

NATIONAL ASSEMBLY SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON HUMAN RIGHTS ON THE ICT RIGHTS OF PERSONS WITH DISABILITY BILL, 2018

I, the Chairman of Standing Committee on Human Rights have the honour to present this Report on "The ICT Rights of Persons with Disability Bill, 2018," (Government Bill) referred to the Committee on 21st December, 2018.

2. The Committee comprises of the following:-

1)	Mr. Bilawal Bhutto Zardari	Chairman
2)	Ms. Ghulam Bibi	Member
3)	Mr. Saif-ur-Rehman	Member
4)	Mr. Attaullah	Member
5)	Ms. Kishwer Zehra	Member
6)	Ms. Ghazala Saifi	Member
7)	Ms. Rukhsana Naveed	Member
8)	Ms. Zille Huma	Member
9)	Ms. Fouzia Behram	Member
10)	Ms. Tashfeen Safdar	Member
11)	Ms. Shunila Ruth	Member
12)	Agha Hassan Baloch	Member
13)	Ms. Shaista Pervaiz	Member
14)	Mr. Mohsin Dawar	Member
15)	Mr. Abdul Rehman Khan Kanju	Member
16)	Ms. Zaib Jaffar	Member
17)	Ms. Shaza Fatima Khawaja	Member
18)	Shazia Marri	Member
19)	Dr. Mahreen Razzaq Bhutto	Member
20)	Mr. James Iqbal	Member
21)	Dr. Shireen M. Mazari Minister for Human Rights	<i>Ex-Officio</i> Member

3. The Committee considered the Bill as introduced in the Assembly placed at **Annexure-A**, in its meetings held on 18th April, 2019, 20th and 29th May, 2019, 12th, 13th, 18th and 19th June, 2019, 8th August, 2019 and 20th December, 2019 and made the following amendments therein:-

(1)

Clause 2

Clause 2, shall be substituted with the following, namely:-

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

- (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.

(2) **Clause 3**

In clause 3, the marginal note shall be substituted with the following, namely:-

"Equality and non-discrimination of persons with disability"

(3) **Clause 6**

Clause 6, shall be substituted with the following, namely:-

"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."

(4)

Clause 7

In clause 7,-

- i) Sub-clause (1), shall be substituted with the following, namely:-

“(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.”

- ii) Sub-clause (2), shall be substituted with the following, namely:-

“(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.”

- iii) Sub-clause (4), shall be substituted with the following, namely:-

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

- iv) In sub-clause (5), after the word “public”, the words, “and private” shall be inserted.

(5)

Clause 8

In clause 8,-

- (i) In the marginal note, after the word “intolerant”, the word “discriminatory”, shall be inserted.
- (ii) In sub-clause (2), after the word “intolerant”, the word “discriminatory”, shall be inserted.

(6)

Clause 9

In Clause 9, sub-clause (1), after the words “to access”, the expression “Government as well as private” shall be inserted.

(7)

Clause 10

- In clause 10

- (i) In sub-clause (2), for the word “aids” the word “aid” shall be substituted.
- (ii) In sub-clause (6), the word “twice” shall be deleted

(8)

Clause 11

In Clause 11, sub-clause (3), shall be substituted with the following, namely:-

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

(9)

Clause 19

In clause 19, after sub-clause (4), the following new sub-clauses shall be added, namely:-

“(5) The government shall ensure that talent-enhancing abilities in both public and private schools including sports activities are developed.

(6) The government shall ensure that courses and activities are designed to promote arts and culture to enhance talent of persons with disabilities.

(7) The government shall take steps so that access to cultural materials, programs and activities in accessible and appropriate formats to persons with disabilities are ensured.”

