

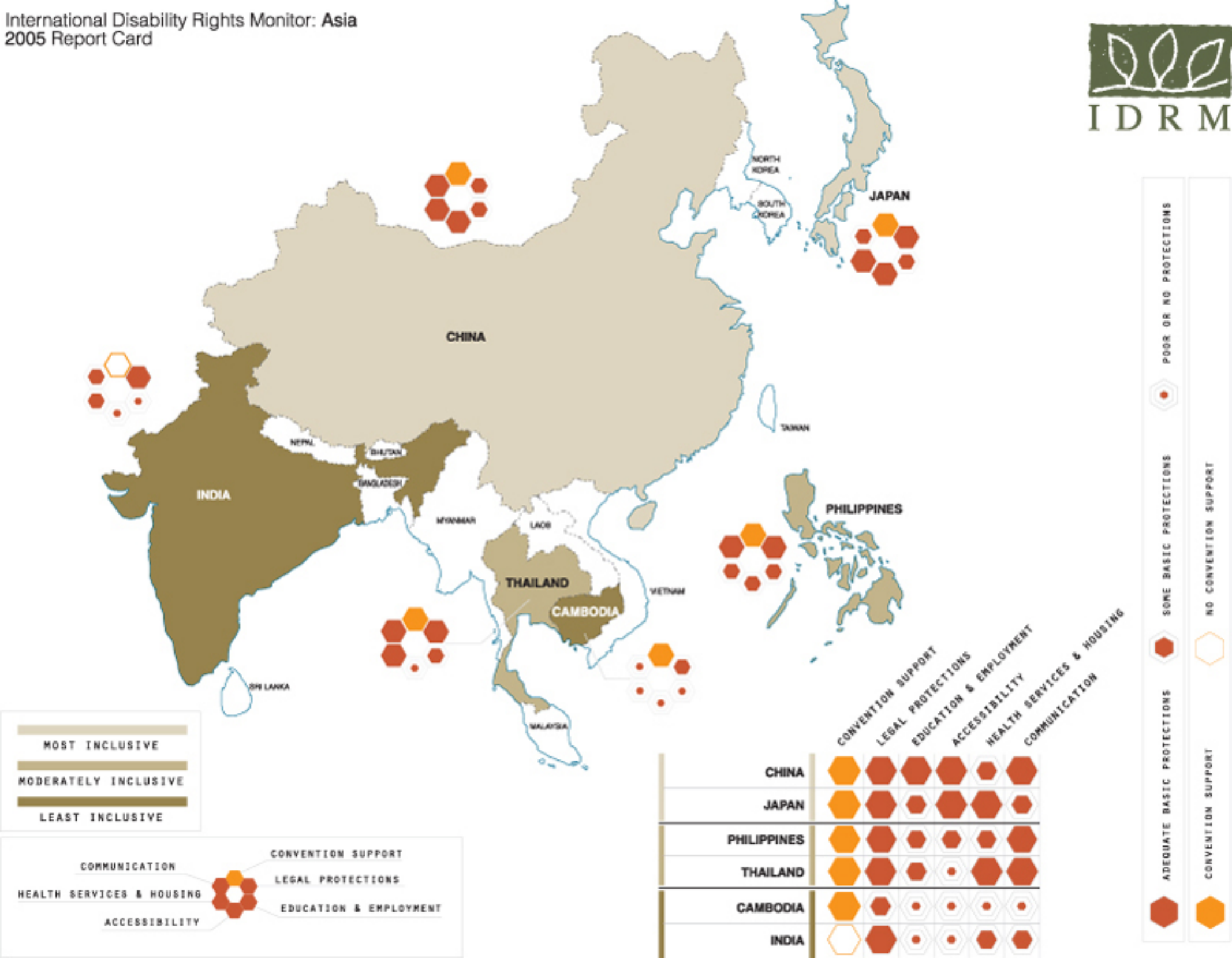


International Disability
Rights Monitor 2005



IDRM

Regional Report of Asia



International Disability Rights Monitor



I D R M

Regional Report of Asia 2005

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The mission of the International Disability Network is to assist people with disabilities worldwide in achieving their full potential.

The mission of the International Disability Rights Monitor project is to promote the full inclusion and participation of people with disabilities in society and to advance the use of international law to ensure that their human rights are respected and enforced.



