

## INTERNATIONAL LEGISLATIONS AND CONVENTIONS FOR PERSONS WITH DISABILITIES

**Manpreet Kaur**

*Research Scholar, Department of Law, Desh Bhagat University, Mandi Gobindgarh, Punjab*

### *Abstract*

*Parts of the human family, persons with disabilities are as much entitled to human rights and fundamental freedom as anyone else. The conventions for persons with disabilities are the harbinger of social justice and adaptive development for the disabled, enhance knowledge for the society and national wealth in different countries of the world. The United Nations declared 1981 as the International Year of Disabled Persons, and adopted the World Program of Action concerning Disabled Persons (1982). United Nations also declared the Decade (1983-1992) as decade of Disabled Persons. Since then, the attention towards the disabled people and the need to promote their welfare came into the forefront. These initiatives provided the inherent dignity, worth and the equal and inalienable rights to the disabled. The paper reviews comprehensively the conventions incorporated in international legislation for persons with disability. All the authentic information has been analyzed and compiled. Hence, the paper investigates and summarizes the conventions initiated and implemented at the international level for the persons with disabilities.*

**Keywords:** *Persons with Disabilities, International Legislations, Conventions*



*Scholarly Research Journal's is licensed Based on a work at [www.srjis.com](http://www.srjis.com)*

### **Introduction**

There are persons with disabilities in all parts of the world and at all levels in every society. The number of persons with disabilities in the world is growing. Recently there has been an exponential growth of International Law in the area of rights of persons with disabilities. Such persons in various countries of the world are now convinced that a new beginning has already been made. Therefore, they do not consider themselves as separate and isolated individuals but as people with capabilities to contribute to the society in which they live. The process of rapid globalization has influenced the societies of the twenty-first century. The persons with disabilities and others came together to build a rights based society for persons with disabilities by realizing that the real issue for persons with disabilities is not of rehabilitation but of equal rights and entitlements. The Asia Pacific Region was the first to follow up with a regional Decade of Disabled Persons in 1993 since approximately 400 million of the world's 600 million disabled people live in the region.

## **International Conventions**

At the international level, Conventions are the commonest form of international agreements between countries, dealing with specific subjects of common concern. Once countries are party to such agreements they are often required to transpose their requirements into national law. These Conventions give rise to much of our national legislation. The following International Legislations have contributed in this direction:

### ➤ **Universal Declaration of Human Rights, 1948<sup>i</sup>**

The Universal Declaration of Human Rights, (UDHR), 1948 is seen as a basis for all international legal standards for protection of human rights today. It is the first ever Declaration which comprehensively covers all the rights that a human being requires to possess, for a better life. These rights are essential for ensuring inherent dignity of an individual, and the freedom, justice and peace in the world. It also aims to ensure access to redressal mechanism in case of infringement of any of the mentioned rights.

The Universal Declaration of Human Rights of the United Nations (1948) adopted by the General Assembly of United Nations does not specifically cover the persons with disabilities but the article 1 and 2 are relevant to persons with disabilities which says that “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. The UDHR urges the member nations to promote a number of human, civil, economic and social rights of every individual, thereby leading to protection of rights of the disabled too.

### ➤ **Declaration on the Rights of the Child, 1959<sup>ii</sup>**

In 1959, the United Nations Organization passed an exclusive resolution protecting the rights and interests of the child from the birth of the child. One important principle is for early detection and elimination of disease through pre-natal and post-natal care. This includes, right to nutrition, housing, recreation and medical services for both child and mother.

The Declaration makes education, free and compulsory at least at elementary stages. It also provides for the opportunity for recreational activities and play. If the Declaration would not have been extended to the disabled child, this principle of right to education could not have been used to protect the interest of the disabled children.

