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THE RIGHT TO INCLUSIVE EDUCATION OF PERSONS WITH DISABILITIES: THE POLICY AND PRACTICE IMPLICATIONS

*Payel Rai Chowdhury**

1. Introduction

It is not our education systems that have a right to certain types of children. It is the school system of a country that must be adjusted to meet the needs of all children.¹

These words of Bengt Lindqvist, the United Nations Special Rapporteur on Disability, are an apt leitmotif for this article, examining and illustrating the evolution and recognition of the right to inclusive education of persons with disabilities, an inclusive education framework being first set explicitly in the *Salamanca Statement and Framework for Action*.² Significantly, while special needs education has been a part of UNESCO's programme since 1966, the *Salamanca Conference* gave UNESCO's mission a new impetus, reinforcing and enabling it to make a significant contribution to bringing forward inclusive education on the educational agendas of an increasing number of countries world-wide.³

Inclusion and participation are essential to human dignity and to the enjoyment and exercise of human rights. In education, this is achieved within inclusive schools that serve all children within a community. This article is primarily devoted to a critical study of the international and regional initiatives in this regard, along with providing a synthesis of these

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¹ 1994, *World Conference on Special Needs Education: Access and Quality*, Salamanca, Spain.

² UNESCO, *Salamanca Statement and Framework for Action on Special Needs Education*, adopted by the World Conference on Special Needs Education: Access and Quality, Salamanca, Spain, 7-10 June 1994.

³ The first phase of the project Inclusive Schools and Community Support Programmes, funded by Denmark, Norway, Portugal and Sweden, made it possible for eighteen countries to develop policies and practices towards inclusive education, thirteen of them in sub-Saharan Africa.

treaties and agreements and their implementation status in the educational system in different regional contexts.

2. The Marginalisation of Children with Disabilities: Inequity of Exclusion through Denial of the Right to Inclusive Education

The value of inclusive education was highlighted by Dr Amartya Sen in his address to the 15th Conference of Commonwealth Education Ministers:

In promoting friendship and loyalty, and in safeguarding the commitment to freedom and peace, basic education can play a vital part. This requires, on the one hand, that the facilities of education be available to all, and on the other, that children be exposed to ideas from many different backgrounds and perspectives and be encouraged to think for themselves and to reason. Basic education is not just an arrangement for training to develop skills (important as that is); it is also a recognition of the nature of the world, with its diversity and richness, and an appreciation of the importance of freedom and reasoning as well as friendship. The need for that understanding – that vision – has never been stronger.⁴

The World Health Organization (WHO) estimates that only 5% of children with disabilities in developing countries have access to support or services of any kind, and that less than 2% attend school. Estimates of the number of children with disabilities attending school in developing countries range from less than 1 % to 5 %.⁵ Literacy rates for women with disabilities are 1 %, as compared to about 3 % for people with disabilities as a whole. Reliable data are often unavailable, as definitions and monitoring practices vary from country to country, and traditional views often mean that children with disabilities are viewed as of little value or are seen as a cause of shame and hidden away. However, the figure of 1 to 5% still clearly shows that children with disabilities lack their fundamental rights to education, and are most vulnerable to institutional discrimination. Physical and attitudinal barriers often prevent families and communities from giving these children the same opportunities provided to children without

⁴ *Report of the 15th Conference of Commonwealth Education Ministers Access, Inclusion and Achievement: Closing the Gap, Edinburgh, UK – 27-30 October 2003*, Commonwealth Secretariat, 2004, p. 8.

⁵ See Peters, S, *Inclusive Education: An EFA Strategy for all Children*, 2004, available at http://siteresources.worldbank.org/EDUCATION/Resources/278200-1099079877269/547664-1099079993288/InclusiveEdu_efa_strategy_for_children.pdf.

disabilities.⁶ Moreover, children with disabilities are disproportionately represented in low-income families, even in developed countries. In income-poor nations:

...people who are currently being marginalized by education policies and practices, such as those with special needs, are likely to remain excluded from schooling for the foreseeable future, unless radical reforms in the structure of education systems are contemplated and implemented.⁷

Failure to ensure that children with disabilities receive effective educational services results in their later exclusion from the labour market and other forms of marginalization and dependency whilst contributing to poor health.

The latest UN data suggest that 72 million children are not enrolled in primary education, mainly in sub-Saharan Africa (70% enrolment) and South Asia (90% enrolment).⁸ Fifty-seven % of these are girls and a very significant proportion is likely to be 'disabled', although accurate world data on this group do not exist.

Often, vast urban-rural disparities may exist such that country profiles do not always accurately reflect the reality of an entire nation. In fact, the diversity, coverage, and quality of education may be more diverse within a country than between countries:

⁶ According to the United Nations' *Millennium Goals Development Report 2006*, p. 6, at <http://mdgs.un.org/unsd/mdg/Resources/Static/Products/Progress2006/MDGReport2006.pdf>, globally between 600 and 700 million people in the world have disabilities, of whom 130–160 million are children, 80–90 per cent live in developing countries, and 25–30 per cent have special educational needs at some point in their lives. The net enrolment rate in primary education in the South, or developing world, has now increased to 86 per cent over all regions. But the raw statistics show that in many areas there is still an enormous way to go in achieving education for all (EFA), even for the 'non-disabled' children. It is, therefore, likely that 50 countries will not meet the second Millennium Development Goal (MDG) relating to universal primary education.

⁷ Kisanji, J., "Threats and challenges to inclusive education in the South: The role of international cooperation", in *International Journal of Developmental Education*, 1998, available at <http://www.globalprogress.org/ingles/seminarios/Kisanji.html>.

⁸ United Nations, *Millennium Goals Development Report 2007*, New York, available at http://mdgs.un.org/unsd/mdg/Resources/Static/Products/Progress2007/UNSD_MDG_Report_2007e.pdf

...the deleterious effects of inadequate or inappropriate education are compounded by disparities in the quality of education as one moves from richer to poorer municipalities, from industrial to agricultural areas, and from coastal to interior regions. Moreover, there seems to be a consistently higher rate of disability among young people who live in rural areas.⁹

The far-reaching social effects must also be considered. Segregated education tends to perpetuate a way of thinking that isolates people throughout their lives. Children who have been segregated at school tend to be kept separate as adults through work, recreational programs, and institutions, including psychiatric hospitals. Such arrangements are inconsistent with the spirit of international declarations on social, economic, and cultural rights, which are based on notions of full equality, inclusion, and respect. Policies and programmes that promote segregation also perpetuate social isolation and vulnerability. Arguably, the systematic marginalisation of people with disabilities from mainstream society tears at the social fabric, thereby damaging the diversity of civil society as a whole.

Lack of access to education, remains the key risk factor for poverty and exclusion of all children, both those with disabilities and those without. For children with disabilities, however, the risk of poverty owing to lack of education is even higher than for children without disabilities. Exclusion from education for children and youth with disabilities results in exclusion from opportunities for further personal development, particularly diminishing their access to vocational training, employment, income generation and business development. It limits their active participation in their families and communities and prevents them from contributing to either. Failure to access education and training makes it almost impossible for them to achieve economic and social independence. It increases their vulnerability to long-term, lifelong poverty in what can become a self-perpetuating, inter-generational cycle. Children with disabilities who are denied access to an education almost inevitably live their lives feeling hopeless and powerless. Therefore, inclusive education has evolved as a

⁹ Carol A. Kochhar and Malati I. Gopal, *Enhancing Participation, Expanding Access: The Double Axis of Sustainable Educational Development*, Institute for Education Policy Studies Graduate School of Education and Human Development, Occasional Paper Series, March 1998, available at <http://www.edstudies.net/files/active/0/resources-enhancing.html>.

movement to challenge not only the exclusionary policies and practices but also because inclusion is one of the founding principles of the rights of persons with disabilities. It is, therefore, no surprise that inclusive education has gained ground over the past decade to become a favoured approach in addressing the learning needs of all students in regular schools and classrooms.

