

Current status of Rights of Persons with Disabilities in Bangladesh: Legal and Grassroots Perspectives

2015

National Grassroots and Disabilities Organization (NGDO)

National Council for Women with Disabilities (NCDW)

Bangladesh Legal Aid and Services Trust (BLAST)

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List of Acronyms

ASK:	Ain o Salish Kendra [Law and Mediation Centre]
BCS:	Bangladesh Civil Service
BCR:	Bangladesh Construction Rules
BLAST:	Bangladesh Legal Aid and Services Trust
BNHRC:	Bangladesh National Human Rights Commission
CPC:	Civil Procedural Code
CrPC:	Code of Criminal Procedure, 1898
CRPD:	Convention on the Rights of Persons with Disabilities, 2010
CSID:	Centre for Services and Information on Disability
CSO:	Civil Society Organisation
DPO:	Disabled Persons' Organization
FGD:	Focus Group Discussion
GO:	Government Organizations
ILO:	International Labour Organization
JS:	Jatiyo Sangsad [National Parliament]
MBBS:	Bachelor of Medicine
NCDW:	National Council of Disabled Women
NGDO:	National Grassroots Disability Organization
NGO:	Non-Governmental Organization
PWD:	Person with Disabilities
PPP:	Purchasing Power Parity
RTI:	Right to Information
UN:	United Nations
UNCRPD:	United Nations Convention on the Rights of Persons with Disabilities
UNO:	<i>Upazila Nirbahi Officer</i>
UP:	Union Parishad [Local Government Authority]
UPR:	Universal Periodic Review
USD:	United States Dollar (currency of the United States)
VSC:	Victim Support Centre
WWD:	Woman with Disabilities

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This report is the result of the extensive coordination and compilation of findings by Alal Mondol, Project Coordinator, NGDO, Moshtaq Ahmed, Project Manager from NCDW and Barrister Nawmi Naz Chowdhury from BLAST. Nawmi Naz Chowdhury, Project Coordinator, BLAST prepared the first Bangla draft of the report with Advocate Rejaul Karim Siddiqui, Senior Researcher, BLAST while the English version was done in collaboration with Barrister Arafat Hossain Khan, Consultant BLAST which were edited by Sara Hossain, Honorary Executive Director of BLAST. Special thanks are due for their contributions and comments to the experts who have participated as resource persons in the consultations held to prepare this report: Rejaul Karim Siddiqui, Advocate, Supreme Court, and Senior Researcher at BLAST (who also led much of the primary research) and Khondoker Shahriar Shakir, Advocate, Bangladesh Supreme Court, and Panel Lawyer of BLAST. We also thank Arafat Hosen Khan, Barrister and Consultant for his input to the draft.

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ABOUT THE NATIONAL COALITION PARTNERS

National Grassroots Disability Organization (NGDO)

Jatiyo Trinomul Protibandhi Sangstha (NGDO) is a non-profit company incorporated on 26.06.2005 under the societies Registration Act, XXI of 1860, and registered with the Registrar of Joint Stock Companies and Firms (S-4868(989)/05), and also separately registered with the NGO Affairs Bureau (Reg. No. 2373) on 02.07.2008 under the Foreign Donations Regulation.

NGDO is an active organization of PWDs which operates through mutual cooperation and unison with an aim to create an inclusive society where all disabled people can have equal rights.

NGDO played the lead role in the national coalition. It implemented planned activities to hold FGDs and conducted surveys in collaboration with partners in seven districts across the country. It was responsible for the coordination (including financial and administrative aspects) with different stakeholders, monitoring and evaluation, recruitment of personnel, and reporting. It maintained a Secretariat for the Coalition, to support the Steering Committee monitor preparation of the shadow report, including representatives from NGDO, NCDW and BLAST and various (DPOs).

More information about National Grassroots and Disabilities Organization can be found at: <http://www.ngdobd.org/>

Bangladesh Legal Aid and Services Trust (BLAST)

BLAST is a non-profit company incorporated on 29.05.1993 under the Companies Act, and registered with the Registrar of Joint Stock Companies and Firms (CTO 311 (23)/93), and also separately registered with the NGO Affairs Bureau (786) on 19. 12. 1993 under the Foreign Contributions Relation.

BLAST's mission is to make the legal system accessible to the poor and the marginalized. It provides comprehensive legal services to women, men and children, including on criminal, family, labour and land law as well as constitutional law, right across the legal system, from Village Courts to the Supreme Court. It provides advice, undertakes alternative dispute resolution and litigation, as well as related research and advocacy.

BLAST provided training on data collection and an orientation on legal issues to assist the researchers. BLAST's local offices supported FGDs at district level with various DPOs and lawyers, and assisted NGDO and NCDW to organize district level FGDs, advocacy sessions and surveys.

BLAST provided the technical support which included an orientation on report writing. Given BLAST's prior expertise in contributing to shadow reports prepared by national coalitions for other treaty bodies such as CEDAW and the CRC, BLAST was also responsible for the drafting of this report. In drafting this report and the recommendations contained there, BLAST have undergone a detailed review of the national laws and have analyzed them to identify gaps and limitations.

More information about BLAST can be found at: <http://www.blast.org.bd/>

National Council of Disabled Women (NCDW)

Protibandhi Narider Jatiyo Parishad (NCDW) is a non-profit organization incorporated on 25.06.2008 under the Ordinance of Voluntary Society Welfare Organizations 1961, and registered with the Office of Official of District Women Affairs of Dhaka under the Directorate of Women Affairs (JMBKKA/Dhaka/315/08)

NCDW strives to strengthen grassroots disabled women's organizations to ensure the rights and dignity of disabled women and children. Example of their work includes cases where NCDW have assisted a disabled woman activist recover compensation for being deprived by her siblings of her share of her paternal property, and also those where NCDW have assisted rape survivors access justice.

NCDW worked in collaboration with NGDO c in organizing FGDs with DPOs, persons with disabilities, lawyers and other members from the community level in seven districts of Bangladesh. NCDW collected primary data through their members which included women with disabilities. For obtaining information for the purpose of this report, , experiences of women with disabilities with respect to the justice system was collected by NCDW after providing them with relevant orientation and training.

More information about NCDW can be found at:

<http://www.disabilityrightsfund.org/grantee/asia/bangladesh/2010/national-council-disabled-women-ncdw-bangladesh.html>

EXECUTIVE SUMMARY

Bangladesh and CRPD Ratification: On 13 December 2006, the United Nations General Assembly formally adopted the Convention on the Rights of Persons with Disabilities (CRPD), the first human rights treaty advocating for the rights of disabled persons. Bangladesh became a signatory and ratifying state party to the CRPD on 9 May, 2007 and 30 November, 2007 respectively¹. Bangladesh is required to submit an initial report describing the state of implementation of the rights of persons with disabilities within two years, on or before May 2010 (Article 35, CRPD) but has not done so to date.

Prior to ratification, the only national law dealing with disability issues was the Bangladesh Persons with Disability Welfare Act, 2001. Policies included the National Policy on Disability 1995 and the National Action Plan on Disability 2006. ¹Long term Civil Society movements and campaign by DPOs and Human Rights Activists and finally the status of Bangladesh as a signatory to the UNCRPD enabled a major shift in paradigm from a welfare based approach to a right based approach and resulted in the enactment of the Rights and Protection of Persons with Disabilities Act 2013 which has given new hope to the situation of persons with disabilities as the provisions of the Act not only established the rights of the disabled to protect their dignity, but also ensured their full participation in social and state activities removing all forms of discrimination.

Concerns however remain about its ambit. *Firstly*, it is unclear whether the Act prevails over other laws that affect persons with disabilities. For instance, the Labour Act 2006 of Bangladesh states that any worker who becomes disabled due to a workplace injury will be terminated from work, although entitled to compensation. This conflicts with the Act, which requires employers to make reasonable accommodation for all employees with disabilities.

Secondly, Sections 31 and 36 of the Act (which provides for registration and provision of identity documents to all persons with disabilities and provides them with a legal remedy when being discriminated,) are not in force until so notified by publication by an official gazette (Section 1). Without this publication, disabled persons will have no remedy when facing discrimination.

Thirdly, none of the Committees empowered under the Act for ensuring implementation of government decisions and directions on disabled people (Sections 17, 19, 21, 23 and 24) - such as the Jatiyo Shomonnoy Committee [National Coordination Committee], National Executive Committee, Zilla, Upazilla and Shohor Committee [District, Upazilla and Town Committees] have yet been established.

Preparation of this Report: A coalition led by a disabled people's organization, the National Grassroots Disability Organization (NGDO) along with National Council of Disabled Women (NCDW), and the Bangladesh Legal Aid and Services Trust (BLAST) worked on a report analyzing the status of the implementation of the CRPD in Bangladesh and seeking to advocate for the advancement of the PWDs of Bangladesh. ²

Disability - based discrimination has its adverse impact on the rights to education, employment, health, housing, transport, cultural life and affects access to public places and services, as well as to justice. Environmental and attitudinal barriers and accessibility issues are the key challenges to establishing the rights for the disabled. Changes in the understanding of disability

¹ http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en

have resulted in the adoption of new international standards to comply with the CRPD. This provides for full inclusion of persons with disabilities in the society focusing on overcoming social, political or attitudinal barriers, rather than on 'fixing' the disability. This change involved a shift from a *welfare approach* to a *rights based approach* when it came to dealing with disability.

Articles of the UNCRPD, namely Articles 6, 9, 13, 16, 24, 25, 27 and 29 dealing with the rights of disabled women, education, employment, health, accessibility and political participation have been discussed in the report. Each chapter begins by setting out the relevant the UNCRPD article followed by a discussion on the related national laws along with key findings and recommendations made through a series of consultations held across Bangladesh. The consultations were held in seven districts namely Dhaka, Faridpur, Rangpur, Kushtia, Sylhet, Bogra and Cox's Bazar by holding seven focus group discussions interviews and by conduction a structured questionnaire based survey of respondents from 14 categories (DPOs, CSOs, PWDs, and so on³) carried out in the same seven districts and two national consultation meetings with relevant stakeholders including experts on disability issues.

Recommendations in each sections have varied according to the situation analysis under each heading and one of the most common recommendation that have come up almost in every section is the need for an implementation of all of the provisions of the 2013 Act. Factors responsible for non-implementation of the 2013 Act included the general lack of awareness among persons with disabilities, stakeholders and duty bearers about the rights established under each of the Sections and Schedule of the Act.

Report Findings:

Accessibility: The report identifies various barriers to accessibility of persons with disabilities, affecting their freedom and mobility to use transport, mobile/internet services and avail various services re healthcare and technological (mobile and internet) and other benefits. Our survey results demonstrate that 50% of respondents with disabilities stated that transport was not disabled friendly while 29% said buses and trains lack features for easy /wheelchair access making it impossible for PWDs to use such facilities. Also in practice, no reasonable accommodation is made for persons with disabilities to facilitate their accessibility.

Access to Justice: Persons with disabilities face a myriad of hurdles whilst seeking justice ranging from them having to face physical barriers (inaccessibility to police stations, court premises and other government institutions) to other problems that exist related to giving evidence, availing legal services and discriminatory provisions contained in personal laws that deny inheritance rights to persons with intellectual disabilities.

Rights of Disabled Women: The main concerns are related to lack of financial independence and their right to live in a safe and secure environment. Only 10 % of the respondents said that they had access to some kind of loans from the bank. Discrimination came up as an issue where 52% of the respondents surveyed felt that women and children faced discrimination due to their gender and disability.. Women with disabilities were reported to be ⁴ particularly vulnerable to violence and injustice. Their own lack of knowledge coupled with negative societal attitudes and negligent and insensitive attitudes of the police force or court officials were cited as barriers to them availing justice.

Freedom from Exploitation, Violence and Abuse: 81 % of the surveyed respondents said that the rate of child marriages was higher within girls with disabilities. 62 % of the respondents said

that PWDs facing exploitation, violence and torture opt to settle the dispute through *Shalish* (a form of local level mediation). 50% of the surveyed respondents felt that there were no counselling services available to PWDs facing exploitation, violence and torture.

Right to education: 41 % of our respondents said that there was a lack of disabled friendly educational equipment in schools. 18 % of the respondents said that disabled school children were denied admission in schools.

Right to Health: 94 % of the respondents said that their family homes did not have a disabled friendly washroom/toilet and only 6 % of the respondents said that PWDs had access to an adapted washroom/toilet in their family homes. Public health centers, such as Upazila Health Complexes and district general hospitals, remain inaccessible to PWDs. 52 % of the respondents said that government hospitals under the Ministry of Welfare do not provide medicine or other treatments for free for people with disabilities although the Ministry has issued rules stating that this should be the case.

Right to Work and Employment: PWDs are discriminated in relation to appointment, salary and promotions. 49 % of the respondents surveyed said that PWDs could not get jobs due to their disability and 72 % of the surveyed respondents said that PWDs do not get paid the same wages as non-disabled workers. Employees with disabilities commonly face bullying, harassment and misbehavior at work and accessibility in workplaces was cited as an issue. 61% of those surveyed said that workplaces were not accessible for PWDs and 79% said that PWDs do not have the opportunity to work from home using internet, e-communication facilities as an alternative to going to work.

Right to Political and Public Life: 76% of those surveyed said that PWDs cannot take part in the whole election process. 44% of the respondents have said that the voting centers are inaccessible. Physical inaccessibility was attributed to lack of ramps in the voting centers and polls being located on the second or third floor and the lack of a separate queue for PWDs forcing them to wait in the line for hours to cast their vote. Article 122 (2) (c) of the Constitution provides that "A person shall be ...delimited for the purpose of election to the Parliament, if he (c) does not stand declared by a competent court to be of unsound mind."

Recommendations

Rights and Protection of Persons with Disabilities Act 2013:

State:

1. Amend Section 1 of the 2013 or initiate an official publication of a gazette notifying that the 2013 Act prevails over any other laws affecting persons with disabilities.
2. Issue an official gazette to activate the rights of persons with disabilities under Section 31 and 36.
3. Initiate the prompt establishment of the Committees under the Act.

Accessibility:

State:

1. Implement Section 34 2013 Act to overcome physical barriers and issue a government order designating RAJUK, respective Unnayan Kartipakkha (Development Authority) of all other Municipality Corporations and the Code Enforcing Agency (Authority) for enforcement of the National Building and Construction Codes.
2. Provide 'Reasonable accommodation' under Section 2(14) of the 2013 Act in the light of Article 2 of the CRPD that encapsulates reach, entry, circulation and use.

BRTA (Bangladesh Road Transport Authority):

3. Issue a circular necessitating that all drivers/conductors in public transport assist disabled persons to board vehicles.

MOSW to take steps to:

4. Amend Section 14 of the Copyright Act 2000 to include an exemption clause for printing of all books, publications etc in an accessible format (braille, audio etc) for PWDs.
5. Implement guidelines in the RTI Act 2009 and the National ICT Policy 2009 to ensure accessibility of information and make IT policies disability inclusive.
6. Increase amount allocated in the Service Innovation Fund (SIF) under the Government's Access to Information Programme to enable State-led technological advancements to make information and communication accessible for PWDs.
7. Develop institutes for development and training on sign language for trainers, interpreters and teachers pursuant to Articles 9 (2) (e) (g) (h), and 21(b).

Access to Justice:

State

1. Play a stronger role to protect victims and witnesses, ensure participation of disabled people in trials.
2. Implement the *Jatiyo Ain Shahayota Nitimala*, 2000 enabling PWDs to have access to free legal aid and services.
3. Protect Inheritance Rights by amending Section 1 of the 2013 Disability Rights Act and stating that it overrides any other laws, to prevent PWDs (especially those with intellectual disabilities) from being denied inheritance rights through the application of discriminatory personal laws.

State/CSO/NGOs/DPOs

4. Conduct national level public awareness activities about disabled people's rights to access to justice (especially on Legal Aid Act 2000; offences and punishment under the Penal Code, the Domestic Violence (Prevention and Protection) Act, 2010) and the scope for their use by all including PWDs.

Ministry of Law and Parliamentary Affairs to:

5. Dispose of cases involving persons with disabilities quicker by implementing the various provisions related to summon, adjournment etc contained in the Criminal Procedural Rules and the Code of Civil Procedure of Bangladesh.
6. Build capacity of justice sector officials by incorporating disability issues in the training module for police, prison officials etc and in the Bar Council's 'Canons of Professional Conduct and Etiquette' for practicing lawyers and implement rules and guidelines set out in the Bench book for Judges and Magistrates.

Rights of Disabled Women:

State:

1. Maintain official statistics on literacy, employed disabled women, health related data to gauge the extent of input required to improve the life of PWDs.
2. Implement Schedule 12 of the 2013 Act to enable better treatment of women and girls with disabilities in the justice system (especially victims of domestic violence) in the Victim Support Centers/Police Stations/ Courtrooms.
3. Reform existing personal laws and the discriminatory provisions contained therein especially the ones related to financial entitlements of PWDs.

Ministry of Health and Family Welfare:

4. Disseminate information related to reproductive and sexual health of disabled women. The National Health Policies under the Ministry of Health and Family Welfare must include disabled women in the State led mainstream health development projects.

Ministry of Social Welfare:

5. Benefits and facilities provided under the National Policy must be monitored so that it reaches disabled women in the community level and the budget for the Social Safety Net Programme needs incremental change as it currently pays out a minimal monthly amount to persons with disabilities.

Freedom from Violence, Exploitation and Torture:

State:

1. Implement existing laws and address problems related to child marriage, dowry etc by implementing the Dowry Prevention Act, 1980 and thereby prevent the taking of dowry in marriages and implement the Muslim Family Laws Ordinance, 1961. Implementation of the Majority Act, 1857 and The Child Marriage Restraint Act, 1929 is also required to prevent child marriages.

2. Establish more DNA labs (for evidence related to disabled victims of rape).
3. Implement the Legal Aid Services Act 2000 and the *Jatiyo Ain Shahayota Nitimala*, 2000 and adopt rules to prevent imposition of extra-legal penalties on PWDs through *shalish* (traditional dispute resolution).
4. Amend Section 118 of the Evidence Act, 1872 as it currently prevents persons with intellectual diseases from giving evidence. Implementation of Schedule 12 of the Disability Rights Act will enable such PWDs to present their evidence in a more disabled friendly court environment.

Right to Health:

State:

1. Engage audio and use of Braille in hospitals and where necessary engage a sign language interpreter.

Ministry of Health and Family Welfare in Collaboration with the Ministry of Social Welfare

2. Monitor access of poor patients with disabilities to free healthcare.
3. Provide specialized training to doctors, hospital employees, ward boys, employees and nurses on treating people with disabilities to build empathetic behaviour and positive attitudes.

State/CSOs/NGOs/DPOs

1. To undertake extensive awareness programmes about:
 - ✓ Extra care to be taken to prevent disability at birth and in the event of an accident (especially a spinal cord injury) among medical professionals.
 - ✓ The existence of district health centers and entitlements of PWDs under national policies.
 - ✓ Disseminate information on nutrition, health risks, diseases and preventive behaviors among disabled people and of their right to access health care services.

Right to Education:

Ministry of Social Welfare in collaboration with the Ministry of Education

1. Ensure that PWDs are beneficiaries of mainstream developments in education.
2. Remove physical barriers in schools, universities and other educational institutions.
3. Increase budget allocation for disabled students to enable print and dissemination of accessible educational materials (audio and video),
4. Relax the age limit for admission of adult students with disabilities into institutes offering higher education, increase exam duration for examinees with disabilities by one hour, and more for students with cerebral palsy.
5. Include disability issues in the training curriculum and thereby provide training to teachers, academics and employees of educational institutions on needs of disabled students.

Work and employment:

State:

1. Amendment of Section 21 of the Labour Act 2006 applying to workers who become disabled due to workplace injuries to:
 - ✓ Increase compensation package for such workers.
 - ✓ Rehabilitate them through training adapted to their capability or
 - ✓ Provide alternative employment for them.
2. Amend Schedule III of the BCS and JSC rules to remove discrimination related to employment of PWDs in the public sector and in the judiciary.
3. Increase employment opportunities for disabled people through :
 - ✓ Free/ subsidized training (technical and vocational) in government and private sector organizations.
 - ✓ Access to loans on easy terms through PKSF, SME Foundation state etc and private owned banks to facilitate small business /entrepreneurship among PWDs.

Right to Political and Public Life:

State:

1. Amendment of Art. 122 of the Constitution to allow persons with intellectual disabilities to vote.
2. Amendment of Art. 65 (3) of the Constitution to include a certain number of seats to be reserved for people with disabilities.

Election Commission under the Ministry of Planning:

1. Record statistics on the number of disabled people voting in every general election
2. Accuracy of data to be maintained on the nature of disability in National ID cards and the voter registration form.

Introduction

The past few years have shown a welcome paradigm shift in the government's approach to ensuring the welfare and rights of persons with disabilities especially through legislative and policy actions undertaken since Bangladesh ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) on November 30, 2007 and its Optional Protocol on May 12, 2008. ⁵

Bangladesh's status as a state party to the convention catalyzed government efforts in protecting disability rights, where civil society and DPOs had earlier been playing an active role for promotion and raising public awareness and creating demand for enforcement of rights.

Disabled Population: Bangladesh faces a huge challenge in ensuring the rights of persons with disabilities, who make up a significant proportion of the population, possibly up to 10%. The 5th National Population and Housing Census conducted in 2011, indicated that persons with disabilities constituted only 1.4 % of the population. This is an increase from the figure of 0.6% based on the National Census carried out earlier in 2001. The Bangladesh Bureau of Statistics (BBS) estimated in 2011 that persons with disabilities constituted some 9.07 % of the population, while the World Bank's estimated⁶ of 31.9 % in 2011.⁷ The disparities seem to suggest an underestimation by the government of the actual number of persons with disabilities. This prevents prioritization of disability issues and included within mainstream development approaches. The total estimated population of Bangladesh is 152.52 million. The World Bank's estimated 10 % equates to 13.83 million people with disabilities currently living in Bangladesh as of July 2012, which includes approximately 3.4 million children with disabilities.⁸ These numbers may rise rapidly, given with the current population growth rate of 1.37 %.⁹

Impact of Disaster: Bangladesh is ranked as one of the world's most disaster-prone countries, with 97.1 % of its land area and 97.7 % of its population at risk of multiple hazards such as flooding, cyclones and droughts affecting large numbers of households, with certain areas at high risk. In addition to the risk of loss of life, natural disasters contributes to poverty, reduced food intake and malnutrition, reduced levels of sanitation and hygiene, limited access to health care and withdrawal of children from school for labour: all of which seriously affect the wellbeing of persons with disabilities.¹⁰

Poverty and Socio-Economic Rights: Bangladesh's disabled population are among the worst sufferer of poverty.¹¹ According to World Bank estimates, disabled people represent 15-20% of the poor in developing countries. Statistics from 2010 shows that 43.3 % of the population live on a diet of less than 2,100 calories daily or \$ 1 (PPP¹²)/day.

Poverty declined by 26 % between the years 2000 – 2010. ¹³

Open defecation in the country have reduced from 32 % in 1990 to 4 % in 2011. About 27 % of sanitation facilities were shared in 2011 and 55% were classified as 'improved'

that year. . Despite such progress, most sanitation facilities remain inaccessible for persons with disabilities.

Important steps have been carried out to fulfill targets under the Millennium Development Goal (MDG) related to reduction in poverty, maternal mortality, child mortality and malnutrition and access to safe water. and safe water.

Constitution of Bangladesh: The Constitution of Bangladesh 1972 secures the right to equality before law and equal protection under law for all and sets out the duty of the state to undertake. Freedom from all kinds of discrimination have been guaranteed in Article 28 of the Constitution. Article 28 (4) encourages the State from making special provision in favour of women or children or for the advancement of any backward section of citizens. Further protection of rights is provided in Article 29(3) (a) which empowers the State to make laws for the vulnerable and backward section of the society, in instances where they are not adequately represented in the service of the Republic. Under the Constitution, persons with disabilities, like all other persons, are guaranteed the right to life and personal liberty, rights on safeguards on arrest and detention and speedy trial, protection from torture and cruel inhuman and degrading treatment, freedom of movement, association, assembly, profession and occupation, religion and expression.

The Fundamental Principles of State Policy act as a guideline for the State in making policy. Article 11 states that "Fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed". Article 14 places a responsibility on the State to free vulnerable sections of the population from all forms of exploitation. Article 15(d) expressly recognizes the right to social security for all which includes disabled persons. The State is obliged to provide such security in cases of unemployment, disablement, illness and old age.

Recognition of Disability Rights: As early as 1993, the Government established a National Coordination Committee on Disability under the Ministry of Social Welfare. It adopted the National Disability Policy in 1995 and to ensure equal participation and pave increased opportunities for persons with disabilities.