Preface

About the International Disability Rights Monitor

This is the third publication and the second regional report of the International Disability Rights Monitor (IDRM) project. The project represents an ongoing collaboration between the Center for International Rehabilitation (CIR), Disabled Peoples International (DPI), and many other international and national disability groups. The goals of the IDRM project are to promote the full inclusion and participation of persons with disabilities in society and to advance the use of international humanitarian law to ensure that the rights of persons with disabilities are respected and enforced.

The impetus for the project grew from the reality that policy makers, the human rights community, treaty monitoring bodies, and global leaders have access to very little information about the extent or the nature of the challenges faced by persons with disabilities. The IDRM project addresses this gap by documenting the problems, progress and barriers experienced by people with disabilities in a coordinated, systematic and sustained way.

In 2003, the IDRM published a disability rights compendium that covered a broad range of topics. It included articles examining issues of concern to the disability community, a comparative analysis of disability law in 52 countries around the world, and the results of field trials of the IDRM methodology in El Salvador and Nicaragua. This book marks the second in a series of regional reports that document and assess the condition and treatment of people with disabilities internationally. The first regional report, the Regional Report of the Americas, contains reports from 24 countries and was released in August 2004. All regional reports include a regional report card summarizing the degree to which basic protections for the rights of people with disabilities are in place.

The IDRM research network that is responsible for these reports consists of local and regional researchers drawn primarily from the disability community. The researchers come together for regional training on IDRM data collection methodology then engage in extensive research in their home countries. Researchers consult with both government officials and leaders of civil society in preparing their reports. The research for this report was conducted during late 2004 and early 2005. Reports were then edited by IDRM staff before being returned to the researchers for their approval.

While the IDRM strives to be as comprehensive and accurate as possible, disability is a complex issue and presents inherent data collection challenges. Thus, the IDRM welcomes feedback from all sources. Through a cooperative effort, we can create a resource that will be of use to all those who wish to promote and protect the human rights of all persons with disabilities.

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Acknowledgements

The disability rights movement, like all movements, encompasses a broad array of individuals and organizations working together toward a common goal. Those who have made, and continue to make, important contributions to the field of disability rights are too numerous to mention. The IDRM would like to acknowledge the significant contributions and hard work of the all of the organizations and individuals working to improve the lives of people with disabilities worldwide.

In addition, some individuals merit special recognition. The IDRM staff would like to thank Senator Tom Harkin, author of the Americans with Disabilities Act and champion of disability rights. His leadership and contributions to the field of disability and to this project have been invaluable. We would also like to thank Senator Dick Durbin, former Secretary of Health and Human Services, Tommy Thompson, and Congressman Tom Lantos for their continued support. Thanks as well to Don Lollar and Thomas Gilhool, for all of their valuable assistance. Finally, many thanks to those who have significantly contributed to the creation of the draft United Nations Convention for the Rights of People with Disabilities, including the International Disability Caucus, the participating UN delegations, and Ambassador Don MacKay of New Zealand and Ambassador Luis Gallegos of Ecuador for their leadership in the draft process.

The IDRM report results from the efforts of local researchers in each country whose hard work and insights produced this volume. Their commitment to the field and ability to secure the most accurate and timely information on the rights of people with disabilities in their countries are remarkable. Given the general dearth of information on disabilities, completing their task required a large measure of resourcefulness, perseverance and dedication. The quality of this report is a testament to their abilities.

Finally, the IDRM wishes to thank all of the staff members from both partner organizations, the Center for International Rehabilitation (CIR) and Disabled Peoples' International (DPI), whose hard work made this report a reality. The IDRM would not exist without the dedicated work of Dr. William Kennedy Smith, Chairman of the CIR and IDRM founder. His ideas and efforts are the foundation upon which this important project rests, and we thank him for his on-going guidance and unfailing support. Special thanks also go to DPI's visionary President Venus Ilagan, for her work in building this successful partnership, as well as former Executive Director, Moira Horgan-Jones, and Interim Director, Jorge Aguela. In addition, the IDRM would like to acknowledge the support and assistance of the individual DPI offices in Asia-Pacific, the DPI Asia Pacific Regional Development Office and, in particular, Topong Kulkhanchit, Regional Development Officer, for his tireless efforts and encouragement. Many thanks also to CIR President Maria Veronica Reina; Director of Publications, Katherine Dorsey, Ph.D; International Coordinator, Anne Hayes; Training Coordinator, Ines M. Basaen, Ph.D; and Assistant Editor, Kelly Hamel. Lastly, thanks to Bonnie Michel for her layout and art design of the IDRM and Emmet Regan and Maggie Coleman for their assistance in the production of this report.