3. The Evolution of the Right to Inclusive Education of Persons with Disabilities: International and Regional Endorsement Initiatives

Education is a human right and therefore we expect that all children, regardless of their social status, gender and physical or any other disability, should have access to quality education. International initiatives from the United Nations, UNESCO, the World Bank and elsewhere jointly add up to a growing consensus that all children have the right to be educated, regardless of their disability or learning difficulty, and that inclusion makes good educational and social sense. *Education for All* (the *EFA*) and the *Millennium Development Goals* (*MDGs*) in education are major international commitments to the achievement of universal primary education for all children and the elimination of disparities in education at all levels.

Inclusive education is closely aligned with both a human rights approach and the specific principles outlined in the *Convention of the Rights of Persons with Disabilities*: self-determination, independence and partnership. However, there are two areas where the international and local consensus about the role of separate or special education is not necessarily clear-cut, namely:

- Children with an acute sensory impairment, e.g. those who are either deaf or blind.
- Students with severe disabilities.

In much of the Western world, there is an acknowledgment (though by no means universal) that between 1% and 3% of students with the most severe disabilities cannot reasonably participate in the national curriculum. The range of proffered options includes separate schools, separate classrooms with mainstream schools, and social inclusion in mainstream schools and classes with a separate curriculum.¹⁰

¹⁰ The *Convention of the Rights of Persons with Disabilities* acknowledges these complexities by focusing on educational outcomes, rather than the educational

While the human right of all children to education has been recognised since the adoption of the *Universal Declaration of Human Rights* in 1948 and has been articulated in a range of international instruments, including the *International Covenant on Economic, Social and Cultural Rights*, moves toward inclusion were first endorsed by the United Nations *Convention on the Rights of the Child* in 1989. The adoption of the *Convention* by the UN General Assembly and its subsequent ratification by 189 countries imposes a requirement for radical changes to traditional approaches to provision made for children with disabilities. The *Convention* contains a number of articles which require governments to undertake a systematic analysis of their laws, policies and practices and assess the extent to which they currently comply with the obligations.

By stating that ‘Primary education should be compulsory and free for all’, Article 28 of the *Convention on the Rights of the Child* asserts the basic right of every child to education and requires that this should be provided on the basis of equality of opportunity. This allows no discrimination in relation to access to education on grounds of disability. Furthermore, the continued justification of the types of segregated provision made in many countries needs to be tested against the child’s rights not to be discriminated against. Articles 28 and 29,¹¹ together with Articles 2 and 3 imply that all children have a right to inclusive education, irrespective of impairment and disability. Among other things, Article 2 states “States Parties shall respect and ensure the rights set forth in the present

setting alone. It requires that “effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion”. In addition, Articles 24(3) and (4) provide some explicit guidance on the types of special measures that should be provided to enable deaf and blind or low vision students to access education.

¹¹ Article 29 of the *Convention on the Rights of the Child* states:

1. States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment.

Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". In a similar vein, Article 3 of the United Nations *Convention on the Rights of the Child* provides:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures...

Further in Article 23, the right is recognised for special care, free of charge whenever possible, that will assure access to "education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development." However, proponents of special education have often held that Article 23 of the *Convention on the Rights of the Child*, which is specific to the rights of children with disabilities, suggests that the children with disabilities need special care, as well as education, and so could be interpreted to mean some form of segregated education:

States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Nevertheless, Article 29 of the *Convention* paves the way for an inclusive education through the provision that children should also learn to be responsible for "life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin."

The Committee on the Rights of the Child's *General Comment No. 9* on the rights of children with disabilities specifically adopts inclusive

education as the goal for educating students with disabilities.¹² The *Convention on the Rights of the Child*, the most widely ratified human rights treaty in the history of the United Nations ratified by all countries in the Asia-Pacific region, mandates that States make primary education compulsory and available free, to all children on the basis of equal opportunity, with protection from all kinds of discrimination, including discrimination on the basis of disability, as similarly does the *International Convention on the Economic, Social and Cultural Rights*. It also requires that children with disabilities have access to and receive education in a manner which will help each child to achieve the fullest possible social integration and individual development.

While providing for a general base, the 1989 *Convention* marks an important step in reaffirming the right to education of children with special needs by noting that “Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardians’ race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”

In its endeavour towards creating a global framework to encourage governments and communities to face up to the challenges towards achieving the goal of inclusive education, the United Nations launched the *Education for All* initiative in Jomtien, Thailand, in 1990. This encouraged each government to set targets to increase the number of children completing four years of free primary education. While strongly emphasizing the education of girls, the *EFA Declaration*, unfortunately failed to mention explicitly the right of children with disabilities to education. This is a very critical omission: although children with disabilities are meant to be included in the *Education for All* targets, they are often overlooked and forgotten, unless voluntary organisations and parent groups insist on their inclusion.

While the disability-focused organisations were concerned that the education of children with disabilities was likely to continue to be overlooked within the *Education for All* framework, despite existing

¹² United Nations Committee on the Rights of the Child, *General Comment 9: The Rights of Children with Disabilities*, 2007. UN Doc CRC/C/GC/9, available at [http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/\\$FILE/G0740702.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/405ba882cb9eb3a0c12572f100506ac4/$FILE/G0740702.pdf)

international frameworks and treaties, the *United Nations Standard Rules for the Equalisation of Opportunities for Disabled Persons* acknowledged the continued marginalisation of many groups of children, particularly children with special learning needs and those from minority ethnic groups. They made it clear that the rights of people with disabilities are to be achieved through a policy of inclusion. Rule 6 is concerned with education:

States should recognise the principle of equal primary, secondary and tertiary education opportunities for children, youth and adults in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the education system.¹³

This is then followed by nine more specific recommendations.¹⁴ These *Standard Rules* provide a globally recognised framework for the formulation of rights-based disability legislation by governments. Special needs children's rights to inclusive education can be secured through a combination of the *UN Standard Rules* and the *Convention on the Rights of the Child*.

In 1994, UNESCO was led to assemble with the assistance of the government of Spain the World Conference at Salamanca. At the end of the conference, the *Salamanca Statement and Framework for Action* was unanimously adopted.¹⁵ It articulated the relationship between human rights and inclusive education by reaffirming the education of all learners in the regular education system. The major points relevant in the context of this research are summed up as follows:

- It is believed that every child has a fundamental right to education;
- The unique characteristics, interests, abilities and learning needs of every learner must be recognised in the practice of education;
- Learners experiencing barriers to learning and development must have access to regular schools that should be made to

¹³ United Nations, *The Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, 1993. Available at <http://www.un.org/esa/socdev/enable/dissre00.htm>

¹⁴ The UN has appointed a rapporteur to monitor the extent to which national governments are adopting these standard rules.

¹⁵ UNESCO, *Salamanca Statement and Framework for Action on Special Needs Education*, adopted by the World Conference on Special Needs Education: Access and Quality, Salamanca, Spain, 7-10 June 1994. Available at www.unesco.org/education/pdf/SALAMA_E.PDF

accommodate them in a child centred pedagogy that will meet their needs;

- Regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system

The *Statement* calls on governments to “adopt the principle of inclusive education, enrolling all children in mainstream schools, unless there are compelling reasons for doing otherwise”. Thus, the importance of including children with disabilities was strongly reaffirmed at the *UNESCO World Conference*, and the conference has been influential in encouraging governments to adopt inclusive policies and in giving examples of progress in reforming schools to respond to a much greater diversity of need in their local communities.