The Disability Welfare Act came into force in 4 April 2001.¹⁴ The Prime Minister's office issued an executive order in 2002 to bring this into force. A National Coordination Committee on the Rights and Protection of Persons with Disabilities (responsible for coordinating all disability initiatives by the Government of Bangladesh) then adopted a National Disability Action Plan on Disability 2006.¹⁵

In 2013, the Rights and Persons with Disabilities Act came into force, repealing and replacing the Disability Welfare Act of 2001. The new law has to an extent adopted the provisions of the CRPD and it marks a transition to a more rights focused approach than the earlier welfare based approach of the 2001 Act. The Act not only has a broader definition of the nature of disabilities but also sets out the rights of persons with disabilities in more detail covering the fundamental rights as well as the cultural, social, economic and political rights. Furthermore the Act vests duties on various committees for better

protection of rights of persons with disabilities in a regional and national level and the Schedule of the Act lists out the State's obligations for establishing such rights. The Neurodevelopment Disabled Persons Protection and Trust Act 2013 provided for a trust to be set up to benefit people with neurodevelopment difficulties and establishes the right of persons with such disabilities to avail the benefits provided under the Trust that includes their nurture, security and rehabilitation.¹⁶

Mechanisms for Protection of Disability Rights: The **National Advisory Committee** set up in 2014 headed by the Prime Minister aims to ensure implementation of legislation and policies related to persons with disabilities. The **MOSW** is mandated as the lead government agency responsible for coordinating and implementing the Rights and Protection of Persons with Disability Act 2013 and the National Disability Policy and Action Plan by acting through the **National Coordination Committee on the Rights and Protection of Persons with Disabilities** (responsible for coordinating all disability initiatives by the Government of Bangladesh) and the **National Executive Committee on the Rights and Protection of Persons with Disabilities** (responsible for implementing the decisions adopted by the Coordination Committee). **District Committees on the Rights and Protection of Persons with Disabilities** (chaired by the Deputy Commissioner) are, under the Act, to be constituted in all 64 administrative districts of Bangladesh are responsible for implementing directions from the Government or National Coordination and Executive Committees as well as coordinating and monitoring the activities of **Upazilla Committees** (led by Upazilla Nirbahi Officers) and **Town Committees** (chaired by Chief Executive Officers of City Corporations or Municipalities) which will be newly constituted under the 2013 Act. The **National Monitoring Committee** is vested with the duty to monitor implementation of the CRPD and national initiatives in relation to it through its 46 focal points, one from each of the ministries and departments with responsibility for implementation of disability-related activities.

In addition to the above, the **National Steering Committee on Autism and Neurodevelopmental Disabilities** was established in 2012 with representatives from key ministries and departments supported by the **National Advisory Committee for Autism and Neurodevelopmental Disabilities** and a **Technical Guidance Committee** comprising of parents and experts on disability issues.¹⁷

Institutions for the protection of Disability Rights: As per the Constitution of Bangladesh, the judicial institutions have **the Supreme Court** at its apex (consisting of the **Appellate Division** and the **High Court Division**) with all **Subordinate Courts** (comprising of **criminal and civil courts**) and tribunals (**Administrative Tribunals, Special Tribunals Nari-o-Shishu Daman Tribunal**) functioning under it to establish the rule of law. The **National Human Rights Commission** established by the National Human Rights Commissions Act, 2009 is committed to protect human rights at the national and to review laws to ensure compliance with different international human rights conventions and treaties to which Bangladesh is a signatory.¹⁸ The **Information**

Commission which was set up to enforce and monitor the Right to Information Act 2009. Rules and Regulations made under the Act to empower citizens so that they can use their right to information to ensure transparency and accountability in public, autonomous and statutory organizations and other private organizations constituted or run by the government or foreign financing and thereby promote good governance.¹⁹

The Government's **Social Safety Net Programmes** provides for allowances in various categories that includes and benefits persons with disabilities e.g. allowances for the disabled, stipends for disabled students, grants for the schools of the disabled, Fund for the Welfare of Acid Burnt and Disabled, Stipend for drop out students, Vulnerable Group Development, Vulnerable Group Feeding to mention a few which are all run by the Department of Social Services, Department of Women Affairs through offices of the project implementation officers and various government offices with the Union Parishad of the Local Government being responsible for deciding on who the service beneficiaries are at the grassroot level.²⁰

Budget for Protection of Disability Rights: The national budget for the fiscal year 2014-2015 allocated Tk139.74 billion (about 1,797,485,402 USD 5.6 % of the total budget) for Safety Net and Welfare Schemes does not match the text) increasing funds for school stipend programs, special stipend programmes for physically challenged students, allowances for insolvent disabled persons, old age allowances, allowances for expecting and lactating mothers, food for works programmers, and food assistance for destitute mothers. It also put more emphasis on persons with disabilities and allocated Tk 200 million (2,572,614 USD) to the Trust for Persons with Neuro-Development Disorders and another Tk 50 million (65,000 USD for those who are physically challenged. The budget also proposed to increase the tax exempted income threshold for physical challenged disabled people from Tk 0.3 million (approx. 3,858 USD) to Tk 0.35 million (4,504 USD).

²¹

Challenges: The Government of Bangladesh have centralized structure, limiting local officials' authority and flexibility to adapt services to local capacities and demands. Government level planning often results in inadequate resources and insufficient reference to local circumstances.²² While the accountability and coordination structure may appear to be quite detailed, the various Committees' have not been established yet. Moreover, the lack of cooperation between the government and civil society and lack of representation of and collaboration with persons with disabilities means that the structure while detailed on paper, has limited application or effect in practice.

Discriminatory laws affecting disabled peoples' rights in the family community and state remain in force. Initiatives for persons with disabilities are mostly dealt with separately, an approach that automatically excludes them from mainstream government programmes and services. Social attitudes largely do not recognize the development of 'potential' and 'capability' of persons, but instead focuses on the disability or 'inability' of disabled people. In the absence of national population data disaggregated by disability, ethnicity and gender, there is little information on among others, the actual numbers of persons with

disabilities in rural, hilly or urban areas. This renders 'invisible' certain types of disabilities and persons with such disabilities making it harder to address their issues and concerns.²³

The CRPD Shadow Report : The following report is based on eight Articles of the UNCRPD namely Article 13 (Access to Justice), Article 6 (Women), Article 9 (Accessibility), Article 16 (Freedom from Violence, Exploitation and Torture), Article 24 (Education), Article 25 (Health), Article 27 (Work and Employment) and lastly Article 29 (Right to Political and Public life). This report is aimed at facilitating the UN Committee on the CRPD in conducting its review and it will also serve as a tool for domestic level advocacy prior to submission of the Shadow Report and after.

The report focuses on the identification and documentation of the situation of persons with disabilities and their experiences drawing from the statistical data derived from surveys and FGDs conducted across seven districts of Bangladesh. The report also consists of a legal analysis of each of the Articles and the recommendations contained in each of the sections which identify the legal and procedural reforms required for disabled people to have equal opportunities to access, for example available judicial remedies in cases of violence or family disputes and discrimination.

Methodology: Primary data was collected through District-level focus group discussions with representatives from disabled person's organizations, civil society, government representatives among other concerned personnel. The districts covered were Dhaka, Bogra, Dinajpur, Faridpur, Kushtia, Cox's Bazar and Sylhet. Primary reports on FGDs were then used to prepare a consolidated report on FGDs which reflected the problems and recommendations put forward by the participants of the FGDs. Survey questionnaires were then sent to fourteen categories of respondents (Persons with Disabilities, Disabled Persons Organizations, Local Government, Teachers, Teachers of Special Schools, Medical Practitioners, Judges, Lawyers, Police, NGOs, CSOs and so on²⁴) in each of those seven districts and the information derived from there was used to prepare a statistical data on the situation of persons with disabilities. The situation analysis of the report was therefore based on these primary data and supported by secondary data from other reports and secondary materials. The legal analysis section of the report consists of a brief summary of the rights set by each of the CRPD Articles and progresses to a discussion of the national laws and policy framework that currently exist for persons with disabilities before the gaps and limitations of such laws and policies is elaborated on. Each of the sections then ends with a list of recommendations addressed to the State and other concerned bodies or authorities.

ACCESSIBILITY

Article 9 of the CRPD requires accessibility for persons with disabilities to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; and to information, communications and other services, including electronic services and emergency services. (Article 9 (1))

The State's obligations in this regard include *monitoring* the implementation of minimum standards and guidelines for accessibility of facilities, *training* those to assist to ensure accessibility to PWDs and *promoting* the design, development, production and distribution of accessible information.

Laws and Policies Promoting Disability Rights

The 2013 Disability Rights Act defines 'accessibility' (Section 2 (13)), in line with the CRPD, as including

- *physical accessibility* into all premises (public and private including open space and buildings) and the ability to use public transport without restrictions, as well as
- *unrestricted access to opportunities and services*, information, data, technology and any form of communication.
- regarding accessibility to public transport, the Act requires owners, authority, drivers or conductors in charge of the transport to reserve 5 % of seats (on boats, airplanes and land transport) for persons with disabilities. (Section 32(1))

Regarding existing public buildings and structures, if any are identified as inaccessible, prompt arrangements must be made by the State to make them accessible for PWDs (Section 34). For new buildings and structures, the Building Construction Act, 1952 must be followed (Section 34(1)).

All public and private buildings, roads, transportation, indoor and outdoor facilities, including schools, medical institutions and health care service buildings and workplace premises must be accessible for PWDs (Part 5, Schedule).

Penalties for any owner, authority, driver or conductor who fails to comply include revocation of the license of the public transport body in question, provided that the Transport Committee submits an application to the Bangladesh Road Transport Authority (BRTA) requesting this (Section 32(2)).

All forms of information and communication and all mediums of technology and language used for accessing information/communication must be accessible and user friendly for PWDs (Parts 4 and 6, Schedule).

Regarding accessibility to buildings, the **Building Construction Act**, 1952 have been supplemented by the more recent **Building Construction Rules**, 1996 and the Dhaka Metropolitan Building Construction (Construction, Development, Protection and Removal) Rules, 2008.

Rules 5(5) and 13 of the BCR provide the specifications for construction of wheel-chair accessible ramp.

Rule 75 of the Dhaka Metropolitan BCR 2008 provides for universal accessibility for all including persons with disabilities. Schedule 3 sets up the minimum standard and specifications to ensure barrier free access to a building through installation of ramps, handrails and lifts and by reserving separate parking space, washroom toilet and entry and exit points for the use of PWDs. Additional provisions lays down the requirement for all buildings to have at least one toilet or in the case of a building with more than one toilet on each floor, at least 5% of the total number of toilets should be reserved for people with disabilities (Section 64, Dhaka Metropolitan BCR, 2008).

The **Bangladesh National Building Code 2008** also contains disabled friendly construction rules and guidelines. The definitions on 'accessibility' and 'adaptability' comprehensively cover facilities or any part of them that can be approached, entered and used without assistance by persons with temporary or permanent physical limitations. They also provide for adaptable spaces/features designed for persons with physical limitation to have access to adaptable toilets, kitchens, lifts and so on. (Part 3)

The Right to Information Act, 2009 gives every citizen the right to access 'information' (as defined in Section 2 (d) (f) of the Act) from any 'authority' (as defined in Section 2 (b)). It includes two **disability friendly provisions**. Firstly an 'officer in charge'²⁵ of any missing word shall provide assistance to a person with sensory disabilities to enable them to gain access to information (Section 9(10)). Secondly, any information published or publicized by any authority under the Act, must be indexed in a manner accessible to all (Section 6(1)).

The National ICT Policy, 2009 expressly aims "to create mainstream social advancement opportunities for disadvantaged sections of the society including persons with disabilities and special needs (Article E.1 "Social Equity"). It provides that everyone shall have the opportunity to access all electronic technologies used in creating, storing, processing, communicating and disseminating information (Article3).

Gaps in Laws and Policies

The Disability Act **addresses** the issue of access to transport, but the lack of Rules or detailed guidelines prevents effective implementation. For example, while 5% of seats are reserved for PWDs by law, the lack of any rule or practice for allowing additional time for PWDs to board, or for ramps or wheel-chair access, means that access is denied for physically disabled people.

Regarding access to buildings, while Rules are in place, and do provide detailed measures to ensure disabled friendly access, they are not implemented. The Building Code Authority is yet to be established.²⁶

The RTI Act does not specify how authorities must publish/publicize information in an accessible manner for PWDs. Also since the Act only extends to government bodies, and NGOs meaning for profit organisations, and does not cover privately owned organizations/institutions, it cannot be used by a PWD seeking information from any such establishment.

Government and NGO websites are not yet accessible for people with visual impairments. The ICT Policy does address many accessibility issues for PWDs but these provisions are rarely put into practice. As a result, barrier free access to information is still a challenge for PWDs.

Key Concerns

Access to public premises: Most public premises, including hospitals, courts, banks, local government offices, and police stations are not fully accessible. Although some school buildings have ramps, most, especially government buildings do not have lifts and stairs are usually very steep. There are no audio facilities in any public places or lifts making it impossible for a person with visual impairment use such premises.

Although some government and public institutions have ramps and toilets for use for persons with disabilities, they are still inaccessible not having been constructed according to the 2008 building code. Government meetings and congregations (held as a part of government led public awareness campaigns) are held in inaccessible places exemplifying a two-fold barrier to access, as PWDs inability to access such premises deprives them from access to the information/communication available at the meetings held there.²⁷

Access to educational institutions and private premises: School premises remain largely inaccessible for disabled children. Buildings, premises and facilities do not have signage in Braille, contrary to CRPD Article 9 (1) (d). Although the 2013 Act does not specify that buildings, premises and facilities require signage, it does require making all private and public structures accessible to PWDs.

Survey Findings

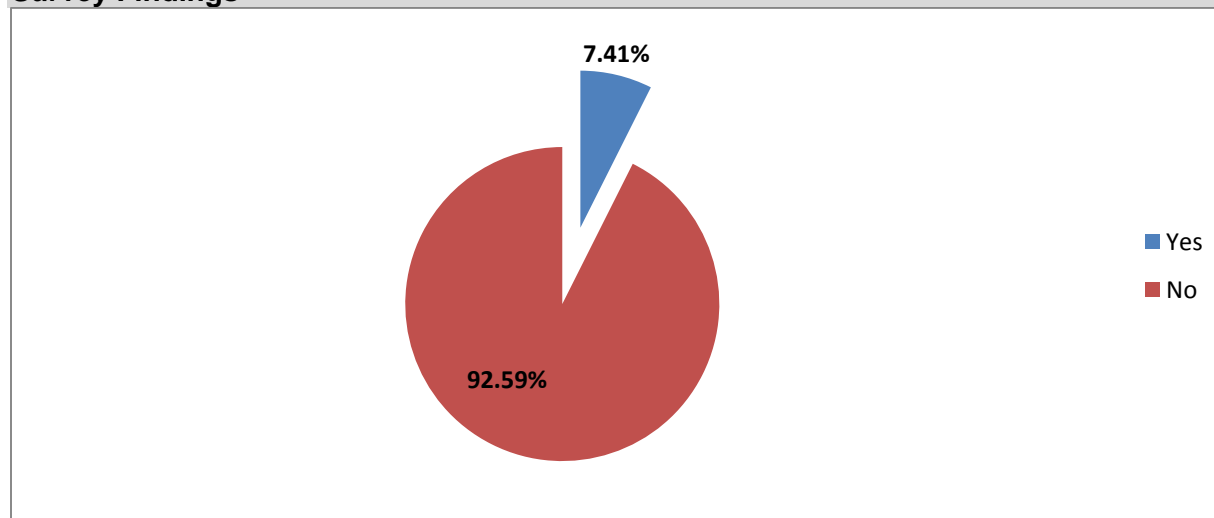


Fig 1: Have any steps been taken to ensure accessibility features in private offices, schools and other premises?

Inaccessibility of Public Transport: 50% of surveyed persons with disabilities stated that transportation was not disabled friendly; among them 29% said that buses and trains are not built with features for easy access/wheelchair access making it almost impossible to use them. Another 21% said the main cause was non-implementation of the 2013 Act.

Entrance to public transport is not disabled-friendly at all acting as a barrier for PWDs for accessing public transport. Some public transport in Dhaka has reserved seats for PWDs, women and children but they are mostly used as 'seats reserved for women and children' only.²⁸ Only 7% of PWDs surveyed in Dhaka said there were seats reserved for disabled people; but they also noted that these but could not be used by them. The situation on trains and buses are worse, with disabled people compelled to use the cheap cabins/seats and ticket masters charging extra for passengers with disabilities.²⁹

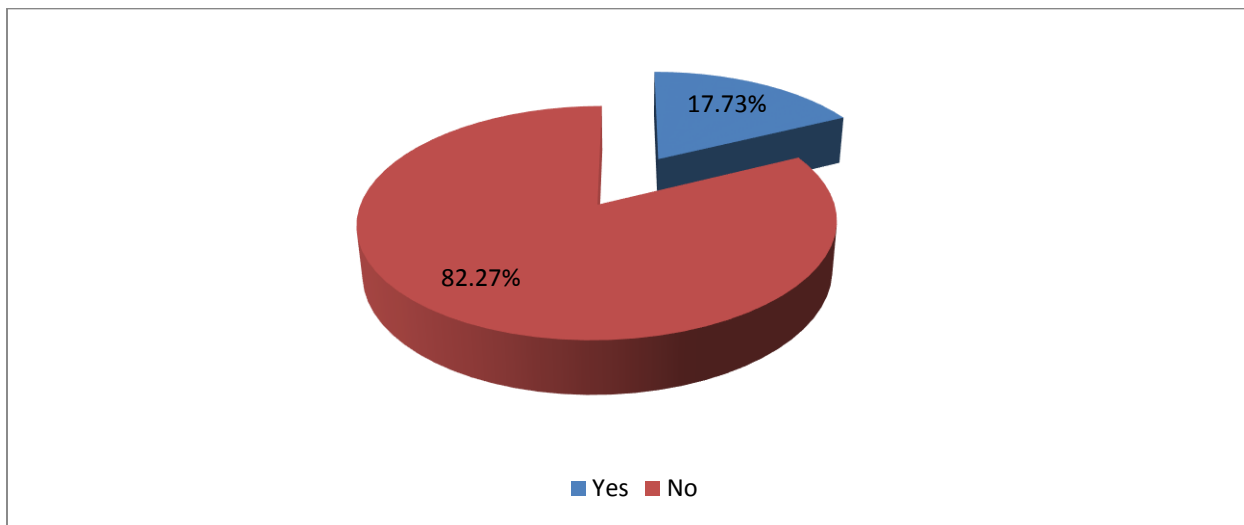


Fig 2: Do PWDs enjoy transport facilities at the same level as non-disabled people?

Access to Information: Electronic or emergency services provided by mobile phone operators (information on health, breaking news bulletins, emergency number for police, national helpline etc.) are inaccessible for disabled people as the mobile devices are not designed to be user-friendly for PWDs with audio features. Among our survey respondents, of 54 % (see Figure 2 below) who said that they could not use mobile and internet services, 11% felt such services were not disabled-friendly.

The Government's Access to Information program (A2I), Prime Minister Office, has produced digital multimedia books for the student of class-I to class-V.³⁰

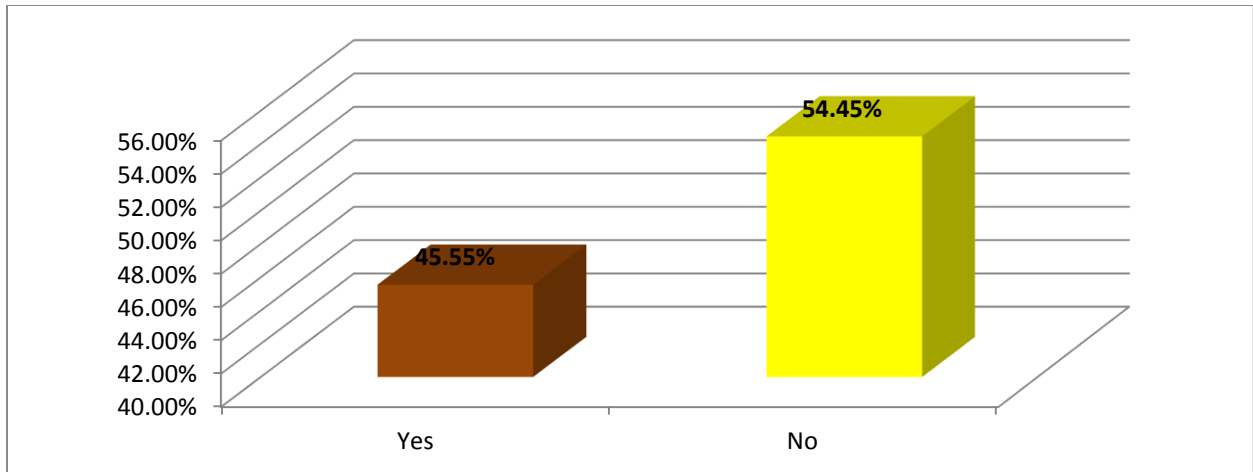


Fig 3: Can a person with disabilities enjoy the same facilities (re language and technology) as a non-disabled person when using mobile and internet services?

Positive government initiatives include:

- The Bangladesh National Disaster Action Plan 2010 (aiming at reducing vulnerability of the poor to natural, environmental and human-induced disaster) and the Information Communication Technology (ICT) Policy (Access to Information Technology), 2009 addresses accessibility issues for persons with disabilities.
- Introduction of sign language in state television news.

However, the majority of PWDS continue to feel that information through state media is inaccessible, as shown below:

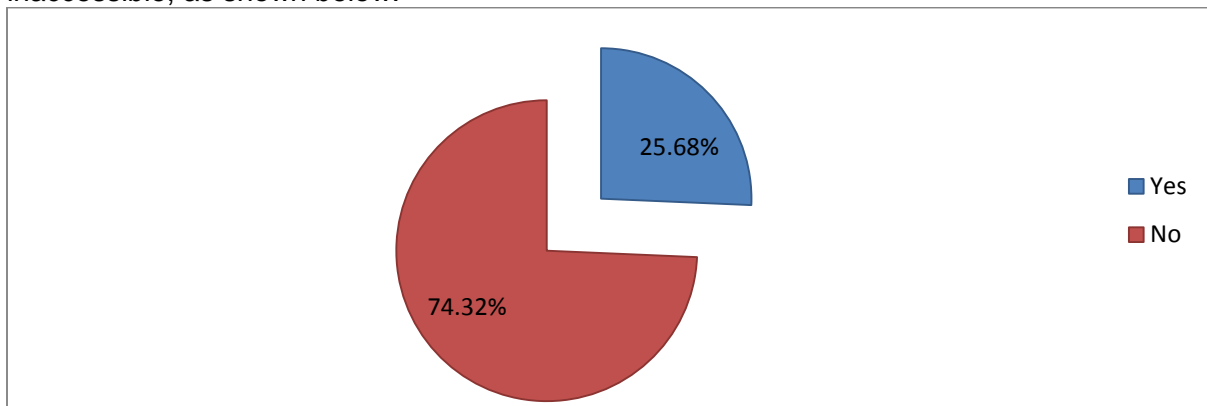


Fig 4: Is information broadcast through public media in a way that is accessible to PWDS?

There is no dedicated government institute on sign language for trainers, interpreters and teachers.

Recommendations

Public Transport and Accessibility: Implement Section 34 of the Disability Act to ensure easy /wheelchair access in all public transport, separate spaces/seating and other arrangements in airports terminals, bus stops, train stations and docks.

In the interim, amend the Disability Act, or issue a circular from BRTA to ensure that all drivers/conductors in public transport assist disabled persons to board vehicles and punish any breaches.

General physical accessibility: Establish the Building Code Authority and develop a plan to ensure universal accessibility for all including persons with disabilities throughout the country as per Rules 5(5), 13 of the BCR and Rule 75 of the Dhaka Metropolitan BCR 2008 and Chapter 2 (Organization and Enforcement) of Part 2 of the Building Code 2008 during the construction of school buildings under the Local Government Division's Primary Education Development Programs (PED).

Adopt a government order to designate RAJUK and the respective Unnayan Kartipakkha (Development Authority) of all other Municipality Corporations as the respective Code Enforcing Agency (Authority) for enforcement of the Code.

Implement the Dhaka Metropolitan BCR 2008 to provide separate access points to public premises and buildings (parks, marketplaces/shopping malls, cinema halls, libraries etc) and hospitals, courts, police stations, government buildings for people with disabilities and install at least one toilet on every floor of a multi-storied building and in a single-storied building where there are more than one toilet; reserve at least 5% of those for use of disabled people.

Implement Schedule 5 of the 2014 Disability Act to ensure all disabled friendly access points/toilets properly maintained so no disabled person faces any physical barrier to accessibility. Public places and lifts ought to have audio facilities to enable a person with visual impairment to use such facilities.

Access to data, information, communications:

Amend 2013 Act to specify legal consequences for denying the right to access to above to a person with disabilities.

Amend Section 14 of the Copyright Act 2000 to include an exemption clause allowing for books, publications etc to be printed in an accessible format (braille, audio etc) for PWDs.

Implement Guidelines in the RTI Act 2009 and the National ICT Policy 2009 to ensure accessibility of all information addressed there and to make IT policies disability inclusive.

Increase amount allocated in the Service Innovation Fund (SIF) under the Government's Access to Information Programme to enable State-led technological advancements that would allow improved accessibility to information and communication for PWDs.

Develop institutes for development and training on sign language for trainers, interpreters and teachers pursuant to Articles 9 (2)(e)(g)(h), and 21(b).

Reasonable accommodation under Section 2(14) of the 2013 Act must be understood in the light of Article 2 of the CRPD with attention given to four key points:³¹

- unobstructed **reach** to accessibility features
- **entry** into a disabled friendly accessible area
- **circulation** of exterior or interior way of passage from one place to another for disabled pedestrians including walkways, hallways, stairways and stair landings
- **use** of disabled friendly accessibility features).³²

ACCESS TO JUSTICE

Article 13 of the UN Convention on the Rights of Persons with Disabilities (UNCPRD) requires the state to ensure access to justice for persons with disabilities on an equal basis with others (through procedural and age-appropriate accommodations), and to provide appropriate training for those working in administration of justice, including police and prison staff.