(10)

Clause 21

Clause 21, shall be substituted with the following, namely:-

“21. Strengthening and reconstitution of the National Council for the Rehabilitation of Disabled Persons.- (1) The National Council for the Rehabilitation of Disabled Persons constituted under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand reconstituted as the Council on Rights of Persons with Disabilities and shall consist of:-

(a)	Minister-in-charge;	Chairperson
(b)	Secretary of the Division allocated with business of this Act;	Vice Chairperson
(c)	Two members from the Senate, one each from government and the opposition;	Members
(d)	Two members from the National Assembly, one each from government and the opposition;	Members
(e)	One representative from Ministry of Information, Broadcasting, National History and Literary Heritage not below the rank of Joint Secretary	Member
(f)	One representative from Ministry of Finance, Revenue and Economic Affairs not below the rank of Joint Secretary	Member
(g)	One representative from the Division allocated with business of education not below the level of Joint Secretary;	Member
(h)	One representative from the Division allocated with the business of poverty alleviation and social safety not below the rank of Joint Secretary;	Member
(i)	An officer not below the rank of a Joint Secretary of the Division to which business of this Act stands allocated;	Member
(j)	Chairman, Capital Development Authority (CDA)	Member

(k)	Chief Executive or Head of National Institute of Rehabilitation Medicine (NIRM)	Member
(l)	Three persons with disability	Members

- (2) Member at clause (i) of sub-clause (1) shall also act as Secretary of the Council.
- (3) The Council may co-opt any person as a member.
- (4) The government functionaries represented in the Council shall hold their memberships on ex-officio basis. The tenure of the members shall be three years.
- (5) The Council shall meet at-least quarterly and the quorum of each meeting shall be one-fourth of the total number of the composition of the Council.”

(11) **Clause 22**

In clause 22,-

- i) In sub-clause (8), after the word “year” appearing before the full stop, the expression “to present its report to the Parliament through Minister-in-charge” shall be inserted.
- ii) Sub-clause (11), shall be deleted”.

(12) **Clause 23**

In clause 23, sub-clause (5), after the words “struck off”, the word “from” shall be inserted.

(13) **Clause 26**

Clause 26, shall be substituted with the following, namely:-

“26.. **Dissolution of the Council.**- On the commencement of this Act, the council formed under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981(XLof 1981) shall stand dissolved and on such dissolution, all assets, rights, powers, authorities and privileges and property, movable and immovable, cash and bank balance, reserve funds, investments all the other interests and rights in, or arising out of, such property and all debts, liabilities and obligations of whatever kind of the dissolved council subsisting immediately before its dissolution shall stand transferred to and vest in the Council.

(14) **Clause 28**

In clause 28,-

- i) In sub-clause (1), for the word “an” the words, “non-lapsable”, shall be substituted.
- ii) In sub-clause (2) after the word, “established” the expression, “under sub-section (1)” shall be inserted.
- iii) in sub-clause (3), paragraph (a) shall be substituted with the following, namely:-

“(a) Annual allocation and grants of funds from Federal Government;”

Clause 34

After Clause 33, following new clause 34 shall be added, namely and all remaining clauses shall be renumbered accordingly:-

“34. **Power to make regulation.**- The Council may, by notification in the official Gazette, make regulations for its own efficient and professional working and for effective achievement of objectives of this act.”

4. The Committee recommends that the Bill as amended placed at **Annexure-B**, may be passed by the Assembly.

Sd/-
(TAHIR HUSSAIN)

Secretary
Islamabad, the 6th January, 2020

Sd/-
(BILAWAL BHUTTO ZARDARI)
Chairman

[AS INTRODUCED IN 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 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, 2018.
 - (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 context,-
 - (a) "access" means meaningful and effective access to various physical and intangible means made suitable to fulfill special needs of persons with disabilities;
 - (b) "barrier" means physical, social, psychological, communication, information, legal or attitudinal hurdles in the way to access to infrastructure and services meant for general public;
 - (c) "chief executive" means the chief executive of the Council appointed under this Act;
 - (d) "Constitution" means the Constitution of the Islamic Republic of Pakistan;
 - (e) "Council" means the Council on Rights of Persons with Disabilities constituted under this Act;
 - (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 various barriers hinder performance of persons suffering from such conditions to participate fully and effectively in day to day performance and interaction with others on an equal basis;

- (g) "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;
- (h) "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;
- (i) "freedom of movement" shall have the same meaning as expressed in Article 15 of the Constitution;
- (j) "independent living" means environment to live with freedom, self-control, choice and self-determination in everyday life;
- (k) "mobility" means the possible independence 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;
- (l) "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; and
- (m) "misconduct" shall have the same meaning as defined in the Government Servants (Efficiency and Discipline) Rules, 1973.

PART II

RIGHTS OF PERSONS WITH DISABILITIES

3. **Rights of persons with disabilities.** - (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 persons 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 and elderly people and transgender with disabilities.** - (1) In view of the extraordinary vulnerability of women, children and senior citizens with disabilities, the Government shall take special measures to ensure that such women, children and elderly people are given full protection under law in enjoying their rights.