The *Statement* also reaffirms the uniqueness and diversity of all children, for whom educational systems should be designed, and states that regular schools with an inclusive orientation are “the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all.” Furthermore, regular schools are more cost-efficient. Governments are called upon to give high priority to special needs education in their budgets; to adopt, “as a matter of law or policy” the principle of inclusive education; interact with countries with successful inclusive education programs; establish decentralised, participatory education planning, monitoring and evaluation, which should include parents, disabled persons’ organizations and community members; and invest in early identification and intervention programs and assure appropriate pre-service and in-service training for teaching in inclusive schools. It notes that “Those with special educational needs must have access to regular schools, which should accommodate them with child-centred pedagogy capable of meeting these needs.”

This *Statement* and the accompanying *Framework for Action* are arguably the most significant international documents that have ever

appeared in special education.¹⁶ The *Statement* set forth the challenge to provide public education to “all children, regardless of their physical, intellectual, emotional, social, linguistic, or other conditions.” Not only was this commitment made, but this was to be provided in “ordinary schools.” Articles 2 and 18 of the *Statement*, which were endorsed by 300 participants representing 92 countries and 25 international organizations, are particularly notable:

Regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all.... (Article 2)

Educational policies at all levels...should stipulate that children with disabilities should attend their neighbourhood school, that is, the school that would be attended if the child did not have a disability. (Article 18)

The *Salamanca Statement* additionally encourages the education system to look at educational difficulties in new ways. This new direction in thinking is based on the belief that changes in methodology and organisation made in response to the learners experiencing difficulties can, under certain conditions, benefit all children. In this way, learners who are currently categorised as having special needs come to be seen as a stimulus for encouraging the development of richer learning environments. The *Salamanca Declaration of 1994*, which had an exclusive focus on children with special needs in the context of *EFA*, is the most definitive statement on education of children with special needs. The *Declaration* also commits that children with disabilities and special needs must have access to regular schools which should accommodate them within a child-centred pedagogy capable of meeting these needs. Putting in place these standards in the context of a developing country would mean a heightening of the dual challenge of improving the quality of basic education while increasing coverage and retention.

¹⁶ It stated that the international community, including sponsors of the World Conference on Education for All such as UNESCO, UNICEF, UNDP and the World Bank, should endorse the concept of inclusive education and, in addition with other specialised agencies such as the ILO and WHO and provide increased technical assistance. NGOs should increase their cooperation with official national bodies to intensify involvement in planning, implementation and evaluation of education of children with special needs.

Unfortunately, despite the *Salamanca Declaration* and ten years after Jomtien, the *EFA Declaration* in Dakar again failed to mention children with disabilities due to state reluctance to be obliged to carry out the requisites of a barrier-free environment and universal design.¹⁷ Girls, ethnic minorities, and the poor are explicitly mentioned in the *Declaration*, and there remains a commitment to education for all, but Dakar represents a missed opportunity in the field of inclusive education.¹⁸ Fortunately, such stop-start initiatives on inclusive education have ended with the recently ratified UN *Convention on the Rights of Persons with Disabilities*. In 2002, a UNESCO flagship initiative on education for all and the rights of persons with disabilities was created to address the concern that the education of learners with disabilities was likely to continue to be overlooked within the *Education for All* framework.

The UN's *Millennium Development Goals* concerning education also states that by the year 2015, "children everywhere, boys and girls alike, will be able to complete a full course of primary schooling, and that girls and boys will have equal access to all levels of education." The *Millennium Development Goals* however, as with so many mandates before them such as the Jomtien World Conference on Education for All and the *Dakar Framework for Action*, did not make any specific reference to children or adults or any persons with disabilities.

In the new regional framework that has been developed to guide action on disability policy and implementation in the Asia-Pacific Decade of Disabled Persons, 2003 – 2012, the targets set in the seven priority areas for action, explicitly incorporate the *Millennium Development Goals* to

¹⁷ Universal design refers to broad-spectrum architectural planning ideas meant to produce buildings, products and environments that are inherently accessible to both the able-bodied and those with disabilities.

¹⁸ The *Dakar Framework for Action* adopted at the 2000 World Education Forum recognised that education must seek to meet each individual's basic learning needs and be geared towards helping individuals reach their full potential. It stated:

We re-affirm the vision of the World Declaration on Education for All (Jomtien 1990), supported by the Universal Declaration of Human Rights and the Convention on the Rights of the Child, that all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs in the best and fullest sense of the term, an education that includes learning to know, to do, to live together and to be. It is an education geared to tapping each individual's talents and potential, and developing learners' personalities, so that they can improve their lives and transform their societies.

ensure that concerns relating to persons with disabilities, become an integral part of efforts to achieve these goals. Education is one of the seven priority areas identified for further action, because of the critical concern at the very low rate of enrolment in education of children with disabilities, in the region, at the end of the first decade.

The *Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific* was presented for adoption by the governments of the region at the High-level Inter-governmental Meeting to conclude the Decade held in Otsu in Japan in October 2002. In the context of the right to inclusive education of children with disabilities, it is important to note that the following targets were set, and fourteen actions identified, to help achieve them:

1. By 2010, having at least 75 % of children and youth with disabilities, completing primary schooling.
2. By 2012, all infants and young children with disabilities will have received early intervention services, with support for their families.¹⁹

¹⁹ Many of the fourteen actions include measures that must be taken by governments, and include directions such as the governments needing to pass laws to make it compulsory for all children, including children with disabilities, to attend school. The laws must be enforced and children with disabilities included in national EFA plans; educational policy and planning should be developed which enables children to attend local primary schools. Schools should be prepared for changes to the education system, with the clear understanding that all children have the right to attend school and it is the responsibility of the school to accommodate differences in learners. Families and organisations of people with disabilities and communities should be consulted; adequate funding must be allocated within the education budget. Education of children with disabilities is not an act of charity, but an obligation of Governments; a range of educational options needs to be available; comprehensive data needs to be collected and used, to plan appropriate services and support systems (early intervention); five-year enrolment targets need to be set and monitored, services for early detection, identification and early intervention are needed, with collaboration between all concerned Ministries, communities and families of children with disabilities (community-based services); families of children with disabilities, need to be made aware of the right of their children to attend school, particularly in poor and rural areas; many measures need to be taken to improve the quality of education in all schools for all children, including children with disabilities in special and inclusive educational contexts, barrier-free schools and accessible transport, research into effective school management and teaching methodologies; organisations of and for people with disabilities, need to place advocacy for the

Setting up a framework for action in Asia and the Pacific, the *Biwako Millennium Framework* identified seven key priority areas through time-bound targets setting out 17 strategies and three mechanisms. The *Framework* is action-oriented and time-bound, and is based on the principle of an inclusive, barrier-free and rights-based society for persons with disabilities. Its most important contribution is that it defines the terms 'inclusive', 'barrier-free' and 'rights-based' for persons with disabilities. While the *Biwako Millennium Framework* is not legally binding, it identifies "early detection, early intervention and education" as the third of the seven priority areas. This targeting of the focus on primary education is similar and reminiscent of the third *Millennium Development Goals*.