Laws and Policies Promoting Disability Rights

The 2013 Disability Rights Act provides the following:

- A disabled person is entitled to have access to justice³³ and is entitled to equal protection under the law.³⁴
- All discriminatory behaviours or actions on the part of any individual, organization or government authority against a disabled person are prohibited.³⁵
- Preventing a PWD from accessing justice is punishable by law.³⁶
- Police, prison and court officials require training on disability rights and issues.³⁷
- The State is obligated to take all steps (including the appointment of an interpreter) to ensure access to justice for disabled victims of violence.³⁸

The Legal Aid and Services Act, 2000 expressly secures the right to access to legal aid and services for persons who are “poor, insolvent, destitute, and otherwise incapacitated for socio economic reasons”.³⁹ The Legal Aid Service Rules 2014⁴⁰ makes particular mention of PWDs in its list of eligibility.⁴¹

The Penal Code 1860 provides protection to persons with intellectual disabilities by recognising that a person who is not capable of understanding the illegality or the nature of an act cannot be held responsible for committing an offence, on the basis of unsoundness of mind.⁴²

The Evidence Act 1872 states that all persons, including PWDs, are competent to testify, unless prevented by a mental incapacity related to understanding the questions put to him/her and giving rational answers to them. Any witness who is unable to speak may give his/her evidence in any other manner, i.e. writing or by signs.⁴³

The Code of Criminal Procedure 1898 and in particular Sections 199, 199A and 468-475, provide special procedure for any accused who is identified as a “lunatic”, including for release of the “lunatic” pending investigation or trial, and custody of the “lunatic”.

Under the **Code of Civil Procedure, 1908** consent or agreement for any person with disabilities may be given on their behalf by their next friend or guardian of such person in any proceeding with the permission of court (Section 147 CPC). Further, Order XXXII of the CPC sets out special provisions for suits by or against persons of unsound mind and Order XXXIII allows for pauper suits.

The **Succession Act, 1925** allows for disabled persons to make wills as long as s/he can comprehend what is being achieved through the making of such wills.

The **Labour Act 2006** provides⁴⁴ for compensation in the event of a workplace injury or death and depending on the nature of injury (permanent or temporary) the amount is listed in Schedule of the Act.

Section 1 of the **Fatal Accidents Act 1855** states that whenever the death of a person is caused by a wrongful act/neglect/default, the executor, administrator or representative of the deceased may sue for compensation to the family of the deceased for loss occasioned due to the death of that person. Under this Act, the Court may give such damages as it may think proportionate for such loss.

The Motor Vehicles Ordinance 1983 allows for a claim of compensation to be made in the event of a personal injury arising from the use of a motor vehicle in a public place.⁴⁵ It also sets out the duty⁴⁶ of a driver in case of an accident/injury to a person and the insurance policy requirements and procedures for making a claim.

The **National Human Rights Commission Act, 2009** enables aggrieved persons facing human rights violations to bring complaints to the Commission to inquire into whether any public servant was responsible and to provide remedies.

Disabled persons like Swapan Chowkidar, lawyer with visual disabilities, have used the existing national laws to achieve a landmark ruling⁴⁷ from the High Court Division of the Supreme Court of Bangladesh. This decision allowed PWDs to sit in the 33rd Bangladesh Civil Service Examinations (BCS)⁴⁸ and also directed the Public Service Commission to arrange 'reasonable accommodation' in examination halls thus enabling 44 disabled candidates to appear for the 33rd BCS exams for the first time in the history of Bangladesh.⁴⁹ Other similar cases filed sought recognition of their rights to sit in JSC and PSC exams.⁵⁰

Limits and Gaps of the Law

Courts are not disabled-friendly. Non-compliance with Schedule 12 of the 2013 Disability Act means PWDs have to deal with police, prison and court officials who are not trained on disability rights and issues.⁵¹ While Schedule 12 also requires arrangements (including the appointment of an interpreter) by police, prison and court officials to ensure access to justice for disabled victims of violence, both the Act and Schedule are silent on the procedures required for disabled offenders.

Giving evidence in courts is difficult for women who are intellectually disabled. Section 118 of the **Evidence Act, 1872** prevents evidence to be accepted from those who are incompetent to testify due to their being unable to comprehend the questions asked during the trial process. This contravenes Articles 5 (2), 12 (2) and 16 (5) of the CRPD which requires the State to provide equal protection of law to all persons.

Persons with visual, hearing, and speech impairments face barriers while communicating with police officers at thanas and while giving evidence in court. Where the court permits the use of Bengali sign language interpreters, they are provided by DPOs specialized in Bengali sign language interpretation such as the Society for the Deaf and Sign Language Users (SDSL)⁵² who also provide interpreters to disabled women and children in Victim Support Centers. However state funded remuneration for such interpreters is inadequate leading to a dearth in the availability of interpreters for PWDs seeking justice.

Although the Disability Rights Act gives PWDs the right to inherit,⁵³ the Act does not supersede personal laws discriminating against PWDs with mental/intellectual disabilities. The **Hindu Inheritance (Removal of Disabilities) Act, 1928**, for example, excludes persons with intellectual disabilities and psycho-social disabilities from inheritance or any right or share in joint family property. The 2013 Act entrusts the Upazilla and Shohor Committee with the duty to appoint a guardian for overseeing a PWD's property on application from the PWD's parents/legal guardians/DPO. Such a guardian must inform the committee from time to time about any income or interest generated from the PWD's property.⁵⁴ The 'Survey Findings' below discuss how lack of implementation of these provisions leads to disabled people (especially women) from being able to exercise their inheritance rights.

Lack of awareness or knowledge of laws on the part of both duty bearers and rights holders is a major barrier to justice. For instance, women with disabilities are not aware that the general laws on violence against women also apply to them. The National Legal Aid Rules 2014 expressly refers to PWDs as a priority group for receiving state legal aid and services.⁵⁵

Survey Findings

Certain physical barriers discourage persons with disabilities from pursuing a legal battle or from seeking a remedy:

Barriers related to enjoyment of inheritance rights of disabled women and children: Out of the 700 respondents surveyed, 73 % of respondents stated that intellectually disabled women are denied inheritance rights. 27% felt that they had the right to inherit and 7% had a court appointed guardian to manage their property in comparison to the 93 % who did not have an appointed guardian.

Legal Protection for PWDs: According to 63% respondents, when a PWD is arrested, the Court does not take into account their disability and is often reluctant to grant bail to the arrested disabled offender.

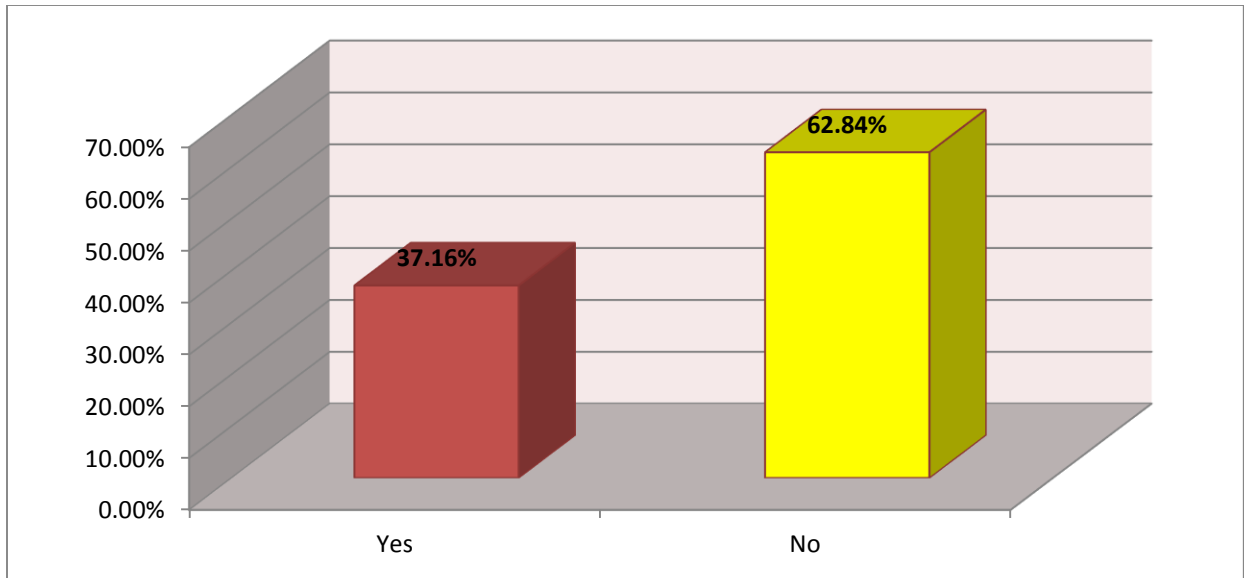


Fig 5: When a disabled person is arrested, does the court grant him/her bail on the basis of disability?

Jails have no adapted facilities, such as toilets and PWDs who are held under-trial are compelled to use non-adapted facilities.⁵⁶

Accessibility issues: Most court buildings are inaccessible. The Bogra District Court, for example, is four stories high and has no separate access points for persons with disabilities, while the witness box has no adapted seating arrangements.⁵⁷

Delays in trial: Accumulation of appeals, adjournments and the general lack of logistics and human resources are the main factors causing delays in trials preventing PWDs from achieving remedies⁵⁸.

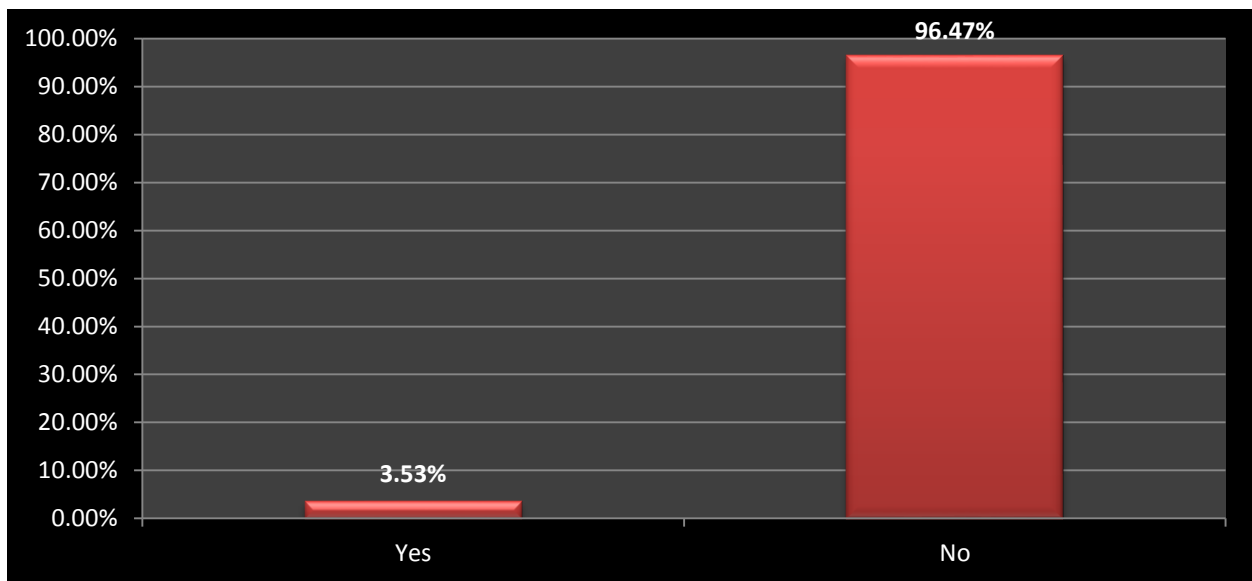


Fig 6: Are there any ramps, lifts, etc to facilitate access to court premises/building for disabled judges, lawyers, witnesses, victims, or accused?

Obstacles to the trial process: There are no clear procedures or guidance for court officials on how to record witness statements of PWDs with speech and hearing difficulties. Lawyers and court officials alike are also usually unmindful of the need for a sign language interpreter in these situations.⁵⁹

Recommendations

Ensure disabled friendly court environment through implementation of Schedule 5 (Accessibility); 6 (Mobility) and 12 (Freedom from Violence, Access to Justice and Legal Aid) of the 2013 Act to ensure accessibility in all spheres of the justice system and to make all public places accessible (especially courts, police stations, victim support centers, one stop crisis centers).

Disabled friendly washrooms/toilets in all places including jails can be ensured through compliance with Rules 5 (5) and 13 of the Building Construction Rules, 1996 and Part 3 of the Bangladesh National Building Code 2008.⁶⁰

Build Capacity of Justice Sector Officials by incorporating disability issues in the training module for police, prison officials etc and in the Bar Council's 'Canons of Professional Conduct and Etiquette' for practicing lawyers. Rules and guidelines set out in the Bench book for Judges and Magistrates needs implementation to facilitate the proper treatment of PWDs in court.⁶¹

Arrest of offenders Chapter V (Arrest, Escape and Retaking) of The Code of Criminal Procedure, 1898 should be amended to include additional provisions on the extra care and precautionary measures that needs to be carried out during the arrest of a disabled offender.

Protect Inheritance Rights by amending Section 1 of the 2013 Disability Rights Act and stating that it overrides any other laws, to prevent PWDs (especially those with intellectual disabilities) from being denied inheritance rights through the application of discriminatory personal laws.

State to raise public awareness of disabled people's rights to access to justice by encouraging NGOs, CSOs, DPOs and the national media and cellular service providers to run public information campaigns and disseminate information on rights under various laws (especially on Legal Aid Act 2000;⁶² offences and punishment under the Penal Code, Suppression of Violence against Women and Children Act, 2000; the Domestic Violence (Prevention and Protection) Act, 2010)⁶³ and the scope for their use by all including PWDs. Guest Lectures in schools for the disabled could also be arranged to raise awareness amongst PWDs.

Protection of disabled victims can be achieved by implementing Schedule 12 of the 2013 Disabilities Act to ensure better protection for PWDs who are victims of violence. Effective implement Section 31 of the Suppression of Violence against Women and Children Act 2000 to provide better protection of victims of violence through safe custody. For PWDs facing domestic violence, proper implementation of Section 14 of the Domestic Violence (Prevention and Protection) Act, 2010 is required. Similarly, Section 6 of the Act ought to be implemented more effectively to ensure that the Enforcement Officers perform their duties to such victims.

Amend existing laws to ensure victim and witness protection. Alternatively, amend the 2013 Disabilities Act to ensure protection for disabled victims and witnesses as a priority.

For better compensation of witnesses, amend Section 544 CrPC to allow for related expenses incurred by witnesses (for travelling, accommodation) to be reimbursed from the state.

For better protection of witnesses, amend Section 545 CrPC to address any injury suffered by a PWD whilst performing witness duty (either through compensation or by providing free medical services in any private or public hospital or clinic at the expense of the office with full security protection).

Ensure Participation of PWDs in trials through implementation of Schedule 6 (ka) and (kha) by utilizing technology to share legal information with PWDs and implementation of Schedule 12 and especially Schedule 12 (gha) of the 2013 Disabilities Act and Chapter XXV of the CrPC. These would overcome the practical barriers that PWDs face in relation to participation in trials. To tackle the difficulties faced by PWDs with speech and hearing difficulties, Section 119 of the Evidence Act, 1872 needs to be followed. Adherence to rules contained in Chapter XVIII of the CPC (hearing of suit and examination of witnesses) would alleviate the practical barriers faced by PWDs in civil suits.

For PWDs who are intellectually disabled, Section 118 of the Evidence Act needs amendment to allow them to testify in court. Amendment of the law could include separate arrangements for such victims and the appointment of a counsellor to allow for a combination that would enable PWD's with intellectual difficulties give evidence in a less intimidating environment.

Fast-Tracking Cases by Persons with Disabilities can be made possible through strict compliance of provisions related to summons of persons, trial in absentia, adjournment and appeals (Sections in Chapter VI, Section 339 B, Section 344 and Sections contained in Part VII respectively) of the CrPC would help in fast tracking of cases whilst Section 32 of the CPC can be used by courts to compel attendance of those to whom a summon has been issued. The Court can also apply the same section to impose penalties for failing to comply with court orders. Factors causing delay in trials can be resolved through the application of Order-XVII, rule-1, sub-rule-1 and sub-rule 3 (for adjournments) and the sections contained in Part I (for summons) and Part VII (appeals) of the CPC. In addition to all of the above, Case Coordination Committees (CCC) can be used to ensure quick disposal of cases by prioritizing ones involving PWDs. Good practices derived from NGO⁶⁴ projects running such committees to reduce overcrowding in prisons could also be used to minimize the delay in trials involving PWDs.

RIGHTS OF DISABLED WOMEN

Article 6 of the CRPD requires the State to take measures to ensure the full and equal enjoyment by women and girls of all human rights and fundamental freedoms and to take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the CRPD.

Laws and Policies

Section 16 of the **2013 Disability Rights Act** secures the fundamental rights of all persons with disabilities, including women and girls. Section 36 (1) prohibits any discrimination or discriminatory behavior by any individual, organization, institution or authority to any person with a disability.

The **National Women's Development Policy, 2011**⁶⁵ sets out its 'Special Program for the Disabled Women' which not only recognizes every women's right to honour and dignity but also ensures that all disabled women are part of the mainstream society and have equal participation in all areas of life including education. The policy also calls for framework, facilities and services to be accessible to all disabled women so that they fully benefit from the rights and facilities granted under this Policy.

To ensure accessibility of PWDs into financial services, the Bangladesh Bank have issued a circular (See annexed GBCSRD Circular No: 01 dated 20th January 2015) announcing that under the **Ministry of Social Welfare's 'Social Security Program'**, all PWD's can now use their National ID to :

- ✓ Open a bank account by providing a token deposit amount of Tk. 10 only and
- ✓ Apply for SME loans for any amount between TK. 10,000 – Tk. 5,00,000 with a minimal interest rate of 10% only and apply for a 100% refinancing of these debts under the 'Bangladesh Bank fund' Regulations (especially beneficial for disabled SME women entrepreneurs).

The circular further states the bank will also comply with circular (BRPD Circular No: 14) issued on 28th October 2009 and make available a dedicated bank personnel at every branch to assist PWDs and provide them with banking services.

The **Ministry of Social Welfare** also runs several **benefit schemes** for PWDs. PWDs who are poor are now entitled to Tk 350 to Tk 500 a month under this scheme.⁶⁶

Laws criminalizing particular forms of violence against women includes Acts such as the **Dowry Prohibition Act, 1980** which prohibits and penalizes the giving and taking of dowry in all its forms by a fine of a maximum of five thousand taka, imprisonment of up to one year or both. Also **The Child Marriage Restraint Act, 1929** prohibits child marriage and sets out penalties for those responsible.

Gaps in Law and Policies

The Rights and Protection of Persons with Disabilities Act 2013 fails to concentrate on issues specific to women with disabilities. Disabled Women are only addressed in two provisions of the 2013 Act mainly in Schedule 3 and 11.⁶⁷

Non-implementation of the many laws and policies in place ensuring rights women's rights stems from general lack of awareness about such laws meaning that disabled women are easily excluded from relief/remedy. None of these laws enunciates the word 'disability' in any of its provisions but is nevertheless applicable to disabled women. For example, the Dowry Prevention Act, 1980 prohibits the giving and taking of dowry and the beneficiaries of this law are women; both disabled and non-disabled. Similarly, there is a lack of awareness of the various benefits and facilities that women are entitled to under the national policies establishing women's right. Poverty and illiteracy are the two biggest reasons as to why this is the case.

Lack of specific legislations targeting better employment opportunities and economic independence for women and especially for women with disabilities means that they are in a financially disadvantaged situation in the community.⁶⁸ The 2013 Disabilities Act is silent on the need to have reserved quotas for disabled women in the public and the private sector.

Non-implementation of The Majority Act, 1875 and The Child Marriage Restraint Act, 1929 leads to disabled girls being married off before they are 18 years of age due to poverty and social insecurity of family members of such disabled girls.

The Domestic Violence Act, 2010 has many good aspects – it recognizes the right of women to live in the marital home and allows courts to provide for temporary maintenance to survivors of domestic violence. However Discriminatory personal laws (marriage, separation, divorce and maintenance) continues to be a problem for women especially for those with disabilities.⁶⁹ Each of the separate rules for Muslims, Christians and Hindus do little to recognise the financial entitlement of women. Under these laws, the little financial help provided in the form of maintenance etc are minimal and inadequate. These personal laws also fail to recognize marital property and its equal division following divorce or separation.

The Muslim Family Laws Ordinance of 1961 allows for polygamy but requires a husband to treat all his wives equitably and to seek the permission of a local arbitration council to take multiple wives on the basis of consent from previous wife or wives regarding the marriage. On the other hand, Hindu men are permitted to marry any number of times and there are no procedural restrictions for that. Such personal laws governing marriages only adds to the vulnerability of disabled women.

Survey Findings

Government led projects not adequate for the needs of disabled women and girls: The survey findings showed the following percentage in relation to benefits/services received by respondents from government led projects during 2011-2013.

Benefits/Services	Percentage
Does not get any facilities	24.61
Stipend	44.92
Disabled allowance	50.39
Education equipment/help	3.91
Interest free loan	9.77
School admission	1.17
Disabled friendly equipment	1.95
Quarterly stipend/allowance	0.39
100 day program	0.78
VGF	5.47
VGD	4.30
Old age allowance	3.91
Maternity allowance	0.78
Widow allowance	0.78
Medical facilities	0.78
Government Vocational Training for Women	1.95
Legal aid	0.78
Quota facilities in health, employment, education sectors	19.92
Free medicine	0.39
Sanitation facilities	0.39
Children's allowance	0.78

Fig 7: The benefits/services that surveyed respondents received from government led projects/initiatives in the past two years

Discrimination: Women with disabilities face discrimination at the family, state, institutional and social level. (See Figure 10). They enjoy fewer opportunities in both public and private spheres of life and the few government grants/aids that they receive are nominal. They are regularly denied rights to property inheritance and personal assets⁷⁰ and in small cases have a guardian appointed for the daily management of their property⁷¹ and the discrimination extends to marriage, divorce, separation, maintenance, custody and guardianship and inheritance. Women with disabilities are not given a choice in marriage, and to sexual and reproductive choices.

Violence against women happens in the form of acid attacks, abduction and kidnapping, rape, trafficking, child marriage, forced marriage, dowry violence, 'fatwa' violence, sexual harassment, and the most widespread of all, domestic violence.⁷²

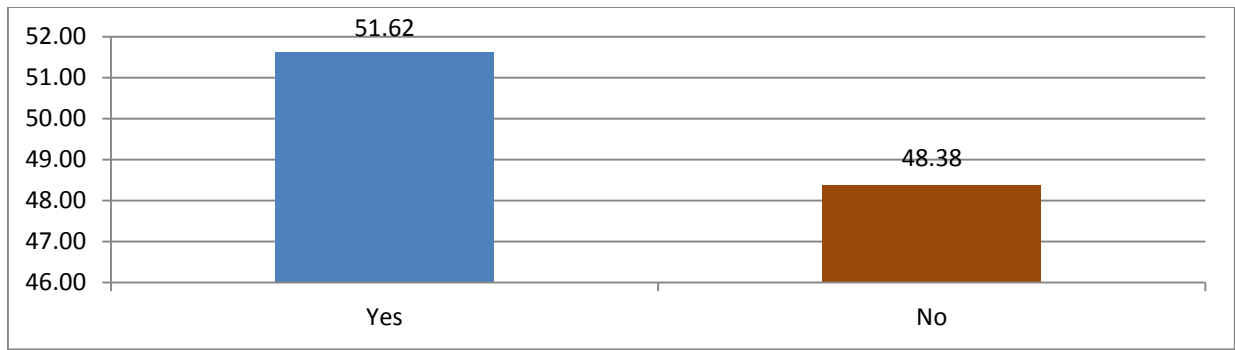


Figure 8: Are women with disabilities disadvantaged due to discrimination on the basis of their gender and disability in the family, or society or by the state?

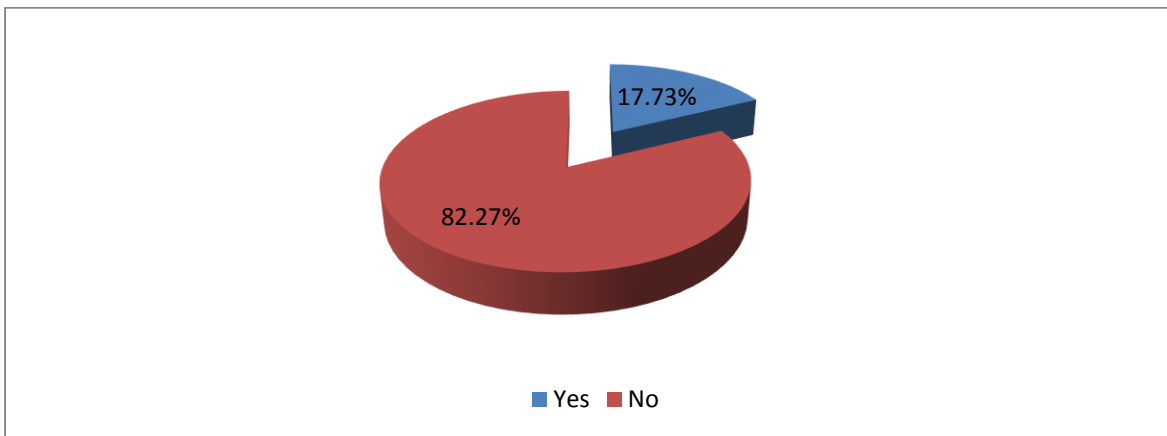


Fig 9: Do PWDs enjoy transport facilities at the same level as non-disabled people?

Financial barriers: Government and non-governmental organizations/institutions such as banks reportedly often refuse to provide services including loans to women with disabilities. Although this will improve as a result of the recently issued circular, the financial barrier shall continue to be a problem unless awareness is raised about it in the community level.

Lack of awareness of rights due to illiteracy: Women and girls with disabilities are discouraged by their family members to spend time outdoors and rarely provide them with educational opportunities. The literacy of women in general currently stands at 55.71%.⁷³ Illiteracy leads to disabled women to lack knowledge of their rights or the laws that are in place to ensure their protection.

