

Private Complaints as a Paradigm Shift: Weaponizing Criminal Law to Enforce the UNCRPD in Punjab Pakistan

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Abstract

Punjab's disability-rights legislation is often described as a direct route from individual complaint to criminal enforcement. This article tests that claim through a doctrinal reading of the Punjab Empowerment of Persons with Disabilities Act 2022, the Code of Criminal Procedure 1898, the 2024 Rules, the 2025 Monitoring and Enforcement Regulations, the 2026 amendment, and recent constitutional litigation. It develops a six-part 'complaint-to-consequence' test: initiator, forum, trigger, proof, consequence, and review. The analysis shows that Punjab has not enacted a general system of direct private criminal prosecution for disability discrimination. It has instead assembled an unfinished enforcement pyramid: district grievance orders and Council appeals at the base; quota, levy, information, and accessibility controls in the regulatory middle; a substantial Council-imposed fine under section 36; and narrowly framed offences before a designated Special Court at the apex. The penal chapter contains a serious procedural discontinuity. Sections 35 and 41 do not clearly connect private-complaint procedure to the Special Court, omit section 37 from the exclusive-cognizance clause, and list section 40 as though it were an offence. Comparison with India's 2016 Act reveals selective borrowing without express corporate attribution or a Special Public Prosecutor. The article supports criminal escalation for fraud, exploitation, intentional violence, serious obstruction, and repeated wilful defiance, but rejects automatic criminalisation of ordinary discrimination or technical breach. It proposes accessible complaints, remedial orders, anti-retaliation protection, principled corporate liability, and explicit cognizance rules.

Keywords: UNCRPD; Disability Rights; Private Complaint as Aggressive Tool; Criminal Enforcement; Council on Rights of Persons with Disabilities in Punjab Pakistan; Special Courts of PWDs; Domestic Legislation of Disability Rights in Punjab Pakistan; Responsive Regulations; Implementation of Disability Rights; Inclusion; Turning Social Welfare Model into empowerment Model; Emerging Rights of Crime Victim; State Case; Complaint Case; Expanding Role of Crime Victim; Private Prosecution; CRPD

Introduction: A Complaint is not a Conviction

Consider three events. A public hospital advertises medical posts without mentioning the statutory disability quota. A private establishment refuses to disclose the workforce figures by which that quota is calculated. Elsewhere, a person in a position of control deliberately humiliates a person with a disability in public and interferes with an assistive device. Each event engages disability law, but they are not the same wrong. One may call for a fresh recruitment exercise; another may justify an order to produce records and, if the refusal persists, prosecution for non-

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furnishing information; the third may fall within a specifically defined offence carrying imprisonment. Treating all three as instances of a single ‘private complaint mechanism’ makes the law sound formidable, but it conceals the very questions on which enforcement depends.

The practical weakness of rights instruments seldom lies in their vocabulary. Modern legislation can recognise dignity, equality, accessibility, work, education and participation in generous terms. The harder problem is translation. Who can place a violation before a decision-maker? Which institution has jurisdiction? Does the alleged conduct amount to discrimination, an administrative contravention, or a crime? What can the decision-maker order, and how is that order enforced? The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) sharpened this problem by replacing a charitable account of disability with one grounded in autonomy, non-discrimination and social participation (Degener, 2016; Kayess & French, 2008). Yet a human-rights model becomes operational only when domestic law supplies an accessible route from claim to consequence.

Punjab’s response is unusually coercive by regional standards. The Punjab Empowerment of Persons with Disabilities Act 2022 (Punjab Act) creates a provincial Council on Rights of Persons with Disabilities, district-level welfare and rehabilitation units, a compulsory employment quota, a levy for establishments that fail to employ the required number of persons with disabilities, information-gathering powers, a large Council-imposed fine, disability-specific offences and designated Special Courts. The vocabulary of ‘weaponizing criminal law’ captures the deliberate use of public coercion against entrenched exclusion. It must, however, be handled with care. A weapon is not merely forceful; it is capable of being misdirected. Criminal law carries stigma, arrest powers, punishment and the authority of public condemnation. It cannot be produced by metaphor where the legislature has not defined an offence.

This article therefore takes the title as a proposition to be tested, not an outcome to be assumed. Its principal question is whether Punjab has transformed the private complaint into a direct means of criminally enforcing the UNCRPD. Four subsidiary questions follow. First, what does ‘private complaint’ mean once the Punjab Act is read alongside the Code of Criminal Procedure 1898 (CrPC)? Secondly, which statutory breaches produce administrative correction, regulatory penalties or criminal liability? Thirdly, how does a complaint reach the Special Court? Fourthly, what combination of remedial and penal enforcement best advances disability rights without sacrificing legality and due process?

The strongest answer is neither celebratory nor sceptical. Punjab has created a complaint-triggered, multi-forum enforcement structure, but it has not completed a seamless system of victim-led criminal prosecution. A grievance may produce a district order and a Council appeal. A regulatory or accessibility-code breach may attract a fine under section 36. Failure to provide legally demanded information may amount to an offence under section 39. Fraudulent receipt of disability benefits and the atrocities listed in sections 37 and 38 may attract imprisonment. Unlawful public recruitment may also be corrected through constitutional review. These tracks can reinforce one another, but none can lawfully be substituted for another.

The article’s doctrinal contribution is a six-part ‘complaint-to-consequence’ test: initiator, forum, trigger, proof, consequence and review. Applying that test reveals a drafting discontinuity at the centre of Punjab’s penal design. Section 35 designates a Court of Session as the Special Court.

Section 41 confers exclusive cognizance over some, but not all, provisions in the penal chapter and says nothing clear about direct cognizance on a private complaint. The result is a system with a credible penal apex but an uncertain staircase leading to it. This is not a minor drafting inconvenience. A criminal prohibition that lacks a certain procedural route can become either unusable or vulnerable to arbitrary improvisation.

A second contribution is comparative. Punjab's penal sequence closely resembles the Rights of Persons with Disabilities Act 2016 of India, including the Special Court, fraudulent-benefit offence, atrocities provision, information offence and greater-punishment rule. Punjab nevertheless omitted two features that matter in practice: an express rule for offences by companies and a statutory Special Public Prosecutor. The comparison makes automatic managerial liability harder, not easier, to defend. It also shows that Punjab's real novelty lies less in inventing disability crimes than in relocating the broad contravention fine from the criminal court to an administrative Council.

The position ultimately defended is one of disciplined escalation. Criminal law is justified for deliberate violence, exploitation, fraud, coercive medical interference, serious informational obstruction and repeated defiance of lawful orders. Ordinary discrimination, denial of reasonable accommodation, a first recruitment defect or a remediable accessibility failure should normally begin with an accessible complaint, corrective relief, compensation where appropriate, and proportionate administrative sanctions. The point is not to make disability rights less forceful. It is to ensure that coercion is legally targeted and that the person who complains receives a remedy capable of changing the exclusion that prompted the complaint.

Method, Scope and Terminology

The study uses doctrinal, comparative and normative methods. The doctrinal component reads the Punjab Act as in force on 19 December 2022 together with the CrPC, the Punjab Empowerment of Persons with Disabilities Rules 2024, the Punjab Empowerment of Persons with Disabilities Monitoring and Enforcement Regulations 2025, the Punjab Empowerment of Persons with Disabilities (Amendment) Act 2026, and reported decisions concerning accessibility, employment quotas and disability certification. The analysis follows the ordinary hierarchy of legal norms: the Constitution and primary legislation control; subordinate rules and regulations may operationalise the parent statute but cannot enlarge an offence or displace criminal procedure without sufficient legislative authority.

