirements to get admitted into that respective educational institution. This undertaking has also been reflected in Clause 9 of the Schedule to the RPPDA. Nonetheless, the Schedule only deals with lowering the bar to entry into the education system not the passing grade which is crucial to their need of completing the relevant degree and subsequent career opportunities. Whereas the Constitution of Bangladesh in Article 28(4) and Article 29 (3) recognizes PWD as backward citizens, imposition of requirements of the same standard as others which hinder their development makes accessibility into education system more difficult for them.

## 2.6 Work and employment

Whilst the Constitution of Bangladesh has recognized employment as one of the rights, the RPPDA strives towards the same objective, and in this case, more specifically for the PWD. As one of the fundamental principles mentioned in Article 15 (b) of the Constitution, the state should ensure its citizens'

right to work, i.e. the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work. And the RPPDA incorporates the international provision in Section 16, whilst complying with the fundamental principle as mentioned in the Constitution, that a PWD will enjoy the right to employment both in private and public sector, with reasonable accommodation for them as extended by Clause 10(d) of the Schedule to the RPPDA. It is to be noted that these national provisions, both the Act and the Schedule, do not clarify as to how these persons will be rehabilitated and by whom. Similarly, in case of compensation, neither any quantum nor a standard is provided and the procedure to follow in order to seek such remedy is a far cry.

It is notable that the RPPDA ignores slavery or forced labour as mentioned in the UNCRPD regarding employment. Being the guiding law in Bangladesh for PWD, this Act would have been more enriched if it included all measures taken for right to protection against slavery or forced labour undertaken by this special category of people who may not have any understanding of the type of work they are doing in some cases. The RPPDA fails to follow the international standard as mentioned in Article 26 of the UNCRPD in protecting the rights of PWD, on an equal basis with others, to just and favorable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions. Hence, such supervision can be brought under the purview of labour inspectors; working places can be made subject to a yearly review and depending on the reports employers may be made subject to sanctions.

The RPPDA refers to the Criminal Procedure Code (CrPC) applicable in the legal system of Bangladesh in case of discrimination faced by anyone on the ground of disability. However, the CrPC does not include any definition and clear provision of discrimination. This law, again, entirely leaves out the right of the PWD to protection from harassment and redress of grievances in case of employment.

Furthermore, career advancement as mentioned in the UNCRPD is also not considered in the RPPDA and enclosed Schedule itself which is significantly mentioned in Article 27 of the UNCRPD.

**Recommendation 5: To ensure access to ‘education and employment’ and make reasonable accommodation in the education and employment system, reforms required in relation to:**

- i. Maintaining special provisions or exceptions, for instance assistance or extra time in competitive examinations, for the PWD, and,**
- ii. Greater flexibility for PWDs in education and employment sector, e.g. completion of studies in 12 years instead of 10 in lieu of ‘quota system’ for them to enable their**

**continuation of studies, employment opportunities and career advancement without compromising the standard and quality of both education and employment sector.**

### **3 Equality before law and Access to Justice**

The Constitution of Bangladesh as well as the UNCRPD 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. This provision, therefore, includes both these aspects, i.e. protection and benefit of the law. The RPPDA in Bangladesh emphasizes on protection and benefit of the law by imposing criminal conviction with a view to preventing discrimination based on ground of disability.

Article 5 of the UNCRPD also emphasizes that to promote equality and eliminate discrimination the state has to take all appropriate steps to ensure that reasonable accommodation is provided to PWD. Reasonable accommodation, according to the UNCRPD, means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to PWD the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. This provision can be read in line with Article 13 of the UNCRPD which emphasizes on the ways as to how to ensure access to justice effectively.

While Article 5 focuses on reasonable accommodation for PWD to promote equality, Article 13 assigns responsibilities on the state to include provision of procedural and age-appropriate accommodations to ensure the same, i.e. right of equality. Similarly, this procedural and age-appropriate accommodation should be made in all legal proceedings including investigative and other preliminary stages so that effective role of these people can be facilitated as direct and indirect participants in the legal system, e.g. as witnesses. Article 13 also emphasizes on appropriate training for those working in the field of administration of justice including police and prison staff. Otherwise it is highly unlikely that access to justice can be ensured in the absence of these above mentioned provisions.

