

International Policies on Disability

Mr. Shailendra Pathak*

Ms. Raj Shree Singh**

Disability policies have changed internationally due to shift from the medical model to the social model of disability. Disability is now considered as a human rights issue under international law. This paper describes the United Nations role over the years in bringing about change in the way disability is understood.

Policy is the culmination of decisions regarding allocation of resources. Generally, resources mean money. In a perfect world, it would seem that all citizens would receive benefits related to their needs. However, resources are not infinite.

Vested interests, compassion, and public opinion influence the politics of policy formulation, including decisions involving Persons with Disabilities. Public policies for Persons with Disabilities have lately been impacted upon by the advocacy groups of Persons with Disabilities (1).

With the paradigm shift from the medical to the social model of disability, disability was reclassified as a human rights issue under international law. Reforms in this area were intended to provide equal opportunities for disabled people and to expose their segregation, institutionalization and exclusion as typical forms of disability-based discrimination.

The work of the UN constitutes the most important actions taken by an international organization in the area of disability.

United Nations and Disability

Despite being one of the largest minority groups in the world, encompassing 600 million persons (of which two out of three live in developing countries), Persons with Disabilities had been rather ignored during the first three decades of the United Nations' existence. The drafters of the International Bill of Human Rights did not include Persons with Disabilities as a distinct group vulnerable to human rights violations. None of the equality clauses of any of the three instruments comprising this Bill (the Universal Declaration of Human Rights (1948), the

*Research Scholar, Centre for Social Medicine & Community Health, Jawaharlal Nehru University, New Delhi.

** Social Work Professional, New Delhi.

International Convention on Civil and Political Rights (1966) (ICCPR), and the International Convention on Economic, Social and Cultural Rights (1966) (ICESCR) mention disability as a protected category. If disability is raised as an issue in these documents, it is only in connection with social security and preventive health policy (2).

Throughout the 1970s and the 1980s the General Assembly of the United Nations passed a number of resolutions that eventually led to International Year of Disabled Persons in 1981.

The beginning of seriousness of the global community towards the disability issues was the result of The United Nations International Year of Disabled Persons (IYDP) in 1981. IYDP was followed by the declaration of the World Programme of Action Concerning Disabled Persons in 1982. In continuation to that the United Nations Decade of Disabled Persons 1983-1992 was adopted. The goals of the Decade included prevention of the causes of disabilities and rehabilitation full participation of persons with disabilities; and promoting equality of persons with disabilities.

World Programme of Action Concerning Disabled Persons

The World Programme of Action brought a change in perspective from the earlier charitable approach towards Persons with Disabilities where medical treatment and rehabilitation was the base to a disability perspective which is to be integrated into development. Equality was the fundamental concern of the WPA, so it located disability in a human rights and development perspective. Persons with Disabilities were seen as development agents rather than vulnerable and therefore paid attention to social and environmental factors that hamper progress in equalisation of opportunities including accessibility.

The proclamation by United Nations General Assembly of the 'United Nations Decade of Disabled Persons' between 1983-1992 provided a time frame to implement the objectives of 'World Programme of Action' concerning Persons with Disabilities (3).

The information on the progress of the United Nations Decade of Disabled Persons recognized the need of a second decade for Persons with Disabilities. After the first decade of disabled persons, achievement was noticed in the area of world-wide awareness on disability. However, the awareness did not get translated into action. So, in order to achieve equal opportunities and full integration, specific and well-focused actions were essential.

Parallel to this development, in June 1983, the ILO General Conference passed a sectoral convention on employment promotion (Convention No. 159 of the Vocational Rehabilitation and Employment of Disabled Persons) that came into force on 20 June 1985. It has been ratified by 68 ILO member states. This sectoral convention aims to ensure that vocational rehabilitation measures are made available to all categories of disabled persons and employment opportunities are promoted for disabled persons in the labour market (4).

Standard Rules on the Equalization of Opportunities for People with Disabilities: 1993

The Standard Rule shows a shift towards inclusion and asserts that 'full participation is the basic unit of society, family, social groups and community and is the essence of the human experience' and is a right which applies to all people, 'including those with disabilities'. The Disabled People's Organization played significant role in exercising pressure for the shift towards inclusion. They declared that they are no less 'human', and deserves freedom and right like any other individual.

The Standard Rules on Equalisation of Opportunities advocated mainstreaming by affirming that 'disability aspects' should be included in 'all relevant policy making and national planning' (rule 14). It also emphasized that it is the society which failed in accommodating the needs of the Persons with Disabilities created by impairment. The political duty of the states has been emphasized so that impairment does not disable (5).

The Asian and Pacific Decade of Disabled Persons, 1993-2002

In a meeting which was held in Beijing in December 1992, the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, was adopted and the Asian and Pacific Decade of Disabled Persons, 1993-2002, was launched.