The *Convention on the Rights of Persons with Disabilities* was adopted by the UN General Assembly on 13 December 2006. It has now been adopted by 144 countries and ratified by 82, while many states are currently examining their laws and practices to ensure that they can ratify the treaty. Education, like other social and economic rights, is subject to the 'progressive realisation' clause in Article 4(2), which takes into account differences in countries' resources and states that a country will adopt these rights to the maximum of its available resources and where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights.

Article 7 affirms that children with disabilities are entitled to the entire range of human rights inherent to all children.²⁰ Their right to appropriate support in making their voices heard is emphasised through both Articles 7 and 24. The enforcement of the *Convention on the Rights of People with Disabilities*, and in particular Article 24, requires the development of an

education of children with disabilities as a high priority item on their agenda; regional cooperation needs to be strengthened, to facilitate the sharing of experiences and good practices to support the development of inclusive initiatives.

²⁰ Article 7 of the *Convention on the Rights of the Child*:

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

inclusive education system for all children, and presents both a challenge and an opportunity to the countries parties to it.²¹ To review it more precisely, Article 24 covers many aspects of education at different stages of people's lives. Its priority is to encourage children with disabilities to attend school at all levels (para. 2(a)). It asserts that the best way to do this is to focus on the best interests of the child (para. (2b)). Article 24 also addresses the education needs of the large number of adults with disabilities who are uneducated or under-educated because they were unable to access education as children. It also recognises the importance of lifelong learning (para. 5). This includes education for those who have acquired their impairment as adults and therefore want or need further education, such as vocational training and university degree programmes, to support their ability to work. The terms 'disabled person' and 'disabled people/children/pupils' are used as in social model thinking, where it is the barriers that disable those with long term impairments.

The *Convention* unambiguously recognises the link between inclusive education and the right to education of people with disabilities. It puts across the role for parents' organisations, advocacy groups and movements to work together to reinforce the commitments of states to these international initiatives. Its approach is based on a growing body of evidence that shows that inclusive education not only provides the best educational environment, including for children with intellectual impairments, but also contributes to breaking down barriers and challenging stereotypes. This approach will help to create a society that readily accepts and embraces disability, instead of fearing it, given that

²¹ Article 24 of the *Convention* very clearly recognises the rights of children with disabilities to inclusive education. The key provisions are as follows:

States Parties shall ensure that:

- a. persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- b. persons with disabilities can access and inclusive, quality and free primary education and second education on an equal basis with others in the communities in which they live;
- c. reasonable accommodation of the individual's requirements is provided;
- d. persons with disabilities receive the support required with the general education system to facilitate their effective education;
- e. effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

when children with and without disabilities grow up together and learn side by side in the same school, they develop a greater understanding and respect for each other.²² The UN Special Rapporteur on the Right to Education's 2007 report lays out the obligations on state parties that have ratified the *Disability Convention* to "ensure an inclusive education system".²³

It is argued that in order to develop educational systems that encourage and support the development of schools that are effective in reaching all children in the community, it is necessary to recognise that the field itself is riddled with uncertainties, disputes and contradictions. However, what can be said is that throughout the world, attempts are being made to provide more effective educational responses to such children, and that, encouraged by the *Salamanca Statement*, the overall trend is toward making these responses, as far as possible, within the context of general educational provision.

As a consequence, this is leading to a reconsideration of the future roles and purposes of specialists and specialist facilities in education. Many of the debates and disputes about the moves toward inclusive education clearly have implications for policy initiatives in countries of the South. Many education systems around the world have been designed in such a way that they erect barriers against the effective education of children with disabilities and young people. These barriers are often reinforced by negative cultural attitudes. Therefore, it is incumbent upon states to plan and develop their capacity in line with the *Convention* from the moment of adoption. In education, this will mean examining current legislation, practices and procedures to ensure the continuing development of their education systems so that all children with disabilities have access to education within an inclusive education system. Although a definite trend toward inclusive practice and an increase in inclusive education programming is evident in all countries of the North, considerable

²² *Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities: From Exclusion to Equality, Realizing the Rights of Persons with Disabilities*, United Nations, Geneva, 2007.

²³ United Nations Human Rights Council, *The Right to Education for Persons with Disabilities: Report of the Special Rapporteur on the Right to Education, Vernor Muñor*, United Nations, Geneva, 2007.

variation exists, most notably in the areas of classification and placement decisions.²⁴

It is important to note that all countries face several challenges. Proponents of inclusive education therefore, according to some studies,²⁵ view a system of inclusion as most beneficial to children's rights, including the rights to equality, human dignity and education.

4. Recognition of the Right to Inclusive Education of Persons with Disabilities: Regions Charting a New Course towards Inclusive Education

As countries move towards achieving the goals of the *Education for All Initiative*, many are paying increased attention to the advantages of developing an inclusive, community-based school model. Countries across regions are recognising increasingly that in using this model, students with special education needs, including those with disabilities, receive their education alongside their peers without disabilities. While this approach is considered innovative, it has been, for many cultures, the traditional way to educate children.

It is now increasingly understood throughout the world that inclusive education allows a child with a disability to remain with his or her family and attend the closest school, like all other children, which is vital to personal development. Inclusive education has two-way benefits for special-needs students and their peers without disabilities: on the one hand, familiarity and tolerance reduce fear and the likelihood of rejection; while unique relationships are formed that previously were not possible. In short, inclusive education contributes to greater equality of opportunity for all members of society.

4.1 Inclusive Education Practice in the North

Large-scale cross-national studies in countries of the North provide extensive information on best practice for inclusive education. Although a definite trend toward inclusive practice and an increase in inclusive

²⁴ Susan Peters, *Inclusive Education: Achieving Education for All by Including those with Disabilities and Special Education Needs*, prepared for the Disability Group, World Bank, 30 April 2003.

²⁵ J. Hay and J. Malindi, *South African inclusive education policy: celebrating human rights?*, paper presented at ISEC Glasgow, 1-4 August 2005.

education programming is evident in all countries of the North, considerable variation exists, most notably in the areas of classification and placement decisions. In addition, all countries face several challenges. The most significant of these are meeting the needs of students with disabilities in schools, funding, and resource constraints. Special issues of accountability are exerting enormous pressures on schools to document effectiveness in terms of outcomes. This emphasis on accountability represents a significant shift from issues of access and quality of services. Systems of evaluation and documentation of effectiveness in terms of outcomes are lacking and need attention. While the studies provide some evidence of positive inclusive education effects, gaps in research are most noticeable in this area. Finally, significant gender differences exist that reveal a bias toward boys and constitute a potentially significant area of concern that has been largely omitted in the policy decisions. These lessons from the North constitute a first-wave of inclusive education reform in terms of practice.

4.2 Inclusive Education Practice in the South

In order to describe the dynamics and comprehensiveness of inclusive education in the South, a framework for analysis that includes four domains of inputs, processes, outcomes, and contextual factors in an open-system will be used.²⁶

The most challenging and critical aspects of inclusive education development include: student access, retention and drop-out rates; finding, identifying, and encouraging children to go to school; poverty and associated characteristics of student background; attitudes toward students with disabilities; conditions of teachers' work; as well as flexible, adaptive and functional life-skills curriculum relevant to students' lives. Also, the school climate, collaboration, support, and integrated services/teacher training prove important operational challenges. Student achievement tests of content knowledge provide only one indicator of impact, and are not strongly linked to success in adult life, nor do they provide a measure of creative and analytical problem-solving skills needed for survival. The challenge is to measure success in terms of broad indicators of outcomes

²⁶ An open-system not only accounts for external factors influencing inclusive education such as policy, legislation, cultural and socio-economic conditions, but considers these 'external' factors as integral components of inclusive education development as a whole. This is a particular strength of inclusive education in countries of the South. In those cases, school districts are able to develop alternative achievement standards.

and impact. Therefore, inclusive education programmes should look for improvements in terms of contextual factors: individual, family, community, organisation, and government. Specific indicators would include: presence, participation, choice, respect, knowledge and skills.