The comparative inquiry is functional rather than encyclopaedic. India is used because the structure and wording of its 2016 Act provide the closest legislative analogue to Punjab's penal chapter. Great Britain is used for contrast because the Equality Act 2010 ordinarily enforces discrimination and the duty to make reasonable adjustments through civil and employment remedies rather than general criminal liability. These jurisdictions are not treated as rankings. Each illuminates a different design choice: India clarifies the genealogy and omissions of Punjab's criminal provisions, whereas Great Britain exposes the remedial advantages and enforcement limits of a predominantly civil model.

The normative assessment draws on responsive-regulation theory and scholarship on over criminalisation. Responsive regulation rejects the false choice between persuasion and punishment; it asks regulators to escalate according to harm, culpability, repetition and resistance (Ayres &

Braithwaite, 1992; Gunningham et al., 1998). Criminal-law theory adds a constraint: the most condemnatory sanction should be reserved for conduct that warrants public censure and cannot adequately be managed by less intrusive means (Duff et al., 2010; Husak, 2008). Disability-rights scholarship contributes a third demand. Procedure itself must be accessible, because a nominal remedy can reproduce exclusion if the complainant cannot enter the building, understand the notice, communicate with the tribunal or obtain an accommodation (Flynn, 2016).

Two terminological choices require explanation. First, ‘private complaint’ is used narrowly when referring to a complaint under the CrPC and more broadly, but expressly, when describing complaint-triggered administrative enforcement. The distinction is maintained throughout. Secondly, ‘weaponizing’ denotes the deliberate deployment of coercive public sanctions. It is not used to endorse indiscriminate arrest, reputational blacklisting or punishment based on corporate office alone. In this article, the term succeeds only where coercion is authorized by clear law, connected to a fair procedure and proportionate to the conduct proved.

The study has an evidential limit. Punjab Pakistan has enacted new monitoring instruments, but publicly accessible, disaggregated data on complaints, Council penalties, criminal referrals, prosecutions, acquittals, convictions and compliance outcomes remain inadequate. The analysis can therefore evaluate legal capacity and design; it cannot claim that the framework has already changed institutional behaviour province-wide. That distinction is important. Enactment is evidence of legal commitment, not proof of implementation. The Committee on the Rights of Persons with Disabilities reached much the same conclusion when it welcomed Punjab’s legislation but recorded inaccessible complaint systems and weak employment enforcement in Pakistan (Committee on the Rights of Persons with Disabilities [CRPD Committee], 2026).

From Treaty Commitment to Provincial Machinery

The UNCRPD’s Enforcement Problem

Pakistan signed the UNCRPD in 2008 and ratified it on 5 July 2011. The Convention accordingly binds Pakistan at the international level. Its importance lies not simply in adding disability to an existing catalogue of protected grounds, but in recasting persons with disabilities as rights-holders entitled to exercise agency in every sphere of life. Articles 4 and 5 require legislative and administrative measures and prohibit disability discrimination; article 9 addresses accessibility; article 13 requires effective access to justice; and article 27 protects work and employment on an equal basis with others (United Nations, 2006). The Convention’s human-rights orientation is broader than an anti-discrimination code, because it combines civil, political, economic, social and cultural rights with duties to remove environmental and attitudinal barriers (Degener, 2016; Kanter, 2015).

The relationship between the social and human-rights models should not be reduced to a story in which one simply replaces the other. The social model identifies the disabling role of built environments, institutions and norms; the human-rights model supplies standards of dignity, autonomy, equality and accountability. Lawson and Beckett (2021) persuasively describe the two as complementary. That insight matters for enforcement. A rights framework that punishes an individual wrongdoer but leaves the staircase, recruitment algorithm or communication system untouched has addressed blame without removing the social barrier. Conversely, structural reform without a mechanism for an affected person to demand it may remain administratively optional.

Pakistan has not ratified the Optional Protocol to the UNCRPD. Persons within Pakistan therefore do not presently have access to its individual-communications procedure before the CRPD Committee. The Committee's 2026 concluding observations expressly noted the absence of a plan for ratification and recommended prompt consideration of the Protocol (CRPD Committee, 2026, paras. 5–6). The absence of the international petition route makes domestic standing, forum and remedy more consequential. It does not mean that every domestic remedy must be criminal. It means that the domestic system must provide realistic ways to identify breach, halt it and repair its consequences.

Federal Responsibility and Provincial Competence

Accounts of Pakistan's post-Eighteenth Amendment framework often state, too loosely, that disability law was 'devolved' to the provinces. The position is more layered. Article 142(c) of the Constitution permits provincial legislation on matters outside the Federal Legislative List. The removal of the Concurrent Legislative List enlarged provincial space in social welfare, public administration, labour and service delivery. At the same time, external affairs and implementation of treaties remain within federal legislative competence. Pakistan remains the State Party answerable to the UNCRPD, while provincial governments control many institutions through which the Convention is experienced. The result is concurrent responsibility in a practical, if not formally concurrent-list, sense.

This arrangement creates both opportunity and risk. Provincial experimentation can produce locally tailored institutions and permit a successful model to travel. It can also create uneven definitions, quotas, certification rules, complaint procedures and remedies across provincial borders. The CRPD Committee's 2026 concern about fragmented implementation and substantive disparities between provincial laws is therefore constitutional as well as administrative (CRPD Committee, 2026, paras. 5–6). A resident's ability to enforce the same international right should not depend excessively on domicile, even though provincial design may legitimately differ.

Pakistani Punjab's Rights-Based Turn

The Punjab Act 2022 expressly locates itself within the Constitution, the UNCRPD and international best practice. Its substantive reach is considerable. Part II addresses non-discrimination, privacy, the rights of women, children, transgender and older persons with disabilities, accessibility, protection from abuse, education, independent living, family life, information, political participation, justice, healthcare, property, recreation, disaster protection and certification. Section 20 gives the Council overall responsibility for enforcing these rights and directs it to take all possible measures for effective implementation of the UNCRPD (Punjab Act, 2022, §§ 3–20).

That rights catalogue should not be mistaken for a criminal code. Section 3, for example, broadly prohibits public and private discrimination, but it does not itself specify imprisonment for every discriminatory act. Part II supplies legal duties and interpretive direction. The remedial consequence depends on later provisions, subordinate legislation, general law and, where the State is involved, constitutional jurisdiction. This separation is normal. Rights legislation commonly recognises a broad norm and then distributes enforcement among regulators, tribunals, courts and administrative bodies. The analytical error occurs when the breadth of the right is treated as if it automatically determined the severity of the sanction.

Punjab’s legislative history is also relevant. In *Mst. Sana Khursheed v. Government of Punjab* (2022), the Lahore High Court confronted the concrete exclusion created by inaccessible public and commercial buildings. The proceedings became a vehicle for continuing mandamus, stakeholder consultation and movement of the proposed disability statute through government. The judgment did not invent the later penal chapter, but it helped constitutionalise the subject: accessibility was treated as a legal entitlement connected to life, dignity and mobility, not as a favour dependent on administrative generosity.

The CRPD Committee’s 2026 assessment captures the resulting tension. It welcomed the Punjab Act and the 2025 Monitoring and Enforcement Regulations. In the same observations, it identified inaccessible and ineffective complaint mechanisms, inaccessible courts and police stations, inadequate procedural accommodations, limited justice-sector training, weak enforcement of employment quotas and a lack of effective workplace redress for denial of reasonable accommodation (CRPD Committee, 2026, paras. 7–8, 23–24, 49–50). Punjab has therefore moved beyond soft policy, but the international appraisal does not support a claim of completed implementation. It supports a narrower proposition: the province has acquired coercive tools whose legitimacy and value depend on procedural access and institutional use.

Mapping Punjab’s Complaint Architecture

The word ‘complaint’ performs too much work in ordinary discussion. It can describe a grievance to an administrative unit, information supplied to a regulator, an application asking the police to act, a complaint case presented to a criminal court, or a constitutional petition. The legal consequences differ sharply. To avoid that slippage, Table 1 applies the complaint-to-consequence test to the principal routes available under Punjab’s framework.