### ➤ **International Covenant on Civil and Political Rights, 1966<sup>iii</sup> (ICCPR)**

This Covenant is supported by two optional Protocols. It is applicable generally to all the humans. It has been developed to protect the Civil and Political Rights of an individual in

particular and of the society in general. These rights are important to establish a 'people centric' and 'people responsive' Government. The Covenant considers the principles proclaimed in the Charter of the United Nations, and declares that 'to lay down the foundation of freedom, justice and peace in the world, it is necessary to recognize the inherent dignity and equal and inalienable rights of all members of the human family'.

The main thrust being on protecting the civil and political right of the individual against the State action, it concentrates on rights of arrested person, rights of individual to participate in the political development of the Nation and freedom of speech and expression. The ICCPR imposes a duty on the States Parties, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, that they shall promote the realization of the right of self-determination. On the 10th of July 1979, India became party to the Covenant, but in the capacity of a conditional signatory.

➤ **International Covenant on Economic, Social and Cultural Rights, 1966<sup>iv</sup>**

This Covenant has been enforced to protect the enjoyment of freedom from fear of want. This objective could be achieved only by providing and protecting the conditions whereby everyone would enjoy his economic, social and cultural rights, as well as his civil and political rights. The duty of enforcing or respecting these rights is on the State and on the fellow citizens.

The Covenant has made an attempt to avoid individual ownership of natural wealth which should be owned commonly by human race. Further, the Covenant recognizes the right to work, which aims to provide an opportunity to everyone to gain living by work.

The right to education is also part of the Covenant. The Covenant has given general recognition to the right to work and education. However, the special mention of disabled person entitled to these rights, is missing. India became a conditional signatory to the Covenant on the 10th of July 1979.

➤ **Asian Pacific Decade of the Disabled Persons, 1993-2002**

The major objective of the Asian Pacific Decade of the Disabled Persons, 1993-2002 was full participation and equality of persons with disabilities. It has focused on the promotion of special efforts to foster positive attitudes towards children and adults with disabilities, and the undertaking of measures to improve their access to rehabilitation, education, employment, cultural and sports activities and the physical environment.

The Asia Pacific Region was the first to follow up with a regional Decade of Disabled Persons in 1993. Inter-country meetings to discuss possible methods of inter-sectoral collaboration and to assess the success of the Asian Pacific Decade of Disabled Persons were held in India, Malaysia, Singapore and South Korea. Partly in response to the increased international and regional attention, a significant amount of legislation has been passed in the region regarding disabled persons.

Australia and Japan have both passed comprehensive disability laws. On the surface, much progress has been made regionally for the incorporation of the rights perspective into disability legislation. Examples include the India's Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act in 1995 and the Philippines' Magna Carta for Disabled Persons in 1991. The success of the Asia Pacific Decade of Disabled Persons depends not just on creating appropriate legislation regarding disabled persons but putting into place mechanisms for accurately monitoring such legislation.

➤ **Salamanca Framework for Action, 1994**

The Salamanca Framework for Action, 1994 states that the fundamental principle of the inclusive school is that all children should learn together, wherever possible, regardless of any difficulties or differences they may have. Inclusive schools must recognize and respond to the diverse needs of their students, accommodating both different styles and rates of learning and ensuring quality education to all through appropriate curricula, organizational arrangements, teaching strategies, resource use and partnerships with their communities. There should be a continuum of support services to match the continuum of special needs encountered in every school which is to create enabling school.

The Salamanca had an inquisitive additional approach as a part of protection of right to education and demanded a parallel and complementary legislative measure to be adopted in the fields of health, social welfare, vocational training and employment in order to support and give full effect to educational legislation. In addition to the above, a demand was made to change the educational policy at all levels from the national to the local and to include a stipulation that a child with a disability should attend the neighbourhood school.<sup>v</sup>

➤ **Dakar Framework for Action: Education for All, 2000<sup>vi</sup>**

The Dakar Framework for Action adopted a World Declaration on "Education for All" (EFA) in 2000, which established the goal to provide every girl and boy with primary school education by 2015. It also clearly identified Inclusive Education (IE) as a key strategy

for the development of EFA. The pledge of providing education for all was renewed and fresh attempt was made with new vigour at meeting in Dakar, Senegal, in April 2000. The World Education Forum has resolved its commitment to the achievement of Education For All (EFA), goals and targets for every citizen and for every society.