4.3 Inclusive Education Practice in the Other Regions

In Sub-Saharan Africa, disabled peoples organisations (DPOs) and human rights constitute a promising area for future study. Zambia, Zimbabwe and South Africa share borders and a strong history of active disability rights organisations. Most DPOs in the region have been actively engaged in education activities, formal, informal and non-formal sectors, for at least a decade. The South African Federation of the Disabled (SAFOD) enjoys a strong regional presence, providing coordination and support for national level initiatives. The African Decade of Disabled Persons 2000-2009 was declared by the Organisation for African Unity, and has received support from the United Nations. The African Decade has a number of key objectives, including poverty alleviation and reduction through economic support and education; advocacy and lobbying for policies and legislation; and awareness-raising on disability issues and human rights in Africa. A *Basic Education Sub-sector Investment Program Support Project* containing a strong law and justice component has been underway in Zambia since 1999. The regional strengths of DPO human rights activities could be used to improve the capacity/impact of education sectors in both Zimbabwe and Zambia for all children and youth.

Some of the most innovative inclusive education programmes originate in several of the countries of Latin America, where many are in transition from authoritarian regimes to democratic states and where democratisation has been accompanied by a strong trend toward decentralisation across sectors. Transition and its democratic ideologies have, therefore, influenced school governance as well as teaching and learning. Columbia, Honduras, and Guatemala all have experimental *Escuela Nueva* schools that operate with a stated philosophy and vision of inclusion.

Nearly two-thirds of the world's people with disabilities live in South and Southeast Asia. Women and girls with disabilities here face perhaps some of the most severe discrimination of any region in the world. Strong cultural beliefs about disability as an ancestral punishment still predominate in Asian societies.

Vietnam is one of the world's most densely populated countries, with an estimated one million children with disabilities – the incidence and prevalence rates for children may be inflated due to the effects of Agent Orange. Improving the quality of education and basic health care, especially among the poor, are priority issues in Vietnam. While access to primary education has reached extensively, the Vietnamese government has enhanced efforts and specified detailed strategies for reaching the last of the children still without access to school. Innovative programs to identify and refer children have been undertaken. Currently, the World Bank has provided investment funds for three active projects in Vietnam relevant to inclusive education: the *Higher Education Project*, *Population and Family Health Project*, and *Primary Teacher Development Project*. The experiences and expertise of the community-based partnership programmes to link health and education sectors to enhance lives of children with impairments and their families could be capitalised on to strengthen these projects in all of these countries.

While the South faces major challenges in terms of resources and access within the *Dakar Framework*, creative solutions to meet *EFA* goals provide opportunities for a way forward.

India has a population of approximately 982.2 million people (16.7% of the world population). To meet this need, a key strategy involves preparing teachers to instruct learners with disabilities. An Asian Development Bank (ADB) report highlights teacher preparation and training as a central policy in the entire Asia-Pacific Region.²⁷ This policy recommends two strategies for implementation: restructuring teacher preparation, and continuous staff development. As a priority, these policy/strategies need to be integrated into any existing instructional policy and strategies for the improvement of schooling.

Both the ADB policies in Asia and ESCAP (the UN's Economic and Social Commission of Asia and the Pacific) sponsored experiences concerning teacher preparation and training, supported by the 1986 National Policy on Education, that can be described as 'embedded', in the sense that both agencies view teacher training as necessarily part of the larger context of school reform.

²⁷ D. Chapman and. Adams, *The Quality of Education: Dimensions and Strategies*, Asian Development Bank, 2002.

One project that illustrates promising practice with respect to embedded teacher training is the *Project Integrated Education for the Disabled* (PIED). Twenty-two institutions and organisations from all over India collaborated on the project, with the goal of developing inclusive education as an integral part of institutional programmes. The training was designed in three phases of increasingly intensive development, focused on child-centred teaching and learning strategies, and incorporated practice and feedback sessions. As part of the training, each school prepared its own action research proposal for implementation. Positive effects were documented in terms of changes in teacher and pupil attitudes to teaching and learning, and in pupil achievement. However, the potential opportunity for integrated teacher training and collaboration with teachers colleges and university departments of education (both special education and general education) has not been well documented. Collaboration for embedded teaching at tertiary levels of education could build on the strengths of continuous staff development in PIED, while at the same time begin to address the need for restructuring teacher preparation programmes.

To sum it up, the importance of legal issues in the region cannot be underestimated. Most policy documents on inclusive education begin with the recommendation that a policy framework and legislative support must be in place to ensure access to and equal participation in inclusive education programmes. This regional review also makes clear that the impetus for inclusive education has been put on the agenda and propelled forward by disabled peoples' organisations. DPOs have achieved this agenda through organised political pressure and mobilising allies. As a result, progress towards inclusive education, albeit slow, has been steady over the last three decades.

Experience in many countries has shown that many children who would previously have been automatically referred to special schools can be satisfactorily educated in mainstream schools, given support tailored to their individual needs, often through an individual educational programme. This includes children with intellectual disabilities such as Down's syndrome, a number of whom have confounded expectations by completing secondary education and successfully passing national school-leaving examinations. Successful inclusive education experiences in numerous countries are also linked to the expansion of early intervention programmes – guaranteeing an early start for children and families. In addition, important steps are now being taken to initiate inclusive education programmes at the pre-school level. The international

endeavours with a special review of the country-level efforts in this regard are examined in the next section.

5. Right to Inclusive Education: International Legal and Policy Approaches in Country Settings

With respect to enforcing the rights provided for in the current instruments that uphold children with disabilities' rights to inclusive education, including the *International Covenant on Civil and Political Rights*, *International Covenant on Economic, Social and Cultural Rights*, *Convention on the Rights of the Child*, *UN Standard Rules on Equalization of Opportunities for Persons with Disabilities*, and the more recent *Convention on the Persons with Disabilities*, several reports provide basic information. Specifically, these reports document that legislation pertaining to inclusive education appears to be in place in majority of countries reviewed. However, the extent to which services are implemented, and the extent to which children and youth have access to them, is not known. Furthermore, the *Convention on the Rights of the Child's* goals are inclusive of those with special needs, but gaps in safeguards and monitoring strategies exist. The new *EFA Flagship Initiative on the Rights of Persons with Disabilities: Towards Inclusion* aims to work at closing this gap as a strategic objective. Established within the global "Education for All" effort that focuses on the educational needs of children, youth, and adults with disabilities in developing and transition countries, the flagship initiative stresses that education is a human right for all, and that inclusion is a primary goal of education strategies and settings.

The data gathered on children and youth with special education needs and disabilities will be critical to future planning. One indication of a growing need is the comparative data collected on children in school and children with no access to school. In 1990, there were 599 million children in school as compared to 681 in 2000. At the same time, the number of children reported with no access to school grew from 106 million to 117 million. Many children and youth with disabilities are likely to be in this latter category. The review of the regional developments on inclusive education discussed earlier makes clear that policy-level endeavours are interrelated and context-dependent. Taken as a whole, it provides fertile ground for policy/practice implications to address the next steps. While numerous comprehensive policy recommendations and frameworks for action have been developed — both general and specific to children with disabilities — in relation to *Millennium Development Goals*, country situations in this context will be critically examined below.