(2) The Government shall also take necessary measures to ensure development, advancement and empowerment of women, children and senior citizens with disabilities.

7. **Ease of access and mobility.**- (1) The Government 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.

(2) The Council shall develop a guideline on removing barriers and obstacles to access in buildings, roads, mode of transportation, housing, hospital, schools, workplaces, communication and information related services 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.

300

(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 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 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 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 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 education 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 aids 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 twice 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.

(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 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 votes confidentially and without any difficulty. Any act by any person to cause restriction on exercise of right of vote by a person with disability shall be deemed as forceful obstruction as defined in the Elections Act, 2017 (XXXIII of 2017) and shall be prosecuted and punished accordingly.

(3) The Council shall, with the help of the Election Commission of Pakistan, educate political parties on the issues and problems of the persons with disabilities.

(4) The Election Commission of Pakistan shall be mandated to develop voter's accessibility mechanism for persons with disabilities such as brail voting paper etc.

17. **Access to justice.**- The Government shall ensure that persons with disabilities are provided with assistance, including sign language interpreters and attendants to access to the justice system.

18. **Right to own property.**- Persons with disabilities shall not be denied the right to own, sell or inherit property.

19. **Participation in sports, cultural and recreational activities.**- (1) The Government shall ensure that no person is discriminated against in participation of any sports, games, cultural and recreational activities on ground of his disability. Assistive devices, equipment and latest technology shall be made available for their inclusion in sports, cultural, recreational and leisure activities. One seat for persons with disabilities in the sports board shall be ensured and the Government shall ensure linkages of the monitoring mechanism for para olympics and special olympics sports association.

(2) Access to cultural materials, programs and activities shall be provided in accessible and appropriate formats to persons with disabilities.

(3) Barrier-free and discrimination-free access to media programs, films, theaters, parks, stadiums, play grounds, beaches and other places of leisure, recreation, sports and cultural activities shall be provided to such persons with disabilities.

(4) The Government shall facilitate participation of persons with disabilities in scouting, art classes, outdoor camps, hunting, tourism and adventure activities and shall also help to develop and utilize their artistic, creative and intellectual capabilities.

20. **Protection of persons with disabilities in risk and disaster situation.**- (1) All persons with disabilities shall be given top priority in providing suitable protection and safety in situations of risk and natural disaster and shall immediately be removed from such areas and moved to a safe place on priority.

(2). In situations of armed conflict, the police, civil armed forces and the armed forces shall take appropriate measures on priority to ensure safety, protection and removal of such persons.

(3). All authorities engaged in reconstruction activity subsequent to any situation of armed conflict, humanitarian emergencies or natural disaster shall ensure that persons with disabilities are accorded priority in reconstructing their institutions, homes and other facilities and restoring services.

(4) The Council shall keep a close coordination with the disaster management authorities for protection and removal to safety and keep record of such persons caught in such situation and ensure early rehabilitation.

- (5) Needs and concerns of persons with disabilities should be included in disaster risk reduction.

PART III

ADMINISTRATION OF RIGHTS

21. **Strengthening and reconstitution of the National Council for the Rehabilitation of Disabled Persons.-** (1) The National Council for the Rehabilitation of Disabled Persons constituted under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand reconstituted as the Council on Rights of Persons with Disabilities and shall consist of:-

- | | | |
|-----|---|--------------------|
| (a) | Minister concerned with Human Rights | Chairperson |
| (b) | Secretary concerned with Human Rights | Vice Chairperson |
| (c) | Person with disability | Deputy Chairperson |
| (d) | One representative not below the level of Joint Secretary concerned with Special Education | Members |
| (e) | Chairperson or Heads of the Provincial Councils for Rehabilitation of Disabled Persons or the relevant Body or Department or Organization | Member |
| (f) | Director General or in his absence a Joint Secretary of the Ministry concerned with Human Rights | Member |

- (2) Member at clause (f) of sub-section (1) shall also act as Secretary of the Council.

(3) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, sell and hold property, both moveable and immovable and shall by its name sue and be sued.

(4) The Government functionaries represented on the Council shall hold their memberships on ex officio basis. The private members to be appointed by the Government shall hold office for a period of one year and shall be eligible for re-appointment for one additional term of one year.