Violence against women: Women with disabilities are particularly vulnerable to violence and injustice, due to lack of knowledge of their rights, negative societal attitudes. The percentage of adolescent marriage was recorded to be 48% in 2000.⁷⁴ A rape survivor with disabilities is reportedly often prevented from approaching the police/court and forced to settle the matter through mediation between her family members and those of the accused. The incidence of rape of women with hearing, speech and intellectual disabilities is assumed to be much higher than the statistics of rape for the general female population.⁷⁵ The prevalence of abuses of the girls and women with disabilities was found to be at 92%. Cases of emotional abuses (78% for girls and 75% for women) was also found to be higher. The scenario also appeared to be the same in the cases of physical abuse (82% for both girls and women) and sexual abuse (32% for girls and

37% for women).⁷⁶ The marriage of a disabled woman in exchange for a huge dowry is reportedly quite common. In some cases, a husband reportedly marries a second wife, a non-disabled woman, without the permission of his first wife.

Lack of knowledge on Reproductive Health: Illiteracy coupled with social neglect of women with disabilities also means that they lack considerable knowledge about their sexual and reproductive health.⁷⁷

Police officers usually refuse cases or complaints brought to them by a disabled person especially those brought by women and children. Their unhelpful and insensitive attitude discourages people with disabilities from approaching them as a first point of contact.

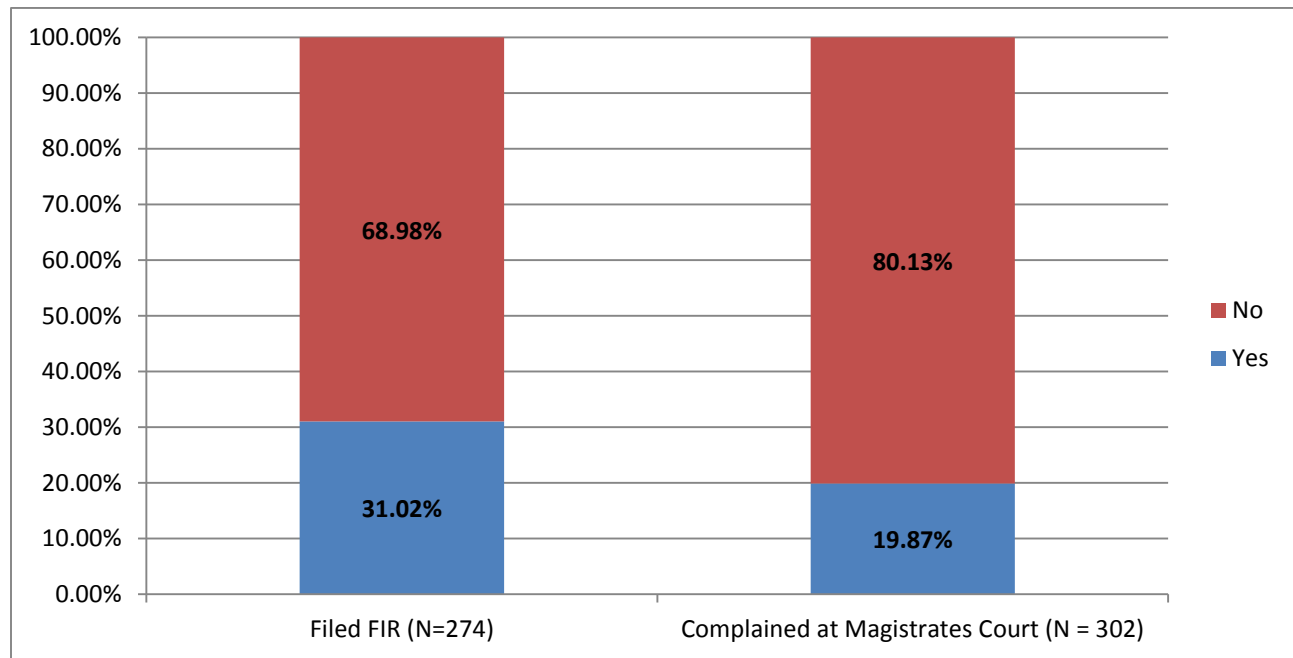


Figure 10: Have any disabled women or child (who have faced violence) in your area filed FIRs or filed a complaints at the Magistrates Court in the last two years?

Also, the Victim Support Centre (VSC) does not cater to the needs of women with disabilities. Most districts do not have a VSC and victims with disabilities must travel long distances to seek support, for example a disabled victim from Bogra district having to travel all the way to Rajshahi district to attend a VSC. The difficulties of travel coupled with the lack of suitable travel and security arrangements acts as another barrier to access to justice for disabled persons.

Recommendations

The main challenge to securing disability rights in this area is with regard to implementation of the law and changing social attitudes to women and girls with disabilities.

- **Official Statistics** showing the rate of literacy and the percentage of disabled women being raped or facing other forms of violence (both sexual, emotional and physical) must

be extracted as without these figures, it is impossible to gauge the extent of work that will need to be done to improve the lives of these women.

- **Better treatment of disabled victims should be achieved through the implementation of** Schedule 12 of the 2013 Act and the Domestic Violence Act, 2010 to enable better treatment of women and girls with disabilities in the justice system (especially victims of domestic violence) in the Victim Support Centers/Police Stations/Courtrooms, and to provide remedies for discrimination.
- **Access to Legal Services** must be ensured through enactment of laws or by adopting rules to prevent imposition of extra-legal penalties on disabled women through *shalish* (traditional dispute resolution). Implementation of the Legal Aid Services Act 2000 is also required as to all disabled women are entitled to free legal services.
- **Discrimination faced by disabled** women in every sphere of their public, private economic lives etc must be tackled through by the Ministry of Women and Children Affairs as opposed to the Ministry of Social Welfare as doing so would bring women with disabilities under the mainstream development processes.
- **Knowledge related to reproductive and sexual health** of disabled women can be resolved by educating and encouraging community members to take steps to raise that awareness among disabled women living in their communities. The National Health Policies under the Ministry of Health and Family Welfare can address these concerns and include disabled women in the State led mainstream health development projects.
- **Problems surrounding marriage, dowry etc** could be resolved through the implementation of the Dowry Prevention Act, 1980 by which it prevents the taking of dowry in marriages and the Muslim Family Laws Ordinance, 1961 prohibits a second marriage without taking permission from the first wife. Also an implementation of the Majority Act, 1857 and The Child Marriage Restraint Act, 1929 is required to prevent child marriages. Steps must also be taken to bring about a legal reform in existing personal laws and the discriminatory provisions contained therein especially the ones related to financial entitlements.
- **Economic independence** can be ensured by increasing opportunities of having equal access to credit including micro-credit, and to technical and vocational training/education. The benefits and facilities provided under the National Policy must be monitored so that it reaches to disabled women in the community level and the State must consider increasing the budget for the benefit it provides under the Ministry of Social Welfare's Benefit Scheme which currently only pays out a minimal monthly amount to persons with disabilities.

FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

Article 16 of the CRPD sets out the State's obligation to ensure freedom from exploitation, violence and abuse for PWDs through undertaking appropriate legislative, administrative, social, educational and other measures, putting in place effective women and child focused legislation and policies, providing recovery, rehabilitation, enabling social reintegration of PWDs who are victims and finally, preventing the occurrence of and protecting PWDs from all forms of exploitation, violence and abuse, including their gender-based aspects.

Laws and Policies Promoting Disability Rights

Section 16 of the **2013 Disability Rights Act** ensures the right of all disabled persons to equal protection under the law, access to justice, a fulfilling life and to develop. It expressly provides for a disabled person's right to be free from violence and to live life in a healthy and secure environment.

Schedule 12 of the Act requires the State to train duty bearers of the justice system to ensure unrestricted access to justice to PWDs who are victims of violence, exploitation and torture, arrange health services, rehabilitate any disabled victims of sexual violence, take steps to arrange for safe custody for a victim of violence, and lastly, to take all necessary steps to ensure legal services for them.

The **Legal Aid and Services Act, 2000** expressly secures the right to access to legal aid and services for the "poor insolvent, destitute, and otherwise incapacitated for socioeconomic reasons".⁷⁸ Schedule 2 (2) of the National Legal Aid Services Rules specifically mention PWDs as eligible for legal aid.

The **Evidence Act 1872** states that all persons are competent to testify; however it excludes all those prevented by a mental incapacity (i.e persons with intellectual disabilities) from understanding the questions put to him/her and giving rational answers to them. It enables any witness who has speech impairments to give his/her evidence in any other manner, i.e. in writing or by signs.⁷⁹

The **Penal Code 1860**⁸⁰ and in particular Chapter XVI deals with offences against the person and Section 299 – 311 deals with offences from murder to death by negligence. Offences causing miscarriage to a pregnant woman and an unborn child is also dealt with under this Act. Bodily harm whether it is grievous or not are defined as an offence and are found in Section 319-338A. Other offences such as wrongful constraint, kidnapping, slavery and forced labour are all listed as punishable offences under this Act. Lastly, Rape is defined in Section 375 of the Act while the punishment for rape is given under Section 376. The **DNA Act 2014** contains provisions that allows for the checking of evidence of rape and paternity checks.

The **Code of Criminal Procedure 1898** is a procedural law containing Sections in Chapter VI, Section 339 B, Section 344 and Sections contained in Part VII that deals with summons of persons, trial in absentia, adjournment and appeals in criminal cases.

The Dowry Prohibition Act, 1980 prohibits and penalizes the giving and taking of dowry in all its forms by a fine of a maximum of Tk 5000, imprisonment of up to one year or both.

The Suppression of Violence against Women and Children Act 2000 deals with prosecution of perpetrators of certain forms of violence against women and children and provides redress and some victim protection. . The Act provides for compensation for the victim and offers remedial measures for negligence or willful faults by an investigating officer. It also provides for speedy investigation and trial of cases, and the creation of specific tribunals for every district town.

The Domestic Violence (Prevention and Protection) Act, 2010 provides remedies against physical, psychological, economic and sexual abuse, by persons who are, or have been, in a family relationship. It ensures access to shelter homes, medical and legal aid services for victims/survivors. Under this Act, Judicial Magistrates may make protection orders, residential orders, maintenance orders and safe custody orders, direct payment of compensation and penalise those breaching such orders by prison terms and fines. Protection orders restrain a respondent from committing any act of domestic violence, entering the victim's place of employment or school and having any personal, written or any form of communication with the victim, residence and maintenance orders. Any person breaching a protection order may face up to six months' imprisonment and up to two years in case of multiple offences. Paragraph 8 of

The National Women's Development Policy, 2011⁸¹ is specifically dedicated to the development strategies that ought to be taken to prevent violence against women. It details the services that women facing abuse can get from Women Support Centers (WSCs), One Stop Crisis Centers (OCCs) currently in six divisional towns, including one stop health care facilities, legal services, police support, shelter and rehabilitation; psycho-social counseling services through the National Trauma Counseling Centre at the Department for Women Affairs ; the Victim Support Centers (VSCs) and Tribunals on Suppression of Violence against Women and Children across the country.⁸²

Limits and Gaps of the Law

Non-compliance with laws on protection against violence against persons is rife. Disabled people also lack awareness of available legal protections or access to services. In general, laws do not address the specific needs of disabled people. Training programmes for justice sector or law enforcement officials do not address how to ensure or extend legal protection to people with disabilities.

Disabled persons who are victims of violence (especially women) settle for alternative dispute resolution even in very serious cases, and where the law does not permit such settlements.⁸³ Strict implementation of Schedule 5 (Accessibility), 6, (Sharing Information and Communication & Information Technology), 7 (Mobility) and Schedule 12 of the 2013 Act which covers aspects related to Freedom of Violence, Access to Justice and Legal Aid, would go some way to change the situation.

Non-implementation of the **Code of Criminal Procedure 1898** (Sections in Chapter VI, Section 339 B, Section 344 and Sections contained in Part VII) that deals with summons of persons, trial in absentia, adjournment and appeals in criminal cases leads to delays in criminal trials that acts as a barrier to justice for PWDs.

Under Section 36 of the 2013 Act, PWDs facing harassment or discrimination, are entitled to file complaints against any discrimination. However, Section 36 is not in force, as no order to this effect has yet been published in the official gazette (see Section 1 of the Act).

Paragraph 8 of the National Women's Development Policy 2011 makes no express reference to women with disabilities.⁸⁴ However, it identifies the gaps related to extra-judicial punishment carried out in the local level and the lack of adequate forensic facilities to investigate the cases of abuse of women. The 2011 policy reported about a National DNA Laboratory and 5 divisional DNA Screening Lab under the Ministry of Women and Children Affairs who are assisting in identifying the offenders. Implementation of Section 14 of the newly enacted DNA Act, 2014⁸⁵ will ensure that more DNA Labs are established and the quality of such tests can be ensured by implementing Section 15 of the Act.

Moreover, difficulties surrounding giving evidence in courts by the intellectually disabled is made difficult by Section 118 of the **Evidence Act, 1872** which prevents evidence to be accepted from those who are incompetent to testify due to being unable to comprehend the questions asked during the trial process. This contravenes Articles 5 (2), 12 (2) and 16 (5) of the CRPD which requires the State to provide equal protection of law to all human beings. There is also a lack of DNA testing labs which contributes to the problems related to the availability of evidence in rape cases especially.

Survey Findings

People with disabilities are not only neglected in society but are also regularly subject to exploitation, violence and abuse. 20% of the PWDs surveyed felt that they fell victim to such degrading treatment due to their disability.

Case Study 1⁸⁶ : harassment of students with disabilities in educational institutions

On 12 February 2012, BLAST, along with Shankar Chakraborty and others, filed a writ challenging failure of the concerned respondents to take timely action to prevent the continued harassment and subsequent suicide of Modhushudhon Chokrabarty, the son of the petitioner, and a student of the Shaheed Ziaur Rahman Medical College, Bogra. The petitioners argued that the concerned respondents failed to comply with their statutory and constitutional duties to put in place measures to prevent harassment of students with disabilities in educational institutions. The Court issued a Rule on the Ministry of Education, the concerned College and others. The matter is pending for hearing.

Disabled women were found to be more prone to violence due to their vulnerability stemming from their gender and disability.

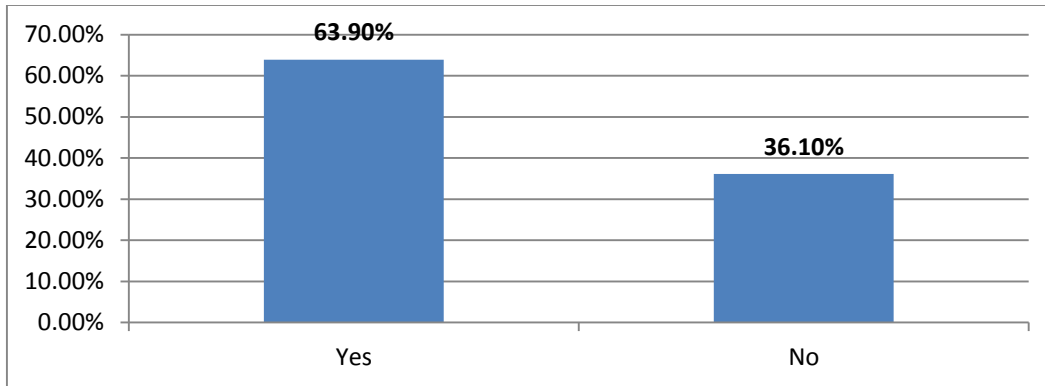


Fig 11: Do you feel disabled women and children face violence, exploitation and torture in a larger scale than non-disabled women and children?

Violence, exploitation and torture against women and children in the home:⁸⁷ Husbands of disabled women more than often⁸⁸ abandoned them to avoid paying maintenance. Married women with disabilities reported high levels of physical abuse, sexual and emotional abuse (especially where their families coerced them into marriage by paying of dowry to a husband who was forced by his own family to marry for the dowry). In most cases, they are compelled under duress to give their inheritance to their husbands. In many cases, husbands remarry without taking prior permission from their disabled wives. Disabled women, like other women, generally do not take any action, given the lack of social or economic alternatives to the family, for fear of divorce or fear of being a burden again to their own family.

Non-married disabled women also face mental, physical and sexual abuse at home from family members and neighbors. Families and neighbours of persons with disabilities more than often fail to provide them the safety, security and support that they need. The worst sufferers are disabled women who have been subject to sexual harassment and violence find themselves further victimized as family members confine them indoors.

Child Marriage among girls with disabilities: Girls with disabilities are prone to being victims of child marriages. Although the Union Parishad Chairman has a legal duty to prevent child marriages, respondents felt that they do not take action for fear of losing votes from parents/family members involved in such cases.

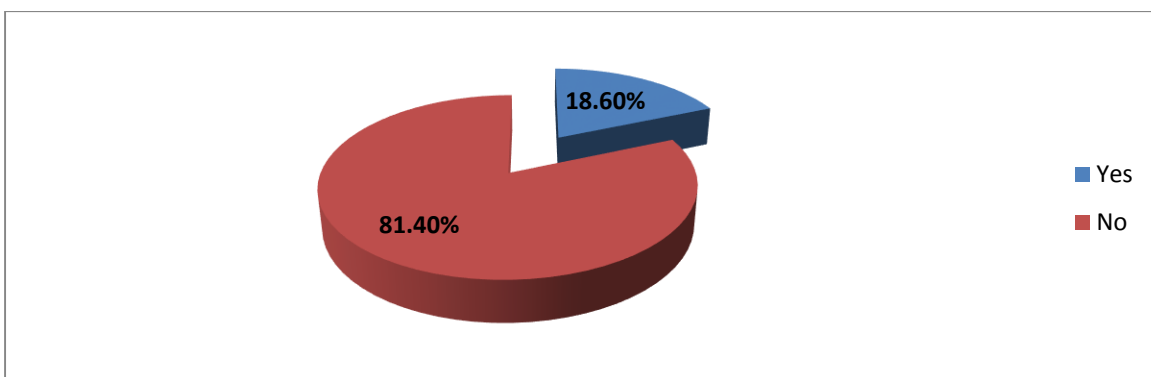


Fig 12: Is the rate of child marriages among girls with disabilities higher than non-disabled girls?

Fig 15: Responses of surveyed responses regarding reasons for child marriage among girls with disabilities.

General barriers to access to justice⁸⁹: PWDs face various barriers to access to justice. Courts are reluctant to take evidence from PWDs and in cases where they do, problems arise from lack of interpreters making it impossible for those hearing and speaking impairments to present evidence. Visually impaired and deaf-blind women have no real legal protection against sexual violence as giving evidence in court is extremely challenging for them. WWD victims, especially those who are victims of rape, may be forced to marry the perpetrator to preserve their own reputation and “family honour”. 64% responses from the FGD survey showed that the investigation officer appointed for interviewing disabled women or children in an investigation of exploitation, violence and abuse, did not carry out that interview. 59% of respondents felt the investigation officer was reluctant to do so due to neglect for the disabled woman/child, and 29% felt the investigation officer was unable to interview disabled women/children with speech and hearing difficulties due to communication barriers.

Rashida Manjoo in her Lecture stated that for WWDs: “The challenges related to investigation, prosecution and punishment of perpetrators for acts of violence against women due to corruption, lack of coordinated criminal justice response; lack of expertise and adequate mechanisms to conduct credible investigations; lack of comprehensive redress mechanisms; and limited understanding of the root causes and consequences of violence against women all acts as barriers to justice for disabled victims.”⁹⁰

Delays in trial: Accumulation of appeals, adjournments and the general lack of logistics and human resources are the main factors causing delays in trials preventing PWDs from achieving remedies⁹¹.

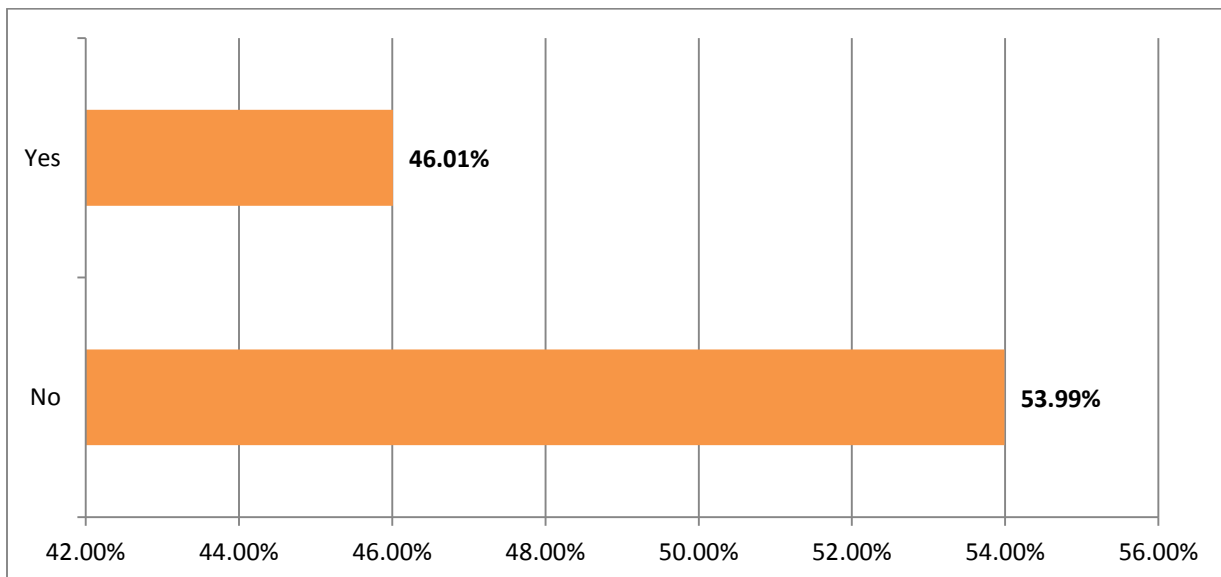


Fig 13: Do disabled women and children who have experienced violence, exploitation and torture face any problems in availing legal assistance?

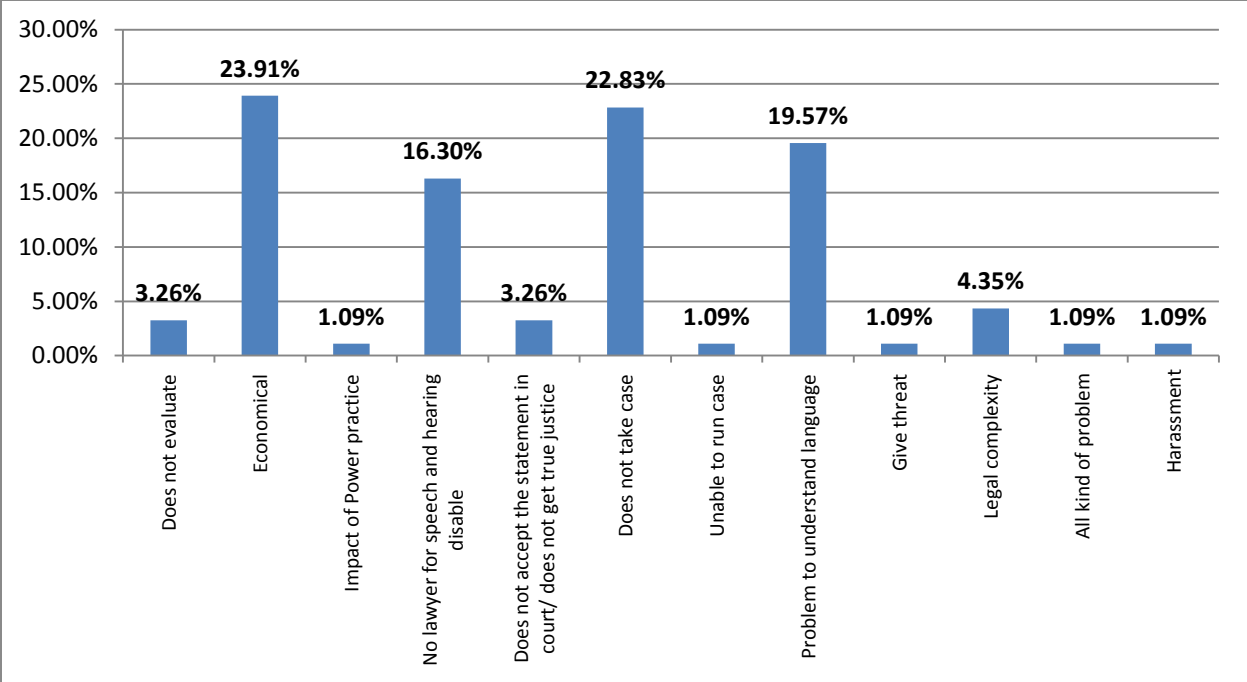


Fig 14: State the problems faced by surveyed PWDs whilst seeking general legal assistance in the event of their personal rights being violated.

