

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

to promote, protect and effectively ensure the rights and inclusion of persons with disabilities in the communities in line with the Islamic Injunctions and provisions of the Constitution of the Islamic Republic of Pakistan to advance efforts for recognition of their respect and dignity in the society;

WHEREAS it is expedient to put in place legal and institutional framework to protect the rights of persons with disabilities in general and women, children and the elderly in particular, as called for by the United Nations Convention on the Rights of Persons with Disabilities, as well as other human rights treaties and conventions to which Pakistan is a state party;

It is hereby enacted as follows:-

PART I

PRELIMINARY

1. **Short title, extent and commencement.**- (1) This Act may be called the ICT Rights of Persons with Disability Act, 20~~20~~

(2) It shall extend to the whole of the Islamabad Capital Territory (ICT).

(3) It shall come into force at once.

2. **Definitions.**- In this Act, unless there is anything repugnant in the subject or contest,-

(a) “**access**” means meaningful and effective access to various physical and intangible means made suitable to fulfill special needs of persons with disabilities;

(b) “**barriers**” means physical, social, psychological, communication, information, legal or attitudinal hurdles in the way to access to infrastructure and services meant for general public;

(c) “**Constitution**” means the Constitution of the Islamic Republic of Pakistan;

(d) “**Council**” means the Council on Rights of Persons with Disabilities constituted under this Act;

(e) “**Court**” means the Special Disability Court established under section 32;

(f) “**disability**” means a long term physical or mental condition that limits a person’s movements, senses or activities and shall include physical, mental, intellectual and developmental disorders or sensory impairments which in interaction with participate fully and effectively in day to day performance and interaction with others on an equal basis;

- (g) **“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, denial of reasonable accommodation;
- (h) **“equality before law”** includes principles of equality on equitable basis that persons with disability shall have in line with the Constitution and international covenants in which Pakistan is a party;
- (i) **“freedom of movement”** shall have the same meaning as expressed in Article 15 of the Constitution;
- (j) **“Fund”** means the fund established under section 28;
- (k) **“independent living”** means environment to live with freedom, self-control, choice and self-determination in everyday life;
- (l) **“misconduct”** shall have the same meaning as defined in the Government Servants (Efficiency and Discipline) Rules, 1973.
- (m) **“mobility”** means the possible independent for persons with disabilities with access to quality mobility aids, devices, assistive technologies and forms of assistance and intermediaries, including by making them available at affordable cost; and
- (n) **“reasonable accommodation”** means necessary and appropriate modification where needed in a particular case, to ensure that the persons with disabilities enjoy or exercise on an equal basis with others of all human rights and fundamental freedoms at home, workplace and in social life.

PART II

RIGHTS OF PERSONS WITH DISABILITIES

3. **Equality and non-discrimination of persons with disability.-** (1) The government shall ensure that every person with disability shall have a right to be respected for his individual dignity and lead a decent life with equal opportunity to participate in educational, social, economic, cultural and all other activities in the society without any discrimination.

(2) No person or institution, whether public or private, shall discriminate against persons with disabilities or violate their rights or restrict benefits in any manner.

(3) The government shall take all necessary legal and administrative steps including appropriate changes in the existing laws, to ensure that every person with disabilities enjoy a life inclusive of the right of equality guaranteed under the Constitution and that such person's disability shall not be used by any person or institution to restrain or restrict him from enjoying his rights unless there is a reasonable cause that not restricting such person may cause him harm or letting him perform something may be out of his physical or mental capacity.

(4) In view of restricted access of the persons with disabilities to means of earning their livelihood independently, the government shall take extraordinary steps to ensure their effective inclusiveness in the society through suitable education, skill development, training and placement against appropriate positions in the government departments and entities in the private sector according to the allocated quota.

(5) No person with disability shall be a subject of any research without his willingness or consent without any pressure and such research shall be through using accessible modes, means and formats of communication.

4. Equality before law.- (1) The government shall ensure that the persons with disabilities are treated equally like persons without such disabilities and that they are not discriminated in exercise of their rights.

(2) It shall be ensured that such persons have legal capacity to enjoy their rights and if they need support to exercise legal capacity such support is provided to them free of cost.

5. Right to privacy. - (1) Every person with disabilities shall have right to privacy as available to all citizens regardless of his living in a private home, rehabilitation centre, hostel or any private or public accommodation.

(2) No person with disabilities regardless of place of residence or living arrangements shall be subjected to arbitrary or unlawful interference with his privacy of person, family, home and communication or correspondence. Such persons shall have the right to the protection of the law against any illegal interference and attack against their person, family, property and reputation.