22. **Functions of the Council.-** (1) The Council shall have the responsibility to achieve and implement objectives of this Act and to assist the Government in developing legal and institutional frame work.

(2) The Council shall be the executive authority to implement this Act, to develop a legal and social environment and to help persons with disabilities to have the protection of law in enjoying their fundamental rights.

(3) The Council shall, with the help of other authorities and persons, take all possible measures to protect persons with disabilities from discrimination, exploitation, torture, inhuman or degrading treatment on the hands of any one including their families and caregivers.

(4) The Council shall coordinate implementation of the principles of relevant Conventions at provincial and lower administrative levels through providing technical assistance to various organs of the provincial legislatures and governments in developing appropriate legal and institutional frameworks in their jurisdictions and making them achieve the objective of protection and enforcement of rights.

(5) The Council shall evaluate the effectiveness of laws and policies and assess the implementation of laws and policies at the national level and recommend to the Government any changes required in the policies, laws and practices.

(6) The Council shall conduct or cause to conduct research on the status of persons with disabilities and matters related to the promotion and protection of their rights.

(7) The Council shall put into place an institutional mechanism to regularly monitor performance of various departments and organizations in the Government and issue a performance score card to each such entity and organization at least once in every three years. Similarly, the Council shall devise and maintain score cards for private entities that seek such evaluation and assessment. Such performance audits shall be conducted by third party professionals and the employees of the Council.

(8) The Council shall assess its own performance in creating legal and social environment in the country and issue an annual status report at the end of every calendar year.

(9) The Council shall be responsible to monitor the activities of private and community based organizations to ensure that required standards of service are maintained. The Council may enforce an institutional mechanism for effective, efficacious and transparent functions of such organizations and may impose restrictions on organizations not meeting the objective criteria laid down by it.

(10) The Council shall have the powers to address individual and collective complaints of violations of human rights of persons with disabilities.

(11) The Council shall have the powers to make regulations and for its own efficient and professional working and for effective achievement of objects of this Act.

23. Registration of Persons with Disabilities.- (1) Any person with disability desirous of being employed or otherwise rehabilitated may have his name registered in the register maintained by the Council or its designated office in such form and in such manner as may be prescribed by the Council;

(2) The Council shall, if it thinks necessary, cause each person with disability registered under sub-section (1) to be assessed as to the nature of his functional disability and also as to his aptitude and the nature of work he is fit to do by a medical officer authorised by it or by such assessing board as it may appoint having at least one medical officer and the medical officer or, as the case may be, the assessing board shall submit its report to the Council in such form as may be prescribed by the Council.

(3) If the person with disability is considered by the Council fit to work, he shall be informed indicating the nature of work for which he may be employed or the trade or vocation in

which he may be trained, and an endorsement to that effect shall be made against his name in the register.

(4) If the person with disability is not considered by the Council fit to work, he shall be informed accordingly for an endorsement to that effect being made against his name in the register, and the Council shall take such measures for his rehabilitation as it thinks fit.

(5) If a person is declared by the Council not to be a disabled person, his name shall be struck off the register.

24. Establishments to employ persons with disabilities.- (1) Not less than one percent of the total number of persons employed by an establishment at any time shall be persons whose names have been registered with the Council or its designated office of the area in which such establishment is located and against whose names in the register maintained under section 23 an endorsement exists to the effect that they are fit to work.

(2) The persons with disabilities employed against any post in pursuance of subsection (1) shall be entitled to the terms and conditions which are not less favourable than those of the other persons employed by the establishment against similar posts.

(3) When calculating the percentage of the posts in an establishment for the purposes of employment of persons with disabilities, the fraction of 0.5 and above shall count as a whole number.

25. Establishment to pay to the Fund.- An establishment which does not employ a person with disability as required by section 24 shall pay into the Fund each month the sum of money it would have paid as salary or wages to a disabled person had he been employed.

26. Dissolution of the Council.- On the commencement of this Act, the Council formed under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand dissolved and on such dissolution.-

(a) all assets, rights, powers, authorities and privileges and property, movable and immovable, cash and bank balance, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the Council subsisting immediately before its dissolution shall stand transferred to and vest in the Council; and

(b) all regular employees of the Council shall be given an irrevocable option to,-

(i) remain civil servant under the Civil Servants Act, 1973 (LXXI of 1973) and shall be entitled to all the privileges and facilities of the Federal Government such as pension, gratuity, housing and health; or

(ii) cease to be a civil servant for all purpose and shall be entitled to such remuneration, allowances and other terms and conditions of employment as are applicable to the employees of the Council.