Table 1: Complaint-to-Consequence Routes Under Punjab’s Disability Framework

Route	Initiator and forum	Trigger and principal consequence	Review
District grievance	Aggrieved person before the District Welfare and Rehabilitation Unit (DWRU)	Grievance within statutory remit; hearing followed by a redress order	Appeal to the Council within 30 days
Council enforcement	Council acting on complaint, inspection, information or appeal	Contravention of a regulation or the Accessibility Code; section 36 fine of PKR 100,000–500,000	Appeal to the Lahore High Court under section 42
CrPC private complaint	Complainant before a competent criminal court under the CrPC	Facts constituting a defined offence; judicial screening, inquiry and issue or refusal of process	Criminal appellate or revisional remedies

Police/prosecution route	Victim, informant, Council or authorised officer engaging law-enforcement machinery	Investigation of a cognizable offence where general or special law permits; police report and trial	Criminal appellate or revisional remedies
Constitutional review	Aggrieved person before the High Court under article 199	Unlawful public action, inaction or violation of fundamental rights; declaration, mandamus or tailored directions	Intra-court or further constitutional appeal where available

Note. The table classifies legal routes; it does not imply that every complaint may move automatically from one row to the next. Sources: Constitution of Pakistan, 1973, art. 199; Code of Criminal Procedure, 1898, ss. 190, 200–204; Punjab Act, 2022, ss. 24, 26, 35–42.

The DWRU Grievance: Adjudicatory, but not Criminal

Section 24 requires a District Welfare and Rehabilitation Unit in every district. Among its functions, the Unit may redress the grievances of persons with disabilities ‘through order’ after hearing the concerned parties. Section 26 permits an aggrieved person to appeal to the Council within 30 days; the Council is to decide the appeal, after such inquiry as it considers necessary, within 60 days (Punjab Act, 2022, §§ 24, 26). These elements—claim, notice, hearing, order and appeal—give the process an adjudicatory character. They do not turn the DWRU into a criminal court.

The distinction has practical consequences. A DWRU grievance may concern denial of access, an educational barrier, a certification issue or discriminatory administration. The useful order will often be corrective: provide access, reconsider the decision, disclose information, stop a discriminatory practice or take a time-bound step. A criminal court, by contrast, asks whether a defined offence has been proved against an accused. It may punish; it is not necessarily equipped to redesign an admissions process or supervise construction. Calling the DWRU route a private criminal complaint overstates its severity while understating its remedial potential.

The statute also does not expressly say that every civil-society organisation may prosecute in its own name. Non-governmental organisations are represented on the Council and DWRUs, and representative organisations are central to the UNCRPD’s participatory model. Participation in governance, however, is not identical to standing to commence criminal proceedings. Explicit representative standing would be desirable for systemic claims and for complainants facing communication barriers, dependency or retaliation. It should be enacted rather than inferred from institutional membership.

Council Supervision and Section 36 of Act

The Council occupies several roles at once. It develops policy, coordinates government, supervises district units, issues directions, sets or applies accessibility standards, calls for information and hears appeals. Section 36 adds a coercive power: where a person contravenes a provision of the regulations or the Accessibility Code of Pakistan 2006 and its Design Manual, the Council

may impose a fine ranging from PKR 100,000 to PKR 500,000 (Punjab Act, 2022, § 36). The sanction is substantial. It is also textually distinct from the imprisonment offences that follow.

The better classification is administrative or quasi-penal. The Council, rather than a criminal court, determines liability in the first instance; the section speaks of a fine but not imprisonment; and section 42 provides an appeal to the High Court. Calling the provision ‘merely civil’ understates its coercive character. Calling it an ordinary criminal conviction is equally inaccurate. Its hybrid quality increases, rather than reduces, the need for procedural safeguards. The alleged contravener should receive a precise charge, the material relied upon, a fair opportunity to answer, a reasoned decision, a stated standard of proof and a proportionate penalty. Article 10A of the Constitution and section 24 A of the General Clauses Act 1897 support that minimum of fair and reasoned administration.

A textual tension remains. Section 20(2)(y) refers broadly to Council fines for violations of rules, regulations and measures taken under the Act. Section 36, the operative penalty provision, refers to regulations and the Accessibility Code. Penal and quasi-penal powers should not be enlarged through a general institutional clause. Until the legislature speaks more clearly, the narrower description in section 36 should govern. Otherwise, the Council could convert an open-ended category of ‘measures’ into punishable norms without the notice expected of a sanctioning regime.

The CrPC Complaint Case

The CrPC preserves a citizen-initiated route into criminal adjudication. A complaint alleges, orally or in writing to a Magistrate and with a view to action under the Code, that a person has committed an offence; a police report is excluded from that definition. A Magistrate may take cognizance upon receiving facts that constitute an offence. The complainant is ordinarily examined on oath, the court may postpone process and inquire further, an unsupported complaint may be dismissed, and process may issue where sufficient ground exists (Code of Criminal Procedure, 1898, §§ 4(1)(h), 190, 200–204).

This route matters because it denies the police an absolute monopoly over initiation. A victim who cannot secure an FIR or prosecutorial enthusiasm may still place an alleged offence before a judicial officer. Yet the phrase ‘bypassing the police’ can mislead. The complainant does not bypass legal screening. The court must identify an offence, examine preliminary material and protect the proposed accused against baseless process. Nor does filing a complaint itself create a conviction, a travel restriction or a permanent criminal record. It begins adjudication; it does not predetermine it.

Where an offence is exclusively triable by a Court of Session, the route becomes more technical. Section 190(2) directs a Magistrate who has taken cognizance of such an offence to send the case to the Court of Session without recording evidence. Section 193 ordinarily prevents a Court of Session from taking original cognizance unless the accused has been sent to it by a competent Magistrate, except where the Code or another law expressly provides otherwise (Code of Criminal Procedure, 1898, §§ 190(2), 193). A special statute can displace that route, but it should do so in unmistakable language.

The missing bridge to the Special Court

Sections 35 and 41 of the Punjab Act do not achieve that clarity. Section 35 requires designation of a Court of Session as the Special Court for each district. Section 41(1) states that no court other than the Special Court may take cognizance of or try offences under sections 38, 39 and 40. Section 41(2) applies the CrPC, *mutatis mutandis*, to proceedings under sections 37, 38 and 39, while section 41(3) imports the CrPC's Chapter XXIIA trial procedure subject to subsection (1) (Punjab Act, 2022, §§ 35, 41).

Three drafting defects follow. Section 37 creates an offence punishable with imprisonment but is omitted from the exclusive-cognizance clause. Section 40 does not define conduct; it directs application of the law carrying the greater punishment where another enactment also punishes the same act. Yet section 41(1) lists section 40 as if it were a freestanding offence. Most importantly, the Act does not say whether the Special Court may receive a private complaint directly, whether the complaint must first be presented to a Magistrate and sent onward, whether a police report is necessary, or whether the Council or an inspector must authorise proceedings.

A purposive interpretation is possible. Because section 41 says that only the Special Court may 'take cognizance', one might treat the provision as a special-law exception to section 193 of the CrPC and allow direct cognizance on a proper complaint or police report. That reading protects the legislative purpose and avoids a procedural dead end. A stricter reading responds that exclusive jurisdiction does not necessarily confer an express power of original cognizance and that ambiguity should not be resolved by expanding criminal exposure. The latter is safer for legality; the former is more workable. Neither is an acceptable substitute for amendment.

This gap changes the article's central claim. Punjab unquestionably recognises complaint-triggered administration, and Pakistan's general criminal procedure unquestionably recognises private complaint cases. What remains uncertain is the bridge between those ideas for the offences in the Punjab Act. A Council finding cannot itself prove criminal guilt. A DWRU order cannot become a charge-sheet by administrative momentum. The prosecution must still establish every statutory element before a competent court through a procedure the law authorises.