The following analysis highlights the leverage achieved through a range of mechanisms, including enforceable positive duties supported by a strong appeal process as in the United Kingdom, codes providing guidance for schools in both the United Kingdom and United States, and developed by state human rights institutions in Canada, mandatory standards in Australia, measurable targets in the United States and action plans in Canada.

5.1 Enforceable Positive Duties Supported by a Strong Appeal Process in the United Kingdom

In the United Kingdom, an equality duty set out in the *Disability Discrimination Act 1995* (the *DDA*) places a general duty on all schools, and a specific duty on all those receiving public funding. As a result, schools are required to prepare, publish and report on their disability equality scheme. A *Code of Practice for Schools* details their responsibilities under the *Disability Discrimination Act*. Parents must be consulted in the preparation of both the scheme and their child's individual education plan. Appeals can be made to the Special Educational Needs and Disability Panel about that plan, the needs assessment itself, and the assistance offered. Higher appeals can be taken to the Upper Tribunal, which also hears disabled students' complaints of discrimination by a school.

Part 2 of the *DDA*, entitled 'Disability Discrimination in Education', covers both schools and higher education. It amends the *DDA* by placing new duties on providers of schools and post-16 years education. It requires that pupils with disabilities should not be treated less favourably, without justification, for a reason, which relates to their disability. It also stipulates that reasonable adjustments are made so that pupils with disabilities are not put at a substantial disadvantage to pupils considered otherwise. Interestingly in England and Wales, this does not require a duty to remove or alter physical barriers or provide auxiliary aids and services for school pupils. However, there is a requirement for reasonable adjustments to be made for people accessing adult education, including any adult being taught within a mainstream school environment, further education and any youth services.

A review of the text of the *Act* reveals that despite there being no specific requirement to remove or alter features, there is a duty on schools in England and Wales to plan strategically and make progress in increasing

accessibility to their premises and to the curriculum. There is also a responsibility to improve the ways in which written information provided to pupils who are not disabled is provided to disabled pupils.

5.2 Codes Providing Guidance for Schools in the United States

Education for students with disabilities in the States is governed by the *No Child Left Behind Act 2001* (the *NCLB*) and the *Individuals with Disabilities Education Improvement Act 2004* (the *IDEA*). The *NCLB* requires each state to establish a curriculum, including standards for each subject and year. By 2013 every child, including students with disabilities, will be entitled and expected to meet the same state-wide academic standards. The *Code of Federal Regulations* sets out the requirements for Individual Education Plans, including what accommodations are necessary, so the student's performance will be improved relative to the state's guidelines. The only exceptions are for the 3% of students whose intellectual or other disabilities are judged to be too severe for testing against these standards to be feasible.²⁸

The *IDEA* requires that, to the maximum extent possible, children with disabilities are to be educated with children who are not disabled. This commitment to education in the 'least restricted environment' means about 96% of students with disabilities attend regular schools. The *IDEA* establishes the principle that children with disabilities are entitled to 'free appropriate public education'. What this means in practice has been the subject of considerable litigation.²⁹

²⁸ In those cases, school districts are able to develop alternative achievement standards. The National Council on Disability's report found that the development of these alternatives is uneven between states and generally lags behind need. See National Council on Disability, *National Disability Policy: A Progress Report - January 2008*, available at http://www.ncd.gov/progress_reports/01152008

²⁹ In the leading Supreme Court case of *Board of Education of the Hendrick Hudson Central School District v Rowley*, 458 US 176, the US Supreme Court held that "personalised instruction with sufficient support services to permit the child to benefit educationally from the instruction" was required. Cases since *Rowley* have determined that the programme must provide for more than 'de minimis or trivial academic achievement' but is not required to offer 'every available service necessary to maximise a disabled child's potential'.

5.3 Action Plans in Canada

The *Canadian Human Rights Act 1977* makes it unlawful to discriminate in the area of access to education on the ground of disability. The *Canadian Charter of Rights and Freedoms* guarantees equal opportunities to all Canadians, including those with a ‘physical or mental disability’.

Access to education for children with disabilities tends to be dealt with in the context of provincial inclusive education policies. For example, in Nova Scotia the 2007 *Minister’s Review of Services for Students with Special Needs* reviewed progress on implementing a 2003 action plan, making policy recommendations for further action.³⁰

A number of provincial human rights commissions have developed guidelines for ‘accommodating students with a disability’, for example Ontario and New Brunswick.³¹ The limits to reasonable accommodation in Canada are set out in the Supreme Court case of *British Columbia (Public Service Employee Relations Commission) v BCGSEU*, also known as the *Meiorin Case*.³²

5.4 Mandatory Standards in Australia

The federal *Disability Discrimination Act 1992* (the *DDA*) provides for the Attorney-General to issue mandatory standards covering any aspect of disabled people’s right to participate fully in society. *The Disability Standards for Education* came into effect in 2005 and set out definitions of key concepts such as adjustments, reasonable adjustments and ‘on the

³⁰ Review Committee Report and Recommendations, July 2007, available at http://www.ednet.ns.ca/events/special_education_review/documents/review-committee-report-e.pdf.

³¹ Essentially they outline the relevant anti-discrimination provisions, explain the requirements for reasonable accommodation (and conversely undue hardship), and describe other anti-harassment and anti-bullying provisions.

³² [1999]. 3 S.C.R. 3. The *Meiorin* test for reasonable accommodation requires that the accommodation must:

- be rationally connected to the function to be performed
- be adopted in good faith
- be reasonably necessary to achieve the purpose or goal and
- not impose an undue hardship on the service provider.

Undue hardship in Canadian jurisprudence is commonly considered to have three elements: excessive costs, serious risk to health and safety and the impact on other people and programmes.

same basis', a phrase used extensively in the *Disability Convention*. Exceptions relate to unjustifiable hardship, protection of public health and special measures.³³

A review of special education in the state of Victoria was undertaken in 2006 by the non-governmental Inclusive Education Network. Their report concluded there is a need for a basic school-funding model based on inclusive principles, better in-service and pre-service training, improved physical access and involvement of the wider school community in decision-making.³⁴

In 2007 the federal Department of Education, Employment and Workplace Relations published a major report on improving the learning outcomes of students with disabilities.³⁵ The following points have been identified as of relevance to the current research and are culled from the examination of the report:

- the importance of moving pedagogical focus from 'adaptations for special needs' to 'universal design pedagogy'
- the whole-school, diverse-needs approach to education has been more successfully adapted to primary than secondary schools
- extensive use of teaching assistants 'locks-in' practices and discourages flexible and creative use of resources
- persistent difficulties obtaining adequate funding for students with high or complex needs.

³³ Education in Australia is a state and territory concern. The Government of Australia signed a declaration emphasising that "schooling should be socially just". Inclusive education is implemented based on the following definition:

Inclusive education means that all students in a school, regardless of their differences, are part of the school community and can feel that they belong. The mandate to ensure access, participation and achievement for every student is taken as given. Many schools have taken up the challenges of becoming inclusive and responsive by making changes to their policies, practices and cultures.

³⁴ Inclusive Education Network, *Inclusive Education in Victoria: Discussion Paper and Proposed Policy Framework*, 2006. Available at <http://www.strategiceentials.com.au/resources/Final%20Inclusive%20education%20paper%20and%20proposed%20policy%20May%202006.pdf>

³⁵ Department of Education, Employment and Workplace Relations, *Project to Improve the Learning Outcomes of Students with Disabilities in the Early, Middle and Post Compulsory Years of Schooling*, Commonwealth of Australia, Canberra, 2007.