27. **Governmental authorities and other persons to assist the Council.**- (1) All the functionaries of the Government shall extend full and effective cooperation to the Council in ensuring the enforcement of this Act and other laws for protecting the rights of the persons with disabilities.

(2) Any person in the Governmental position not effectively cooperating with the Council shall be deemed to have committed misconduct and shall be proceeded against accordingly.

28. **Funds for rehabilitation.**- (1) The Government may establish an endowment Fund for sustainably financing projects and activities related to ensuring effective rights protection and inclusion in society of persons with disabilities.

(2) The Fund established shall be called as ICT Disability Fund which shall be managed by the Council.

(3) The following shall be the sources of the Fund, namely:-

- (a) grants from the Federal and Provincial Governments;
- (b) grants from international organizations, governments and other such bodies;
- (c) levies and other charges that government imposes for rehabilitation;
- (d) fines and penalties under this Act;
- (e) donations and bequests by private persons; and
- (f) any other source.

(4) The Fund established under the Disabled Persons (Employment & Rehabilitation) Ordinance, 1981 shall stand transferred along with all sums and moneys to the Fund established under sub-section (2).

29. **Creating public awareness.**- (1) The Council shall take immediate, appropriate and result oriented measures to raise awareness amongst the society as whole with regards to recognition and respect for persons with disabilities and their rights.

(2) The Council shall recommend to the Federal and Provincial Governments measures to include topics on disability in educational curriculum and to create awareness among young students about persons with disabilities.

(3) The Government shall include topics on addressing problems of persons with disabilities in training programs of institutions responsible for imparting trainings to officers and officials of the government, including judges and court officials.

30. **Rehabilitation.**- (1) The Government shall take all possible measures to ensure that persons with disabilities attain maximum independence and ability to participate in activities of life including getting education, doing business, getting employed and participating in sports and cultural activities.

(2) The Government shall promote continuing skill development and training in existing advance skills and technologies to persons with disabilities for effective participation and integration in the community.

(3) The Government shall undertake initiatives to promote, support and implement community based rehabilitation and research initiatives of its own.

31. **Insurance cover.**- (1) The Council may devise and put in place comprehensive group medical and accident insurance for persons with disabilities and may also facilitate such persons in getting affordable life and other forms of insurance.

(2) The Council may pay the premium for persons with disabilities who cannot pay the premium from their own sources.

32. **Special disability courts.**- (1) For speedy justice, the Government may designate and may encourage provincial governments to designate courts to hear cases under this Act or other laws in which one or more parties are persons with disabilities.

(2) There shall be an effective institutionalized mechanism to monitor cases in courts under sub-section (1) by appropriate judicial forums as devised by the respective High Courts.

33. **Power to make rules.**- (1) The Council may, in consultation with the Government, by notification in the official Gazette, make rules to carry out purposes of this Act.

(2) The rules made under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 so far as they are not inconsistent with the provisions of this Act shall continue to be in force until altered, amended or repealed.

PART IV

MISCELLANEOUS

34. **Removal of difficulties.**- If any difficulty arises in giving effect to any of the provisions of this Act, the government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary, for the purpose of removing the difficulty.

35. **Repeal.**- The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) is to the extent of Islamabad Capital Territory, hereby repealed.

Statement of Objects and Reasons

The Constitution of Islamic Republic of Pakistan guarantees the Fundamental Rights of all citizens, including Persons with Disabilities, without discrimination. As State Party to the UN Convention on the Rights of Persons with Disabilities (UNCRPD), Pakistan is obliged to ensure and promote the full realization of rights and freedoms for persons with disabilities by taking appropriate legislative, administrative and policy measures. Keeping in view our national and international commitments, the ICT Rights of Persons with Disability Bill, 2018 has been prepared through a consultative process for protection and promotion of Rights of PWDs. The law proposes legal and institutional framework for an inclusive society where PWDs have full participation in all forms of social life, particularly in health, education and employment.