Separating Rights, Regulatory Breaches and Crimes

The Punjab Act is forceful partly because it combines several kinds of legal obligation in one instrument. That is also why it is easy to overread. A right in Part II, a regulatory duty in Part III, a Council fine in section 36 and an offence in sections 37–39 are different legal categories. The distinction is not a technical concession to defaulting institutions. It is the means by which a claimant, regulator, prosecutor and court know what must be proved and what relief can lawfully follow. Table 2 summarises the relevant ladder.

Table 2: *Legal Classification of Principal Duties and Sanctions*

Provision	Conduct or duty	Legal classification	Available or likely consequence
Sections 3–18	Substantive rights and entitlements, including non-discrimination, access, education and jus-	Rights-bearing norms	Administrative correction, constitutional relief, regulatory action or other remedy supplied by law

	tice		
Sections 31–33	At least 3% employment; payment to the Fund where required; monitoring and recovery	Employment and financial regulation	Appointment/recruitment correction, levy and recovery; not imprisonment by these sections alone
Section 34	Duty to furnish establishment information and records	Regulatory information duty	Direction to produce; section 39 may apply to legally required non-furnishing
Section 36	Contravention of a regulation or the Accessibility Code	Administrative or quasi-penal contravention	Council fine of PKR 100,000–500,000; High Court appeal
Section 37	Fraudulently obtaining or attempting to obtain a disability benefit	Criminal offence	Up to 2 years' imprisonment, fine up to PKR 100,000, or both
Section 38	Specified humiliating, exploitative or bodily-integrity offences	Criminal offences	6 months to 5 years' imprisonment and fine up to PKR 500,000
Section 39	Failure to produce or furnish information lawfully required	Criminal offence	Fine up to PKR 50,000 plus continuing daily fine
Section 40	Same act also punishable under another law	Choice-of-penalty rule, not independent conduct	Application of the enactment carrying the greater punishment

Note. Amounts and classifications are based on the Punjab Act, 2022, ss. 3–40. The table does not resolve the procedural ambiguity in section 41.

Employment quota, levy and the information denominator

Section 31 requires persons with disabilities to comprise not less than 3% of an establishment's employees. The provision extends beyond a token cluster of lower-grade posts. It regulates the workforce of an establishment, includes distribution across identified categories of disability and requires terms no less favourable than those applicable to comparable employees. Section 32 then requires an establishment that does not employ the prescribed number to make a monthly payment to the rehabilitation Fund, calculated by reference to the applicable minimum wage or the salary that would have been paid, whichever is greater (Punjab Act, 2022, §§ 31–32).

The payment should not be interpreted as a purchased exemption from inclusion. Section 31 states the primary employment duty. Section 32 adds a financial consequence when the quota is not met. If the administration merely collects payments while allowing chronic under-employment to continue, it converts a remedial levy into a licence to exclude. A sound enforcement policy would use the levy as an escalation device, combine it with recruitment directions and monitor whether establishments alter the composition of their workforce. The CRPD Committee's employment guidance treats reasonable accommodation, open labour-market inclusion and enforceable accountability as connected obligations (CRPD Committee, 2022). Responsive regulation is useful here because it distinguishes inability accompanied by genuine corrective effort from calculated non-compliance that is cheaper than inclusion (Ayres & Braithwaite, 1992).

The percentage cannot be enforced without reliable data. A workforce denominator can be depressed by excluding contract staff, fragmenting payrolls or failing to disclose records. Sections 33 and 34 therefore involve the Punjab Employees Social Security Institution and empower the Council or Unit to obtain establishment information. The legal wrong in section 39 is nevertheless narrower than the general phrase ‘concealing an employee registry’. It concerns failure to produce books, accounts or documents, or failure to furnish statements or information, where the Act, an order or a direction legally requires production. A prosecutor must prove the duty, the validity and communication of the demand where relevant, the failure, and attribution to the accused.

Falsification is conceptually different from non-production. Knowingly fabricating a workforce return may engage the Pakistan Penal Code, anti-corruption legislation, company law or another specific enactment depending on the maker, document, purpose and loss caused. Section 39 does not expressly create a comprehensive false-statement offence. An innocent error, a disputed classification and deliberate fabrication should not be collapsed into one label. The better legislative response is a separate offence requiring knowledge or recklessness, coupled with a correction mechanism for inadvertent error.

Section 36 is coercive, but it does not imprison

Section 36 has attracted the most exaggerated description. Its seriousness is real: a minimum fine of PKR 100,000 can alter the incentives of a small establishment, and a maximum of PKR 500,000 may command board-level attention. But the section does not authorise imprisonment, a magisterial summary trial, bail conditions or an automatic police entry. The Council imposes the fine for contravention of a regulation or the Accessibility Code, and the affected person may appeal to the High Court (Punjab Act, 2022, §§ 36, 42).

This legal classification matters to both sides. For persons with disabilities, an administrative penalty can be faster and less expensive than a prosecution, especially where the underlying issue is a measurable accessibility failure. For the alleged contravener, the absence of a criminal trial does not justify informal decision-making. Substantial monetary penalties require legal certainty, impartial consideration, notice of the case, access to adverse material, an opportunity to respond and reasons tied to statutory criteria. Equality doctrine also requires complaint and redress processes that are effective in practice rather than merely available on paper (CRPD Committee, 2018a). The present section supplies the amount but little procedural architecture. The Rules and Regulations may fill administrative detail, yet they cannot cure every defect by implication.

The section also needs a sentencing—or more accurately, penalty-setting—framework. Relevant factors should include actual harm, duration, previous warning, financial benefit from non-compliance, vulnerability of affected persons, concealment, cooperation, remedial action and repetition. A first, promptly corrected technical defect should not automatically attract the same response as deliberate refusal after repeated orders. Conversely, an establishment should not obtain a discount simply because it eventually corrects an exclusion after forcing an individual to complain. Reasons should explain both liability and quantum.

The Offences that the Legislature Actually Enacted

Sections 37–39 define the criminal apex. Section 37 punishes a person who fraudulently obtains, or attempts to obtain, a benefit intended for persons with disabilities. The offence protects the integrity of targeted benefits and carries imprisonment up to two years, a fine up to PKR 100,000, or both. Fraud is not established by ineligibility alone. The prosecution must prove the dishonest or fraudulent quality required by the provision; administrative mistake should not be criminalised by hindsight (Punjab Act, 2022, § 37).

Section 38 concerns specified forms of abuse and atrocity rather than discrimination in the abstract. It includes intentional public humiliation or intimidation; knowing denial of food to a person with a disability by someone having charge or control; sexual exploitation of a child or woman with disability by using a position of dominance; intentional injury to, or interference with, a limb, sense or supporting device; and a pregnancy-terminating procedure without the woman's express consent, subject to a controversial exception. The prescribed punishment is imprisonment between six months and five years together with a fine that may reach PKR 500,000 (Punjab Act, 2022, § 38).

These offences are normatively different from a missing ramp or an inaccessible website. Public humiliation, sexual exploitation and interference with an assistive device contain elements of intentional degradation or bodily harm that properly attract public condemnation. The disability-specific formulation can also capture power relationships overlooked by general offences. Criminalisation is therefore defensible at this point in the pyramid. The prosecution must still prove the specific conduct and mental element. The protected status of the victim does not lower the criminal standard.

Section 38(e), however, contains an internal contradiction. It begins by protecting a woman with disability against a procedure likely to terminate pregnancy without her express consent. It then allows an exception in a case described as 'severe disability' on medical opinion and guardian consent. That exception reproduces substitute decision-making precisely where bodily integrity and reproductive autonomy require the person's own free and informed will. The CRPD Committee has urged Pakistan to abolish forced sterilisation and abortion and to secure investigation and accountability (CRPD Committee, 2026, paras. 31–32). The exception should be repealed. General medical law can address genuine emergencies without making disability a gateway to substituted reproductive consent.