6. Promoting the Right to Inclusive Education in the Region of South and Southeast Asia: Implications in Policy and Practice

The Asian region has been making steady progress, albeit at a rate slower than planned.³⁶ The reasons for this slow progress are manifold as discussed earlier: scarcity of resources, inadequate distribution and allocation of existence of multiple layers for the administration and management of educational systems, prevailing discrimination, traditional societal attitudes towards disability, mobility, school building accessibility, and shortage of trained teachers. Nevertheless, all the countries in the region seem to be keen on making progress and providing a larger number of children with disabilities and youth opportunities for inclusive primary and secondary schooling. Many of the countries in the region have adopted national policies on disability as well as national policy frameworks on general education. Special emphasis is being laid within this overall framework to equity and excellence and including provisions for education to children and youth with disability to combat high absenteeism and dropout rates. The perseverance and dedicated efforts of individuals, NGOs and governments is showing some positive results.

The following examples offer some salient features of what has been planned and achieved in some selected countries of the South and Southeast Asia region.

In Bangladesh, while both special education and integrated education models exist, the country has also specifically enacted laws and issued declarations in favour of inclusive education. The Centre for Disability Development, a reputed training institute for inclusive education, however cites lack of resources as the main barrier for the rather slow progress of implementation of various schemes and programmes of inclusive education. According to one report:

Access to education of children with disabilities is extremely limited. An unequal system, a rigid and unfriendly school curriculum, ignorance and lack of awareness of parents, compounded with the

³⁶ Inclusive education is a key component for achieving the aim of education for all at least up to primary school level as a part of the *Millennium Development Goals* by 2015. As per estimates available, of the over 650 million disabled people worldwide, 130-160 million are children and almost 75% of these reside in developing countries. Providing inclusive education to such a large population is therefore a gigantic task.

inadequate knowledge of teachers and the unfriendly school environment are obstacles to promoting the education of children with disabilities in Bangladesh.³⁷

Under the government system of Bangladesh, the education of persons with disabilities is under the Ministry of Social Welfare and not under the Ministry of Education. This has created a significant barrier for persons with disabilities to their inclusion into mainstream education. It is estimated that only about 5% of children with disabilities are enrolled in existing educational institutions. A keener policy initiative by the government at promoting inclusive education for children may help create the much needed space for the enrolment of more children with disabilities in the mainstream education. As indicated in the report on Bangladesh, the state is taking a positive state step by providing a stipend to students with disabilities. However, only 12,000 students with disabilities are receiving it, while 1.6 million more children with disabilities wait at home to be enrolled in educational institutions.

In China, Article 18 of the *Law on Basic Protection of Disabled Persons* adopted in 1990 and enacted in 1991 establishes that “the State guarantees the right to education for disabled persons ... and provides compulsory education for children and youth with disabilities ... and the State charges no tuition for those disabled students receiving compulsory education.” While provisions for inclusive education as well as integrated and special education has led to increased educational opportunities for people with disabilities – special education is available primarily for learners who are blind, deaf or have severe intellectual disabilities albeit some students have the option to go to regular schools – there is a vast school-aged populace of children with disabilities who do not have access to education due to poverty.

In view of the large number of persons with disabilities and their low enrolment rates in schools, China established a support system in regular schools and made funds available to enhance the quality of their education. This support system at provincial level is called the “integrated education supervisors system”. Under this system, supervisors travel from district to district on a regular basis to provide training to mainstream teachers from

³⁷ Khandaker Jahurul Alam, ‘Bangladesh and Persons with Disabilities’, *FOCUS*, March 2009 Volume 55, available at Asia-Pacific Human Rights Information Center, available at <http://www.hurights.or.jp/archives/focus/section2/2009/03/bangladesh-and-persons-with-disabilities.html>.

schools for visually impaired children. The support system at the district level is called “itinerant resources teachers system” where the itinerant resource teachers work at resource centres and travel from school to school. This system is being tried in most districts in China. In addition, NGOs are also encouraged to move forward with their own initiatives.

In Cambodia, the most important legislation is the 2002 *Law on Rights of People with Disabilities* which covers specific areas such as quality of life, rehabilitation, health, and the prevention of disabilities, accessibility, education, training, employment, incentive programs, elections, etc. However, programmes for people with disabilities have been implemented primarily by NGOs with programmes concentrated in urban areas. There are a limited number of special schools and classes and few community-based programmes, especially in remote areas. All special schools have integration in the mainstream of society as the main focus. Children with disabilities are at greater risk of not receiving education since general education is very limited in terms of both resources and capacity. In addition, training opportunities for teachers in the area of special education are fairly limited.

In the late 1970s, the Government of Indonesia for its part began to pay attention to the importance of the integrated education, and they invited Helen Keller International, Inc. to help with the development of integrated schools. The success of that particular project led to the issuing of a ‘Letter of Decision’ by the Minister of Education in 1986 stipulating that capable children with disabilities should be given the opportunity to attend regular schools together with their non-disabled peers. Unfortunately, when the integrated education project was over, the implementation of integrated education was practiced less and less, especially at the primary school level.

However, towards the end of the 1990s, new efforts were made to develop inclusive education through a cooperation project between the Ministry of National Education and the Norwegian government under the management of Braillo Norway and the national Directorate of Special Education. In order not to repeat the past experience with an integrated education programme simply being discontinued, attention has been paid to the sustainability of any new programme of implementing inclusive education.

Therefore, the government has more recently adopted policies and plans, passed legislation, and provided financial support to implement inclusive education. A directorate of special education has been set up to accelerate

inclusion and special education. A number of schemes and plans are being formulated. Thus, the process launched in 1999 has begun to gain momentum.

In the Philippines, the 1992 *Republic Act 7277* provides that the state shall (i) ensure that persons with disabilities are provided with adequate access to quality education and ample opportunities to develop their skills, (ii) take appropriate steps to make such education accessible to all persons with disabilities, and (iii) take into consideration the special requirements of disabled persons in the formulation of education policies and programmes. There was also the adoption of a policy on inclusive education after the World Conference on Special Needs Education in 1994 which has increased the educational opportunities for persons with disabilities. The main strategy for inclusion in the Philippines is the creation of Special Education (SPED) Centers in all school divisions located in either cities or provinces.³⁸ Each is located in a regular school and manned by the regular principal with trained special education teachers in different types of disabilities. The centres offer an array of educational services appropriate to the needs and capacities of children with impairment, including the organisation of special classes to develop the basic academic and social skills necessary for children with disabilities to cope with regular instruction. These centres do not only focus on enrolling the children with disabilities in the regular classrooms, but also attempt to assist the regular education teacher and other personnel to respond to the diverse needs and abilities of these children through the provision of appropriate educational programs, along with curricular modification and individualised support services.

Besides the extensive network of the Special Education Centers, the expansion of the services to students with disabilities can also be attributed to the support of three major non-governmental organisations in the country, namely, Christoffel Blind en Mission Inc., Hilton Perkins International and KAMPI (*Kapisanan ng May Kapansanan sa Pilipinas*,

³⁸ These centres function as resource centres for inclusion and are tasked with conducting continuous assessment of children with disabilities; providing in-service training to school personnel, parents and others involved in the child's life on the 'why' and 'how' of creating inclusive schools, as well as other relevant educational trends and practices; producing and providing appropriate teaching and student materials; and finally providing support to the children included in the regular classrooms in terms of planning instruction and providing a range of educational services (e.g. resource room teaching, itinerant teaching, special and cooperative teaching) in collaboration with the regular teachers.