Settlement outside Court as a barrier to access to justice: The barriers to PWDs availing legal assistance lead to most disputes being settled out of court. The survey findings revealed that in 61 % of the cases, the dispute between a PWD (facing violence, exploitation or torture) and the perpetrators was settled through a *shalish* (traditional dispute resolution). Among the various reasons given by the surveyed PWDs for choosing out of court settlements, 22 % of the surveyed respondents quoted pressure from elite members of the society as a reason while 27 % of the respondents acknowledged financial situation of the family of the victim to have played a role in reaching for such settlements in return for a monetary compensation of some amount. 14% of the respondents cited ‘fear of losing family honour and respect’ as a reason for settling disputes in this way. Community pressure and stigma, the lack of responsiveness by the justice system, pressure to withdraw complaints by local police and the length of proceedings also acts as contributing factors.⁹²

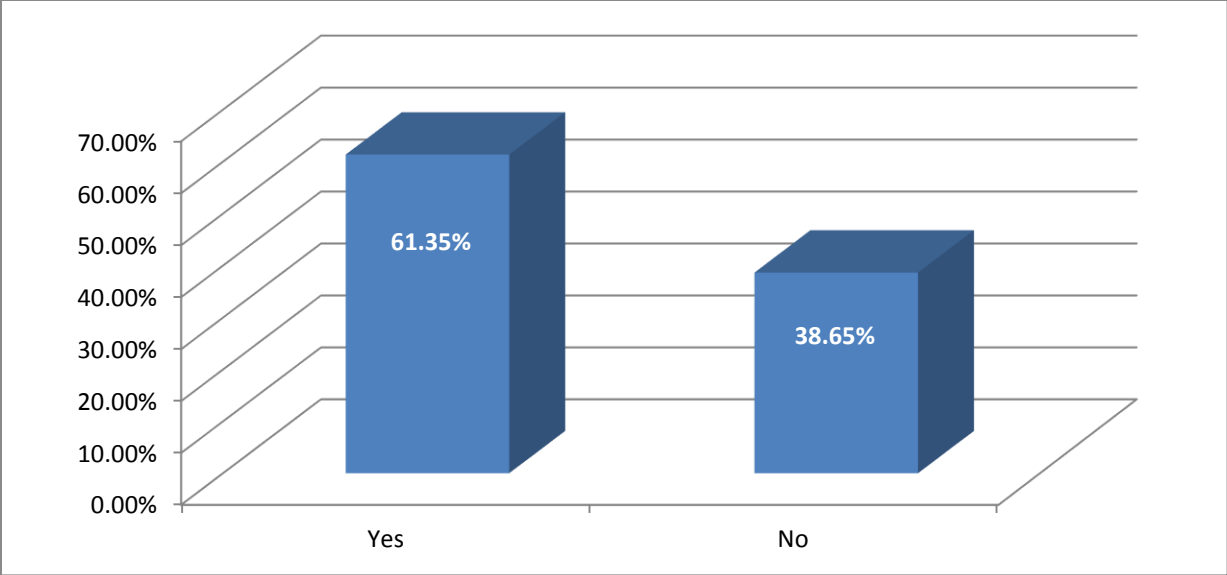


Figure 15: For PWDs facing exploitation, violence and torture, the dispute between them and the perpetrators is usually settled through a *shalish* (traditional dispute resolution): is this statement correct?

Lack of Counselling Services for victims of violence, exploitation and abuse:⁹³ None of the laws on violence, exploitation and abuse expressly refer to people with disabilities, nor have any rules or guidelines been framed in this regard.

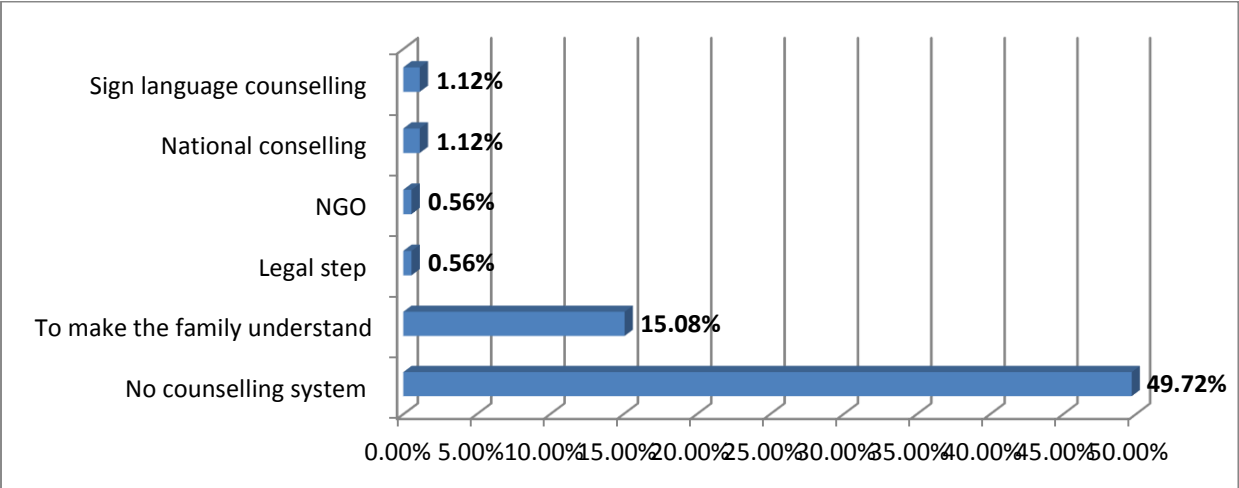


Fig 16: What counselling services are available to women and girl children (with speech and hearing disabilities) who have faced violence?

There are no dedicated counselling services for children who are victims of violence, abuse and exploitation. 68 % of persons with disabilities surveyed said that children who are victims are kept with adults in Victim Support Centers (VSC).

Recommendations

Address lack of knowledge among PWDs about legal protection against violence by implementing Schedule 15 (ka) of the 2013 Act which requires the State to raise awareness on issues that will enable PWDs to be more self-sufficient.

Address protection of disabled women and girls from violence by implementation of the various preventative laws discussed above (The Suppression of Violence against Women and Children Act 2000, Domestic Violence Act 2010, The Child Marriage Restraint Act, 1929 among others).

Engage Union Chairmen to play an active part in preventing child marriage and domestic violence.

Enable victims with intellectual disabilities to give evidence, by amending Section 118 of the Evidence Act, 1872 as it currently prevents such PWDs from doing so. Implementation of Schedule 12 of the Disability Rights Act will enable such PWDs to present their evidence in a more disabled friendly court environment.

Establish adequate number of DNA Labs, under Section 14 of the DNA Act 2014

Recognize the need for and provide dedicated counselling services to disabled victims of violence by express reference in the National Psycho-Social Counselling Policy 2015 ((paragraph 9.5).⁹⁴

Remove physical barriers and ensure disabled friendly court environments through implementation of Schedule 5 (Accessibility); 6 (Mobility) and 12 (Freedom from Violence, Access to Justice and Legal Aid) of the 2013 Act to make all public places accessible (especially courts, police stations, victim support centers, one stop crisis centers). Disabled friendly washrooms/toilets in all places including jails can be ensured through compliance with Rules 5 (5) and 13 of the Building Construction Rules, 1996 and Part 3 of the Bangladesh National Building Code 2008 containing disabled friendly construction rules and guidelines. Implementation of Schedule 12 (gha) of the 2013 Disabilities Act and Chapter XXV of the CrPC would overcome the practical barriers that PWDs face in relation to participation in trials.

Protect disabled victims by reinforcing Schedule 12 of the Disability Rights Act and also women and children who are disabled and victims of violence by compliance with Section 31 of the Suppression of Violence against Women and Children Act 2000.

Amend or enact laws to ensure victim and witness protection. Alternatively, amend the 2013 Disabilities Act to address priority protection for disabled victims and witnesses in all legal proceedings where required.

Amend Section 544 CrPC to ensure compensation and costs for witnesses (for travelling, accommodation) from State funded allowances.

Amend Section 545 CrPC to address any injury to a PWD during witness-duty (either through compensation or by providing free medical services in any private or public hospital or clinic at the expense of the office with full security protection).

Fast-Track cases of violence and exploitation against PWDs through strict compliance of provisions on summons, trial in absentia, adjournment and appeals (Sections in Chapter VI, Section 339 B, Section 344 and Sections contained in Part VII respectively of the CrPC. Case Coordination Committees (CCC) operational in many districts, and now addressing issues of indigent prisoners only, also prioritize cases involving violence against PWDs and CCCs can therefore be used to fast track such cases..

RIGHT TO EDUCATION

Article 24 of the CRPD provides for the life-long right to education for PWDs. The State's obligations include non-exclusion from general education system on the primary, secondary and higher level, provision for reasonable accommodation, tailoring the mode of education to individual's requirements, undertaking appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and training professionals and staff who work at all levels of education.

Laws and Policies Promoting Disability Rights

The Disability Rights Act⁹⁵ refers 'general education' for those studying with non-disabled students and 'special education' for disabled people with special needs, requiring extra care and taught through a different mode of education. It guarantees the right to 'access to education' for every disabled person (Section 16 (g)) including the right to participate in either general or special education. A disabled person is entitled to an appropriate environment and access to all opportunities during their course of study (Section 16(d)).

The head/authority of an educational institution is prohibited from preventing admission of a disabled person on the basis of discrimination, and the Act details the consequences for doing so (the committee under the 2013 Act can send recommendations to the regulatory committee of the said educational institution to take the necessary steps against the head/authority concerned (Section 33(1) of the Act. A disabled person who faces discrimination during admission may register a complaint to the School Committee or to the District Committee (Section 36).

The Act also requires that all public places including schools and educational institutions are accessible to people with disabilities (both adults and children) who must have unrestricted access to the institution's services and facilities (Part 5, Schedule).

The Act also secures provisions for relaxing the age limit for school going children with disabilities, creating a larger quota in educational institutions for student with disabilities, providing training to the employees of educational institutes and equipping institutes with necessary facilities, increasing exam duration for examinees with disabilities or appointing a writer as an alternative and providing disabled students with suitable reading materials (Part 9, Schedule). It also requires use of Bengali sign language for the benefit those who have hearing and speech difficulties in all places including in all educational institutions and appointment of a speech language therapist where deemed necessary (Part 4, Schedule).

Furthermore, penalties for cruelty to children are set out in the Children Act 1974, and such actions may also constitute specific offences under the Bangladesh Penal Code 1860, including, among others, of hurt or grievous hurt or confinement under Sections 319, 320 and 340. [Section 34 of the Children Act, 1974]²

² Section 34, Children Act:

Penalty for cruelty to child.-If any person over the age of sixteen years, who has the custody, charge or care of any child assaults, ill-treats, neglects, abandons or exposes such child or causes such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child unnecessary suffering or injury to his health, including loss of sight or hearing or injury to limb or organ of the body and any mental derangement, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand or with both.

The National Education Policy 2010 expressly addresses⁹⁶ disabled children, providing for accessibility of all schools to disabled children including necessary facilities such as separate toilets/washrooms (Clause 21), that the needs/problems of a disabled child must be dealt with on a priority basis (Clause 22) and that one teacher from every school/PTI should receive skills training to communicate with a child with special needs (Clause 23).

The National Children Policy 2011⁹⁷ provides for a Special Education System for students unable to gain entry into the mainstream education due to unavoidable circumstances (Clause 6.8.3) and requires appropriate institutional activity to be taken and for accessibility of all infrastructure, services and facilities (Clauses 6.8.4 and 6.8.6). It also provides for special programmes for Autistic children (Section 6.9).

The National Plan of Action NPA-II (2003-2015)⁹⁸ proposes that all disabled and disadvantaged children aged 6-10 years shall be enrolled and complete the primary cycle and achieve quality education by the year 2015 (Clauses 5.A and 5.1).

The National ICT Policy 2009,⁹⁹ developed by the Ministry of Science and Information and Communication Technology, refers equitable participation in nation- building through access to ICT for all including PWDs. [Section D. 1]. It also aims to ensure use of ICT tools to provide access to education and research for persons with disabilities and special needs (Section E 4.8).

The Sixth Five Year Plan FY 2011- FY2015¹⁰⁰ by the General Economics Division, Planning Commission, Ministry of Planning, provides for enabling and integrating PWDs in all spheres of society and includes provisions for stipend programmes, subsistence allowance and skill training for PWDs in its strategy plan.

Moreover, **circulares circulated by the Director, Directorate of primacy and mass education (dated 21.04.2008, 18.03.2010 & 23.08.2010)**¹⁰¹ to ensure the appropriate manners and attitude towards the children student. It was directed to the school managing committee to inform all concern in the Government and non-Government primary school to prevent corporal punishment as well as to keep away from all sorts of corporal punishment in the school as it has very severe impacts on child's development and growth. It was also requested that all concerns should work on building awareness against corporal punishment.

Exam facilities for the students with disabilities: exam duration for examinees with disabilities by one hour, and more for students with cerebral palsy. Furthermore, only blind students can use the services of a writer and the process they have to go through with the Board is extremely cumbersome and time consuming.

Gaps in Laws and Policies

The Primary Education (Compulsory) Act, 1990 allowed scope for admission to be refused to a child on the basis of:

- "illness or any unavoidable reason", or if admission was an "impossibility If a primary education officer decides that it is not "desirable" to admit a child because s/he is "mentally challenged".
-

There are in general no adapted curricula for children with disabilities. Educational institutions, especially primary schools, often do not admit disabled children. Where they do, they rarely provide the facilities needed for different types of disability. Children with psychosocial disabilities get even fewer opportunities to be in inclusive education.

The **Bangladesh Primary Education Act 1990** makes school admission mandatory for children aged 6-10.

Situation Analysis and Survey Findings

Access to education for disabled children: Primary education is now free and mandatory for children aged 6-10. The government has also set up and registered a total of 4,500 schools so far. A total of 11,935.37 crore, development and non-development budgets combined, for the Ministry of Primary and Mass Education that would benefit 83,000 disabled children and enable them to attend primary school¹⁰². About TK 292.13 billion (approx. 3,756,163,720 USD) was allocated for fiscal year 2014-15. Of the allocation, TK 136.73 billion (approx. 1,758,053,830 USD) has been allocated for primary education and TK 155.4 billion (approx. 1,998,109,890 USD) for tertiary and higher education for increasing the number of teachers, improving school buildings, printing and delivering school books and providing scholarships. According to government statistics¹⁰³, 94.6% of school-age children attend school although there are no statistics for the number of them who are disabled.

The following figure shows the survey results from respondents on the number of children that they thought were denied admission and the number for those who have been suspended due to their disabilities

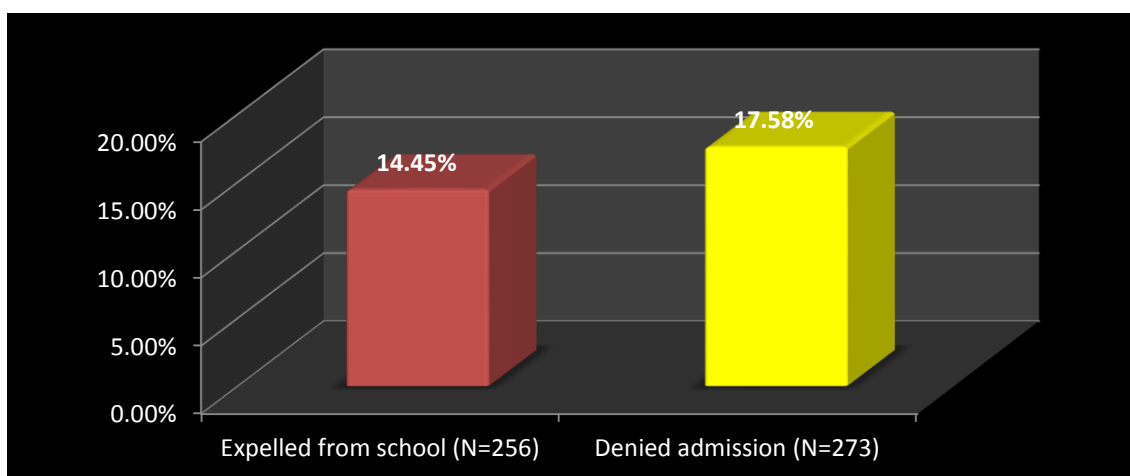


Fig 17: Has any child with disabilities been suspended from school and has any child been denied admission in a school/education institution due to his/her disability?

The **Directorate of Public Education's Circular** on Mainstreaming, 2007, mandates that students with "special needs" be admitted in all government schools and given learning tools and other accommodations on a priority basis¹⁰⁴. In practice, such tools and facilities are not usually provided, and educational institutes, especially primary schools, do not admit disabled children in particular children who have sight, speech or hearing difficulties.

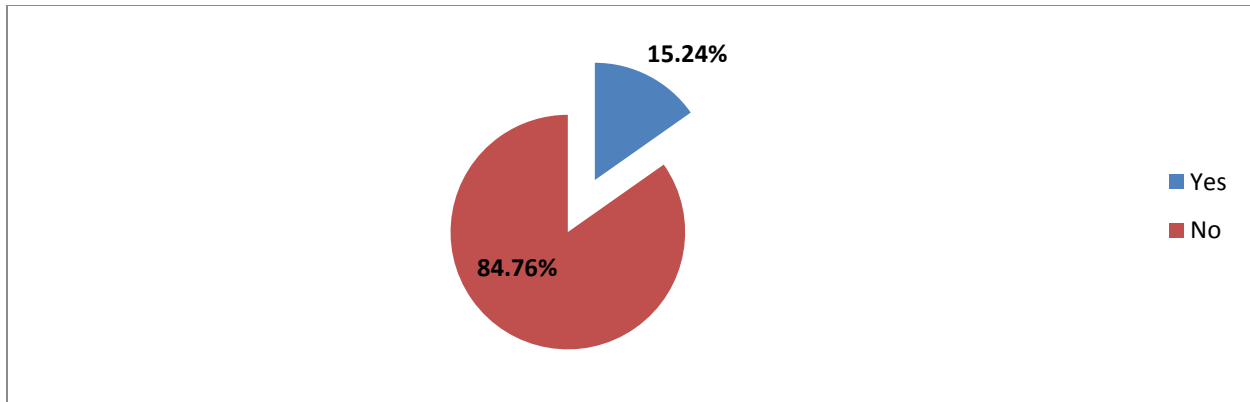


Fig 18: Can visually impaired children study in schools the same way as non-disabled children?

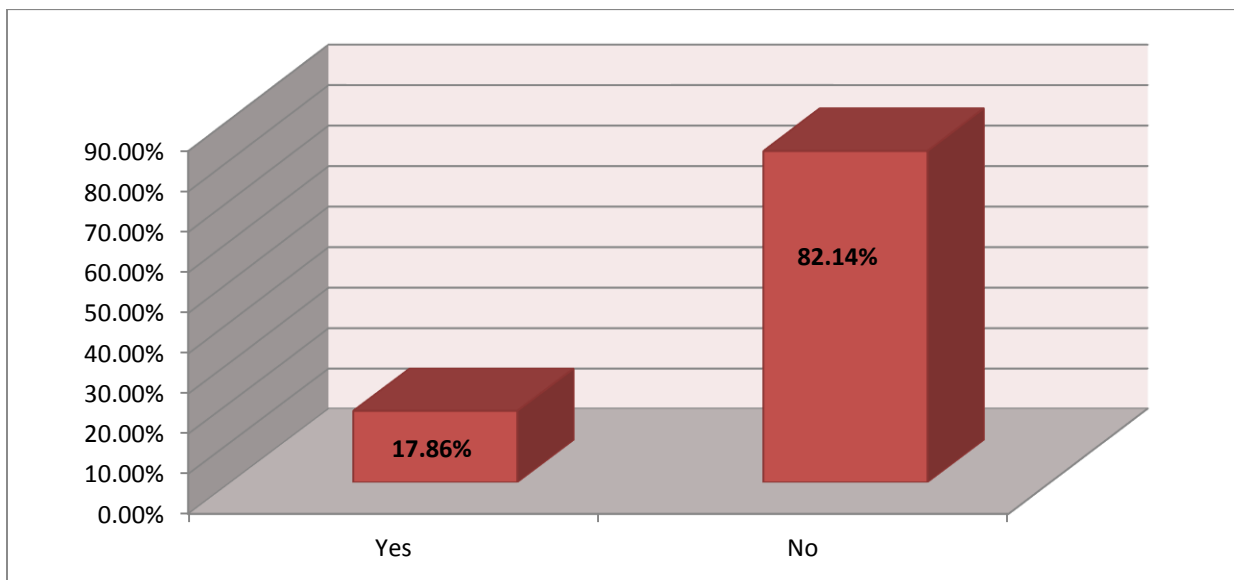


Fig 19: Can children with speech difficulties study in schools in the same way as non-disabled children?

Survey results showed that 19 % of the respondents were of the opinion that children with visual impairments could not study in schools due the schools not being disabled friendly and 21% said that braille was not used in school. 28% of those surveyed said that there was no specialized teacher in school while 41% were of the opinion that there was a lack of educational equipment in schools. Another 18 % of children with speech and hearing difficulties complained of an absence of specialized teachers while 57 % said felt that that teachers were not given appropriate training to help them deal with disabled children with speech and hearing difficulties. 38.81 % of those surveyed were of the opinion that availability of govt. stipend/disability allowance would ensure full participation of disabled children in schools while 18.72 % said that assigning trained teachers in schools would play an encouraging role. 48.85 % on the other hand felt that availability of disabled friendly education equipment was necessary to boost participation. Although in 2013, all primary school text Book have been converted in accessible format (Multimedia book, Braille Book, Unicode text, E-book etc) and have been made available through National E-Content repository (Jatio e-tothokosh) class¹⁰⁵, the same has not yet been done for at all levels of the educational system. The high rate of 'drop out' of school-going disabled children was identified as a problem due to bullying by fellow classmates and teachers, with child marriage being a cause reason for drop outs by girls with disabilities. The expense of sending a disabled child to school was a barrier for poor parents.¹⁰⁶

Lack of Awareness leading to insensitive attitude towards disabled school going children:

Apart from bullying, disabled school children face harassment and physical abuse which hampers their psychological development. On the 13 January 2012, a news about an autistic child (12 yrs. of age) being subject to overnight physical abuse was reported on the national daily “Amar Desh” and “Kaler Kontho”. The child was a student of the Special School for the Disabled of Mirpur Secor No. 14 of Dhaka who was beaten overnight by the security guards of Dhaka Monipur School and College when he got lost at the school premises. He was later rescued with injuries and had to undergo treatment at the Banga bandhu Medical College and Hospital.¹⁰⁷

Case Study¹⁰⁸ :

Shankar Chakraborty and others vs. Govt. of Bangladesh and others

Writ Petition No: 1576 of 2012

On 12.02.2012, BLAST, along with Shankar Chakraborty and others, filed a writ challenging failure of the concerned respondents to take timely action to prevent the continued harassment and subsequent suicide of Modhushudhon Chokrabarty, the son of the petitioner, and a student of the Shaheed Ziaur Rahman Medical College, Bogra.

The petitioners argued that the concerned respondents failed to comply with their statutory and constitutional duties to put in place measures to prevent harassment of students with disabilities in educational institutions, both government and non-government, involving cruel, humiliating and degrading punishments and to investigate any such allegations and take action against those found responsible, and provide redress to those affected amounting to breach of their statutory duties under the Bangladesh Protibondhi Kallyan Ain (Bangladesh Disability Welfare Act) 2001 and a violation of the fundamental rights guaranteed under Articles 27, 31, 32 and 35 of the Constitution.

On 18.03.2012, a Rule was issued by the Hon’ble High Court Division directing the respondents to provide information regarding the measures taken, if any, to ensure that students with disabilities are able to study in educational institutions without discrimination or harassment.

This matter is currently pending for hearing.

Access to Education/Vocational Training for Adults:¹⁰⁹ Many disabled people lack access to education, with most even lacking primary level of education.

The Ministry of Social Welfare’s integrated Special Education Policy on Disability 2009 provides facilities to promote education for persons with disabilities. Under this policy, teachers and staff of special educational institutions are receiving 100 percent pay and allowances from government from February 2010¹¹⁰. However educational institutes offer limited opportunities to the disabled to gain vocational and technical skills. In general, disabled learners are hampered by the lack of a disability-friendly environment and other essential elements. These include:

- The lack of essential accessibility features, skilled teachers and disability sensitized school-actors (including management committees, teachers and peer students).¹¹¹ Braille

text books and materials, including writing frames and stylus, are not generally available and when they are, their expense means most PWDs cannot afford them. Although some educational institutions provide specialized education to disabled students studying under the General and Special mode of education, this is not always adequate.

- There is also a significant shortage in the number of trained teachers who have the capability to communicate and teach students in sign language as well as a shortage of supplies of specialized stationery and materials (such as books in Braille) for disabled students.
- Department of Social Service-run schools for the visually-impaired are generally understaffed; teachers in schools for the hearing-impaired may not be trained in Bangla sign language¹¹². There is only one high school for deaf students, and the distance and transportation for deaf students makes access to education a challenge.
- Non-implementation of the 2013 Act means no steps are taken to prevent harassment and discriminatory behaviour in educational institutions.
- The educational curriculum have which has not been tailored for disabled students.
- Visually impaired children face difficulties obtaining permission for writers to write exams on their behalf.

Accessibility issues: Most educational institutions lack a separate entrance and a wheelchair-accessible washroom/toilet. Most such buildings have not been built in accordance with the Building Code. Under the State's Primary Education Development Program¹¹³, about 10,000 schools across the country are being rebuilt or renovated, and in each case the design includes setting up of ramps at least to the ground floor. According to the designs, the running corridors are supposed to lead to toilets, located at a side of the school building, which would improve accessibility. Unfortunately, in many cases the designs have been altered locally during construction without considering accessibility options. In some cases, the ramps have been built without earth filling at its base, making them completely unusable to a wheelchair user. Reasonable accommodation is not made for such disabled students and the location of schools providing special education is another barrier to education for the disabled:

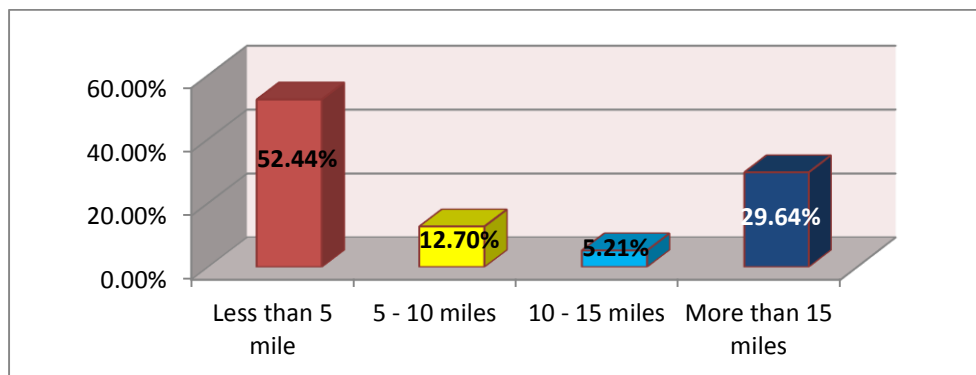


Fig 20: How far (in miles) is the school for special education from your area?