Section 39 protects the information system on which enforcement depends. A person who fails to produce or furnish legally required material may be fined up to PKR 50,000, with a further daily fine for continuing failure. The provision can be important where establishments outlast regulators by withholding records. It should nevertheless be applied to a clear legal demand, served on a person with responsibility and capacity to comply. The daily fine is meant to compel production, not to punish someone who never possessed the document.

Section 40 is best understood as a conflict rule. Where the same act constitutes an offence under the Punjab Act and another law, the enactment carrying the greater punishment applies. It does not create an additional offence. Section 41's inclusion of section 40 in the list of offences over which the Special Court has cognizance is thus not merely awkward drafting; it obscures the ar-

chitecture of liability. A corrective amendment should describe section 40 as a punishment-selection provision and place all actual offences within one coherent jurisdictional clause.

Managers, Owners and the Myth of Automatic Police Recording

The claim that the 2025 Regulations can place managers' and owners' names directly into police records, with automatic bail, travel and permanent-record consequences, cannot be sustained as a general proposition. The Punjab Act requires law-enforcement agencies to assist the Council, but assistance is not adjudication. A police inquiry, an FIR, cognizance, trial and conviction are legally distinct events. Subordinate legislation cannot turn a corporate designation into proof of personal guilt or create a criminal consequence beyond the parent Act.

The deeper problem is that Punjab has no express corporate-attribution provision in this statute. A company acts through natural persons, but criminal liability cannot sensibly attach to every director, owner or manager merely because of office. The law must connect the prohibited act and mental state to the company and, where personal liability is alleged, to a responsible officer. Ordinary principles may sometimes provide that connection, yet the absence of a tailored rule makes enforcement less predictable.

An effective provision would proceed in two stages. The legal person should be liable where the offence was committed through its authorised activities or organisational failure. An officer should be personally liable where the offence occurred with that person's consent or connivance, or was attributable to culpable neglect within an assigned sphere of responsibility. A person responsible for day-to-day management may bear an evidential burden to show lack of knowledge and reasonable due diligence, but the prosecution must first establish the company offence and the person's relevant position. This model deters strategic ignorance without treating status as guilt.

Administrative naming before adjudication is a poor substitute. It risks reputational punishment without proof, encourages defensive litigation and may be used selectively against smaller firms while large institutions diffuse responsibility. Principled corporate attribution is both tougher and fairer: it identifies the organization, reaches the officer who actually enabled the breach, and preserves a due-diligence defence for those who took reasonable preventive steps.

Judicial Enforcement: What the Cases Do—and Do Not—Establish

Sana Khursheed: Accessibility and Continuing Mandamus

Mst. Sana Khursheed v. Government of Punjab (2022) arose from the everyday architecture of exclusion. A wheelchair user sought enforcement of accessibility requirements concerning public and commercial buildings and meaningful provincial legislation. The Lahore High Court treated access as connected to constitutional life, dignity and mobility, involved public bodies and civil-society stakeholders, and monitored progress on the proposed statute. The case is significant less because it pronounced a single damages rule than because it moved disability from welfare discretion into the language of enforceable public duty.

The decision also reveals the strength and limits of judicial law reform. Continuing mandamus can force attention, obtain reports and keep a neglected bill alive. It cannot design every procedural element of a future criminal chapter. Once the legislature enacted sections 35–41, questions

of offence definition, cognizance and trial became matters of statutory legality. The case supports robust rights enforcement; it does not authorise a court or Council to invent criminal procedure omitted from the Act.

Peerzada Waqar Alam: Quota as Institutional Composition

In *Peerzada Waqar Alam v. National Accountability Bureau* (2023), the Supreme Court rejected an approach that effectively confined disability appointments to lower positions. The judgment treated the employment quota as extending through the service structure, subject to the candidate's qualifications and the genuine requirements of the post. That matters because a quota restricted to menial grades preserves hierarchy while appearing inclusive. The judgment instead understands affirmative employment as participation in the institution's full range of work.

The case supports a strong reading of section 31. It does not, however, make every recruitment defect a crime. Its force lies in public-law and service-law correction: institutions must calculate and apply the quota lawfully, identify suitable posts without stereotyping, and avoid using occupational requirements as a blanket exclusion. Where an authority refuses, constitutional jurisdiction can compel compliance.

Muhammad Farhan: The Certification–Fitness Trap

The 2026 decision in *Muhammad Farhan v. Province of Punjab* is often cited too broadly. The petitioner applied on open merit for appointment as a Punjab Police constable. A medical process found that his visual acuity did not satisfy the police standard. At the same time, the disability assessment process had not certified him as a person with disability, leaving him unable to claim the quota. The Federal Constitutional Court described the 2022 Act as an in-built part of job advertisements, but the central problem was not simply an omitted quota notice. It was the gap between disability certification and occupational medical fitness.

The Court declined to order appointment as constable under the existing rules. It nevertheless directed a fresh independent medical examination, reassessment of whether the petitioner had low vision within the statutory schedule, and consideration of relaxation or alternative work if legally permissible (*Muhammad Farhan v. Province of Punjab*, 2026). The case exposes a policy contradiction: a person may be considered insufficiently disabled for certification yet insufficiently fit for a particular job. Such a person falls between two administrative categories, neither of which captures functional capacity or reasonable accommodation.

Farhan should therefore be used with precision. Its 'in-built' observation prevents an employer from arguing that statutory quotas vanish when an advertisement is silent. It does not establish that every omission is criminal, nor that an applicant who applied on open merit automatically acquires appointment under the quota. Its more important contribution is to reveal the need for multidisciplinary assessment, job-specific analysis and a route to accommodation or alternative placement.

Dr Muhammad Khurram Shahzad: Invisible Rights Are Poor Notice

Dr Muhammad Khurram Shahzad v. Government of Punjab (2026) dealt more directly with an advertisement for Medical Officers and Women Medical Officers that did not reflect the mandatory 3% quota. The Lahore High Court treated section 31 as obligatory and the omission as more

than a minor procedural lapse. A later internal exercise or inadequately publicised correction could not recreate the opportunity lost by eligible candidates who had no reason to apply. The Court directed a fresh, comprehensive advertisement and required circulation of the judgment for future compliance.

The apparent tension with Farhan can be reconciled. Farhan prevents statutory silence in an advertisement from extinguishing the quota as a matter of law. Khurram Shahzad recognises that a right hidden from the intended beneficiaries is not meaningfully available as a matter of procedure. The second approach is preferable for prospective recruitment: the advertisement should state the quota clearly, identify the relevant categories and explain the application route. The remedy remains corrective public law. Neither judgment treats omission alone as an imprisonable offence.

Constitutional Review As A Parallel Enforcement Track

The cases show why the enforcement pyramid cannot be reduced to the penal chapter. Article 199 permits the High Court to invalidate unlawful public action, issue mandamus and structure practical relief where fundamental rights are engaged. In recruitment disputes, a fresh advertisement or reconsideration may do more for the claimant than punishment after the posts are filled. In accessibility litigation, time-bound compliance directions may change the environment. Criminal law remains important for intentional abuse and obstruction, but constitutional review is often the more direct route to institutional correction.

That parallel track also guards against a common mistake in rights scholarship: equating severity with effectiveness. A five-year maximum sentence looks stronger on paper than an order requiring immediate access, appointment reconsideration and publication of a compliant recruitment notice. The useful question is not which remedy sounds harshest. It is which forum can lawfully provide the result needed, while preserving the possibility of escalation when a public body disobeys.