Given the socio-cultural context in Bangladesh, people with disabilities are considered as backward citizens or those who lag behind in their lives which is why the Constitution in its Article 28(4) gives the government the power to make special provisions for this category of people. The RPPDA can be a step towards establishing the rights of PWD which is enshrined in the Constitution. It is alarming to note that in the absence of any special procedural guidance for PWDs in relation to access to justice, these people are left to the mercy of a justice system which has failed the citizens at large. It is appreciable that the RPPDA highlights the violation of rights of PWD as a matter of grave concern and that is why it has provided criminal procedure as a resort to seek justice.

Nevertheless, the RPPDA leaves ambiguity in relation to seeking justice regarding discrimination whereby it is mentioned in Section 36 that an aggrieved person can make a complaint to the District Committee seeking compensation but the Act fails to define the ambit of discrimination.

The problem with criminal procedure being imposed, under the RPPDA, as a way in seeking justice is not in its choice but in the procedure itself. From the legal perspective, in a criminal procedure, the aggrieved has a limited role to play and the state appoints prosecution on behalf of the complainant to deal with the matter. This arrangement can be considered as a great relief for a PWD however, the standard of proof required in a criminal conviction is 'beyond reasonable doubt'. If the prosecution fails to prove beyond reasonable doubt, the defendant can walk free. Therefore, separate Civil Tribunal akin to the Labour Tribunal of Bangladesh can be introduced for PWDs.

Moreover, the problem with leaving powers in the hands of District Committee, to investigate a complaint of discrimination and provide compensation, in a way gives the executive body judicial power which runs the risk of being unconstitutional as it allegedly violates Article 22 of the Constitution of People's Republic of Bangladesh which requires the state to ensure the separation of the judiciary from the executive organs of the state. Leaving the powers in the hands of the Executive Committee is also a violation of natural justice as one of the key principles of rule of natural justice is that 'no one should be a judge in his own case' (in Latin, *nemo iudex in causa sua*) but in this case the executive are being the judge of their peers.

It can be noted that Article 12 of the UNCRPD requires states to ensure all measures relating to the exercise of legal capacity to provide appropriate and effective safeguards to prevent abuse in accordance with international human rights law. These safeguards should be proportional to the degree to which such measures affect the person's rights and interests. This Article requires the states to implement measures relating to the exercise of legal capacity that respect the rights, will and preferences of the person aggrieved and are free of conflict of interest and undue influence. The safeguards shall be tailored to the person's circumstances and for the shortest time possible with regular review by a competent, independent and impartial authority or judicial body. Taking this into account, the procedure applicable in Bangladesh is required to be tailored to the person's circumstances and which can also resolved within shortest time possible. India, being a neighboring country of Bangladesh, has an Office of the Commissioner for PWD which deals with complaints of PWD and takes necessary steps to resolve those complaints. As mentioned before, The Disability Rights Commission will deal with non-judicial complaints, and the judicial matters will be dealt by the judiciary, i.e. the 'special Civil Tribunal' as mentioned above.

**Recommendation 6: Un-bureaucratizing the 'complaints procedure' whereby the judicial power should belong to the judiciary instead of the executive committees. Disability Rights Commission or an Ombudsman, as mentioned in fourth recommendation, can be formed to deal with the non-judicial complaints.**

**Recommendation 7: Expedite the trial procedure for PWD whereby a special Civil Tribunal' should be formed to deal with their judicial complaints.**

#### 4 Recommendations

The incorporation of international provisions into the national law, as far as possible, can be considered as a step towards achieving the goal of establishing rights of PWD in the context of Bangladesh.

The national provisions i.e. the provisions of the RPPDA can be refined through further publication of gazettes like the 2015 Rules so that the rights can be made exercisable for the PWD.