Governments have an obligation to ensure the same. This can be achieved and sustained effectively through broad-based partnerships within countries. This responsibility can effectively be discharged with the support and co-operation of regional and international agencies and institutions. The main objective behind the Dakar framework was the fact that in the year 2000 more than 113 million children were not having access to primary education. Therefore 880 million adults were illiterates.

The Dakar Framework has resolved to achieve the expansion and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children. The framework has concentrated on the education of girl child, education of ethnic groups and other disadvantaged groups. The word 'other disadvantaged group' can very well include the needs of the persons with disability. This framework has been designed mainly to provide education in the light of life skills as well as education for girls. Nevertheless, it has effectively supported the needs of the disabled.

➤ **Biwako Millennium Framework for Action (BMFA), 2003-2012**

Biwako Millennium Framework for Action towards an inclusive barrier-free and rights-based society for persons with disabilities in Asia and the Pacific was adopted extending the Asian and Pacific Decade of Disabled Persons to 2003-2012.

Economic and Social Commission for Asia and the Pacific (ESCAP) in its at its fifty-eighth session, High level Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons, 1993-2002, adopted resolution in May 2002 on promoting an inclusive, barrier-free and rights-based society for people with disabilities in the Asian and Pacific region in the twenty-first century, by which it proclaimed the extension of the Asian and Pacific Decade of Disabled Persons, 1993-2002, for another decade, 2003-2012.

The Biwako Millennium Framework sets out a draft regional framework for action that provides regional policy recommendations for action by Governments in the region and concerned stakeholders to achieve an inclusive, barrier-free and rights-based society for persons with disabilities in the new decade, 2003-2012. The regional framework for action identifies seven areas for priority action in the new decade. Each priority area contains

critical issues, targets and the action required. The regional framework for action explicitly incorporates the millennium development goals and their relevant targets to ensure that concerns relating to persons with disabilities become an integral part of efforts to achieve the goals. The seven priority areas and the targets identified in the framework are as follows:

1. Self-help organizations of persons with disabilities (SHOs) and related family and parent associations
2. Women with disabilities
3. Early detection, early intervention and education
4. Training and employment, including self-employment
5. Access to built environments and public transport
6. Access to information and communications, including information, communications and assistive technologies
7. Poverty alleviation through capacity-building, social security and sustainable livelihood programmes

➤ **United Nation Convention on the Rights of Persons with Disabilities (UNCRPD), 2008<sup>vii</sup>**

United Nation Convention on the Rights of the Persons with Disabilities (UNCRPD), 2008 is the most progressive convention in the world for promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity. The convention gives importance to all aspects of the life of persons with disabilities.

The general assembly of the United Nations unanimously adopted the UNCRPD and its optional protocol on the 13th of December 2006. The UNCRPD (and not its optional protocol) was ratified by India in October 2007. It came into force the world over with effect from 3rd May 2008.

This convention recognizes persons with disabilities as subjects having human rights and fundamental freedoms and not as objects needing mere medical care and social protection. It further spells out that disability is an evolving concept and that persons with disabilities are a part of human diversity and humanity. Disability, according to this international treaty results from interaction of impairments with barriers which prevents one's participation in society on an equal basis with others.

The UNCRPD provides that persons with disabilities have the right to vote, which means they have the right to register to vote, to receive voting information, and to cast their ballot in elections. States are required to provide procedures and facilities for voter registration and polling that are accessible to persons with disabilities. States are also required to ensure that all voters have the right to vote in secret. Although the right to register to vote and to vote on polling day extends to all persons, it is subject to the usual eligibility requirements, such as age and nationality. It goes without saying that the UNCRPD makes it obligatory for the states parties to actively consult with and involve persons with disabilities in the decision-making processes, especially in respect of matters which affect their lives. It comprises 50 articles.