Ink., Organisation of Disabled Persons in the Philippines). Since 1992, these have been funding the training of teachers conducted in the three main islands of the country: Luzon, Visayas and Mindanao, providing training of teachers who handle children with disabilities, including those with multiple handicaps, and training secondary teachers, students and adults on Braille and computer respectively. The local government units, civic organisations like Rotary Clubs, Lion Clubs and business establishments, along with parents, also support the educational programmes for children with disabilities.

As for Taiwan, the *Special Education Law* and the *Welfare Protection Law for the Disabled Individuals* focus on the importance of inclusion. The former law clearly states that all children with special needs at age three could receive free and appropriate education, and that this should be in regular kindergarten with regular children.

A review of its current inclusionary practices in education reveal that while special classes, special schools and resource room programs still exist for the education of children with disabilities, the country is undergoing a transition from integration to inclusion.³⁹ Children with special needs from the ages of 3 to 5 can attend both public and private kindergarten open for all children. Issues and concerns are generally those regarding the need to provide pre- and on-service on-going training for regular teachers to learn about special education, the lack of technology devices in schools, and the resistance to change of both the regular and special education teachers, administrators and even parents in favour of inclusion.

The issue of access to education for children with disabilities is one of the most critical concerns facing South and Southeast Asia. Few countries know how many children with disabilities they have, how many are in school, and whether this number is increasing. This situation exists 21 years after the *Education for All* initiative was launched in Jomtien in 1990, and reaffirmed in Dakar in 2000. By the end of the last decade, the above review shows that education is receiving more attention by governments in the region. Legislation mandating education for all

³⁹ The Eden Social Welfare Foundation in Taiwan is providing early intervention and preschool education services to developmentally delayed children since 1994. A number of inclusive education courses are being run by the Foundation. They also provide referral services for children with special needs before their school enrolment and assist parents to understand the different types of needs of special children, as well as develop and produce specially designed wheel chairs to enhance mobility.

children has been passed in these countries, although only a few reported that children with disabilities were included specifically in national 'Education for All' plans. More emphasis has been placed on data collection on children in education and on the provision of government funding for the education of children with disabilities.

Special schools were still the most common form of educational provision, often started by NGOs, and mostly located in urban areas, but inclusive education is becoming much more widespread. Compulsory education in China, mandated in 1993, and significant programmes of integrated education in India have reinforced this trend. An innovative project in Laos has received a lot of attention and is viewed as a model for neighbouring countries.⁴⁰ According to UNICEF, there was only one school in Laos serving 25 children with disabilities in 1993. In 2002, there were 65 kindergartens, 142 primary schools, and 9 secondary schools all operating on an inclusive model.⁴¹ The Laos example is important because it refutes the notion that only wealthy countries can afford to develop an inclusive education system.

Among the definite developments that have taken place in the region, early intervention became more widely available, pre-school services are growing, and there is some access to post-school or tertiary education for young people with disabilities. Teacher training, however, is still largely limited, with only a few countries reporting that they included special training for regular class teachers. Major barriers to the provision of quality education for children with disabilities includes the lack of early identification and intervention services, negative attitudes and exclusionary practices, and inadequate teacher training, particularly training of regular teachers to teach children with diverse abilities. There is a need for the restructuring of schools to link them more closely with their communities, to ensure that curriculum is more flexible, and specialist support staff and appropriate teaching equipment and devices are available.

One significant policy that many proposals for the way forward have in common is the need to include persons with disabilities and special education needs as full participants in the bodies and procedures by which laws, policies, and the provision of services are formulated, implemented

⁴⁰ UNICEF, *Inclusive Education Initiatives for Children with Disabilities: A Desk Review*, 2002, New York.

⁴¹ *Ibid.*

and evaluated. This is seen not only as a political and moral imperative, but a cost-effective one as well. Clearly, much has been achieved, but much is still left to be accomplished in the progress towards an inclusive society and rights to inclusive education within society.

7. Conclusion: Policy/Practice Implications for the Recognition of the Right to Inclusive Education of Persons with Disabilities

Numerous comprehensive policy recommendations and frameworks for action have been developed — both general and specific to learners with disabilities — in relation to the *Millennium Development Goals*. This particular review on the policy or practice implications for the recognition of the right to inclusive education of persons with disabilities at international level does, however, illuminate several critical policy/practice issues and their implications concerning inclusive education. Typically, policy relevant to inclusive education begins with a declaration (e.g., the *Salamanca Statement*) or a treaty (e.g., the *Convention on the Rights of the Child*) and follows with a framework or plan for action or implementation. In between declarations and frameworks lies a broad terrain of policy/practice critical to implementing inclusive education. Policy/practice can be characterised as a struggle that takes different forms and is exercised at different levels by social actors with different objectives and under different conditions and power relations.

Common issues of critical importance across geographies would be access and participation, teacher training and in-service professional development, universal human rights and inclusive education policy/legislation, resource allocation, school reform, assessment and accountability, and capacity building ensuring sustainability through non-governmental organisations, communities and multi-sector participation. Each issue has been seen in terms of its potential for facilitating or inhibiting inclusive education, e.g. the policy forms and the actions of decision-makers who ultimately enact policy related to these issues determine their potentials. Specific policy implications were discussed that derive from this analysis, and they should be useful to educators and policy-makers.

The *Education for All* initiative, reaffirmed and strengthened by the World Education Forum, never emphasised children with disabilities as a specific priority target group for action. The result is that two decades after the initiative was launched, only seven governments in the region reported that they specifically included children with disabilities in their national plans

on *Education for All*. The World Bank has promised funding to twenty-three countries with strong national *EFA* plans to fast-track their education development – but it is most unlikely that many or even any of these countries who are successful in gaining this funding will have included children with disabilities in their *EFA* plans. Governments of the region have not fulfilled their obligations under the various international conventions and declarations to make sure that full access to education for children with disabilities is provided.

It has also been observed through the preceding analysis that most children with disabilities in the Asia-Pacific region who go to school at all have attended segregated special schools that are mostly located in urban areas and can only accept relatively small numbers of children. Many of these are run by NGOs, with or without government financial support. In the *Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* and the *Salamanca Statement and Framework for Action on Special Needs Education*, it is stated that integrated or inclusive education with access to education in the regular local neighbourhood or community school provides the best opportunity for the majority of children and youth with disabilities to receive an education, including those in rural areas. Additionally, it is acknowledged in some instances that while special education may currently be the most appropriate form of education, it should be aimed at preparing students for education in the general system.

Many barriers can be overcome through deliberate policy, planning and implementation strategies, and allocation of resources to include children and youth with disabilities in all national education development initiatives. The actions that need to be taken are clear. Evidence in the last decade suggests that governments are beginning to pay more attention to the issue of educating children with disabilities. But the pace is too slow and sustained advocacy is needed. Who will speak for children with disabilities? Unable to advocate for themselves, they are the most vulnerable group of persons with disabilities and the most dependent on others to uphold their human rights, including their right to education.

Therefore, as far as the evolution and recognition of the right to inclusive education in the context of children with disabilities, the world community is moving to a point where our goal is an inclusive, barrier-free and rights-based society. We want disability issues included as an integral part of all national development policies and plans. We want policy developed in full consultation with representatives of organisations of persons with disabilities with full cognisance of the fact that it is time for organisations

of persons with disabilities to take a leadership role in advocating for the education of all children with disabilities, and place the achievement of this goal as a priority item on their advocacy agenda. Education needs to become a priority agenda item for all organisations of disabled persons in developing countries. The future of disabled children is a cross-disability issue. Parents and families of children with disabilities need to be welcomed by and to work in close association with self-help organisations. The voice of children with disabilities must be heard.