Recommendations

'Special education', remains expensive and inaccessible for most disabled people. Currently, general schools are not adapted to the needs of disabled people and the Disability Rights Act is barely known about, let alone followed. According to our respondents, the following recommendations are particularly important¹¹⁴:

- **Coordination within Ministries:** The Ministry of Education should collaborate with the Ministry of Social Welfare and the Ministry of Housing and Public Works to ensure accessibility of educational institute premises as well as educational curriculum along with any information related to accessibility.
- **Ensure implementation of Section 16, Schedule 4 and Schedule 6 of the 2013 Act** to enable disabled students to have the benefit of being able to access information and communication in their educational institutions.
- **Implement Section 33 of the 2013 Act** which allows for taking action against authorities/heads of educational institutions who create a barrier to disabled people accessing education.
- **Accessibility:** The premises of all educational institutions especially those being built under the Local Government's Primary Educational Development (PED) must be built with a separate access, and features in all parts of the premises including classrooms etc to allow easy access for disabled people, as well as wheelchair access ramps at every entrance of the building and lifts. Where a lift cannot be installed, the authorities concerned must ensure that the disabled student's classroom is on the ground floor of the building. An assistant must always be available to assist students when in need. Separate washrooms/toilets should be available for students with disabilities. The concerned authorities must ensure strict compliance with the National Building Code and refuse planning permission unless these requirements are met.
- **Overcome the challenge of Cost:** A private university, Shahjalal University of Science and Technology is developing a proto type braille printer which if successful would significantly reduce the cost of braille printing in Bangladesh. Also, another Bangla Braille software (Duxbury Braille translator) which have been privately developed which and is available commercially in Bangladesh. The State must explore these various avenues to ensure the cheap printing of educational materials in Braille.
- **Training:** The Ministry of Education must ensure that teachers and staff of educational institutions are trained on the needs of disabled students, on sign language, and on empathetic behaviors to allow them to appropriately deal with students with disabilities. All teachers must be aware of and know how to use different stationery and reading materials needed for students with disabilities. At least one teacher in every class must be trained to deal with students with disability in the class (especially beneficial for students with cerebral palsy). More sign language therapists must be employed in educational institutions. Recently, the government has taken initiatives to conduct inclusive publishing training in September 2014 for publishers to enable disability friendly publishing in the form of accessible Books content. Similar trainings must be conducted for all concerned in all levels of the educational system.

- **Awareness raising:** The non-disabled population must be taught about the rights of disabled people with a focus on ensuring that parents understand that it is wrong to confine a disabled child or to marry them off early. Educational institutions, need to ensure the security of students with disabilities, and to take measures against the bullying and sexual harassment that disabled students face. The government must include a review of how schools treat their disabled students as part of its regular inspections.
- **Maintain** statistics by the Ministry of Education on enrollment and dropout rates of disabled children.
- **Set** up institutions for specialized education for disabled students and training institutes to offer vocational training to disabled people with all institutes to be affordable and in every district. At present the few districts that provide specialized education only provide education to blind students.
- **Other recommendations:**
 - ✓ Make available free Braille/ Audio and Video materials to all disabled disabled students at every academic stages.
 - ✓ Relax the age limit for admission of adult students with disabilities into institutes offering higher education.
 - ✓ Increase exam duration for examinees with disabilities by one hour, and more for students with cerebral palsy.
 - ✓ Allow disabled examinees to use the services of a writer.
 - ✓ Set up a separate admission quota for disabled students for schools, colleges and universities.

RIGHT TO HEALTH SERVICES

Under Article 25 of the CRPD, the state has an obligation to establish PWDs' right to have access to the highest attainable standard of health without discrimination. Its duties also include taking appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation.

Laws and Policies Promoting Disability Rights

The Disability Rights Act establishes the right of PWDs to live in a healthy environment. It states that depending on the type of disability, quality medical services and health care facilities must be provided to PWDs.¹¹⁵ It prohibits discrimination against PWDs; and also empowers them to make complaints to the District Committee against any discrimination faced while availing health care services and to claim compensation.¹¹⁶

The Act addresses aspects of food security and nutrition for disabled children and adults. It requires the state to take preventive measures to lower the risk of factors responsible for causing disabilities among children and women and to reduce their medical expenses.¹¹⁷

It also calls for use of accessible modes of communication in all hospitals and medical institutions including sign language interpretation or employment of speech language therapists where deemed necessary.¹¹⁸

Under the Act all aspects of accessibility and mobility is to be ensured for PWDs in medical and health care institutions.¹¹⁹

Lastly, Schedule 11(kha) of the Act specifies that the State should encourage insurance companies to set up separate insurance for disabled PWDs to increase their social security.

Under the National Health Policy 2011, the State is committed to providing unrestricted access to health care services and other medical services without discrimination¹²⁰ and to raise widespread awareness on nutrition, health hazards, and available health care services to ensure a healthy and balanced lifestyle for PWDs. It also provides that free healthcare and services shall be provided for the poor and the disadvantaged members of the society, which especially benefits financially disadvantaged PWDs.¹²¹

The Sixth Five Year Plan FY 2011 – FY 2015 requires that relevant authorities shall make early detection of symptoms of disability, primary medical rehabilitation, undertake a nutrition programme for pregnant women, appoint trainee doctors, nurses and other caregivers to deal with disability issues and introduce support services for use of assistive devices and equipment at health centers.¹²²

The **National Food Policy 2006** expressly refers to achieving food security for all including PWDs (Strategy 2.3.1).

The National ICT Policy 2009 refers to ensuring quality healthcare to all citizens by innovative application of ICT (Clause D. 7) and improving management of healthcare delivery system using telemedicine and modern technologies benefitting PWDs in the long run. It also refers to the goals

of improved community awareness, access to health care facilities, and quality assurance of health care services and enhancement of the capacity of the National Health Service delivery system (Clause E.7.1 – E7.4).

Gaps and Limitations in the Law

There are no monitoring mechanisms to oversee compliance with health standards and guidelines for public health care services and facilities for PWDs. There is no provision in the various Plans for raising public awareness about the plan provisions; PWDs are largely therefore unaware of their various health entitlements.¹²³

There is no separate budget allocated for PWDs relating to health.¹²⁴ The Sixth Five Year Plan is silent on the need to develop a physical rehabilitation system,¹²⁵ although the Disability Rights Act provides for adoption of family and community based rehabilitation through private initiatives, establishment of institutions to enable rehabilitation especially for the intellectually disabled and setting minimum standards of care depending on the type and nature of disability¹²⁶

Situation Analysis/ Survey Findings

The services provided at the many Government Health Centers across the country are neither easily accessible nor affordable for most PWDs. There is only one doctor available for every 35,000 people; the current doctor patient ratio is 1:0.48, in contrast to the international ratio of 1:3.¹²⁷

Sanitation: 94% of PWDs surveyed said that their family homes did not have a disabled friendly washroom/toilet. Only 6% of the PWDs had access to a disabled friendly washroom/toilet in their family homes. 86% of the PWDs said that they do not enjoy the same sanitation services as non-disabled people.

Inaccessibility of Public Health Centers: Public health centers, such as Upazila Health Complexes and district general hospitals, generally lack the expertise required for early identification of disability, fitting of artificial limbs, handling aids and appliances and knowledge on educational or therapeutic services or vocational rehabilitation. Most doctors, nurses and health workers lack knowledge regarding prevention of secondary disability, early intervention, or rehabilitation.¹²⁸

Persons with psycho-social disabilities: There are currently fourteen State run centers for persons with psycho-social disabilities in medical colleges. There are also two other exclusive/specialized facilities for such persons.¹²⁹

Medical Rehabilitation: PWDs still largely depend on traditional healers. About 70% of the disabled population have special needs for medical rehabilitation and social integration, but cannot access these from existing health care service delivery system. Medical rehabilitation is available only through selected NGOs, and only in urban areas.¹³⁰

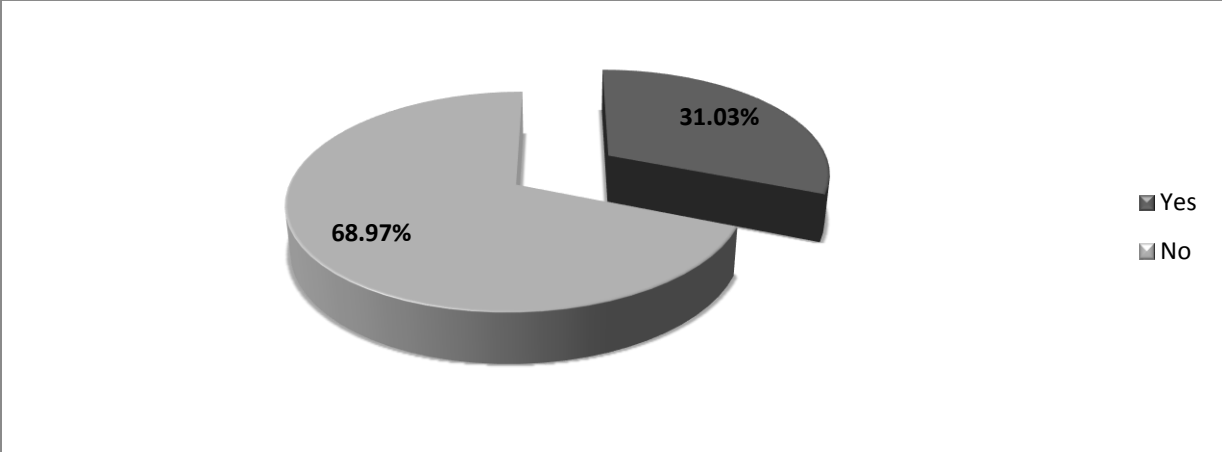


Fig 21: Do you know of any PWD being rehabilitated through the existing health services/benefits provided to PWDs?

Disabled pregnant women and injured patients: Medical professionals generally lack knowledge on how to provide services to women with disabilities when they become pregnant, including pre-natal, natal and post-natal care. There is also inadequate treatment for certain injuries (especially a spinal cord injury) and reports of disability resulting from medical negligence (namely lack of knowledge of orthopedic surgeons in dealing with post-polio cases if they fracture an affected limb due to any injury and/or accident).¹³¹ There are no patient-counseling facilities and limited facilities for children with disabilities.

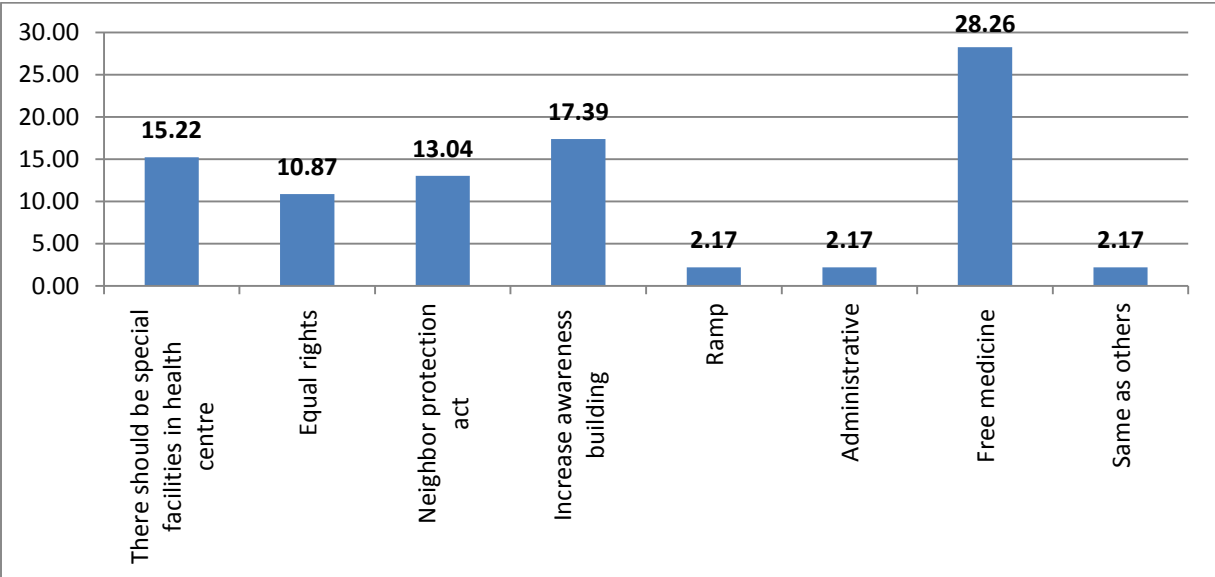


Fig 22: What steps, if taken, shall ensure that PWDs get the same health benefits and receive the same health services as non-disabled people?

Inability to communicate as a barrier to Health Services: Government hospitals do not have environments adapted to the needs of PWDs. Doctors and nurses on duty lack specialist expertise

to take care of people with disabilities. There are generally no sign language interpreters in hospitals for those with hearing and speech difficulties.

Cost of Health Services: Government hospitals do not provide medicine or other treatments for free for people with disabilities despite Ministry guidelines stating that this should be the case. Private medical care is hugely expensive and inaccessible for most. While Government hospitals provide devices such as hearing aids, crutches to disabled patients for free these are often given out without proper assessment of their working condition. Disabled patients have to buy their own devices as government provided ones do not last.

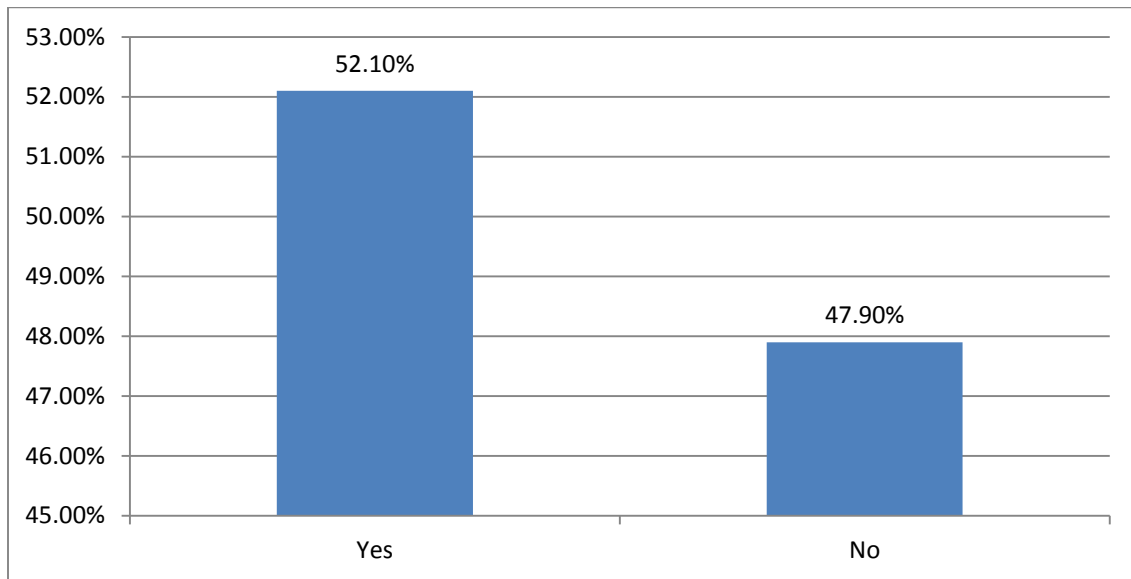


Fig 23: Do PWDs receive health benefits/services free of cost?

Lack of reserved hospital beds and health service counters: Most hospitals lack an adapted ward or separate counter for PWDs. Faridpur Town Hospital is the only known hospital that has a separate counter and five beds reserved for people with disabilities.

Lack of awareness of available health services: Every district has at least one health center but most PWDs remain unaware of their services, given inadequate publicity.

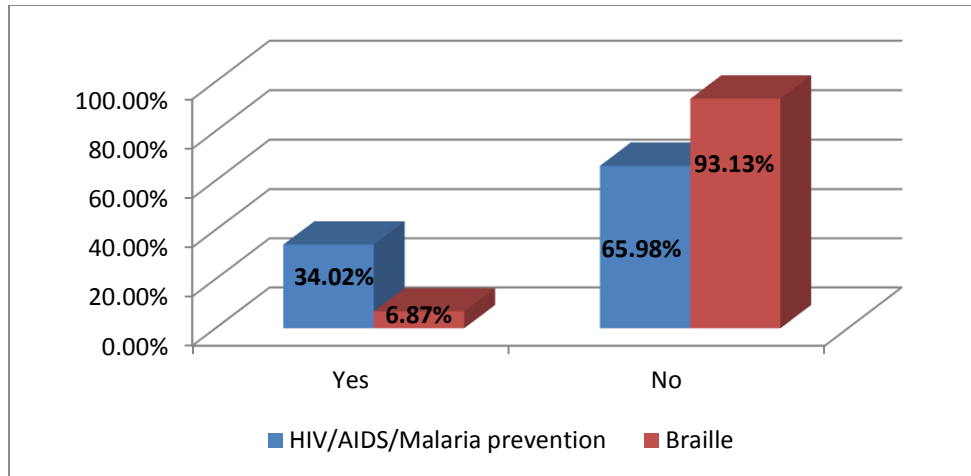


Fig 24: Are PWDs informed about the preventive steps/measures that can be taken to protect themselves from HIV/AIDS and malaria? Are the awareness materials made accessible through the dissemination of such materials in Braille for example?

Recommendations

- **Proper Implementation of the law:** The Ministry of Health and Family Welfare should ensure strict compliance of the law and develop monitoring systems to maintain a quality standard with respect to health services for PWDs.
- **Accessibility:** Comply with the National Building Code 2008 and Schedule 3 of the Disability Rights Act to ensure all hospitals, maternity and diagnostic centers, and medical institutions are made accessible for patients with disabilities. Put up signs showing the directions to separate disabled facilities, arrange separate wheelchair access at every building entrance and on each floor, ensure lifts in multi-storied buildings, install automatic doors, employ assistants to help disabled patients and separate counters for disabled patients to avoid their being made to stand in long queues.
- **Communication:** Engage audio and use of Braille in hospitals and where necessary engage a sign language therapist.
- **Free Medical Services:** Ministry of Health and Family Welfare to monitor access of poor patients with disabilities to free healthcare.
- **Training:** Give specialized training to doctors, hospital employees, ward boys, employees and nurses on treating people with disabilities. Training Curriculum and Syllabus, for example the MBBS for medical practitioners to include disability issues. Train more sign language experts to communicate with people with hearing and speech difficulties. Train all concerned persons on their legal obligations to treat people with disabilities, and to build empathetic behaviour and positive attitudes.
- **Extra care to be taken to prevent disability at birth and in the event of an accident:** Ensure skills among medical professionals to provide services to pregnant women with disabilities and to treat patients with certain injuries (especially a spinal cord injury) with extra care and precaution to prevent the occurrence of disability.

- **Awareness building:** Undertake extensive awareness programmes about the existence of district health centers and entitlements of PWDs under national policies [there are currently eighty One Stop Services in operation under the Jatiyo Protibondhi Unnayan Foundation (JPUF) across the country¹³²] and disseminate information about such services and programmes to enable disabled patients to make informed decisions regarding the kind of treatment they want to receive.
- **Dissemination of information** of nutrition, health risks, diseases and preventive behaviors among disabled people and of their right to access health care services.

WORK AND EMPLOYMENT

Under Article 27 of the CRPD, the State is obligated to:

- Recognize the right of PWDs to equal opportunities to work including to work freely and be accepted in a labour market and work environment that is open, inclusive and accessible to PWDS.
- Safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment.
- Enable persons with disabilities to form trade unions and have effective access to general technical and vocational guidance programmes, placement services, career advancement options, vocational and continuing training; opportunities for self-employment and entrepreneurship.¹³³

Laws and Policies Promoting Disability Rights

The Disability Act provides for the right to employment in all government and non-governmental organizations and to benefits, pensions, maternity payment, compensation packages and other facilities in the event of a PWD not being able to continue employment, and prohibiting discrimination.¹³⁴ No such organization can refuse employment to a disabled person on the basis of discrimination,¹³⁵ or as long as that person has the capacity to perform in that position¹³⁶

The Act sets out the duty of public and private organizations to identify positions within their organization suitable for an employee with disabilities; the duty to ensure employment and sole business opportunities, provide banking and commercial services on a priority basis and provide easy access to small loans and start up loans.¹³⁷

The Act establishes a National Disabled Welfare Coordination Committee and empowers it to create employment opportunities and maintain quotas in the public sector for persons with disabilities and for orphans in selected grades of public sector jobs.¹³⁸

The Government has increased the age limit for disabled candidates wishing to apply for a government job to 32 years¹³⁹

Gaps in Laws and Policies

Existing laws continue to discriminate against and deprive PWDs of the right to employment.

Certain laws **directly discriminate** against PWDs for example those prohibiting their inclusion in Public Service above certain grades, or in the Judicial Services.

- Schedule III of the **Bangladesh Civil Service Rules, 1982 (BCS Rules)** require candidates to have “good hearing in both ears”, to have hands and feet that are “well formed” and “developed with no congenital malformation or defect”, and to not suffer from

any “squint or morbid condition of the eye”. Although the Disability Act has empowered the National Disabled Welfare Coordination Committee to maintain quotas in the public sector for persons with disabilities, the reservation of quota varying in government jobs depending on the grade of the job for people with disabilities. For example, a 1% quota of 1st class government jobs are reserved for candidates with disabilities. However, these quotas are still not being filled, ¹⁴⁰ due to the lack of any proactive recruitment practices for disabled people. ¹⁴¹

Also, Schedule III of the Bangladesh Judicial Service Appointment Order, 2007 bars persons with disabilities from being eligible for employment in judicial services. ¹⁴²

The absence of laws addressing discrimination limit opportunities for PWDs’ employment in the private sector.

- There are no quotas required for employment of persons with disabilities in the private sector.
- There are no specific remedies available if a private sector employer discriminates against any employee.
- Under the **Bangladesh Labour Act 2006**, a person who acquires a disability at work has no right to alternative employment. This Act states that where a person becomes disabled for any reason during the course of employment, s/he shall be relieved from the job and offered an appropriate compensation package instead. ¹⁴³ This provision is in conflict with the rights established by the 2013 Disability Related Act.

There is very limited redress available for any person who becomes disabled at work.

- The Labour Act¹⁴⁴ provides that an employee with a permanent disability is entitled to a compensation package of one lac twenty five thousand taka (approx. 1300 USD) while anyone incurring a temporary disability is entitled to compensation assessed for the period of their disablement or one year whichever is less. Thus the amount of compensation payable for the first two months will be the entire monthly wage, the amount of compensation for the next two months will be two thirds of the monthly wages and for the remaining months, it will be half of the monthly wages. ¹⁴⁵ Neither sum is adequate in terms of covering the actual costs of livelihood, medical treatment and cost of dependents.

Survey Findings

Important government initiatives have taken place to fulfill disabled people’s right to work and employment.

- The Ministry of Social Welfare supports Moitri Shilpo (a profit-making organization for persons with disabilities) which produces 5 types of mineral water and 86 types of plastic accessories. ¹⁴⁶
- The Sheikh Fazilatunnesa Mujib Mohila Technical Training Centre in Savar provides training on needlework to women with disabilities. ¹⁴⁷
- 125 women from various DPOs have also benefited from doing business using poultry, livestock and fisheries and another 55 women have benefited from other small scale businesses. ¹⁴⁸
- Various NGOs have assisted with referrals and securing employment for PWDs in the readymade garments sector (see for example, ADD’s Shiree Project, benefitting at least

225 people with disabilities through employment in garment manufacturing factories in Dhaka; ¹⁴⁹ CRP securing such employment for 400 disabled women, and the Ahsania Mission in Dhaka for others). While greater opportunities exist, coordination opportunities and negotiation of contracts is a challenge.

- Private companies producing toiletries and consumer products have also led the way in opening up positions for disabled persons. See for example Square Pharmaceuticals employing 82 disabled persons, while Keya Cosmetics Limited has provided employment to 1000 people with hearing disabilities. As a gesture of goodwill, the company pays out a monthly remuneration for disabled employees which is 2000 taka (26 USD) more than the salary received by non-disabled employees.¹⁵⁰

Through FGDS, we identified the following key concerns:

Misconception about PWDs and their efficiency: Common misconceptions that people with disabilities cannot work as effectively as others leads to their facing barriers at work including lack of cooperation and negative attitudes. During the recruitment process, employers generally do not consider their specific needs or make reasonable accommodation needed to fulfill their job responsibilities.