This paper currently provides eleven recommendations which it deems major from the research as well as the FGD:

1. Adaptation of 'Universal Design' for all, including PWD which will be supervised and monitored by respective bodies, e.g. RAJUK, City Corporation and others;
2. Specifying a time limit, e.g. 5 years, through publication of a gazette by the Government of Bangladesh for public and other infrastructures to be made disable friendly to ensure 'personal mobility';
3. Provisions to be made regarding 'Training of personnel' dealing with PWD at each and every level starting from the registration process to exercise of rights  
(N.B. This training is to be done at all levels not just educational levels. For example, administrators in the root level registering PWD, doctors providing medical certificate confirming a person as a PWD, law enforcement agencies should have a representative trained in sign language or Braille);
4. To ensure accountability of the committees, **Disability Rights Commission** will serve the role of an oversight body. They will deal with appeals that have already filtered by the committees. The Disability Rights Commission will be placed higher in the authority than the National Coordination Committee and can hold the National Co-ordination Committee accountable in case of maladministration or negligence in functioning its role. It will perform the roles of Ombudsman dealing with complaints (including those against the public bodies who deal with PWD);
5. To ensure access to 'education and employment' and make reasonable accommodation in the education and employment system, reforms required in relation to:
  - i. Maintaining special provisions or exceptions, for instance assistance or extra time in competitive examinations, for the PWD, and,
  - ii. Greater flexibility for PWDs in education and employment sector, e.g. completion of studies in 12 years instead of 10 in lieu of 'quota system' for them to enable their continuation of studies, employment opportunities and career advancement without compromising the standard and quality of both education and employment sector..

6. Un-bureaucratizing the 'complaints procedure' whereby the judicial power should belong to the judiciary instead of the executive committees. Disability Rights Commission or an Ombudsman, as mentioned in fourth recommendation, can be formed to deal with the non-judicial complaints or appeals from the National Co-ordination Committee and can also oversee functions of different committees formed under the Act.
7. Expedite the trial procedure for PWD whereby 'a special Civil Tribunal' should be formed to deal with judicial complaints; thus allowing a much flexible standard of proof for offenders to be held accountable
8. There should be probationary officers in each and every police station who will be trained to cater to the special needs of a PWD, be he/she a victim or accused.
9. There should be a separate set of guidelines apart from the CrPC for dealing with custodial issue of PWDs.
10. Victim or accused should have the right to a surrogate representative to voice her input in trial proceedings. Example: A mentally impaired person may elect her mother to testify on an alleged crime of rape.
11. Employment should not be based on a blanket generalization of disability, if disability does not affect the particular line of work then that person has the right to candidacy as every other person.

Thus it is important to have presence of rights as well as in practice within the overall national framework including legal, policy and institutional strategies. It is vital that PWD have the required awareness and information about the existence of their rights and current practices. Therefore, the very first step is to create awareness of their rights, disseminate information effectively and create a conducive environment for PWD within the society. The RPPDA is a big leap forward as a first step, however it is evident that more needs to be done to fulfill the ultimate objective of the Act and materialize the aspirations of creating an inclusive society as envisaged in the Declaration of Independence of Bangladesh.

**Reference(s):**

- ❖ Penal Code 1860
- ❖ Code of Criminal Procedure 1898
- ❖ Rights and Protection of Persons with Disabilities Act 2013
- ❖ Schedule to the Rights and Protection of Persons with Disabilities Act 2013
- ❖ Rights and Protection of Persons with Disabilities Rules 2015
- ❖ Schedule to the Rights and Protection of Persons with Disabilities Rules 2015
- ❖ United Nation Convention on Rights of Persons with Disabilities 2006
- ❖ Government of People's Republic of Bangladesh, Advanced Unedited Version of 'Report on the Implementation of the Convention on the Rights of Persons with Disabilities (CRPD)', April 2017
- ❖ Office of the Chief Commissioner for Persons with Disabilities, Government of India <http://www.ccdisabilities.nic.in/page.php?s=reg&t=def&p=office> accessed June 5, 2018
- ❖ George Szmukler, "UN CRPD: equal recognition before the law" (2015) 2 The Lancet Psychiatry <[https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366\(15\)00369-7/fulltext](https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(15)00369-7/fulltext)> accessed on 4 June 2018
- ❖ Smitha Nizar, 'Impact of UNCRPD on the status of persons with disabilities' (2011) 8 Indian Journal of Medical Ethics <<http://ijme.in/articles/impact-of-uncrpd-on-the-status-of-persons-with-disabilities/?galley=html>> accessed on 5 June 2018
- ❖ 'OHCHR | Convention on the Rights of Persons with Disabilities' (Ohchr.org) <<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>> accessed on 5 June 2018
- ❖ Owen Bowcott, 'Obesity can be a disability, EU court rules' (2014) the Guardian <<https://amp.theguardian.com/society/2014/dec/18/obesity-can-be-disability-eu-court-rules>> accessed on 7 May 2018
- ❖ Treaty Bodies' (Tbinternet.ohchr.org) <[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29)> accessed on 5 June 2018
- ❖ Jatiyo Trinomul Protibandhi Sangstha (NGDO), Protibondhi Narider Jatiyo Parishad (NCDW) and Bangladesh Legal Aid and Services Trust (BLAST), 'Grassroots Recommendations: Rights of Persons with Disabilities', 1 January 2017