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2005 IDRM Researchers: Asia

Cambodia, Yi Veasna

Yi Veasna is the Executive Director of the National Centre of Disabled Persons (NCDP) and Secretary General for the Paralympics Committee of Cambodia. A survivor of polio, Mr. Veasna has dedicated his professional career to improving the lives of people with disabilities in Cambodia. He has been an active member of several disability organizations. He has served as a Board Member for the Disability Action Council (DAC) from 1995-2002, founded the Cambodian Disabled People Organization (CDPO) and was the Treasurer CDPO's Central Committee from 1994-1998. Prior to joining the NCDP, he has worked on disability advocacy issues at Maryknoll and was responsible for the management of the Responsible Blind Library for Krousar Thmey. Mr. Veasna has a Masters of Law from Pagna Sastra University as well as an undergraduate degree in law from Norton University of Law.

China, Eric Zhang

Eric Zhang has worked in the field of social policy and disability for more than 10 years in a number of Chinese governmental departments and NGOs. He is now the RI (Rehabilitation International) National Secretary in China and an Executive Member of the International Alympic Federation. Mr. Zhang received a Master of Arts degree in Education and has a background in sociology, with degrees from two universities in China.

India, Ritu Kumar

Ritu Kumar has devoted her entire professional career to advocating for the rights of people with disabilities, first as a teacher and then as a disability rights lawyer. Ms. Kumar worked as a Legal Assistant in the Office of Chief Commissioner for Persons with Disabilities in New Delhi and in the Office of the UN Special Rapporteur and the National Human Rights Commission in India, under the NHRC-CHRC-IGNOU Linkage Project, to provide Disability Law & Human Rights training for law professors, disability activists, and lawyers. Ms. Kumar holds diplomas in Special Education and Human Rights and a Bachelor's degree in Law.

Japan, Taisuke Miyamoto

Taisuke Miyamoto has been a staff of the DPI-Japan Secretariat since 1995 and has primarily been responsible for issues related to international affairs, including coordination of small scale income-generation projects in Asia-Pacific countries (1995-2001), co-heading the logistic team of the 6th DPI World Assembly in Japan (2002), and serving as a participant of the Japan Disability Forum on the United Nations Convention on Human Rights of Persons with Disabilities at Japan Disability Forum. In this capacity, he has been responsible for managing the World Bank's inclusive development/education consulting activities in Latin America and the Caribbean since 2003 and assists in the coordination of the Japanese International Cooperation Agency (JICA) training course for leaders with disabilities in Southern Africa.

Philippines, Dominga M. Quejado

Dominga M. Quejado started her career in disability by first obtaining a scholarship from an Area Vocational Rehabilitation Center (AVRC) and graduating from the University of Pangasinan with a Bachelor of Science in Commerce. After completing her degree, Ms. Quejado took and passed the Civil Service Examination and now works at an AVRC in the area of vocational training and also teaches Braille and sign language to people with disabilities. Ms. Quejado is also serving her second term as President of the Philippines branch of Disabled Persons International (DPI) where she has attended several international workshops and seminars on the importance of full inclusion of people with disabilities

Thailand, Prayat Punong-ong

Prayat Punong-ong has been working for and among people with disabilities in Thailand and all its neighboring countries since 1978. He founded the Christian Foundation for the Blind in Thailand and was its President for a number of years. He has also served people with disabilities as President, Vice-President, Chairperson, and other leadership positions of various other national and international agencies. He maintains a rigorous schedule as lecturer and consultant to National and Provincial Governments and NGO's on education, health, and civil rights policies for the blind and all people with disabilities in Thailand, as well as the poor rural population. He was appointed to several committees of the Ministries of Education, Health, Agriculture, etc. At the international level, he is a researcher for various United Nations bodies, including UNESCO and the UN Food and Agriculture Organization (FAO).