➤ **The Incheon Strategy (2013-2022)**

Governments of the ESCAP region gathered in Incheon, Republic of Korea, from 29 October to 2 November 2012 to chart the course of the new Asian and Pacific Decade of Persons with Disabilities for the period 2013 to 2022. They were joined by representatives of civil society organizations, including organizations of and for persons with disabilities. Also in attendance were representatives of intergovernmental organizations, development cooperation agencies and the United Nations system.

The Governments at the High-level Intergovernmental Meeting adopted the Ministerial Declaration on the Asian and Pacific Decade of Persons with Disabilities, 2013–2022, and the Incheon Strategy to “Make the Right Real” for Persons with Disabilities in Asia and the Pacific. Developed over more than two years of consultations with governments and civil society stakeholders, the Incheon Strategy comprises 10 goals, 27 targets and 62 indicators.<sup>viii</sup> The Incheon Strategy will enable the Asian and Pacific region to track progress towards improving the quality of life, and the fulfilment of the rights, of the region’s 650 million persons with disabilities, most of whom live in poverty. The ESCAP secretariat is mandated to report every three years until the end of the Decade in 2022.

➤ **Standard Rules on the Equalization of Opportunities for Persons with Disabilities<sup>ix</sup>**

The Standard Rules on the Equalization of Opportunities for Persons with Disabilities have been developed on the basis of the experience gained during the United Nations Decade of Disabled Persons (1983-1992). The various conventions constitute the political and moral foundation for the Rules.

The purpose of the Rules is to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others. The rules are:

1. **Rule 1 Awareness-raising:** States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution.
2. **Rule 2 Medical care:** States should ensure the provision of effective medical care to persons with disabilities.
3. **Rule 3 Rehabilitation:** States should ensure the provision of rehabilitation services to persons with disabilities in order for them to reach and sustain their optimum level of independence and functioning.
4. **Rule 4 Support services:** States should ensure the development and supply of support services, including assistive devices for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights.
5. **Rule 5 Accessibility:** States should recognize the overall importance of accessibility in the process of the equalization of opportunities in all spheres of society. For persons with disabilities of any kind, States should (a) introduce programmes of action to make the physical environment accessible; and (b) undertake measures to provide access to information and communication.
6. **Rule 6 Education:** States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the educational system.
7. **Rule 7 Employment:** States should recognize the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment. In both rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.
8. **Rule 8 Income maintenance and social security:** States are responsible for the provision of social security and income maintenance for persons with disabilities.
9. **Rule 9 Family life and personal integrity:** States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

10. **Rule 10 Culture:** States will ensure that persons with disabilities are integrated into and can participate in cultural activities on an equal basis.
11. **Rule 11 Recreation and sports:** States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.
12. **Rule 12 Religion:** States will encourage measures for equal participation by persons with disabilities in the religious life of their communities.
13. **Rule 13 Information and research:** States assume the ultimate responsibility for the collection and dissemination of information on the living conditions of persons with disabilities and promote comprehensive research on all aspects, including obstacles that affect the lives of persons with disabilities.
14. **Rule 14 Policy-making and planning:** States will ensure that disability aspects are included in all relevant policy-making and national planning.
15. **Rule 15 Legislation:** States have a responsibility to create the legal bases for measures to achieve the objectives of full participation and equality for persons with disabilities.
16. **Rule 16 Economic policies:** States have the financial responsibility for national programmes and measures to create equal opportunities for persons with disabilities.
17. **Rule 17 Coordination of work:** States are responsible for the establishment and strengthening of national coordinating committees, or similar bodies, to serve as a national focal point on disability matters.
18. **Rule 18 Organizations of persons with disabilities:** States should recognize the right of the organizations of persons with disabilities to represent persons with disabilities at national, regional and local levels. States should also recognize the advisory role of organizations of persons with disabilities in decision-making on disability matters.
19. **Rule 19 Personnel training:** States are responsible for ensuring the adequate training of personnel, at all levels, involved in the planning and provision of programmes and services concerning persons with disabilities.
20. **Rule 20 National monitoring and evaluation of disability programmes in the implementation of the Rules:** States are responsible for the continuous monitoring and evaluation of the implementation of national programmes and services concerning the equalization of opportunities for persons with disabilities.