6. Women, children, elderly people and transgender with disabilities. (1) In view of the extraordinary vulnerability of women, children, senior citizens and transgender with disabilities, the government shall in prescribed manner take special measures to ensure that such women, children, senior citizens and transgenders with disabilities are given full protection under law in enjoying their rights.

(2) The government as well as the private sector shall in the prescribed manners take necessary measures to ensure development, advancement and empowerment of women, children, senior citizens and transgender with disabilities.

7. Ease of access and mobility.- (1) The government as well as the private sector shall take necessary measures towards allowing ease of access to the persons with disabilities to public buildings, hospitals, recreational facilities, public transport, streets and roads for which the old buildings and vehicles shall be appropriately modified and new buildings and vehicles shall be built conforming to appropriate standards in conformity with guidelines developed by the Council:

Provided that the government shall ensure accessible washrooms, toilets and bathrooms with all the facilities and necessary accessories.

(2) The Council shall develop a guideline on removing barriers and obstacles to access in buildings, roads, mode of transportation, housing, hospitals, schools, workplaces, communication and information related services, recreational spaces, parks and also public

washrooms and get those implemented by the concerned authorities and persons both in public and private sectors.

(3) The Council shall develop a set of minimum standards and scope of access and related signage that each department, authority, entity and major enterprise shall put in place to ensure necessary access of persons with disabilities.

(4) The government shall implement policies and programs to promote the personal mobility of persons with disabilities at affordable cost or free.

(5) The government shall ensure special seats in all means of transport for persons with disabilities and allot parking space exclusively for persons with disabilities at all public and private places.

(6) The Council shall develop and enforce guidelines allowing persons with disabilities to have full and appropriate access to all forms of mass communication including information technology to enjoy freedom of speech and freedom of information. A national relay system may be established to standardize mechanism understandable consistently across the country.

8. Protection from abusive, violent and intolerant discriminatory behavior.- (1) The government shall take all possible steps to protect persons with disabilities from all forms of abuse, violence and exploitation at the hands of any person, institution or authority.

(2) Whenever an act of abuse, violence and intolerant discriminatory behavior is committed against any person with disability and the information of such act is communicated to the Council or any law enforcement agency, the concerned agency on receipt of such information shall immediately take necessary action to investigate and curb such act and to take appropriate measures under law to lodge the victim of abuse, violence or intolerance, to a safe place for protected housing. No cost shall be recovered from such victim for lodging in safe place in such situation.

(3) Notwithstanding the provisions of any law for the time being in force, an act of physical violence against a person with disability causing even a minor injury shall be deemed as grievous injury and shall be treated as an act of violence under section 335 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and shall attract punishment accordingly. Other situation of aggravated abuse and violence shall also be deemed to have more gravity than in case of a person without disabilities.

(4) In case of need for legal aid such aid shall be made available to such affected person at public expense or prevent its occurrence, as the case may be, or pass such order as deemed fit for the protection of such person with disability.

9. Equity in education.- (1) The government shall take all necessary measures to ensure that persons with disabilities are afforded equal rights to access government as well as private educational institutions and shall be provided with appropriate facilities for their education without any discrimination.

(2) The government shall provide free pre-primary to higher education to persons with disabilities.

(3) The government shall take necessary measures to establish special educational institutions for persons with moderate to severe disabilities to cater to their special needs, in addition to making other institutions reasonably equipped and staffed to provide appropriate facilities for inclusive education to such persons in those general educational institutions.

(4) Persons with disabilities shall not be denied admission into any educational institution, whether state owned or private, on ground of their disabilities.

(5) It shall be illegal for an institution and its staff members to discriminate against or abuse or otherwise violate rights of a person with disability at his place of education for which both the institution and such violating person shall be punished.

(6) The government shall ensure inclusive education focusing on personality, development, creativity and strengthening of physical and mental capabilities of persons with disabilities.

(7) Reasonable and appropriate accommodation shall be provided to persons with disabilities in educational institutions including hostels, where applicable.

(8) The government shall establish adequate dedicated and general facilities for teacher training with a view to train adequate number of specially trained teachers equipped with skills to teach students with various disabilities.

(9) The government shall ensure that all persons with disabilities are given full access to all modes and means of education including but not limited to vocational training, online education distance learning and adult education.

10. **Equity in the employment.**- (1) No person, institution, organization or entity, whether public or private, shall discriminate against a person on the ground of disability in the matters of employment, promotion, career development and enjoying fruits of his employment.