Vietnam, Duong Thi Van

Duong Thi Van is a part-time staff member of the National Coordinating Council on Disability (NCCD), where she advises on the topic of accessibility and works with self-help disabled persons organizations. She is also the founder and vice-chairperson of the Bright Future Group (BFG) and is a standing member of the Executive Committee of the Vietnam Association of Businesses and Enterprises of Disabled Persons (VABED), the Executive Committee of Hanoi Association of Physical Disabled Persons, and the Executive Committee of Hanoi Association for the support of Hanoi's people with disabilities and orphans. She has won several honors and awards including a Diploma of Merit from the Hanoi People Committee for supporting disability activities and an Award on Vietnam Innovation Day by the World Bank in May 2003.

Foreword

Early in 2005, during the last Ad Hoc Committee meeting to draft the Convention on the Protection and Promotion of the Rights and Dignity of People with Disabilities I had the honour of making a Statement on behalf of the International Disability Caucus, during which it was noted that “It is essential to identify those components of national legislation which need to be amended, in order to ensure that States’ laws fully reflect our human rights. Too often, States’ laws have been based on a history of stigma, prejudice and paternalism, and the time has come for this to change”

Around the world, people with disabilities have historically been one of the most marginalized and excluded peoples, often ignored by the government policies and programs that are developed by different states. As a result, the majority of people with disabilities live in extreme poverty with very little opportunity for employment or education. Moreover, many laws still exist that prohibit or prevent people with disabilities from receiving the same benefits and achieving the same living standard as others.

People with disabilities are consistently denied the basic human rights established in the Universal Declaration of Human Rights and the Covenant on Economic, Social and Cultural Rights. In an attempt to improve and rectify this situation, the United Nations established the Standard Rules on the Equalization of Opportunities for Disabled People. Although this was a positive step in bringing disability issues to the attention of global leaders, the Standard Rules is a non-binding document as it does not include a monitoring mechanism which is an essential component of appropriate enforcement and implementation.

The creation of a separate and comprehensive convention on the rights of people with disabilities is a vital and necessary measure for ensuring that people with disabilities become equal citizens and able to enjoy the same rights as all people. In 2002, the General Assembly of the United Nations passed a resolution that established an Ad Hoc Committee of national representatives to consider a proposal for a treaty or convention on the rights of people with disabilities, and since then the Committee has met numerous times to create a draft text. Asia has played a fundamental role in the development of the draft text, sending active delegations to the Committee and developing the “Bangkok text” in October 2002.

In order for the proposed Convention to become a useful document that can initiate change, it must include a strong monitoring mechanism on both the international and national levels. By providing a better understanding of the current context and situation in which people with disabilities around the world live, the International Disability Rights Monitor (IDRM) will play a strong role in the development of a convention and the creation of a monitoring system.. The IDRM is a landmark report that provides information not only on the existing laws and legislations of various countries, but also on the actual compliance with and implementation of such laws. This book, written by disability advocates, is an essential first step in monitoring the situation of people with disabilities and providing more information

on, and raising awareness of, their lives. The creation of improved international legislation and initiatives, such as the IDRM, and on-going regional and local advocacy efforts will enable all people with disabilities to claim their human rights and become equal citizens.

While much work has been done, and progress made, civil society must continue to ensure the basic human rights of people with disabilities in developing countries. Citizenship in a country that has anti-discrimination legislation, which in theory protects basic rights, is not a guarantee of laws being enforced in practice. We must remain vigorous and united as never before in ensuring a legacy for future generations of people with disabilities.

Venus M. Ilagan,
Chairperson, Disabled Peoples' International

Executive Summary



The Role of International Law in Disability Rights

The rights of people with disabilities are included under the umbrella of universal non-discrimination principles such as the Universal Declaration of Human Rights and the Covenant on Economic, Social and Cultural Rights, but many countries and regions of the world have failed to develop laws that reflect the principles and standards set forth in these and other covenants and agreements. Cultural and social perceptions also hinder the development and implementation of such policies, especially when it comes to the place of the disabled person in society. Existing disability-specific instruments include the United Nations Declaration on the Rights of Disabled Persons and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, but these documents are only guidelines that lack the force of law. In recent years, there has been an encouraging trend at the international, regional, and national level to develop disability laws and policies that commit governments to including people with disabilities in society and providing access to necessary services. The Asian and Pacific Decade for Disabled Persons 1993-2002 served as the impetus for many countries in Asia to develop specific legislation pertaining to the rights of people with disabilities. The persistent lack of legally enforceable global standards, however, remains a challenge.