21. **Rule 21 Technical and economic cooperation:** States, both industrialized and developing, have the responsibility to cooperate in and take measures for the improvement of the living conditions of persons with disabilities in developing countries.

22. **Rule 22 International cooperation:** States will participate actively in international cooperation concerning policies for the equalization of opportunities for persons with disabilities.

➤ **Organs Of Un Concerned With Rights Of Disabled**

**i. United Nations Educational, Scientific and Cultural Organization (UNESCO)**

UNESCO is the main laboratory of ideas and mediator in attempting to achieve universal agreements on emerging ethical issues. It works to create the conditions leading to fruitful dialogue between States. It is established to promote international co-operation between its Member States and associate members in the fields of education, science, culture, and Associate Members communication.

The above objectives could be achieved through various Declarations, Conventions, Statements and framework of the UNESCO. Its contribution in protecting and promoting the rights of the persons with disability is remarkable. In the earlier years, the main thrust of the organization was on the area of education of disabled children. In the later stage, the attention was shifted to other important areas of disability, like discrimination based on genome, sustainable development, early detection and prevention of disability, etc.

**ii. International Labour Organization**

The International Labour Organization (ILO) is the only organ in the United Nations Organization which has been extended from the League of Nations. This organ mainly addresses the needs of the labourers in the industrial world. While all the ILO standards apply to persons with disabilities either explicitly or implicitly, four instruments have been introduced to deal specifically with disability-related concerns in vocational training and employment.

**iii. World Health Organization**

Through the World Health Organization's Programme of Health for All by the year 2000 and the related primary health care approach, the member States of the World Health Organization have already committed themselves to preventing diseases and impairments leading to disabilities. The concept of primary health care as elaborated by the International Conference on Primary Health Care held at Alma-Ata in 1978 and the application of this

concept to the health aspects of disability are described in the World Health Organization's policy on this subject, approved by the World Health Assembly in 1978.

### ➤ **Position of India**

India has played a leading role in the drafting of the International Convention on the Rights of Persons with Disabilities. Apart from the involvement in the UN Working Group, Asia-Pacific Forum of National Human Rights Institutions Working Group on Disability was constituted following the APF's Workshop on "Promoting the Rights of People with Disabilities: Towards a New UN Convention", which was jointly hosted by the National Human rights Commission of India, the British Council and the Office of the United Nations High Commissioner for Human Rights at New Delhi, from 26-29 May 2003, to discuss contribution of the national human rights institutions to the development of the proposed Convention.

### **Conclusion**

To conclude, international legislations for persons with disabilities advocated better conditions for persons with disabilities. Present disability policies are the result of developments over the past 200 years. The equalization of opportunities for persons with disabilities through various conventions is an essential contribution and worldwide effort to mobilize human resources. Therefore, persons with disabilities have become more active and a driving force in the further development of disability policy. Consequently, efforts to eliminate all forms of prejudices and discrimination against persons with disabilities by some of the United Nation agencies, governments, and national and international disability organizations are bearing fruit.

### **References**

- 
- United Nations. 1948. Universal Declaration of Human Rights (Adopted 10 December 1948). Proclaimed by the General Assembly Resolution 1386 (XIV) of 20 November 1959*
- United Nations. 1966a. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976).*
- United Nations. 1966b. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976).*
- The Salamanca Statement and Framework for Action on Special Needs Education, 1994. Dakar, Senegal. 2000. Adopted by the World Education Forum.*
- United Nations. 2006. Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008).*
- Source: [www.unescap.org](http://www.unescap.org)*
- Standard Rules on the Equalization of Opportunities for Persons with Disabilities.1993. Adopted by General Assembly resolution 48/96 of 20 December 1993.*