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## **Annex A: Matrix on the Gap Analysis**

Heading	Article	Section	What Bangladesh has done?	What did the UNCRPD say?
Rights of Persons with disabilities	Preamble	Section 16 প্রতিবন্ধী ব্যক্তির অধিকার(Rights of Person with Disabilities)	<ul style="list-style-type: none"> <li>Prepared an exhaustive list for rights of disabled persons</li> </ul>	<ul style="list-style-type: none"> <li>That disability is an evolving concept</li> </ul>
Accessibility	9: Accessibility	<p>16 প্রতিবন্ধী ব্যক্তির অধিকার (Rights of Person with Disabilities)</p> <p>34 গণস্থাপনায় প্রতিবন্ধী ব্যক্তির প্রবেশগম্যতা নিশ্চিতকরণ (Assurance of accessibility of PWDS to public structure)</p> <p>Section 37: অপরাধ ও দণ্ড (Crime and Punishment)</p>	<ul style="list-style-type: none"> <li>Recognized accessibility as a right.</li> <li>Reserved a small percentage of seats in public transports for disabled persons</li> <li>called upon stakeholders to make buildings and public structures disabled friendly by following the Building code</li> </ul>	<ul style="list-style-type: none"> <li>Calls upon state parties to implement Universal design in products and structures.</li> <li>Accessibility has been broadly defined as right to live as an independent person with basic amenities such as communication etc.</li> </ul>

Rights and Universally Designed Goods	4: General Obligations	Section 16(f): প্রতিবন্ধী ব্যক্তির অধিকার (Rights of persons with disabilities)	<ul style="list-style-type: none"> <li>Guarantees accessibility but skips out on the use of Universally Designed Goods</li> </ul>	<ul style="list-style-type: none"> <li>State parties will guarantee fundamental rights of disabled persons without any discrimination.</li> <li>produce goods of universal design at the minimum affordable cost</li> </ul>
Universally Designed Goods	2: Definitions	X	<ul style="list-style-type: none"> <li>Bangladesh has not considered this under any section of the Act.</li> </ul>	<ul style="list-style-type: none"> <li>Universally designed goods are products used by everyone, disabled or not, without the need for modification.</li> <li>Assistive devices and augmentations rendering help to particular persons is</li> </ul>

				also part of this universal design.
Accessibility of PWDs in public structure through different types of language	9(2)d: Accessibility	X	<ul style="list-style-type: none"> <li>Bangladesh has not considered this in accessibility</li> </ul>	<ul style="list-style-type: none"> <li>Asked for buildings and public facilities to be made open to people in public signage and Braille</li> </ul>
Freedom of mobility of PWDs, use of augmentative devices, training of staff	20: Personal Mobility	<p>Section 32: গণপরিবহনে আসন সংরক্ষণ (Seat Reservation in public transport)</p> <p>34 গণস্থাপনায় প্রতিবন্ধী ব্যক্তির প্রবেশগম্যতা নিশ্চিতকরণ ( Assurance of accessibility of PWDS to public structure)</p>	<ul style="list-style-type: none"> <li>As per section 32, Bangladesh has reserved 5% of seats in all public transports for disabled persons.</li> <li>There is no mention of research, development and production of augmentative devices, assistive technologies etc.</li> <li>Training of persons working with persons is disabilities is also absent in the Act.</li> </ul>	<ul style="list-style-type: none"> <li>Asked state parties to take ensure personal mobility with the greatest possible independence</li> <li>In Article 20 (a) stated that disabled friendly persons are to be facilitated personal mobility at an affordable cost and a the time of their choices</li> </ul>