The primary focus and goal of the Decade action was the expansion of opportunities for the full participation of Persons with Disabilities in society and their equality in the development process. It was aimed at encouraging Government Ministries and Departments, NGOs, international organisations, including United Nations agencies and bodies, and committed individuals to take action to achieve these goals. It was hoped that there would be tangible results in villages, towns and cities of the region, with a significant improvement in the quality of

the lives of Persons with Disabilities, as a result of the impetus of the Decade (5).

In 1993, the Economic and Social Commission for Asia and the Pacific (ESCAP) adopted an Agenda for Action for the Asian and Pacific Decade of Disabled Persons, 1993-2002. It consisted of 12 major policy categories (national coordination, legislation, information, public awareness, accessibility and communication, education, training and employment, prevention of causes of disability, rehabilitation, assistive devices, self-help organisations and regional cooperation) to ensure full participation of people with disabilities, in every aspect of the national development agenda. The Agenda provided guideline to the ESCAP countries for planning and implementation of programmes concerning Persons with Disabilities.

The Asian and Pacific region consisted of 62 member and associate member countries and territories, out of which 43 countries had signed the Proclamation on the Full Participation and Equality of Persons with Disabilities. The Asia and Pacific region is diverse in culture with two thirds of the world's population, including its poorest people (5).

A regional survey was undertaken in 2001, soliciting information from Governments, on their major achievements towards implementing the Agenda for Action, and asking them to identify priority areas for further action.

It was found that multi-sectoral approach to disability has been adopted by the National coordination committees developed by various nations. Many countries reported having formed such committees in direct response to the Decade Agenda and more were in the process of formation. Many coordinating committees were still placed within Ministries of Social Welfare, but signs of change were evident with disability included in national development plans in India, Philippines and Thailand (13). But, very few countries (less than 25 per cent) of ESCAP passed comprehensive disability legislations. This was the hindering factor in the achievement of equality for Persons with Disabilities.

Another area of concern is lack of data and accurate information from the countries. The data collected was not reflecting the full extent of disability. One of the areas where considerable success has been achieved was public awareness. Various kinds of activities like sports, artistic competitions and cultural events for awareness generation in countries.

The inaccessible physical environment was identified as an

obvious area of special attention which was major hindering factor for full participation of Persons with Disabilities. Even communication is accessible only in urban areas, people of rural areas and urban poor areas were not befitting from it. Computer and ICT literacy became very important in changing the lives and enhancing the capacities of Persons with Disabilities.

In the decade education received attention by the Governments of the region. Some countries passed legislations mandating education for all children. Children with Disability were identified in schools and funding from the Government for these children was being initiated. But, special schools were more common often located in urban areas. The importance of vocational training for youth with disabilities was recognized so that people with disability can gain employment. Increasing employment opportunities is one of the key measures needed to reduce the incidence of Persons with Disabilities living in poverty.

The prevention of disability has been focused by countries of the region by including it in health programmes. There was improvement in early identification and early intervention services for infants with disabilities and their families.

The paradigm shift from the medical to the social model of disability led to strengthening of the disability groups and their participation in all matters of their concern has increased.

At the fifty-eighth session of the Commission a resolution was adopted by member Governments, proclaiming the extension of the Decade for a further ten year period, from 2003 - 2012. At the Intergovernmental Meeting to conclude the first Asian and Pacific Decade of Disabled Persons, held in Otsu, Shiga, Japan in October 2002, members adopted the Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights based Society for Persons with Disabilities, in Asia and the Pacific (BMF). This is the policy framework that will guide Governments and their partners, in implementing actions to achieve the goals and targets of the second Decade.

The BMF has identified seven priority areas: self-help organisations of Persons with Disabilities and related family and parent associations; women with disabilities; early detection, early intervention and education; training and employment, including self-employment; access to built environments and public transport; access to information and communications and assistive technologies; and poverty alleviation through capacity-building, social security and sustainable livelihood

programmes. For each priority area critical issues, targets and action required to achieve the targets, have been identified. In the Millennium Development Goals also, a disability dimension has been included as there was no reference to Persons with Disabilities initially.

African Decade of Disabled Persons (2000-2009) and Arab Decade of Disabled Persons (2003-2012)

The African Decade of Disabled People (2000-2009) was a replica of the first Asian and Pacific Decade of Disabled Persons, with the purpose of furthering the equalisation of opportunities of Persons with Disabilities. It was initiated by the non-governmental organizations of Africa, in co-operation with governments and 'Organisation of African Unity' (OAU), now the 'African Union'.

The Arab Decade of Disabled Persons (2003-2012) was the result of a conference on 'Towards an Arab Decade of Disabled People', which was attended by more than 200 people, including officials from 18 Arab countries Plenary and workshop sessions identified recommendations that were unanimously adopted later at the closing session.