In December 2001, the General Assembly of the United Nations passed a resolution to establish an Ad Hoc Committee of member-states to consider a proposal for a treaty, or convention, on the rights of people with disabilities. The first meeting of that committee was held in July-August 2002. Additional meetings have since followed, including a working group on the draft Convention text and five subsequent Ad Hoc Committee Meetings. The most recent meeting, the Sixth Session of the Ad Hoc Committee, took place in New York in August 2005. Disability advocates have long viewed a United Nations Convention as an essential step in ensuring that basic human rights are fully extended to people with disabilities. Even though the process of adopting a convention will take years, there is an immediate need for disability, health, and human rights advocacy groups worldwide to monitor and promote the rights of people with disabilities and the Ad Hoc Committee process in a collaborative, systematic way.

IDRM Overview

The International Disability Rights Monitor (IDRM) documents and assesses the rights and treatment of people with disabilities internationally. The genesis of the project lies in the dearth of the data on the actual everyday conditions in which people with disabilities around the world live. Because of the challenges inherent in collecting reliable information about the situations of people with disabilities, a dispersed reporting network, which is comprised of local researchers who are familiar with and engaged in the disability communities of each country, is central to the IDRM methodology. The IDRM research network allows us to seek out, analyze, and organize information that has never before been collected on this scale. This report

provides a baseline assessment from which to track annual changes in the level of human rights protections afforded to persons with disabilities on a country-by-country basis.

This project is the first of its kind to address issues surrounding disability in multiple regions around the world but takes as its structural model the Landmine Monitor project. The IDRM, like the Landmine Monitor, is a civil-society based initiative that relies on data collected by an international network of researchers. The IDRM was conceived as a shadow reporting system, paralleling shadow reports that bolster adherence to norms of behavior enshrined in international instruments. Examples of such reports include those produced by International Women's Rights Action Watch to monitor the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) or the International Human Rights Law Group shadow reports relating to the Convention on the Rights of the Child (1989).

Unlike the Landmine Monitor, which assesses the implementation of a United Nations Convention (the Ottawa Convention Banning Anti-Personnel Landmines, 1997), and the other shadow reporting mechanisms, the IDRM does not assess member-country adherence to an existing United Nations instrument.

United Nations member states do, however, have a monitoring system that is associated with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (the Standard Rules), which were adopted by the General Assembly in 1993. Member states self-monitor their compliance with the Standard Rules under the guidance of a Special Rapporteur who reports to the Commission for Social Development. The monitoring system in place relies on governmental self-reporting; whereas, the International Disability Rights Monitor is based on reporting conducted by organizations and individuals in civil society, with members of the disability community reporting on their own countries. Thus, not only does the IDRM complement the current monitoring system, but with efforts to establish a United Nations Convention on the Rights of Persons Disabilities underway, the IDRM will also be a useful instrument in assessing compliance should the convention be established.

Methodology

The methodology employed in IDRM research is primarily of an exploratory nature, with the guiding question being, "what rights and conditions are experienced by persons with disability in each country?" The items contained in the research guide include closed-ended (yes/no) questions and open-ended questions for data collection. This methodology consciously combines a quantitative approach, eliciting data that is comparable across countries, and a qualitative approach to obtain textured responses that will support a narrative description of the situation in each country. Researchers are not limited to questions included in the guide but rather are encouraged to document situations and circumstances in their locale.

Items in the research guide were largely designed with the recommendations of the Standard Rules in mind. The questions were then refined via consultation

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with members of the international disability community and experts on disability law in a variety of jurisdictions. Once the IDRM project was operationalized, the questions were again evaluated by international disability experts as well as by disability advocates, including IDRM local researchers. The research guide (also known as the questionnaire) is comprised of 101 distinct questions. A total of 85 items were included in the main body of the guide. Nineteen items were included in the panel discussion section. Of these, three were also included in the main body. The questions in the main body of the research guide were distributed among four sections focusing on different topic areas. Ten items were concerned with identifying the population of people with disabilities in the country. Researchers obtain statistical materials and interview national governmental officials to gauge the accuracy of the existing data.

The second section of the research guide, entitled “Disability Rights,” is comprised of 24 items, with several questions asking researchers to follow up certain responses with further questions. This section deals primarily with the nature of national laws and policies protecting the rights of persons with disability, including anti-discrimination laws, and protections of civil, political and social rights. It also addresses questions on the institutionalization of persons with disabilities.