2. The Bill seeks to achieve the aforesaid objective.

Dr. Shireen M. Mazari

[AS REPORTED BY THE STANDING COMMITTEE]

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, 2019.

(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 context,-

- (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

votes confidentially and without any difficulty. Any act by any person to cause restriction on exercise of right of vote by a person with disability shall be deemed as forceful obstruction as defined in the Elections Act, 2017 (XXXIII of 2017) and shall be prosecuted and punished accordingly.

(3) The Council shall, with the help of the Election Commission of Pakistan, educate political parties on the issues and problems of the persons with disabilities.

(4) The Election Commission of Pakistan shall be mandated to develop voter's accessibility mechanism for persons with disabilities such as brail voting paper etc.

17. **Access to justice.-** The government shall ensure that persons with disabilities are provided with assistance, including sign language interpreters and attendants to access to the justice system.

18. **Right to own property.-** Persons with disabilities shall not be denied the right to own, sell or inherit property.

19. **Participation in sports, cultural and recreational activities.-** (1) The government shall ensure that no person is discriminated against in participation of any sports, games, cultural and recreational activities on ground of his disability. Assistive devices, equipment and latest technology shall be made available for their inclusion in sports, cultural, recreational and leisure activities. One seat for persons with disabilities in the sports board shall be ensured and the government shall ensure linkages of the monitoring mechanism for para olympics and special olympics sports association.

(2) Access to cultural materials, programs and activities shall be provided in accessible and appropriate formats to persons with disabilities.

(3) Barrier-free and discrimination-free access to media programs, films, theaters, parks, stadiums, play grounds, beaches and other places of leisure, recreation, sports and cultural activities shall be provided to such persons with disabilities.

(4) The government shall facilitate participation of persons with disabilities in scouting, art classes, outdoor camps, hunting, tourism and adventure activities and shall also help to develop and utilize their artistic, creative and intellectual capabilities.

(5) The government shall ensure that talent-enhancing abilities in both public and private schools including sports activities are developed.

(6) The government shall ensure that courses and activities are designed to promote arts and culture to enhance talent of persons with disabilities.

(7) The government shall take steps so that access to cultural materials, programs and activities in accessible and appropriate formats to persons with disabilities are ensured.

20. **Protection of persons with disabilities in risk and disaster situation. -** (1) All persons with disabilities shall be given top priority in providing suitable protection and safety in situations of risk and natural disaster and shall immediately be removed from such areas and moved to a safe place on priority.

(2). In situations of armed conflict, the police, civil armed forces and the armed forces shall take appropriate measures on priority to ensure safety, protection and removal of such persons.

(3). All authorities engaged in reconstruction activity subsequent to any situation of armed conflict, humanitarian emergencies or natural disaster shall ensure that persons with disabilities are accorded priority in reconstructing their institutions, homes and other facilities and restoring services.

(4). The Council shall keep a close coordination with the disaster management authorities for protection and removal to safety and keep record of such persons caught in such situation and ensure early rehabilitation.

(5). Needs and concerns of persons with disabilities should be included in disaster risk reduction.

PART III

ADMINISTRATION OF RIGHTS

21. **Strengthening and reconstitution of the National Council for the Rehabilitation of Disabled Persons.-** (1) The National Council for the Rehabilitation of Disabled Persons constituted under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand reconstituted as the Council on Rights of Persons with Disabilities and shall consist of-

(a)	Minister –in-Charge;	Chairperson
(b)	Secretary of the Division allocated with business of this Act;	Vice Chairperson
(c)	Two members from the Senate, one each from government and the opposition;	Members
(d)	Two members from the National Assembly one each from government and the opposition;	Members
(e)	One representative from Ministry of Information, Broadcasting, National History and Literary Heritage not below the rank of Joint Secretary;	Member
(f)	One representative from Ministry of Finance, Revenue and Economic Affairs not below the rank of Joint Secretary;	Member
(g)	One representative from the Division allocated with business of education not blow the level of Joint Secretary;	Member

(h)	One representative from the Division allocated with the business of poverty alleviation and social safety not below the rank of Joint Secretary;	Member
(i)	An officer not below the rank of a Joint Secretary of the Division to which business of this Act stands allocated;	Member
(j)	Chairman, Capital Development Authority (CDA);	Member
(k)	Chief Executive or Head of National Institute of Rehabilitation Medicine (NIRM)	Member
(l)	Three persons with disability	Members

(2) Member at clause (i) of sub-section (1) shall also act as Secretary of the Council.