Biwako Millennium Framework

The 'Biwako Millennium Framework' was adopted as a set of policy guidelines for implementation of the new Asian and Pacific Decade of Disabled Persons (2003-2012). It promotes a rights-based approach to disability issues in this region. In paragraph 53, it mentions that civil, cultural, economic, political and social rights of Persons with Disabilities should be addressed and protected. It also recommends that governments should support and contribute to the work of Ad Hoc Committee and people with disability and their organisations should be included in drafting and adopting convention at the national, regional and international levels. By ratifying the Convention, governments are to adopt national laws and policies and review existing laws to protect the rights of Persons with Disabilities, to ensure non-discrimination. Persons with Disabilities will have equal access to their rights under such national laws or under the International Convention itself. Currently, more than 40 countries globally have adopted non-discrimination laws on disability, but only 9 countries in Asia and Pacific region have done so.

UN Convention on Rights for Persons with Disabilities

The need for a formal convention to address disability rights been advocated by the Persons with Disabilities and their allies. One of the important characteristic of the process of drafting and negotiating the convention has been the active involvement of civil society institutions.

International Disability Caucus which consisted of approximately 50 organisations was established by Disability People's Organisation (DPOs) and NGOs to maximize their impact. They provided critical inputs in the drafting process of the convention. Their contribution is also reflected in the paper on inclusive development, written by a Task Group of the International Disability and Development Consortium. The Disability and Development Consortium is a global consortium of nongovernmental organisations supporting disability and development work in more than 100 countries around the world. Its aim is to promote the rights of persons with disabilities through effective collaboration and sharing of information and expertise. The paper advocated for an inclusive approach which had two fundamental elements. First, it recognizes that Persons with Disabilities are actively engaged in the development process. Secondly, development institutions "must be taken into account and be assessed in accordance with their impact on the lives of Persons with Disabilities, and consistent with the promotion and protection of internationally recognized human rights." It also emphasized that focus on disability is important to eradicate poverty and achieve the Millennium Development Goals. (8)

In December 2006, the UN general assembly unanimously adopted a treaty on the rights of Persons with Disabilities. Signatories to the convention will have to enact laws and other measures to improve disability rights and also agree to get rid of legislation, customs and practices that discriminate against Persons with Disabilities. Behind the convention lies the thinking that the erstwhile welfare and charity-based approach must be replaced by new rights and freedoms. The world's disabled population is estimated to be 650 million, making it in several ways, the world's largest minority. Despite this, that the disabled have different abilities and rights as well, has been a very recent and halting recognition. Recognition of the needs of the disabled began only in the last century and a half, when increased wars among nations and communities took a toll of human lives and incapacitated large numbers. Today, every country has enacted laws and has some measures to guarantee equal living conditions for the disabled.

The UN Convention constitutes a radical departure in several ways for it draws also on the Independent Living Movement that had its origins in the US following the Civil Rights and the Disabled Rights movement of the 1960s and 1970s. The UN convention thus recognizes that a change of attitude is vital if disabled people are to achieve equal

status in society. Besides, stressing that access to public spaces, transport, information and communications must be improved, the convention asks for signatory nations to guarantee that Persons with Disabilities have a right to life on an equal basis with others, e.g., rights such as to own and inherit property, to control financial affairs and have equal access to financial services, the right not to be deprived of liberty "unlawfully or arbitrarily", a right to privacy and access to medical records, a right to an adequate standard of living and social protection, and also an end to discrimination relating to marriage, family and personal relationships (6).

The United Nations Convention on the Rights of Persons with Disabilities is a landmark international agreement. Its impact on disabled peoples' lives holds a great deal of promise (7).

References

1. Schroeder Mary Ann, Buckley Kathleen M., & Debisette A.T., *Public Policy Decisions Related to Disability and Rehabilitation: Is it Time for a New Paradigm?*, Policy, Politics, & Nursing Practice Vol. 2 No. 4, November 2001, pp 310-315
2. Degener Theresia and Quinn Gerard, *A Survey of International, Comparative and Regional Disability Law Reform*, Disability Rights Education and Defence Fund, online at www.dredf.org/international/degener_quinn.html
3. Nagata K.K., *Key Issues at global and regional levels in the process towards the International Convention on Rights of Persons with Disabilities*, Asia Pacific Disability Rehabilitation Journal, Vol. 15, No. 1, 2004
4. Baylies Carolyn, *Disability and the Notion of Human Development: questions of rights and capabilities*, Disability and Society, Vol. 17, No 2, 2002, pp 725-739
5. Price Penny and Takamine Yutaka, *The Asian and Pacific decade of disabled persons 1993-2002: what have we learned?*, Asia Pacific Disability Rehabilitation Journal, Vol. 14, No. 2, 2003
6. Disability Convention, *A Step Forward*, Economic and Political Weekly August 25, 2007
7. Peri Ushajee, *Is UN showing the way?* Combat Law, Vol. 7, Issue 1, Jan- Feb 2008.
8. British Disability Discrimination Act-1995