(2) The employer shall ensure the provision of reasonable accommodation including necessary assistive aid and equipment which a person with disabilities would reasonably require to perform his duties.

(3) The government shall reserve an employment quota as prescribed by the Federal Government to be periodically reviewed, at various levels for persons with disabilities in government departments, institutions, entities and corporate entities owned and managed by the government and the concerned department shall implement the allocated quota.

(4) The government shall take necessary steps to encourage private enterprises to employ persons with disabilities through incentives for which the government shall prepare long term inclusion plans and allocate necessary resources.

(5) The terms and conditions of employment shall not be less favorable for persons with disabilities as compared with those offered to other persons appointed against same or similar positions.

(6) An establishment which does not employ persons with disabilities as required by sub-section (3) shall pay into the Fund each month the sum of money it would have paid as salary or wages to a person with disabilities had he been employed. In the event of non-payment or non-compliance, the matter shall be brought before an arbitration council to be established for the purpose by the Council.

11. **Equity in health and medical rehabilitation services.**-(1) The government shall ensure barrier free access to necessary public health services and infrastructure to persons with disabilities without any discrimination and without any cost to such persons.

(2) The Council shall devise plans to provide special health insurance to persons with disabilities to ensure free medical coverage to such persons.

(3) The government shall encourage private sector health services providers through appropriate incentives to provide quality services to persons with disabilities at affordable rates or free.

(4) Special health service for early identification and intervention of disabilities and medical services especially designed to prevent disability shall be implemented.

(5) The government shall initiate with the help of medical and scientific community, research to identify causes of various disabilities and make efforts to create awareness in public to adopt practices that help prevent disabilities from happening.

(6) The government shall in respect of person with disabilities undertake initiatives to promote support and implement community based rehabilitation and research initiatives at the community level.

12. **Right to live independently in community.**- (1) The persons with disabilities shall have equal right to live independently in the community. Such persons shall be provided with all necessary facilities by the government without discrimination to enable them to live independently.

(2) The government shall take necessary preventive measures to ensure that persons with disabilities are not excluded or segregated from the community on basis of their disability and that their access to communal facilities and services is restriction free.

(3) The government may also take necessary measures to enable the person with disabilities to have access to a range of in-house, residential and other community support services including personal assistance service necessary to support living and inclusion in community.

13. **Right of living.**- (1) Every person with disability shall have right to a decent place of living of his choice and no person shall discriminate against a person with disability by way of refusing to rent him or sell to a place of living because of him being a person with disability.

(2) The government shall evolve a policy towards fair and affordable housing for persons with disabilities in government owned, sponsored or assisted projects and also in the

private housing schemes. The authorities approving establishment of new housing schemes and plans shall ensure that appropriate number of affordable housing units are included in each such scheme or plan.

(3) The government may set up and maintain decent housing facilities for the persons with disabilities who do not have a place to live and need a decent temporary shelter. The Council shall with the help from the authorities of the Federal Capital, civil society organizations and society at large assist to arrange temporary shelter for such persons.

14. Right to home and family.- (1) No person with disability especially a child or adult or senior citizen shall be separated from his family on the grounds of disability unless a court of law requires him to be so separated in his best interest.

(2) Where the immediate family of person with disability is unable to cater a person with disability, especially a child with disabilities, the Court shall make effort to place such person at a setup suitable for his safe living.

(3) All persons with disabilities shall have the right to marry a person of their own choice and raise their family without any discrimination.

(4) No person with disability shall be subjected to any medical procedure leading to infertility and forced sterilization shall be a non-compoundable offence.

(5) The government shall provide free services regarding reproductive health especially to women with disabilities.

15. Freedom of expression and information.- (1) The government shall ensure that persons with disabilities have full and equitable rights regarding freedom of speech, right to expression and information and effective measures shall be taken for their such rights to be enjoyed.

(2) The Council shall take necessary measures to convey the voice of persons with disabilities and their organizations across the governments, civil society and international community.

(3) The Council shall encourage the state and private run electronic and print media to promote awareness on the rights of persons with disabilities through public service messages and programming inclusive for all types of disabilities.

(4) The government may provide advertisements to publications dedicated for persons with disabilities.

(5) The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities.

16. Right of political participation.- (1) Persons with disabilities shall have full right to participate in the political activity in the country including exercising right of vote and right to be elected to an elected body.

(2) The Election Commission of Pakistan shall ensure that each polling station is accessible to persons with disabilities and necessary arrangements are made for them to cast their

