The Rights of Persons with Disabilities Bill

Why in news?

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The Rights of Persons with Disabilities Bill 2014, introduced in Lok Sabha in 2014, was passed in the Rajya Sabha on Wednesday.

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What is the Disability Bill, 2014 about?

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- The draft legislation is based on the 2010 report Sudha Kaul Committee, and will replace the Persons with Disabilities Act, 1995.
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- The Bill is being brought to comply with the UN Convention on Rights of Persons with Disabilities, to which India became a signatory in 2007.
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- The 1995 Act recognised 7 disabilities - blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation and mental illness.
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- The 2014 Bill expanded the definition of disability to cover 19 conditions, including cerebral palsy, haemophilia, multiple sclerosis, autism and thalassaemia among others.
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- The Bill also allowed the central government to notify any other condition as a disability.
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- Persons with at least **40% of a disability are entitled** to certain benefits such as reservations in education and employment, preference in government schemes, etc.
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- The Bill confers several rights and entitlements to disabled persons. These include disabled friendly access to all public buildings, hospitals, modes of transport, polling stations, etc.
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- In case of mentally ill persons, district courts may award two types of

guardianship. A limited guardian takes decisions jointly with the mentally ill person. A plenary guardian takes decisions on behalf of the mentally ill person, without consulting him.
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- Violation of any provision of the Act is punishable with imprisonment up to six months, and/or fine of Rs 10,000. Subsequent violations carry a higher penalty and longer imprisonment.
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What are the changes made to the 2014 Bill?

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- The government brought 119 amendments to the Bill, and this legislation has been pending in the House since February 2014.
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- **Additional Categories** - The amended version recognises two other disabilities i.**e resulting from acid attacks** and **Parkinson's Disease**, taking the number of recognised conditions to 21, and defines each one of them.
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- It makes a special mention of the needs of women and children with disabilities, and lays down specific provisions on the guardianship of mentally ill persons.
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- **Establishment definition** - The amendments include private firms in the definition of 'establishments', which previously referred to only government bodies. All such establishments have to ensure that persons with disabilities are provided with barrier-free access in buildings, transport systems and all kinds of public infrastructure, and are not discriminated against in matters of employment.
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- **Reservation** - The 1995 law had 3% reservation for the disabled in higher education institutions and government jobs. The 2014 Bill raised the ceiling to 5%. But the amendments cut the quota to 4%.
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- **Imprisonment** - It removed the jail term entirely, and only keep fines for breaking the law or discriminating against persons with disabilities.
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- **Reasonable Restriction**- The proposed amended law defines discrimination as "any distinction, exclusion, restriction on the basis of disability" which impairs or nullifies the exercise on an equal basis of rights in the "political,

social, cultural, civil or any other field". However, it excuses such discrimination if "it is shown that the impugned act or omission is a proportionate means of achieving legitimate aim".
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What are the issues?

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- **Larger coverage** - The 2011 Census put the number of disabled in India at 2.68 crore, or 2.21% of the population. This is a gross underestimation, especially in the light of the proposed amendments, which greatly widen the current Census definition of disability.
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- The Bill makes a larger number of people eligible for rights and entitlements by reason of their disability, and for welfare schemes and reservations in government jobs and education.
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- The amendments also dilute safeguards provided in the originally proposed Bill. When a greater number of disabilities are being brought under the purview of the Act, the percentage of reservation should go up proportionately, instead it has been reduced.
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- **Chief Commissioner** - The amendments do away with the provision in the 2014 Bill for strong National and State Commissions for Persons with Disabilities, with powers on a par with a civil court. They instead continue with the status quo of having only a Chief Commissioner with far fewer powers.
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- The chief commissioner has only recommending powers and there is no provision to ensure he or she too is a disabled person. Every commission — minorities, women, SCs or STs — has a chairperson from the same category.
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- **Exception Clause** - The exception clause to the discrimination is justified that certain jobs cannot be carried out by people with disabilities. e.g A blind person cannot be employed in the military. However, every job has certain basic requirements, and no person with disability will apply for it unless he or she meets the criteria. Therefore this provision is unnecessary and paves way for extreme interpretations.
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- The bill fails to specify the degree of disability for thalassaemia, learning disabilities or autism. Moreover, in India there are no suitable tools to

quantify autism or learning disabilities.
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- **State Subject** - Though it has the legal space under Article 253 to make a law to implement an international treaty, the question is whether it is appropriate for Parliament to impose legal and financial obligations on states and municipalities with regard to disability, which is a State List subject.
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- The Financial Memorandum does not provide any estimate of the financial resources required to meet obligations under the Bill.
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- In “extraordinary situations” district courts may appoint plenary guardians for mentally ill persons. The Bill does not lay down principles for such determination, in a consistent manner, across various courts.
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