(3) The Council may co-opt any person as a member.

(4) The government functionaries represented in the Council shall hold their memberships on ex officio basis. The tenure of the members shall be three years.

(5) The Council shall meet at-least quarterly and the quorum of each meeting shall be one-fourth of the total number of the composition of the Council.

22. **Functions of the Council.-** (1) The Council shall have the responsibility to achieve and implement objectives of this Act and to assist the government in developing legal and institutional frame work.

(2) The Council shall be the executive authority to implement this Act, to develop a legal and social environment and to help persons with disabilities to have the protection of law in enjoying their fundamental rights.

(3) The Council shall, with the help of other authorities and persons, take all possible measures to protect persons with disabilities from discrimination, exploitation, torture, inhuman or degrading treatment on the hands of any one including their families and caregivers.

(4) The Council shall coordinate implementation of the principles of relevant convention at provincial and lower administrative levels through providing technical assistance to various organs of the provincial legislatures and governments in developing appropriate legal and institutional frameworks in their jurisdictions and making them achieve the objective of protection and enforcement of rights.

(5) The Council shall evaluate the effectiveness of laws and policies and assess the implementation of laws and policies at the national level and recommend to the government any changes required in the policies, laws and practices.

(6) The Council shall conduct or cause to conduct research on the status of persons with disabilities and matters related to the promotion and protection of their rights.

(7) The Council shall put into place an institutional mechanism to regularly monitor performance of various departments and organizations in the government and issue a

performance score card to each such entity and organization at least once in every three years. Similarly, the Council shall devise and maintain score cards for private entities that seek such evaluation and assessment. Such performance audits shall be conducted by third party professionals and the employees of the Council.

(8) The Council shall assess its own performance in creating legal and social environment in the country and issue an annual status report at the end of every calendar year to present its report to the Parliament through Minister-in-charge.

(9) The Council shall be responsible to monitor the activities of private and community based organizations to ensure that required standards of service are maintained. The Council may enforce an institutional mechanism for effective, efficacious and transparent functions of such organizations and may impose restrictions on organizations not meeting the objective criteria laid down by it.

(10) The Council shall have the powers to address individual and collective complaints of violations of human rights of persons with disabilities.

23. Registration of persons with disabilities.- (1) Any person with disability desirous of being employed or otherwise rehabilitated may have his name registered in the register maintained by the Council or its designated office in such form and in such manner as may be prescribed by the Council.

(2) The Council shall, if it thinks necessary, cause each person with disability registered under sub-section (1) to be assessed as to the nature of his functional disability and also as to his aptitude and the nature of work he is fit to do by a medical officer authorized by it or by such assessing board as it may appoint having at least one medical officer and the medical officer or, as the case may be, the assessing board shall submit its report to the Council in such form as may be prescribed by the Council.

(3) If the person with disability is considered by the Council fit to work, he shall be informed indicating the nature of work for which he may be employed or the trade or vocation in which he may be trained and an endorsement to that effect shall be made against his name in the register.

(4) If the person with disability is not considered by the Council fit to work, he shall be informed accordingly for an endorsement to that effect being made against his name in the register and the Council shall take such measures for his rehabilitation as it thinks fit.

(5) If a person is declared by the Council not to be a disabled person, his name shall be struck off from the register.

24. Establishments to employ persons with disabilities.- (1) Not less than one percent of the total number of persons employed by an establishment at any time shall be persons whose names have been registered with the Council or its designated office of the area in which such establishment is located and against whose names in the register maintained under section 23 an endorsement exists to the effect that they are fit to work.

(2) The persons with disabilities employed against any post in pursuance of sub-section (1) shall be entitled to the terms and conditions which are not less favourable than those of the other persons employed by the establishment against similar posts.

(3) When calculating the percentage of the posts in an establishment for the purposes of employment of persons with disabilities, the fraction of 0.5 and above shall count as a whole number.

25. Establishment to pay to the Fund.- An establishment which does not employ a person with disability as required by section 24 shall pay into the Fund each month the sum of money it would have paid as salary or wages to a disabled person had he been employed.