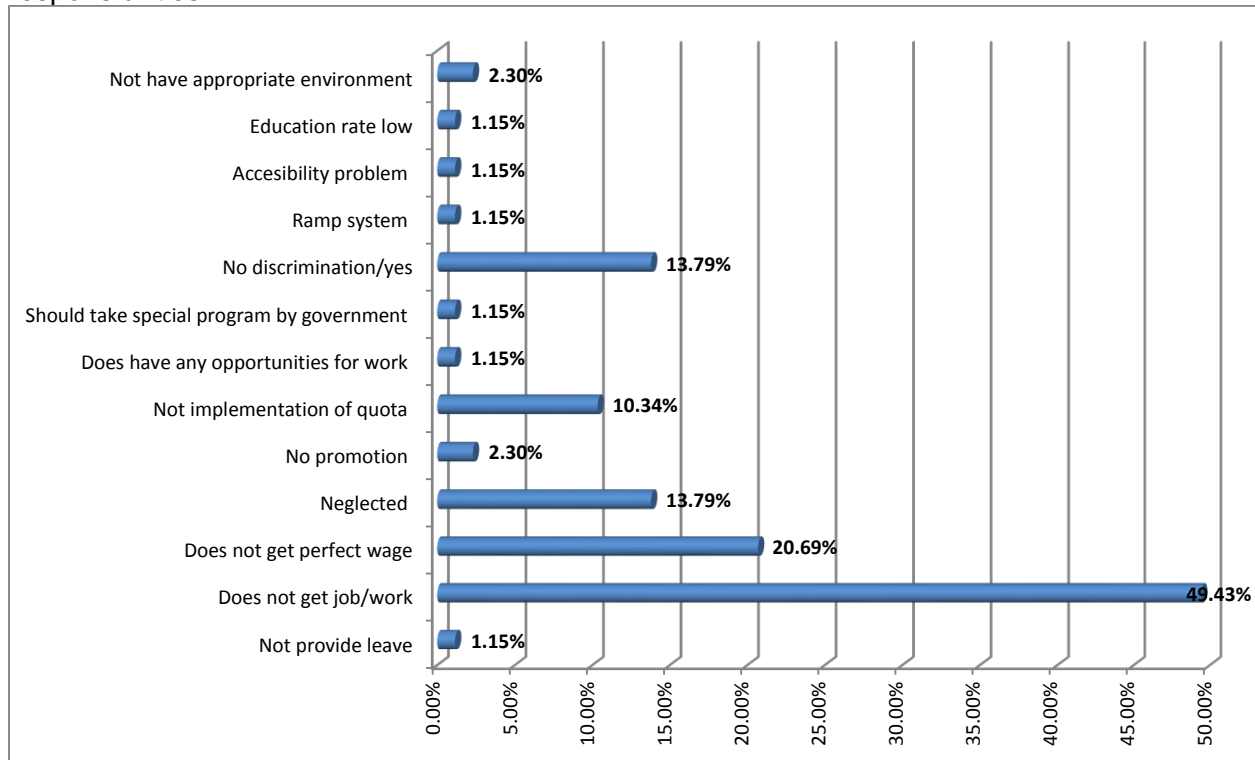


Fig 25: What sort of discrimination is faced by PWDs re appointment, promotion, pension, holidays and other employment opportunities?

Discrimination faced by PWDs regarding appointment, salary etc: There is no proper implementation of Section 16 of the Disability Act related to right to employment leading to PWDs being discriminated at interviews and during job appointments. While the Constitution provides remedies for discrimination against public authorities, the non-implementation of Section 35 and Section 36 of the Disability Act prevents persons with disabilities from claiming a specific remedy against discrimination by private actors.

Case Study 1: Courts Question Disability Discriminatory Laws re Public Sector: ¹⁵¹

On 18 April, 2010, Shapan Chowkidar, a lawyer, who is visually impaired, along with Action on Disability and Development (ADD), Ain O Shalish Kendro (ASK) and the Bangladesh Legal Aid and Services Trust (BLAST) filed two writ petitions challenging Schedule 3 of the BCS Rules, which prohibits the recruitment of PWDs in the Civil Service, and Schedule III of the JCS Rules which prohibits this in the Judicial Service. The High Court on 20 March, 2012 allowed an application by Adv. Chowkider, to allow PWDs to sit for the 33th BCS examinations, and directed the Public Service Commission to ensure reasonable accommodation for them in the exam halls. Before this, The High Court issued a Rule Nisi on 08.06.2010 to show cause as to why certain provisions of the BCS Rules should not be declared to be unconstitutional to the extent that they are inconsistent with the fundamental rights of persons with disabilities to equality, equality of opportunity and the right to a profession. It also directed the respondents to show cause as to why they should not be directed to apply their discretionary powers and to perform their duties as prescribed by law to identify cadre posts within the Bangladesh Civil Service as appropriate for citizens with disabilities as well as to ensure the hiring of citizens with disabilities for these posts. Earlier on 25.04.2010, the Court directed the President and Secretary of the National Disability Welfare Committee to submit a report within thirty days on the steps taken to date implement their obligations under Section 6(2) and Schedule 'Cha' of the Disability Welfare Act, 2001.

Case Study 2: Disability based discrimination in employment case¹⁵²

Md. Nurur Rahman, an engineer with a physical disability was denied appointment to the post of Assistant Manager (Mechanical) in the Bangladesh Gas Field Company Limited (BGFCL), filed a writ petition, along with Ain o Salish Kendra (ASK) and BLAST, challenging the denial of appointment. Mr. Rahman had obtained his Secondary School Certificate (S.S.C) and Higher Secondary Certificate (H.S.C) with First Divisions in 1994 and 1996, respectively. Following errors in his medical treatment, he suffered from a physical disability beginning in the year 1999. He was admitted to the Bangladesh University of Engineering and Technology Dhaka and obtained BSc in Naval Architecture and Marine Engineering in year 2004. He was appointed as an Upazilla Rural Development Officer in Bangladesh Rural Development Board; his responsibilities included regular field visits and the Civil Surgeon recording his physical disability noted that his physical condition would not be a barrier for discharging his responsibilities. He applied for the post with BGFCL, meeting all the eligibility criteria stated in the advertisement published in the Daily Ittefaq, was allowed to take part in both written and viva voce exams and was asked to undergo a physical examination. Following a medical checkup and a report by the internal doctor of the BGFCL that the petitioner was disabled, the petitioner was not asked to join. The petitioners sent a notice demanding justice to the Ministry of Power, Energy and Mineral Resources, the Ministry of Social Welfare, Bangladesh Oil, Gas and Mineral Corporation and BGFCL. The Social Welfare Ministry (Disability Section) sent a letter to the Ministry of Power, Energy and Mineral Resources to consider the Disability Welfare Act, 2001 regarding the petitioner's disability as well as quotas under the Act but no step was taken.

he High Court issued a Rule Nisi on 9.4.2008 on the respondents to show cause why their refusal to appoint Mr. Rahman should not be declared to be without lawful authority and of no legal effect and why BGFCL should not be directed to appoint him. The case is still pending for hearing.

Case Study 3 : Discriminatory Reservation Case¹⁵³

BLAST along with Muhammad Sarwar Hussain Khan, a person with a visual impairment, filed a writ petition challenging a circular issued by the Ministry of Establishment on 17.03.1997 amending the provision for quotas on direct employment in all classes of post of the services of Government (autonomous, semi-autonomous and corporations). The said amendment reserved 10% of posts for physically disabled persons only in respect to third and fourth class posts, while it had reserved posts for Muktijodhdhas, women, indigenous people, etc. in respect to all classes. There was thus no reservation for physically disabled persons in the first and second class posts.

*The High Court issued a Rule Nisi on 12.07.1998 calling upon the Ministry of Establishment and the Ministry of Social Welfare to show cause why the impugned circular amending the reservations for persons with disabilities for direct employment in government services and failing to reserve any posts for them in respect of first and second class posts should not be declared to be arbitrary, discriminatory and without lawful authority.
Rule discharged on 01.02.2006.*

Employees with disabilities tend to get paid less than others, particularly in manual or field based jobs.

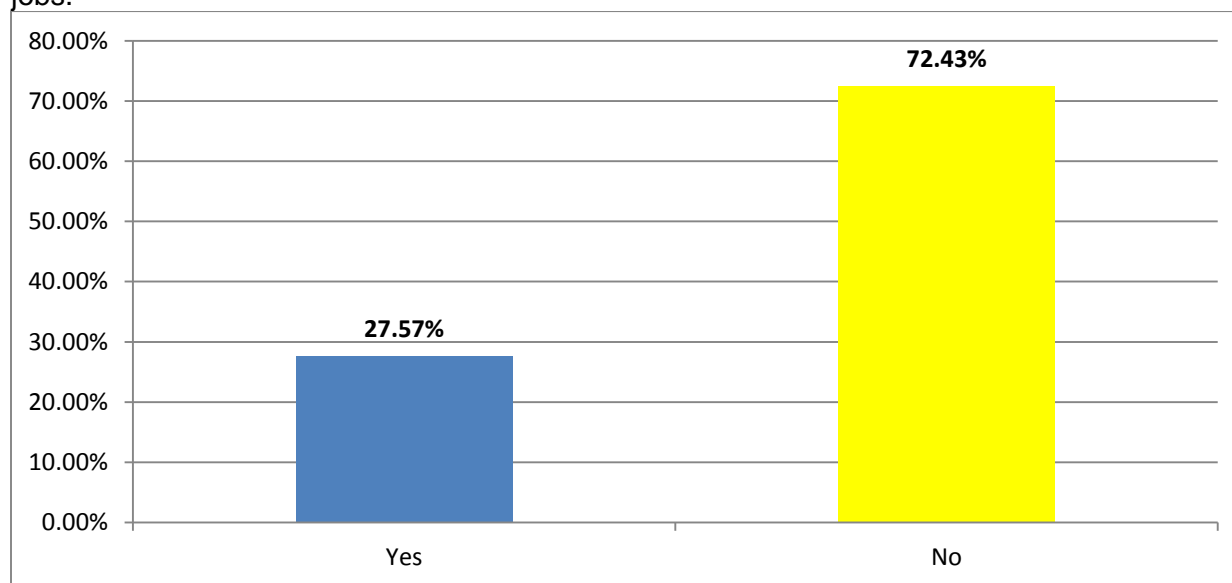


Fig 26: Do PWDS get paid the same wage as non-disabled workers?

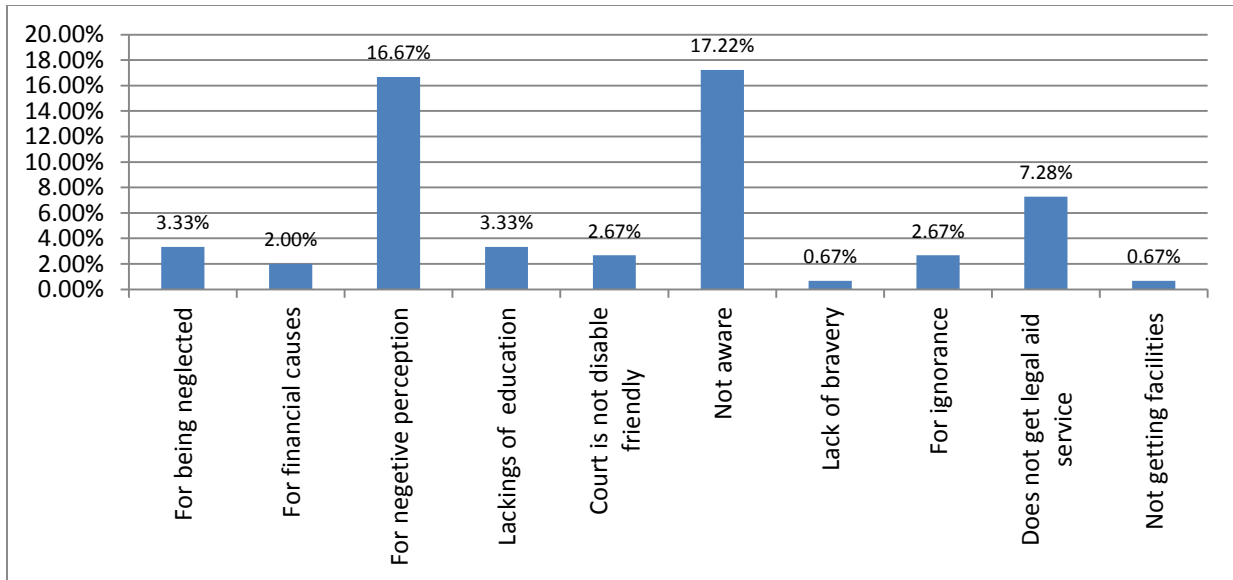


Fig 27: What are the reasons for PWDs not availing legal services when they are forced into labour or unlawfully terminated?

Harassment at work: Employees with disabilities commonly face bullying, harassment and misbehavior at work.

Difficulty in obtaining a job: Often quotas for PWDs are established regarding jobs which have advanced educational eligibility requirements. Even when PWDs meet these criteria and can apply for such jobs, they are not always offered the position. The recent study by Mollah pointed to a person having spent four years, and appeared in 16 interviews, qualifying in both the written and practical tests but still being rejected.¹⁵⁴

Accessibility issues: Most training institutes providing training and skills for specific vocations do not have facilities for people with disabilities. Most factories and offices are physically inaccessible to people with disabilities.

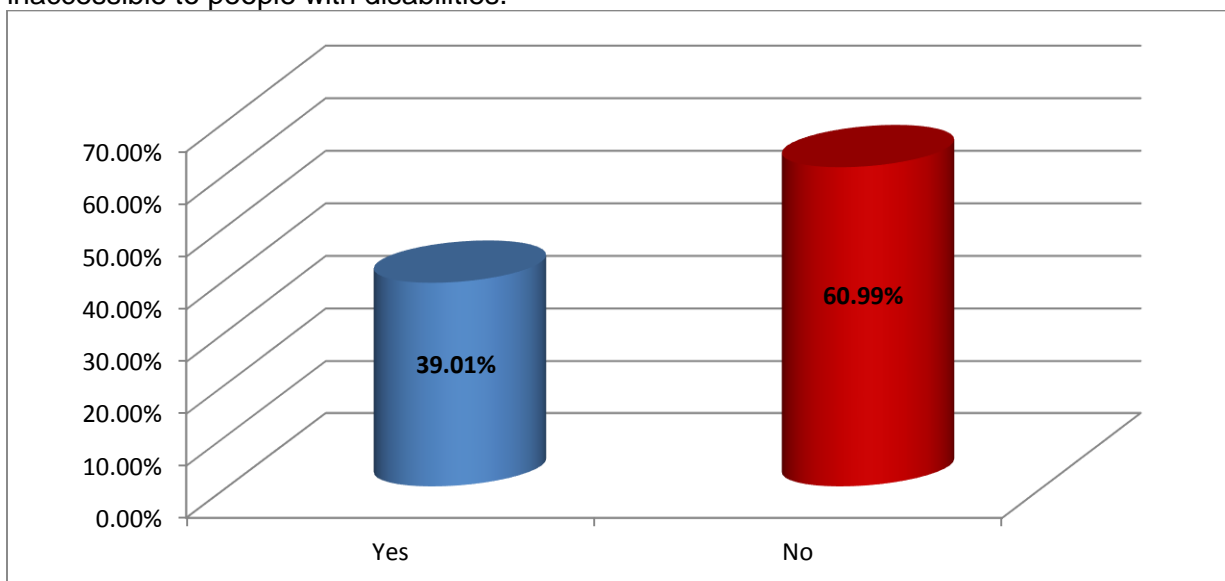


Fig 28: Is accessibility ensured to PWDs in workplaces?

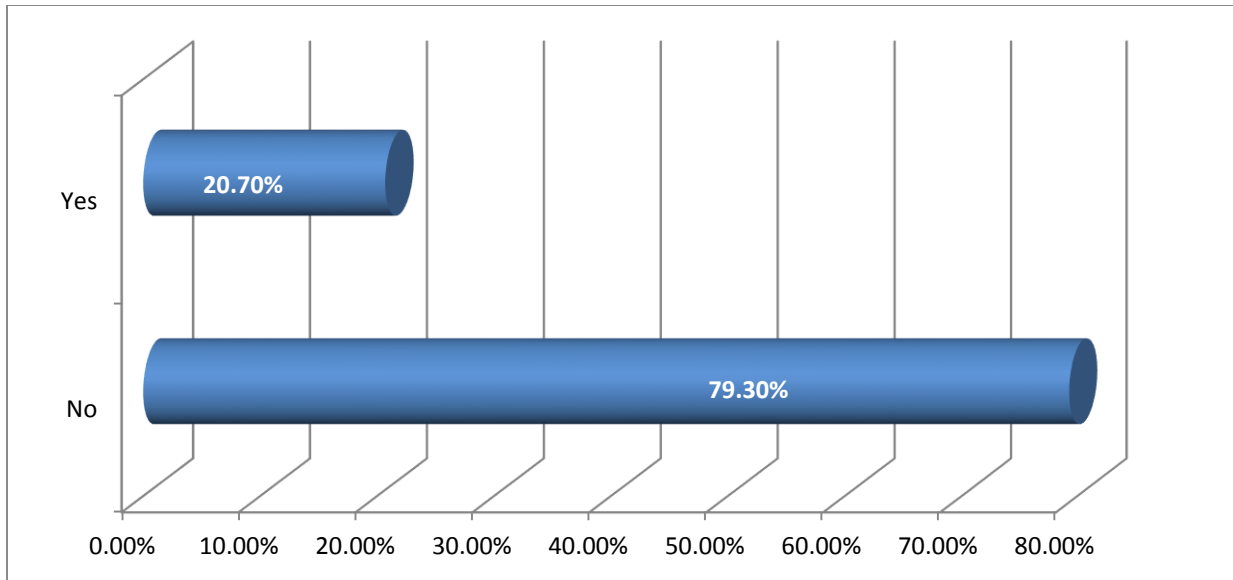


Fig 29: As an alternative to working from the office premises, do PWDs get the opportunity to work from home using internet and e-communication facilities?

Lack of opportunities: Disabled people are usually not involved in disaster relief activities. They are often denied access to short term loans or employment which are provided to non-disabled people to help them regain financial independence after a disaster.

Non-rehabilitation of workers who have become disabled in the course of employment: Workers who become disabled due to workplace injury are rarely rehabilitated or provided training adapted to their needs. The compensation package offered under the Labour Act 2006,¹⁵⁵ is insufficient as it does not adequately cover medical expenses or the maintenance costs of dependents of the disabled worker.

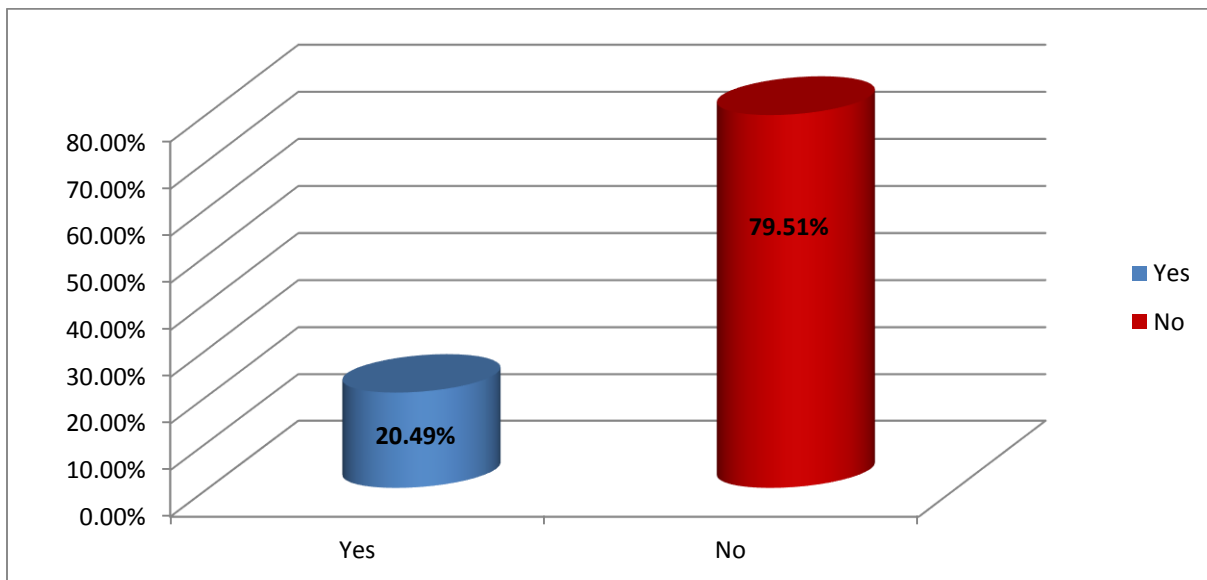


Fig 30: If an employee becomes disabled in the course of his employment and is unable to continue his employment due to his disability, then is he given further training instead of being terminated from his position?

Recommendations

- **Amend** the Labour Act, 2006 in particular section 22(1) to ensure consistency with the Disability Rights Act, and to include provisions to set out the requirement for an effective quota system and make it applicable to all government and non-governmental organizations to ensure that employees with disabilities are not paid less due to their disability; clarify the legal consequences that an employer may face for breach, and increase the current inadequate compensation package of only 1,25,000 taka (approx.. 1600USD).
- **Rehabilitation of workers injured through** training adapted to their capability, and provision of alternative employment instead of termination as a result of the disability.
- **Amend** Schedule III of the BCS and JSC rules to remove discrimination related to employment of PWDs in the public sector and in the judiciary.
- **The Workplace environment** must be tailored to the needs of persons with disabilities. The orientation and training at any workplace must include disability issues to ensure empathetic and sensitive behaviour from fellow colleagues of a disabled person. Workplaces must have Trade Unions and there must be arrangements in place to enable a disabled person to address his/her concerns in the event of facing harassment or any issues at work. The Disability Act and the Labour Act must include provisions that would detail how an employee or organization can make their working environment friendly for disabled workers and put in place strict measures to prevent misbehaviour and bullying of disabled employees in the workplace.
- **Increase employment opportunities** for disabled people:
 - ✓ Establish a monitoring mechanism engaging civil society to identify if the 5 % quota for 1st and 2nd class government jobs is being fulfilled, and to ensure reasonable accommodation is made during recruitment
 - ✓ Establish quotas for people with disabilities applying for 3rd and 4th class government jobs
 - ✓ Create employment opportunities for persons with disabilities and especially for disabled women at governmental and non-governmental level.
 - ✓ Make reasonable accommodation for examinees with disabilities sitting exams as part of the job process (do you mean recruitment?) including giving additional time or option to appoint a writer/ scribe.
 - ✓ Provide free/ subsidized training including technical and vocational training to people with disabilities and involving private sector organizations. Allow trainees to access loans at affordable interest rates and to secure 0% down payment from state and private owned banks.
 - ✓ Provide access to loans on easy terms through institutions such as PKSF, SME Foundation state and private owned banks to facilitate small business /entrepreneurship among PWDs.

- **Public transport and accessibility:** Schedule 5 of the Disability Act 2013 must be implemented so that all public transport have easy access/wheelchair access. In the meantime, the drivers and conductors of public transport must assist any disabled person to board a vehicle and failure to do so must be legally penalized. Stricter measures must be taken to ensure that 5% of the total number of seats in any form of public transport are reserved for people with disabilities. Seating arrangements in all public transport must be adapted to the needs of persons with disabilities.
- **Recruitment of persons with disabilities in the private sector:** Provide support and encouragement to private companies to encourage employment of people with disabilities.
- **Raise awareness** among employers by implementing Schedule 5 of the 2013 Disabilities Act to address misconceptions regarding disabled people not having capability to work, and to provide the right environment and facilities.
- **Ensure all employees are trained** on empathetic behavior at work to eradicate misbehavior against employees with disabilities.

PARTICIPATION IN POLITICAL AND PUBLIC LIFE

Article 29 of the UNCRPD requires that persons with disabilities face no barriers to be elected or to vote and ensures:

- Participation in political and public life on an equal basis with others.
- Right and opportunities for PWDs to vote and be elected.
- Formation of community organizations and associations, such as political parties and organizations of PWDs.

Promote an environment where PWDs can effectively and fully participate in the conduct of public affairs, without discrimination.¹⁵⁶

Laws and Policies Promoting Disability Rights

The Disability Rights 2013 clarifies the right of persons with disabilities to be registered as voters, the right to vote and the right to take part in elections.¹⁵⁷ It prohibits the denial of such rights on the basis of discrimination or discriminatory behaviour by any individual, organization, group or authority.¹⁵⁸

Schedule 16 of the Act requires the State to make reasonable arrangements and give encouragement to PWDs and help them to develop their leadership capability (at a national, divisional and district level); to provide financial and other support and assistance to enable people with disabilities to set up their own groups, unions and to provide help with developing their group/union related decision making abilities.¹⁵⁹

Section 36 of the Act entitles a disabled person who has been aggrieved by the denial of the above rights due to discrimination to make a complaint to the District Committee (what is this?).¹⁶⁰ If a PWD is refused a National ID or registration in the electoral roll, then s/he may challenge the refusal within 30 days.¹⁶¹

Apart from the Constitution of Bangladesh, the **Representation of the People Order, 1972** lays out the functions of the Election Commission. Section 31 (7) of the Act states that “where an elector is blind or is otherwise so incapacitated that he cannot vote without the assistance of a companion”, the Presiding Officer shall provide assistance.

Gaps in Laws and Policies

Article 122(2) (c) of the Constitution bars people who have been declared by a competent court to be of ‘unsound mind’, that is persons with intellectual disabilities among others, from qualifying as voters.¹⁶²

Although Section 36 of the Disability Rights Act allows for a PWD to file complaints or appeal against an unfavourable decision denying their right to political and public participation, is yet to come into force, as no order doing so has yet been published in the official gazette. Until that is done, disabled people are not able to use this provision to challenge any discriminatory decision affecting their political rights.

Non-compliance with Schedule 16 of the Act is pervasive, resulting in denial of rights to PWDs to form organizations using which they could act in representational capacities to voice their concerns.

Non-compliance with Schedule 6 denies PWDs their right to information regarding elections or electoral candidates, which affects the enjoyment of their political rights.

While some seven million eligible people with disabilities reportedly registered as voters, others could not due to illiteracy, lack of access to information, vulnerability and poverty.

Survey Findings

The following findings were made through FGDs held across the country.

Discrimination in being registered into the voter's list: Pursuant to Article 122 of the Constitution, persons with intellectual or psychosocial disabilities are generally excluded from the voter's list. Lack of knowledge about the terms used to describe a person's disability leads to problems such as the one where those updating the voter's list fail to identify the nature of disability of a person.