The third section of the guide addresses issues of inclusion and accessibility. This part is divided into six segments, comprising a total of 43 items. The segments include: communication, education, employment, health services, housing, and accessibility of the built environment. The fourth section addresses the activities of disability organizations at the national and local levels. This section includes items related to governmental entities as well as non-governmental entities. It was comprised of eight items.

In order to complete these questions, researchers collect epidemiologic and census data as well as materials related to laws and statutes regarding disability. They also conduct interviews with a variety of officials and disability leaders to obtain additional information and verification of policies. Interviewees are selected based on positions within governmental ministries and agencies, and for their reputation as having expertise in the issue-area.

In addition, the researchers gather attitudinal/opinion data from focus groups comprised of disability leaders. The methodology for the panel sessions differed from the methodology used to obtain responses and data for the main questionnaire items. Focus panels are conducted with experts on disability—persons with personal experience of disability and/or long-standing work in the field of disability. The researchers then conduct an open-ended discussion around the 17 panel questions. Panel session results generally do not produce data that can be easily analyzed, statistically or otherwise. Instead, panel sessions produce a great deal of verbal data, which must be summarized before justifiable conclusions can be drawn. The purpose of these panel discussions was to gain understanding and insight into the issues of disability in the countries in question, not to quantify an opinion of a larger population.

A field test of the IDRM research methodology was conducted during 2003 in two countries in the Americas, El Salvador and Nicaragua. Over a six-week period, the researchers collected data regarding the legal regime surrounding disability rights, issues of inclusion, and the activities of disability organizations in their respective countries. The results of that field test were published in the 2003 International Disability Rights Compendium. In August 2004, the IDRM released the first Regional Report of the Americas, which used the same methodology as the Report of Asia.

Once the methodology was tested and validated, local researchers were trained in standard data-gathering techniques by the staff from the Center for International Rehabilitation. Researchers were brought together for two major training workshops, staged in collaboration with Disabled Peoples International, in order to develop their research and advocacy skills. The first of these workshops took place in parallel to the meeting of the Ad Hoc Committee in June of 2003 at the United Nations in New York. This workshop brought together researchers from the Asia and Americas regions, introducing them to the project and providing important exposure to the convention process. An in-depth, follow-up training for researchers in the Asia region was held in Bangkok, Thailand in April 2004. Primary data was then collected in each country during the second half of 2004 and early 2005.

There are a few important challenges and limitations to this research that need to be acknowledged. Most importantly, there is not yet an international consensus on how to define disability. Although the World Health Organization's International Classification of Functioning, Disability and Health (ICF) has been accepted as an international standard, it is not yet employed around the world or around the region. Because collecting independent population-based data is outside the scope of this report, the statistical data presented in the reports are based upon surveys conducted in each country. Without a standard definition, however, these numbers are not strictly comparable.

A second challenge was presented by the overall low priority that is generally given to disability issues in most countries. Consequently, official records are often scarcely kept or even completely lacking in some cases, and previous research from which to draw was minimal. The IDRM researchers had to compile their information from a variety of sources. Information was cross-checked as thoroughly as possible, but the lack of documented sources presented challenges at times.

Report Card Methodology

The IDRM report card at the front of this book is a critical part of the IDRM monitoring system. The report card displays at a glance the extent to which fundamental human rights protections are currently in place in each country. Moreover, it does so by means of a methodology that allows this piece of the IDRM to make direct comparison between countries. The report card is based on a series of 11 closed-ended questions covering six issues: convention support;

legal protections; education and employment; accessibility; health services and housing; and communication. The exact items used are included in Appendix C of this report. These indicators primarily address basic social, economic and cultural rights of people with disabilities. Although observance of these rights is undoubtedly linked to civil and political rights, at this time the report card does not include items measuring political rights of people with disabilities. Further information about a broader variety of rights is included in the detailed country reports that follow.

Based on the answers to these questions, each country is assigned to one of three categories indicating the overall level of inclusion of people with disabilities: Most Inclusive, Moderately Inclusive, and Least Inclusive. Countries where basic human rights protections are available in all or almost all sectors are identified as the Most Inclusive nations. Those countries with some basic protections in some sectors are identified as Moderately Inclusive nations. Finally, countries with few or no protections in the majority of sectors are the Least Inclusive nations.