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			<ul style="list-style-type: none"> <li>• Section 34 of the Act tried to promote accessibility in public structures by stating a need to follow the Building code but this has no time frame.</li> <li>• Section 16 of the Act mentions health care services based on availability, this again qualifies the right and leaves an ambiguity subject to interpretation.</li> <li>• Section 26 of the Act sets an eligibility criteria for committee members akin to that of electoral candidacy, it does not include any requirements of special skills to deal with persons in disabilities</li> </ul>	<ul style="list-style-type: none"> <li>• Asked state parties to facilitate mobility aids, assistive devices and augmentative technologies</li> <li>• Asked state parties to provide training to those who work with persons with disabilities</li> <li>• Encouraged local production of assistive technologies</li> </ul>
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<p>Committee constituency</p>	<p>33: National Implementation and monitoring</p>		<ul style="list-style-type: none"> <li>• Bangladesh under section 17 of the 2013 Act and to be chaired by the Social Welfare Minister.</li> <li>• Out of which 28 members 21 members are executives or ex officio.</li> <li>• Civil Society participation is limited. Only 7 people are allowed to represent from civil society organizations such as NGO.</li> <li>• Civil society thus only has a theoretical representation in this Committee whereas the Convention specifically asks for participation of civil society</li> </ul>	<ul style="list-style-type: none"> <li>• In Article 33 the convention states how state parties will implement measures and monitor progress regarding the rights envisioned in the convention.</li> <li>• The UNCRPD allows derogation in the sense that state parties can implement mechanism according to their national law and organizational structure.</li> <li>• It also emphasizes on principles relating to the status and</li> </ul>
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			<p>members in Article 33(3) that civil society.</p> <ul style="list-style-type: none"> <li>It is to see how far the National Coordination Committee, National Executive Committee and other committees are equipped to carry out the functions they have vested to perform.</li> </ul>	<p>functioning of national institutions for protection and promotion of disability rights.</p> <ul style="list-style-type: none"> <li>Article 33 of the Convention asks to account principles relating to status and co-ordination of national bodies.</li> </ul>
Accountability of committees and their ability to award compensation for discrimination	34: Committee on the Rights of Persons with Disabilities	Section 36: বৈষম্য নিষিদ্ধকরণ ও ক্ষতিপূরণ প্রদান (Elimination of discrimination and compensation)	<ul style="list-style-type: none"> <li>An International monitoring mechanism is in place to monitor countries but nothing of that sort exists in national level.</li> <li>No monitoring mechanism or check and balance system to</li> </ul>	<ul style="list-style-type: none"> <li>A committee is required to be formed at international level to serve as a check and balance between what the committees do and what the state</li> </ul>

			<p>check accountability of various committees exist.</p> <ul style="list-style-type: none"> <li>Recognizes discrimination as crime under penal code but does nothing to ensure accountability and transparency of such committees.</li> </ul>	<p>parties stipulated in the treaty.</p>
<p>Education and eligibility of PWDs in educational institutions</p>	<p>24: Education</p>	<p>Section 16: প্রতিবন্ধী ব্যক্তির অধিকার (Rights of person with disabilities)            Section 33: শিক্ষা প্রতিস্থানে প্রতিবন্ধী ব্যক্তির ভর্তি সংক্রান্ত বৈষম্যের প্রতিকার (Redress for persons with disabilities against discrimination in admission by educational institution)</p>	<ul style="list-style-type: none"> <li>Section 16 of the 2013 Act incorporates education in all levels. However ‘subject to availability’ creates linguistic ambiguity.</li> <li>Section 33 penalizes refusal of punishment of any persons on the basis of his or her disability but that person still has to meet some requirements which is in contrast to the constitution. The Constitution</li> </ul>	<ul style="list-style-type: none"> <li>Signatory states are to ensure inclusive education for persons with disabilities such that it provides full development of human potential through their personality, talents and creativity as well as their mental and physical abilities with sense of dignity and</li> </ul>