26. Dissolution of the Council.- On the commencement of this Act, the council formed under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand dissolved and on such dissolution all assets, rights, powers, authorities and privileges and property, movable and immovable, cash and bank balance, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the dissolved council subsisting immediately before its dissolution shall stand transferred to and vest in the Council.

27. Governmental authorities and other persons to assist the Council.- (1) All the functionaries of the government shall extend full and effective cooperation to the Council in ensuring the enforcement of this Act and other laws for protecting the rights of the persons with disabilities.

(2) Any person in the governmental position not effectively cooperating with the Council shall be deemed to have committed misconduct and shall be proceeded against accordingly.

28. Funds for rehabilitation.- (1) The government may establish non-lapsable endowment fund for sustainably financing projects and activities related to ensuring effective rights protection and inclusion in society of persons with disabilities.

(2) The Fund established under sub-section (1) shall be called as ICT Disability Fund which shall be managed by the Council.

(3) The following shall be the sources of the Fund, namely:-

- (a) Annual allocation and grants of funds from Federal Government;
- (b) grants from international organizations, governments and other such bodies;
- (c) levies and other charges that government imposes for rehabilitation;
- (d) fines and penalties under this Act;
- (e) donations and bequests by private persons; and
- (f) any other source.

(4) The Fund established under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) shall stand transferred alongwith all sums and moneys to the Fund established under sub-section (2).

29. Creating public awareness.- (1) The Council shall take immediate, appropriate and result oriented measures to raise awareness amongst the society as whole with regards to recognition and respect for persons with disabilities and their rights.

(2) The Council shall recommend to the Federal and Provincial Governments measures to include topics on disability in educational curriculum and to create awareness among young students about persons with disabilities.

(3) The government shall include topics on addressing problems of persons with disabilities in training programs of institutions responsible for imparting trainings to officers and officials of the government, including judges and court officials.

30. **Rehabilitation.-** (1) The government shall take all possible measures to ensure that persons with disabilities attain maximum independence and ability to participate in activities of life including getting education, doing business, getting employed and participating in sports and cultural activities.

(2) The government shall promote continuing skill development and training in existing advance skills and technologies to persons with disabilities for effective participation and integration in the community.

(3) The government shall undertake initiatives to promote, support and implement community based rehabilitation and research initiatives of its own.

31. **Insurance cover.-** (1) the Council may devise and put in place comprehensive group medical and accident insurance for persons with disabilities and may also facilitate such persons in getting affordable life and other forms of insurance.

(2) The Council may pay the premium for persons with disabilities who cannot pay the premium from their own sources.

32. **Special disability courts.-** (1) For speedy justice, the government may designate and may encourage provincial governments to designate, courts to hear cases under this Act or other laws in which one or more parties are persons with disabilities.

(2) There shall be an effective institutionalized mechanism to monitor cases in courts under sub-section (1) by appropriate judicial forums as devised by the respective High Court.

33. **Power to make rules.-** (1) The Council may, in consultation with the Federal Government and by notification in the official Gazette, make rules to carry out purposes of this Act.

(2) The rules made under the Disabled Persons (Employment and Rehabilitation) Ordinance, 1981(XL of 1981) so far as they are not inconsistent with the provisions of this Act shall continue to be in force until altered, amended or repealed.

34. **Power to make regulation.-** The Council may, by notification in the official Gazette, make regulations for its own efficient and professional working and for effective achievement of objectives of this Act.

PART IV

MISCELLANEOUS

35. **Removal of difficulties.**- If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.

36. **Repeal.**- The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981) is, to the extent of Islamabad Capital Territory, hereby repealed.

Statement of Objects and Reasons

The Constitution of Islamic Republic of Pakistan guarantees the Fundamental Rights of all citizens, including Persons with Disabilities, without discrimination. As State Party to the UN Convention on the Rights of Persons with Disabilities (UNCRPD), Pakistan is obliged to ensure and promote the full realization of rights and freedoms for persons with disabilities by taking appropriate legislative, administrative and policy measures. Keeping in view our national and international commitments, the ICT Rights of Persons with Disability Bill, 2018 has been prepared through a consultative process for protection and promotion of Rights of PWDs. The law proposes legal and institutional framework for an inclusive society where PWDs have full participation in all forms of social life, particularly in health, education and employment.

2. The Bill seeks to achieve the aforesaid objective.

(Dr. Shireen M. Mazari)
Minister for Human Rights