Subordinate Law and the Limits of Regulatory Innovation

The 2024 Rules and 2025 Monitoring and Enforcement Regulations

The Punjab Empowerment of Persons with Disabilities Rules 2024 and the Monitoring and Enforcement Regulations 2025 matter because the parent Act leaves many operational questions to subordinate law. Assessment, meetings, inspections, information, monitoring and institutional administration require detail that a principal statute cannot sensibly contain. The 2025 instrument is particularly important in signaling a shift from policy coordination toward active monitoring. The CRPD Committee itself listed the Regulations among the positive legislative measures adopted by Pakistan (CRPD Committee, 2026, para. 4).

Operational detail should not be confused with unlimited penal competence. Section 55 authorizes the Council to frame regulations for carrying out the purposes of the Act. That power can prescribe returns, inspections, compliance notices, formats and procedures within the statutory scheme. It cannot create imprisonment, authorize travel restrictions, establish a criminal blacklist or deem every director guilty where the Act does not. The principle is straightforward: delegated

legislation may make the statute work, but it may not replace the legislature on matters of criminal definition and personal liability.

This boundary is especially important for recruitment advertisements and workforce records. A regulation may validly require an establishment to disclose the disability quota in an advertisement, maintain specified registers and produce them on request. Breach may attract section 36 if the duty is located within a regulation and the Council follows fair process. That does not make the underlying omission a new imprisonable offence. Criminal liability arises only where conduct satisfies sections 37–39 or another applicable criminal enactment.

The distinction avoids two opposite failures. An unduly narrow account would deprive the Council of meaningful administrative enforcement. An unduly expansive account would allow the executive to create criminal consequences by notification. The correct position gives the Regulations real force within section 36 while maintaining the constitutional boundary around offences, arrest and trial.

The 2026 amendment did not repair the penal chapter

The Punjab Empowerment of Persons with Disabilities (Amendment) Act 2026, Act XIII of 2026, amended sections 2 and 19 of the principal Act. It did not amend sections 35–42. The omissions concerning section 37, the treatment of section 40, direct cognizance, prosecution authority and corporate attribution therefore remained in force at the study’s cut-off date (Punjab Empowerment of Persons with Disabilities (Amendment) Act, 2026).

This point is more than a legislative update. It prevents later subordinate action from being mistaken for statutory correction. A monitoring regulation can improve detection; it cannot resolve whether a Sessions Court may take direct cognizance of an offence. Nor can a change to the Council’s composition or definitions silently create a corporate offence. A current publication must read the Act as amended, while being candid about what the amendment left untouched.

Comparative Design: India, Great Britain and Pakistani Punjab’s Hybrid

Punjab’s selective borrowing from India

India’s Rights of Persons with Disabilities Act 2016 supplies the closest structural comparator. It provides for Special Courts at the district level, Special Public Prosecutors, penalties for contravention, offences by companies, fraudulent receipt of benefits, specified atrocities, failure to furnish information and application of the greater punishment where another law also applies (Rights of Persons with Disabilities Act, 2016, §§ 84–95). The ordering and substance of these provisions closely resemble sections 35–40 of the Punjab Act. The resemblance is too sustained to be accidental. Punjab adopted a regional legislative template and altered selected parts.

The alterations are revealing. India’s general contravention provision is court-based and increases penalties for repeat contravention. Punjab instead places the broad regulatory fine in the Council and begins at a much higher monetary level. Administrative placement may reduce the cost of enforcement and allow technical expertise to influence the decision. It also makes procedural safeguards and institutional independence more important because the Council combines policy, monitoring and sanctioning functions.

India additionally addresses offences by companies. Section 90 makes the company and the person in charge of its business liable, subject to proof of lack of knowledge or due diligence; it separately reaches consent, connivance and neglect by directors, managers, secretaries and other officers. Punjab omitted an equivalent provision. India also requires a Special Public Prosecutor for every Special Court. Punjab creates the court but does not identify a specialist prosecutor. These are not decorative differences. One concerns attribution of organisational fault; the other concerns the institutional capacity to present complex disability cases.

India's model is not beyond criticism. Broad deemed-liability language can press heavily on managers, and sanction does not guarantee accessible procedure or an individual remedy. The comparison nonetheless defeats the claim that Punjab's Regulations can simply name every owner or manager. The source legislation shows the opposite: where lawmakers intend corporate attribution, they enact elements and defences. Punjab's silence is a legislative gap, not an invitation to administrative improvisation.

Great Britain's predominantly civil model

The Equality Act 2010 offers a different architecture across Great Britain. It imposes a duty to make reasonable adjustments and treats failure to comply as discrimination. Employment claims ordinarily proceed before an employment tribunal. Services and public-function claims ordinarily proceed in the county court in England and Wales or the sheriff court in Scotland. Remedies include declarations, compensation and, where appropriate, injunctions or other orders (Equality Act 2010, §§ 20–21, 114, 119, 124). The core system is claimant-centred and remedial rather than generally carceral.

That design has advantages for everyday exclusion. The civil standard of proof is less demanding than the criminal standard. Compensation can address lost earnings and injury. An injunction or mandatory order can alter a continuing practice. Employment tribunals develop expertise in workplace facts. A claimant need not persuade a prosecutor that the public interest warrants criminal proceedings. These features matter because disability discrimination often takes the form of omission, institutional routine or failure to accommodate rather than intentional hostility.

The civil model also has familiar weaknesses. Litigation cost, time, inaccessible procedure and unequal bargaining power can prevent claims. Repeat-player institutions accumulate expertise, while a one-time claimant bears personal and financial risk (Galanter, 1974). Compensation may be treated by a well-resourced organisation as a price of non-compliance. A private claim also has limited reach where the problem is a province-wide recruitment system or inaccessible infrastructure. These weaknesses explain why inspection, public enforcement and credible sanctions remain necessary even within a civil-rights model.

Great Britain's model therefore should not be romanticised as 'soft', nor Punjab's as 'hard'. A civil court's injunction can be more intrusive than an unpaid administrative fine. A criminal prosecution that ends in acquittal after years of inaccessible procedure may be less useful than prompt reinstatement. Enforcement strength depends on the probability, speed and suitability of consequence—not simply the formal label attached to it (Baldwin et al., 2012).

The Comparative Choice

Punjab's most promising feature is its capacity to combine rather than copy. The DWRU can provide a local entry point. The Council can monitor and sanction. The Fund and quota provisions can alter economic incentives. Constitutional courts can correct public administration. Special Courts can punish a limited class of serious wrongdoing. Properly connected, those institutions form a responsive system in which the likely consequence becomes more severe as harm, culpability, repetition and defiance increase.

At present, the combination is incomplete. The base lacks express procedural accommodations and anti-retaliation protection. Section 36 lacks a detailed penalty process. The route to the Special Court is uncertain. Corporate attribution and specialist prosecution are missing. The comparative lesson is therefore not that Punjab should become India or Great Britain. It should retain its hybrid design and repair the links that determine whether a complaint produces timely correction, lawful sanction or neither.

Table 3: Selected Enforcement Design Choices

Design feature	Punjab	India	Great Britain
General discrimination/accommodation	Broad rights; administrative, constitutional and regulatory routes	Rights, commissioner and statutory enforcement routes	Predominantly civil and employment claims under the Equality Act
General contravention penalty	Council fine under section 36 for regulations/Accessibility Code	Court-imposed contravention penalties under sections 89 and 95	No general criminal penalty for ordinary discrimination
Special Court	Designated Court of Session; cognizance route unclear	Special Court with Special Public Prosecutor	Employment tribunal; county or sheriff court for core claims
Company offences	No express tailored provision in the Punjab Act	Express attribution, consent/connivance/neglect and due-diligence defence	Corporate civil liability through general equality law; criminal liability only where separately enacted
Primary remedial strength	Potentially integrated escalation	Express penal architecture	Compensation, declaration and injunctive relief
Principal design weakness	Procedural gaps and limited published enforcement data	Risk of broad deemed liability and implementation unevenness	Cost, delay and under-enforcement by individual claimants

Note. The comparison is functional and selective, not a full account of each jurisdiction. Sources: Punjab Act, 2022; Rights of Persons with Disabilities Act, 2016 (India); Equality Act 2010 (Great Britain).