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			<p>sees disabled persons as backward citizens and does not impose hefty requirements on them.</p>	<p>self-worth, and strengthens respect for human rights, fundamental freedoms and human diversity.</p> <ul style="list-style-type: none"><li>• The Convention also calls upon states to parties to ensure reasonable accommodation for disabled persons.</li><li>• The convention requires state parties to provide disabled persons with general tertiary education, vocational training, adult education.</li></ul>
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				<ul style="list-style-type: none"> <li>It also puts emphasis on training teachers on sign language. Also, with a view to establishing universal and inclusive education system for all, facilitating the learning of Braille, alternative language, augmentative and alternative modes, means and formats of communication etc.</li> </ul>
Work and employment of PWDs	27: Work and employment	Section 35: প্রতিবন্ধীতার কারণে কর্মে নিযুক্ত না করা, ইত্যাদি  (Unemployment due to disability)	<ul style="list-style-type: none"> <li>The Act does not take into account such standard and there is no mention of it.</li> <li>Career advancement is not dealt with by the Act though it</li> </ul>	<ul style="list-style-type: none"> <li>In protecting rights of persons with disabilities in regards to work and employment, article 26 speaks of an</li> </ul>

			<p>has been mentioned in the convention itself.</p> <ul style="list-style-type: none"> <li>The 2013 Act leaves out issues of work place harassments but criminalizes discrimination.</li> </ul>	<p>international standard.</p>
<p>Access to Justice and legal redress</p>	<p>5: Equality and Non-discrimination 12: Equal recognition before law 13: Access to Justice</p>	<p>Section 38: মামলা দায়ের, আমলযোগ্যতা ইত্যাদি (Filing of law suit, sustainability) Section 39: ফৌজদারী কার্যবিধির প্রয়োগ (Application of Code of Criminal Procedure)</p>	<ul style="list-style-type: none"> <li>The 2013 Act leaves ambiguity in relation to seeking justice as it does not define discrimination with a wide ambit and does not state which activities will be discrimination.</li> <li>It is mentioned in Section 36 that an aggrieved person can make a complaint to the District Committee seeking compensation. This gives a judicial role to executives which are in direct conflict with</li> </ul>	<ul style="list-style-type: none"> <li>Article 5 of the Convention asks the states to eliminate any kind of discrimination whilst exercising the rights of persons with disabilities and ensures equal and effective legal protection for such persons.</li> <li>According to article 13 the state has</li> </ul>

			<p>constitutional principle of separation of powers stated in Article 22 of the Constitution of Bangladesh.</p> <ul style="list-style-type: none"> <li>• The problem with Criminal procedure as way to seek legal redress has some problems. This means burden of proof is now beyond reasonable doubt for victim to get any sort of redress and the state will get involved on behalf of the victim which again lessens his/her representation in his/her own suit.</li> <li>• The Bangladesh Government has powers under Article 28 of its Constitution to make</li> </ul>	<p>responsibility to include age appropriate procedural accommodation for persons with disabilities in all legal representations.</p> <ul style="list-style-type: none"> <li>• Article 13 asks upon state parties to put proper emphasis on appropriate training for those working in the police and prison staff as facilitators of justice.</li> <li>• Article 5 of the Convention states where necessary</li> </ul>
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			special provisions for persons with disabilities but its status quo is to be seen in the light of recent developments regarding quota reform.	measures are adapted to accelerate or achieve equality of persons with disabilities that measure will not be discrimination.
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## Annex B: List of FGD Stakeholders

SN	Participant's Name	Organisation	Designation
1	Nusrat Jahan	University of Asia Pacific	Lecturer
2	Bithun Mazid	BRAC University JPG School of Public Health	Lecturer
3	Moon Moon Hossain	BRAC Advocacy for Social Change (ASC)	Partnership Analyst
4	Belayet Hossain	HelpAge International	Advocacy and Networking Manager
5	Md. Salah Uddin	Centre for the Rehabilitation of the Paralyzed (CRP)	Advocacy and Networking Manager
6	Shahariar Sadat	Centre for Peace and Justice, BRAC University	Team Leader
7	Mahdy Hassan	BRAC ASC	Policy Analyst
8	M. Badiuzzaman	CPJ	Research Assistant
9	Mahmudul Hasan	SWID Bangladesh	Representative
10	Abu Hanif Mohammad Forhad	Turning Point Foundation	Participant/ Representative
11	Limia Dewan	BRAC	Senior Programme Manager BRAC
12	Progga Zaman	CPJ	Lead Researcher
13	Nadia Akhter	Society of the Deaf & Sign Language Users (SDSL)	Participant
14	Adib Shamsuddin	CPJ	Research Assistant
15	Nilufa Sultana Sheta	CPJ	Trainer of Paralegals