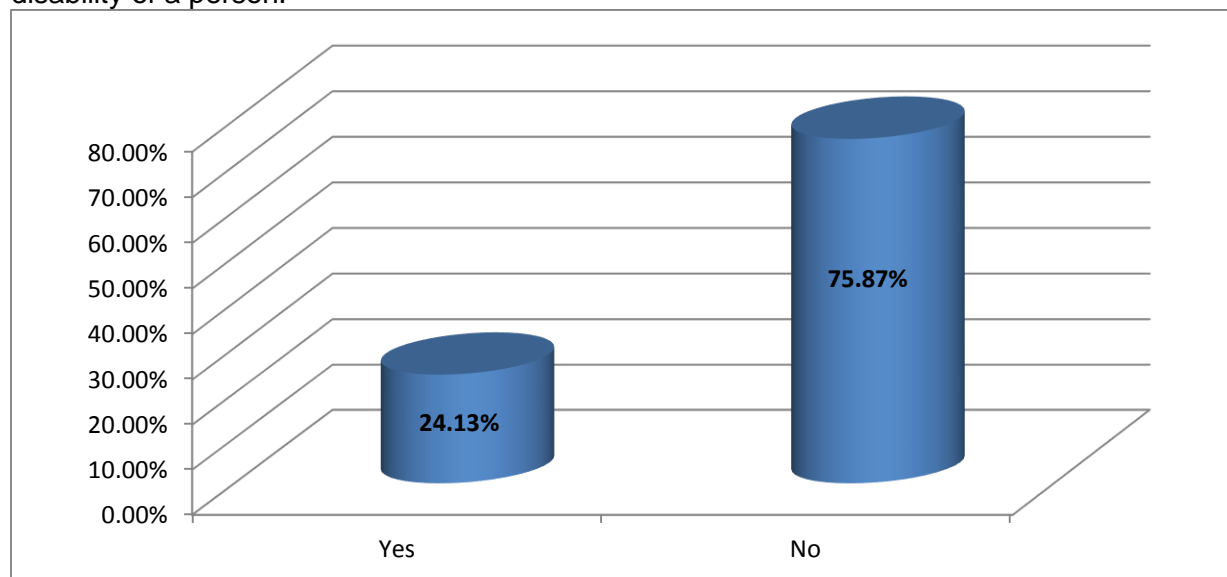


Figure 31: Can all disabled people take part in elections?

Inaccessibility of polling centers and security issues: 4% of the PWDs surveyed said that voting centers are physically inaccessible, as there is no ramp in most voting centers and many polling booths are located on the second or third floor, there is no separate queue or priority voting for PWDs who have to queue for hours to cast their vote. Public transport is limited on election days, making it very hard for people with disabilities to travel to polling centers. Around 9% of the PWDs surveyed said transport issues acted as a barrier to their exercising their voting rights.

Non-participation in the voting/election process: Political participation of persons with disabilities as voters and campaigners remain limited, mainly due to poverty, poor literacy and lack of organizational affiliation and support.

People with disabilities rarely get to participate as a candidate in political elections and even in those rare cases where they do participate, they have not won. There are no politically affiliated groups, which comprises of people with disabilities. 38% of PWDs said that they could not participate in the election process since they were neglected in their own community due to their disability. 25% saw their lack of qualification as a barrier to participation in elections.

Reserved quota for PWDs in Parliament: 9% said that there was no quota system. 13 % of the PWDs surveyed were of the opinion that reservation of seats for PWDs would ensure their political rights.

Lack of awareness of political rights of PWDs: People with disabilities and their family members are often not aware of their voting rights.¹⁶³

Problem with registration and ID: Although Part 12 of the voter's registration form requires an entry regarding nature of disability; however this information appears not to be preserved. The National ID card does not refer to disabled status. There are no statistics on the number of disabled people who vote, which makes it harder to advocate for or make arrangements for the disabled voters.

Non-access to information: Information regarding the voting and registration process is not communicated in the way that would be understood by people with disabilities. 16% of the PWDs surveyed said that they were not included on the voter's list, which prevented them from casting their vote.

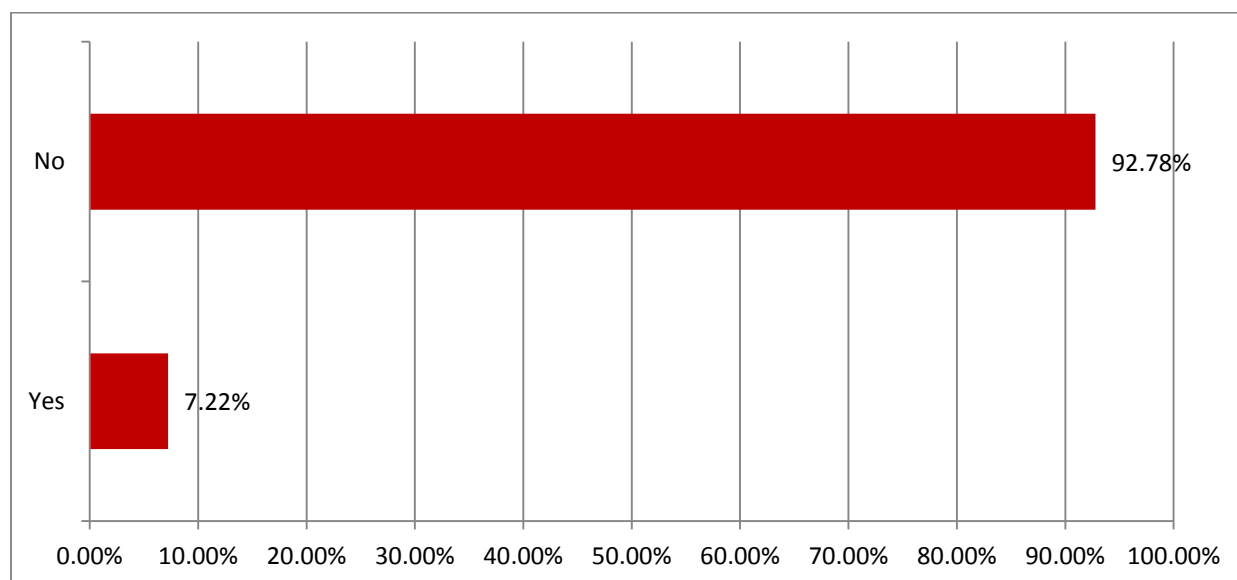


Fig 32: Are ballots printed in braille format for visually impaired voters?

Privacy issues of voters with disabilities: Privacy regarding voting is never maintained in cases of people with disabilities. Since the polling booth is inaccessible to people with physical disabilities, the presiding officer often brings the ballot paper to the disabled person, which leaves that person with no option but to cast his/her vote in the presence of many onlookers. Regarding persons with visual impairments, the presiding officer assists in the casting of the vote but due to lack of Braille technology being available in these polling centers, a blind voter can never confirm whether her vote was in fact cast for his/her chosen candidate.

Recommendations

The State should take the following steps:

- **Amend Article 122 (2) (c) of the Constitution to ensure that persons with intellectual disabilities** may register and be included in the voter's list.
- **Amend Section 44 E. 1 of the Representation of the People Order, 1972¹⁶⁴ and the 'Code of Conduct for Parliament Elections'** to ensure that persons with disabilities are not discriminated from voting on the basis of disability and that the EC maintains the anonymity, privacy and autonomy of voters with disabilities.
- **Ensure capacity building** and orientation for presiding officers and Election Commission staff on how to approach, deal, and assist disabled persons to cast their vote.
- **Ensure rights of PWDs to participate in political and public life** through the full implementation of Section 16 and Schedule 16 of the Act which allows for PWDs to participate in the political sphere of life by forming organizations and using them to act from a representational capacity. For example Schedule 16(ka), requires the State to train and encourage PWDs on a national, divisional, district and upazilla level to their develop leadership capability.¹⁶⁵
- **Form and activate the Committees under the 2013 Disability Act** by implementing Section 17, 19, 21, 23 and 24 of the said Act.
- **Activate the complaints process** to enable legal protection of PWDs from discrimination, by publication of an order in the official gazette to bring Section 36 of the 2013 Act into force.
- **Remove barriers related to physical accessibility of disabled voters** in all polling centers (equipping such centers with the facilities to enable a disabled person to vote easily and with adequate privacy) through the implementation of Section 34 and Schedules 5 and 7 of the 2013 Act and use them to bring the following changes: Have separate access points in polling booths, courts, police stations, government buildings and separate toilets for PWDs, maintain a separate queue for disabled voters in polling centers and a separate area to allow them to cast their vote in private, use ballot papers printed using the tactile process for the visually impaired and to arrange transport facilities tailored to the needs of disabled persons for free (by the Election Commission) to encourage voters with disabilities to vote.
- **Record Statistics** on the number of disabled people voting in every general election and include data on the nature of disability derived from information given on National ID cards and in the voter registration form through implementation of Schedule 1 of the 2013 Act.
- **Reserve seats for people with disabilities¹⁶⁶** in Parliament and Local Government to create awareness about a disabled person's political rights, and to encourage disabled

persons to put themselves forward as candidates and encourage political parties to nominate them.

- **Remove barriers to communication, access to data and information** by implementing Schedule 6 of the Act (Sharing Information and Information & Communication Technology) to ensure that communication issued by the government or a political party is not denied to people with disabilities.
- **Increase awareness** among PWDs and the public about their political rights by implementing Schedule 15 of the 2013 Act requiring the State to undertake awareness programmes on political rights of disabled people and disseminate such information to PWDs, their family members, political parties and others concerned.

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- ¹ http://www.askbd.org/hr_report2008/21_DISABILITY.pdf
- ² http://www.askbd.org/hr_report2008/21_DISABILITY.pdf
- ³ Please see Annex for list of respondents
- ⁴ Please see Annex for Consolidated Report on FGDs
- ⁵ www.dpi.org/.../BANGLADESH%20UPR.
- ⁶ http://www.who.int/disabilities/world_report/2011/report.pdf
- ⁷ http://www.theindependentbd.com/index.php?option=com_content&view=article&id=209840:disabled-people-in-bangladesh-magnitude-treatment-and-rehabilitation&catid=176:stethoscope&Itemid=214
- ⁸ <http://siteresources.worldbank.org/DISABILITY/Resources/Regions/South%20Asia/DisabilityinBangladesh.pdf>
- ⁹ <http://bdnews24.com/bangladesh/2012/07/16/persons-with-disability-only-1.4>
- ¹⁰ UNICEF, Bangladesh, Country Programme Document 2012-2016, 2011
- ¹¹ <http://siteresources.worldbank.org/DISABILITY/Resources/Regions/South%20Asia/DisabilityinBangladesh.pdf>
- ¹² 'Purchasing Power Parity (PPP)' conversion factor is the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as U.S. dollar would buy in the United States.
- ¹³ <http://world.time.com/2013/07/18/after-much-heartbreak-some-good-news-at-last-for-bangladesh/>
- ¹⁴ http://www.askbd.org/hr_report2008/21_DISABILITY.pdf
- ¹⁵ Other policies somewhat benefiting persons with disabilities also include the National Children Policy 2011 and the National Disaster Action Plan of 2010.
- ¹⁶ <http://www.dhakatribune.com/bangladesh/2013/oct/08/neuro-disabilities-act-2013-approved>
- ¹⁷ Page 47, http://www.unicef.org/bangladesh/SACDB_Report_FINAL.pdf
- ¹⁸ <http://www.nhrc.org.bd/about.html>
- ¹⁹ <http://www.infocom.gov.bd/ic/index.php>
- ²⁰ <http://www.bangladesh.gov.bd/www.bangladesh.gov.bd/indexc82a.html?q=en/social-safety-net>
- ²¹ <https://www.albd.org/index.php/en/resources/special-reports/1241-budget-2014-2015-in-extending-social-protection>
- ²² UNICEF, Situation Assessment and Analysis of Children and Women in Bangladesh, 2009
- ²³ http://www.unicef.org/bangladesh/SACDB_Report_FINAL.pdf
- ²⁴ Please see Annex for full list of respondents
- ²⁵ An 'Officer in Charge' is a 'Designated Officer' who according to Section 10 (2) of the RTI Act 2009, is an officer appointed by any authority/organization under the RTI Act for providing information according to the provisions of the Act.
- ²⁶ *BLAST And Another Vs. Bangladesh And Others [‘Building Construction Code And Worker Safety’ Case]. Writ Petition No. 718. 2008* : <http://www.blast.org.bd/issues/231>
- ²⁷ NGDO, NCDW and BLAST, (2013). Consolidated Report 7 FGDS. Producing the CRPD Shadow Report to bring about a greater engagement by the State and key social actors to the recognition of disability rights in Bangladesh. Dhaka, pp.10 -11 (on file)
- ²⁸ NGDO, NCDW and BLAST, (2013). *Consolidated Report 7 FGDS*. Producing the CRPD Shadow Report to bring about a greater engagement by the State and key social actors to the recognition of disability rights in Bangladesh. Dhaka, pp.10 -11 (on file).
- ²⁹ NGDO, NCDW and BLAST, (2013). *Consolidated Report 7 FGDS*. Producing the CRPD Shadow Report to bring about a greater engagement by the State and key social actors to the recognition of disability rights in Bangladesh. Dhaka, pp.10 -11 (on file).
- ³⁰ Production of accessible reading materials for the students with print disability of class 1 to class-10 through DAISY standard: <http://isif.asia/projects/projects/view/625>
- ³¹ Singapore, B. (2013). *Code on Accessibility in the Built Environment 2013*. [online] Available at: http://www.bca.gov.sg/BarrierFree/others/ACCESSIBILITY_CODE_2013.pdf [Accessed 04 Jan. 2015].

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- ³² Humanrights.gov.au, (2015). *The good, the bad and the ugly – design and construction for access*. [online] Available at: <https://www.humanrights.gov.au/publications/good-bad-and-ugly-design-and-construction-access-0> [Accessed 04 Jan. 2015].
- ³³ Section 38 (1) , Rights of Persons with Disabilities Act, 2013.
- ³⁴ Section 16 (1) (b), Rights of Persons with Disabilities Act, 2013.
- ³⁵ Section 16 (2), Rights of Persons with Disabilities Act, 2013.
- ³⁶ Section 37 (1) and Part 12 of the Schedule, Rights of Persons with Disabilities Act 2013.
- ³⁷ Schedule 12 (ka), Rights of Persons with Disabilities Act, 2013.
- ³⁸ Schedule 12 (gha), Rights of Persons with Disabilities Act, 2013.
- ³⁹ Section 2 (a), Rights of Persons with Disabilities Act, 2013.
- ⁴⁰ Jatiyo Ain Shahayota Bidhimala: <http://nlaso.gov.bd/wp-content/uploads/2014/06/policy-rules-2014.pdf>
- ⁴¹ NLASO Website: <http://nlaso.gov.bd/wp-content/uploads/2014/06/policy-rules-2014.pdf>
- ⁴² Section 84, Penal Code, 1860.
- ⁴³ Section 118, Evidence Act, 1872.
- ⁴⁴ Section 2 (1), 19 and 151 of the Labour Act, 2006.
- ⁴⁵ Section 129, Motor Vehicles Ordinance, 1983.
- ⁴⁶ Section 104, Motor Vehicles Ordinance Act, 1983 states that: “ When any person is injured or any property is damaged as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall-
- (a) take all reasonable steps to secure medical attention for the injured person, and, if necessary convey him to the nearest hospital, unless the injured person or his guardian (in case he is a minor), desires otherwise;...”
- ⁴⁷ *BLAST and another vs. Bangladesh and others [Discriminatory Reservation Case] Writ Petition No. 1783 of 1998* (Judgment date: 20th March 2012) BLAST website “Disability Rights”:
<http://www.blast.org.bd/issues/disabilityrights>
- ⁴⁸ Schedule III of Bangladesh Civil Service (Age, Qualification and Examination for Direct Recruitment) Rules, 1982, being No. S.R.O. 142- L/82/ED/Recruitment/1-15/80 setting the standard for physical fitness of the eligible candidates for appointment to a cadre post of Bangladesh Civil Service, that makes persons with disabilities ineligible for such posts.
- ⁴⁹ Rights Watch, Saturday, November 10, 2012 “High Court directed to allow Disabled Persons to sit for BCS exam”:
<http://humanrightslawclinic.blogspot.com/2012/11/high-court-directed-to-allow-disabled.html>
- ⁵⁰ *BLAST and others v Bangladesh and others [‘JSC Disability Discrimination’ Case] Writ Petition No. 2867 of 2010* (pending hearing to allow disabled candidates to appear for the Judicial Services Examinations⁵⁰) and *BLAST and others v Bangladesh and others [‘PSC Disability Discrimination’ Case] Writ Petition No. 2932 of 2010* (pending hearing to allow disabled candidates to appear for the Public Services Commission Examinations. BLAST website “Disability Rights”:
<http://www.blast.org.bd/issues/disabilityrights>
- ⁵¹ Khondoker Shahriar Shakir. *Protibondhi Odhikar Ain: Ainjibider Nirdeshika (Disability Rights Law: A Manual For Lawyers)*. Harvard Law School Project on Disability and Bangladesh Legal Aid and Services Trust (BLAST), 2012. ,
- ⁵² Advocating for inclusion through Bangla sign language,
http://www.disabilityrightsfund.org/program_grantees/highlight/SDSL
- ⁵³ Section 16 (1) (ga), Rights and Persons with Disabilities Act 2013
- ⁵⁴ Section 25, Rights of Persons with Disabilities Act, 2013.
- ⁵⁵ NLASO Website: <http://nlaso.gov.bd/wp-content/uploads/2014/06/policy-rules-2014.pdf>
- ⁵⁶ Page 10, Consolidated Report 7 FGDs, 1 October 2013. (on file)
- ⁵⁷ Page 10, Consolidated Report 7 FGDs, 1 October 2013. (on file)
- ⁵⁸ Hasan, Sk.M.Tofayel. 'Critical Scanning on Civil Litigation: Bangladesh Perspective'. *ASA University Review* 7.2 (2013): <http://www.asaub.edu.bd/data/asaubreview/v7n2sl11.pdf>
- ⁵⁹ Page 10, Consolidated Report 7 FGDs, 1 October 2013. (Please see Annex).
- ⁶⁰ The National Building Code 2008 <http://buildingcode.gov.bd/>
- ⁶¹ Please see Annex for the “CEDAW Bench Book” for judges and magistrates.
- ⁶² Legal Aid Services Act, 2000. Website: <http://nlaso.gov.bd/act-and-rules/act/>
- ⁶³ Laws of Bangladesh: <http://bdlaws.minlaw.gov.bd/>

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- ⁶⁴ Details on IRSOP (Improving the Real Situation of Overcrowding in Prisons) project. See GIZ's Website: <http://www.giz.de/en/worldwide/15042.html> and BLAST's Website on: <http://www.blast.org.bd/issues/prisons-rights>
- ⁶⁵ Section 39, National Women's Development Policy, 2011
- ⁶⁶ Msw.gov.bd,. 'Ministry of Social Welfare - Home'. N.p., 2009. Web. 13 Feb. 2015.
- ⁶⁷ http://bdlaws.minlaw.gov.bd/pdf/1126_Schedule.pdf
- ⁶⁸ 'A Review Of Discrimination In Employment And Workplace'. ASA University Review 4.2 (2010): <http://www.asaub.edu.bd/data/asaubreview/v4n2sl13.pdf> [Accessed 13 February 2015]
- ⁶⁹ Hrw.org,. "'Will I Get My Dues ... Before I Die?' | Human Rights Watch'. N.p., 2012. Web. 13 Feb. 2015.
- ⁷⁰ Hrw.org,. "'Will I Get My Dues ... Before I Die?' | Human Rights Watch'. N.p., 2012. Web. 13 Feb. 2015.
- ⁷¹ See the paragraph on 'Survey Findings' in the Access to Justice section
- ⁷² Hossain, Sara. TOWARDS ANTI-DISCRIMINATION LAWS FOR MARGINALISED COMMUNITIES IN BANGLADESH. 2013. Print. Paper for Manusher Jonno Foundation.
- ⁷³ The Financial Express,. 'Country's Literacy Rate 59.82 Pc'. 2014. Web. 14 Feb. 2013 : <http://www.thefinancialexpress-bd.com/old/index.php?ref=MjBfMDJfMDZfMTNfMV84OF8xNTkzMTC>
- ⁷⁴ The Feminine Dimension of Disability: A Study on the Situation of Adolescent Girls and Women in Bangladesh, September 2002: http://www.disabilityrightsfund.org/files/adolescent_girls_and_women_with_disabilities_in_bangladesh.pdf
- ⁷⁵ Buncombe, Andrew. No More Silence For Bangladesh's Disabled Rape Victims. 2008: <http://southasia.oneworld.net/news/no-more-silence-for-bangladeshs-disabled-rape-victims#.VN7Y7fmUeAU>
- ⁷⁶ The Feminine Dimension of Disability: A Study on the Situation of Adolescent Girls and Women in Bangladesh, September 2002: http://www.disabilityrightsfund.org/files/adolescent_girls_and_women_with_disabilities_in_bangladesh.pdf
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- ⁸³ Lecture by Rashida Manjoo, UN Special Rapporteur on Violence against Women, its causes and consequences, Dhaka University, YEAR: <http://www.blast.org.bd/content/pressrelease/summery-note-rashida-manjoo.pdf>
- ⁸⁴ The National Women Development Policy 2011 only addresses women with disabilities in Paragraph 39 as follows:
39. Special Program for the Disabled Women :
- 39.1. To ensure rights to recognition and to live with honor and dignity according to UN disadvantage right convention.
- 39.2. To have the disabled women unified with the mainstream society and ensuring their active participation in all the areas of life including education. To give importance to the differentiation of disability in aspect of education.
- 39.3. To consider special type of education in only those areas where they could not be mainstreamed for reasons obvious.
- 39.4. To undertake appropriate institutional program for education, treatment, training and rehabilitation of the disabled women.
- 39.5. To undertake program to prevent disability and its determination and extending special co-operation to their families for taking care and growth of the disabled women.
- 39.6. To make the framework, facilities and services accessible to all so that on women only because of disability are not deprived of any kind of rights, facilities and services endowed under the National Women Policy.

Website:

http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/64238d39_0ecd_4a56_b00c_b834cc54f88d/National-Women-Policy-2011English.pdf

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⁸⁶ Shankar Chakraborty and others vs. Govt. of Bangladesh and others, Writ Petition No: 1576 of 2012.

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[http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/3c51f31a_200b_459a_89f7_9e8e596b1090/National%20Psychosocial%20Counseling%20Policy%202015%20\(draft\).pdf](http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/3c51f31a_200b_459a_89f7_9e8e596b1090/National%20Psychosocial%20Counseling%20Policy%202015%20(draft).pdf)

⁹⁵ Rights and Protections of Persons with Disabilities Act 2013. Website: <http://bdlaws.minlaw.gov.bd/>

⁹⁶ National Education Policy 2010. Website:

http://www.moedu.gov.bd/index.php?option=com_content&task=view&id=338&Itemid=416

⁹⁷ National Children Policy, 2011. Website:

http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20_d211_48cb_8e6b_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf

⁹⁸ http://old.mopme.gov.bd/index.php?option=com_content&task=view&id=451&Itemid=471

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¹⁰² Budget speech 2013-1014, http://www.mof.gov.bd/en/budget/13_14/budget_speech/speech_en.pdf

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¹⁰⁵ www.infokosh.gov.bd

¹⁰⁶ Page 12, Consolidated Report 7 FGDs, 1 October 2013.

¹⁰⁷ See Annex {Will insert further details}

¹⁰⁸ See Annex {Will insert further details}

¹⁰⁹ Page 12, Consolidated Report 7 FGDs, 1 October 2013.

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¹¹⁵ Section 16, Rights and Protection of Persons with Disabilities Act, 2013.

¹¹⁶ Section 36, Rights and Protection of Persons with Disabilities Act, 2013.

¹¹⁷ Schedule 3, Rights and Protection of Persons with Disabilities Act, 2013

¹¹⁸ Schedule 4, Rights and Protection of Persons with Disabilities Act, 2013.

¹¹⁹ Schedule 11, Rights and Protection of Persons with Disabilities Act 2013.

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[file:///C:/Users/ASUS/Downloads/Health%20Policy%202011%20\(1\).pdf](file:///C:/Users/ASUS/Downloads/Health%20Policy%202011%20(1).pdf)

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¹⁵⁵ Section 151, Labour Act, 2006.

¹⁵⁶ Article 29, Participation in political and public life: <http://www.un.org/disabilities/default.asp?id=289>

¹⁵⁷ Section 16, Rights and Protection of Persons with Disabilities Act, 2013.

¹⁵⁸ Section 16 and Section 36, Rights and Protection of Persons with Disabilities Act, 2013.

¹⁵⁹ Schedule 16, Rights and Protection of Persons with Disabilities Act, 2013.

¹⁶⁰ Section 36(2), Rights and Protection of Persons with Disabilities Act, 2013.

¹⁶¹ Section 31, Rights and Protection of Persons with Disabilities Act, 2013.

¹⁶² The Constitution of the People’s Republic of Bangladesh:

http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24681

Section 122. (2) A person shall be entitled to be enrolled on the electoral roll for a constituency delimited for the purpose of election to the Parliament, if he -

(a) is a citizen of Bangladesh; (b) is not less than eighteen years of age; (c) **does not stand declared by a competent court to be of unsound mind** ; (d) is or is deemed by law to be a resident of that constituency ; and (e) has not been convicted of any offence under the Bangladesh Collaborators (Special Tribunals) Order, 1972.

(emphasis added)

¹⁶³ Page 13, Consolidated Report 7 FGDs, 1 October 2013.

¹⁶⁴ http://bdlaws.minlaw.gov.bd/pdf_part.php?id=424&vol=16&search=1972

¹⁶⁵ Schedule 16, Rights and Protection of Persons with Disabilities Act 2013. Website:

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¹⁶⁶ Currently the Parliament has 50 seats reserved for women pursuant to Article 65(3) of the Constitution of the People’s Republic of Bangladesh and related legislation. Website:

http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24619