Should Disability Rights Be ‘Weaponized’ Through Criminal Law?

The argument for coercive escalation

The case for strong sanctions begins with the character of persistent exclusion. Some barriers are not misunderstandings waiting to be explained. They are stable organisational choices. Buildings remain inaccessible over repeated budget cycles. Employers omit reserved opportunities or withhold the records required to measure compliance. Officials ignore directions because delay shifts the cost to the claimant. In such settings, persuasion alone can reward the institution that waits out the individual. A credible sanction changes the expected cost of refusal.

Criminal law also performs an expressive function. Fraudulently taking benefits intended for persons with disabilities, publicly humiliating a person because of disability, exploiting a dependent woman or child, denying food, and deliberately damaging an assistive device are not private inconveniences. They are public wrongs. Sections 37 and 38 properly communicate that the vulnerability created by dependence or environmental barriers does not reduce the seriousness of the harm. It may aggravate it.

A complaint route can redistribute agency. Galanter’s (1974) repeat-player insight applies forcefully where an individual confronts a government department, university, hospital or corporation. Giving the affected person a local forum, representative assistance, access to records and a path to coercive escalation can reduce institutional control over whether the violation becomes visible. Complaint-triggered monitoring also converts individual experience into regulatory intelligence; a pattern of apparently isolated grievances may reveal a systematic practice.

The criminal apex can strengthen lower levels without being used in every case. Ayres and Braithwaite’s (1992) enforcement pyramid works because regulated actors know that cooperative correction is backed by progressively harder responses. A Council direction is more likely to be obeyed if deliberate non-production carries a real penalty. A compliance undertaking is more credible if repeated violation can be prosecuted. The apex supplies leverage; it need not dominate the system.

The Argument against Penal Expansion

The opposing case is substantial. Criminal law is not a neutral delivery mechanism. It mobilises police, prosecutors, coercive process and stigma. Vague or overbroad offences allow enforcement to depend on discretion, and discretion is rarely distributed evenly. Small establishments or unpopular individuals may be pursued while public bodies and powerful corporations negotiate delay. The symbolism of severity can conceal a low probability of action. Overcriminalisation scholarship therefore insists that punishment be justified offence by offence, not attached to every important social objective (Ashworth & Zedner, 2014; Husak, 2008).

There is also a remedy mismatch. Convicting an official does not itself provide a sign-language interpreter, reinstall an applicant, correct an examination, rebuild an entrance or compensate lost wages. The criminal process is organised around guilt and sentence. Unless the Special Court can also order restitution, restoration and compliance, the complainant may succeed in condemnation and remain excluded. That is a poor account of empowerment.

Accessibility presents a further paradox. The CRPD Committee reported physical, communicative and attitudinal barriers in Pakistan's courts, police stations and detention settings, as well as limited procedural accommodation and training (CRPD Committee, 2026, paras. 23–24). A model that makes criminal justice the principal gateway may force a person with disability to navigate the very institutions the Convention identifies as inaccessible. Flynn (2016) is right to treat access to justice as participation across the entire process, not mere formal standing at its beginning.

Finally, penal rhetoric can encourage retaliation and concealment. An employee who complains may face dismissal, adverse postings or reputational attack. Managers who fear personal prosecution may destroy informal records or avoid candid internal audits. Organisations may spend resources contesting jurisdiction rather than correcting the barrier. These risks do not justify impunity. They justify careful offence design, whistle-blower protection, interim orders and a due-diligence pathway that rewards genuine prevention.

A Defended Position: Coercion without Carceral inflation

The sound position is a limited but credible criminal law. Fraud, intentional violence, sexual exploitation, forced or coerced reproductive intervention, deliberate interference with assistive devices, serious informational obstruction and repeated wilful defiance of lawful orders can warrant penal condemnation. These wrongs involve dishonesty, domination, bodily integrity or calculated obstruction—interests for which a fine or compliance notice may be insufficient.

Ordinary discrimination should begin elsewhere. Failure to make a reasonable adjustment, an inaccessible digital form, a first-time advertising omission or a remediable building defect will often call for immediate correction, individual relief and an administrative penalty calibrated to conduct. Criminal escalation becomes appropriate where the breach creates grave danger, continues after enforceable orders, involves falsification, or forms part of a deliberate pattern. This approach does not make rights optional. It makes the sanction responsive to the wrong.

The word 'weaponizing' is therefore defensible only in a disciplined sense. The law should give the claimant a usable trigger and the regulator a credible capacity to escalate. It should not collapse allegation into guilt or organizational responsibility into automatic personal liability. A system that abandons legality in the name of rights eventually weakens the rights claim itself, because its orders become vulnerable to reversal and its enforcement appears partisan.

Completing the Complaint-to-Consequence Chain

Punjab does not need a new declaration of principle. It needs statutory engineering. The reform task is to connect the person who experiences exclusion with an accessible forum, a legally classified response and a remedy that can be enforced. The amendments proposed below preserve the existing hybrid model rather than replacing it.

State Who May Complain and Who May Refer

The Act should identify initiators for each route. A person with disability should be able to complain personally or through an authorised representative. A representative organisation should be permitted to bring a systemic grievance with the informed consent of affected persons where practicable. Carefully framed exceptions may be needed where a child or person at immediate

risk cannot safely authorise proceedings, or where a practice affects an indeterminate class. The Council, DWRU, inspector and public prosecutor should have defined referral powers.

Representative standing should not become substitute decision-making. Article 4(3) of the UNCRPD and General Comment No. 7 require close consultation and active involvement through organisations of persons with disabilities, not administrative displacement of their will (CRPD Committee, 2018b). The complainant should control individual relief, receive accessible information about settlement and be protected against a representative abandoning the claim without informed instructions.

Make the Criminal Route Explicit

Section 41 should be redrafted in one coherent provision. It should list sections 37–39 as the offences triable by the Special Court and describe section 40 as an alternative-punishment rule. It should state whether the Special Court may take direct cognizance upon: (a) a written complaint by an affected person or authorised representative; (b) a police report; (c) a reference by the Council or an inspector; or (d) a complaint by a public prosecutor. If direct cognizance is intended, the statute should expressly displace section 193 of the CrPC. If committal through a Magistrate is preferred, the steps and time limits should be stated.

The Act should also identify which offences are cognizable and bailable, who may investigate, and which prosecution office is responsible. A designated prosecutor trained in disability law and procedural accommodation would be preferable to leaving complex cases within an undifferentiated docket. India's Special Public Prosecutor provision offers a useful model, although Punjab should add appointment criteria, training and accountability rather than copying the label alone.

Turn Accessibility into a Procedural Guarantee

Every stage—complaint, notice, inquiry, mediation, hearing, investigation and trial—should carry an enforceable duty of procedural accommodation. Minimum features include screen-reader-compatible electronic filing, Braille and easy-read documents, Pakistan Sign Language interpretation, captioning, communication assistance, support persons, remote attendance where appropriate, accessible premises, flexible evidence-taking and legal aid. The International Principles and Guidelines on Access to Justice for Persons with Disabilities treat such measures as conditions of equal participation, not discretionary courtesies (United Nations, 2020).

A decision-maker should record the accommodations requested, granted and refused, with reasons. Failure to provide a necessary accommodation should be reviewable immediately where it risks defeating the proceeding. The system must also pay interpreters and communication assistants from public funds; a right conditioned on the complainant's ability to finance access is not equal access.

Add Anti-Retaliation And Interim Relief

The present architecture underestimates retaliation. An employee may lose work, a student may face academic pressure, a dependent person may be isolated, and documents may disappear before the complaint is decided. A new provision should prohibit dismissal, demotion, blacklisting, harassment, service denial and other disadvantage because a person complained, assisted an in-

quiry, supplied information or gave evidence. Retaliation should attract a separate administrative penalty and, where serious or repeated, criminal liability.

DWRUs, the Council and courts should have interim powers proportionate to their jurisdiction: preserving employment or admission, preventing disposal of records, maintaining access to essential services, restraining contact in abuse cases and ordering temporary accommodation. Interim relief must be time-limited, reasoned and open to prompt review. Without it, the institution may make the final decision practically meaningless while proceedings are pending.

Recast Section 36 as a Transparent Penalty Code

Section 36 should identify the contraventions covered or incorporate a schedule capable of lawful amendment. It should require notice, disclosure, response, a reasoned finding and a stated standard of proof. The statute should distinguish continuing breach from repetition after a final order; provide a due-diligence defence where appropriate; permit enforceable compliance undertakings; and list penalty factors. An urgent power may be justified where non-compliance creates immediate safety risk, but even urgent action should receive rapid post-decision review.

The Council's combined policy, investigative and sanctioning roles require internal separation. Staff who investigate should not determine the penalty. A small adjudication panel with security of tenure, conflict rules and published decisions would improve legitimacy. High Court appeal under section 42 should remain, but a specialist internal reconsideration process could correct factual or computational errors without forcing every case into constitutional litigation.

Enact Principled Organizational Liability

A new corporate-offence clause should impose liability on the legal person where an offence is committed through its activities, agents or organizational arrangements. Personal liability should attach to an officer who consented to, connived in or culpably neglected to prevent the offence within an area of actual responsibility. A person in charge of day-to-day business may rely on lack of knowledge and reasonable due diligence, but generic delegation should not suffice where warning signs were ignored.

This model is preferable to both corporate immunity and automatic naming. It reaches the institution that benefited from or failed to control the conduct, while identifying the natural person whose fault justifies punishment. It also encourages compliance systems: accessible recruitment audits, record controls, board reporting, complaint escalation and documented corrective action. Corporate law is most effective when it changes organizational behaviour rather than merely finding a convenient individual after the event.

Repair Bodily-Autonomy Protection

The guardian-consent exception in section 38(e) should be removed. The replacement should criminalise forced or coerced sterilisation, abortion and other reproductive intervention; protect free and informed consent; and require supported decision-making and accessible communication. Emergency treatment should be governed by general medical law under narrowly defined necessity principles, not by a disability-specific presumption that a guardian may authorise termination. This amendment would align the penal chapter with sections 3, 4 and 10 of the Act and with the CRPD Committee's 2026 recommendation.

Give the Claimant a Remedy, Not Only a Prosecution

The Council and Special Court should possess complementary remedial powers. Depending on the case, those powers should include cessation, restoration of access, reinstatement or reconsideration, compensation, restitution, return or replacement of an assistive device, a time-bound accessibility plan, independent audit and publication of a final non-compliance finding. Compensation should not displace criminal punishment for serious offences, but punishment should not displace the claimant's need for repair.

A restorative conference may be appropriate in selected non-violent cases where the complainant freely agrees and power imbalances can be managed. It should never be used to divert sexual exploitation, forced medical intervention or serious violence from prosecution. The purpose is to secure acknowledgement and structural correction, not to pressure the claimant into forgiving an institution.

Publish enforcement data and evaluate outcomes

The Council should publish annual, privacy-protected data by district, sector, gender and disability category: grievances received; accommodations supplied; time to decision; orders made; compliance achieved; section 36 notices and fines; amounts recovered; criminal referrals; prosecutions, acquittals and convictions; interim orders; retaliation claims; and outcomes of employment-quota monitoring. Data should distinguish complaint type and remedy. A high number of complaints may reflect greater accessibility rather than worsening compliance, while a low number may indicate that no one can reach the system.

Evaluation should therefore examine more than conviction totals. Relevant indicators include whether a complainant returned to work or education, whether access was restored, whether repeat violations fell, whether rural and female complainants could participate, and whether orders were obeyed without further litigation. Without outcome data, the claim that criminalisation has produced a paradigm shift remains a plausible theory rather than an empirical finding.

Table 4: Priority Statutory Repairs

Defect	Proposed repair	Reason
Uncertain standing	Express individual, representative, regulatory and prosecutorial initiation rules	Makes the complaint route knowable and protects claimant agency
Sections 35/41 mismatch	List actual offences and specify direct cognizance or committal	Prevents procedural dead ends and implied expansion of criminal jurisdiction
Inaccessible process	Mandatory procedural accommodations and publicly funded support	Makes article 13 UNCPRD and section 13 of the Act operational
Retaliation risk	Anti-retaliation offence/penalty and interim protection	Preserves employment, evidence and personal safety while proceedings continue
Bare section 36 procedure	Notice, disclosure, proof, reasons, penalty factors and inter-	Protects legality and improves consistent regulatory deterrence

No tailored company rule	nal separation Company liability plus consent, connivance, neglect and due-diligence defence	Reaches organisational fault without guilt by title
Section 38(e) exception	Remove guardian substitute consent and protect supported decision-making	Aligns bodily integrity with the UNCRPD
Punishment–remedy gap	Compliance, restoration, compensation, restitution and audit powers	Ensures that a successful complaint changes the claimant’s position
No transparent outcomes	Annual disaggregated enforcement and compliance reporting	Permits empirical evaluation and democratic oversight

Note. These reforms are designed as a connected package. Adopting a criminal trigger without accessible process or remedial powers would reproduce the present fragmentation.

Conclusion

Punjab has made a consequential move away from disability policy that depends solely on goodwill. Its current framework recognises enforceable rights, district grievance orders, Council appeals, employment and information duties, a rehabilitation levy, substantial administrative fines, criminal offences, Special Courts and constitutional correction. That is a genuine shift toward public accountability. It is not, however, the complete regime suggested by the simplest version of the title.

A private complaint under the CrPC, a grievance before a DWRU and a Council penalty proceeding are not interchangeable. Section 36 does not authorise imprisonment. Silence about the quota in an advertisement can justify a fresh recruitment process, but it is not automatically a criminal offence. Section 39 punishes legally defined non-furnishing; it does not turn every disputed registry entry into fraud. Managers and owners cannot lawfully acquire criminal-record consequences merely because a regulation names their office. Criminal liability requires an offence, attribution, a competent forum, proof and adjudication.

The most important statutory weakness lies in the route to the Special Court. Sections 35 and 41 omit section 37 from the exclusive-cognizance clause, list section 40 as if it were an offence, and fail to say clearly how an individual complaint reaches the Sessions Court. The absence is compounded by the lack of a corporate-attribution rule, specialist prosecutor, anti-retaliation protection and explicit procedural accommodations. The 2026 amendment did not cure those defects.

Once those limits are acknowledged, the paradigm-shift claim becomes more persuasive. Punjab’s innovation is an unfinished enforcement pyramid, not universal criminalisation. Accessible grievance and corrective relief should form its base; monitored duties and administrative penalties should occupy the middle; criminal law should remain available for fraud, exploitation, intentional violence, serious obstruction and repeated wilful defiance. Constitutional review should continue as a parallel means of correcting unlawful public action.

The best exportable lesson for other Global South jurisdictions is therefore not that every denial of a human right should become a crime. It is that a right requires a complaint-to-consequence chain whose first step is reachable by the affected person and whose final step is credible to the institution. Punjab has assembled most of the components. Its next reform should connect them with enough precision that coercion strengthens legality rather than competing with it.

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