Inclusiveness was determined based upon the total number of items where actions have been taken that can help promote the inclusion of persons with disabilities. Resources are not evenly distributed in the region, however, which could result in a direct relationship between wealth and inclusiveness. Thus, in calculating inclusiveness, national resources were taken into account. First, items were correlated with GDP per capita to identify those that were more often associated with countries that have more resources.¹ These items were then given additional weight for those countries with a GDP per capita below the regional median.² The logic behind this weighting is one of commitment to inclusion. When countries with limited resources undertake projects that are expensive and usually only implemented in wealthier countries, this is considered to indicate a level of commitment to disability rights and social inclusion.

Because it is intended to identify only the most basic level of rights protections on a variety of issues, the report card is not intended to rank order countries. Some countries may provide protections that have an important impact on the integration of persons with disabilities, which go beyond those measured for the report card. Additionally, there may be tremendous variation experienced within a single country. For these reasons, the report card cannot be used to draw conclusions beyond the basic inclusiveness category.

1. Correlations were run both with and without the United States. There was some concern that the U.S., with the largest GDP per capita in the region, might skew the correlations in favor of its disability actions. While its inclusion did influence the strength of the correlation somewhat, the items most associated with GDP per capita remained relatively unchanged.

2. GDP per capita was chosen because it is the measure used by the UN Human Development Report.

Terminology

The issue of language choice is an important one within any study of disability issues. There is still no consensus on how to talk about people with disabilities. Each term stresses a different relationship. Some terms, like “persons with disabilities”, focus on the individual, preferring to acknowledge that a disability is simply a condition of living and not inherent in any person. Others, like “disabled person”, stress membership in a disability community. In the era of identity politics, membership in a minority group can be an important and defining piece of self-identity that can be expressed through language. Finally, some terms may stress the responsibility of communities to support people with disabilities.³ Preferred terminology varies by language, by group, and by individual. It remains a widely debated issue.

In the absence of an internationally agreed upon disability nomenclature, two primary choices confront the editors of a report of this kind: update all language to a chosen standard or retain local language even if it might be considered problematic or discriminatory. In general, the IDRM has chosen to update language except when it occurs in an official context. Because the codification of discriminatory language in law may adversely affect the rights of people with disabilities, it is important to identify and preserve such terminology in context. In those country reports where problematic language remains, there is a “Terminology” section at the beginning of the report identifying the problematic terms. The remainder of this report uses both “people with disabilities” and “disabled people,” retaining the usage that predominates in the language of each local researcher. As preferred language shifts, the IDRM will work to update its style in order to respect this important issue.

Findings

Report Card Findings

The countries included in the report card are divided evenly in their performance of support for the human rights of people with disabilities. Two countries have attained Most Inclusive Nation status: China and Japan. Two have been classified as Moderately Inclusive, including Thailand and the Philippines. Finally, Cambodia and India have been identified as Least Inclusive countries, indicating that they lack the most basic elements necessary for the social inclusion of people with disabilities. One country, Vietnam, was excluded from the report card analysis because results had not yet been verified at the time of publication.

3. Gary L. Albrecht, Katherine D. Seelman, and Michael Bury, “Introduction: The Formation of Disability Studies” in *Handbook of Disability Studies* (Thousand Oaks: Sage Publications, 2001), 1-8.

Overall, the majority of countries provide at least some protections for people with disabilities in each of the categories. Legal protections are widely available. All countries in the region have at least some protections for the rights of people with disabilities, and the vast majority of countries support the creation of a United Nations disability convention. However, no countries provide adequate basic protections in each of the categories measuring the actual implementation of disability rights. The capacity for enforcing protections varies widely. The areas of accessibility and education and employment appear to be the most problematic.

Finally, it is important to address China's status as a Most Inclusive Nation within this report. Although China has been faced with on-going accusations of human rights abuses, especially in the realms of political and civil rights, it has enacted a range of progressive policies supporting disability rights. These rights tend to be primarily social in nature. Among the best practices adopted by China is the distribution of 10 million copies of its disability legislation in a variety of formats. In many countries, the effectiveness of protections is limited by lack of awareness, so this mass distribution is an important practice.

Definitions of Disability

Most countries in the region use definitions that are predominantly based on the medical model of disability and focus on impairment and functioning. This focus leads to many attempts to quantify the experience of disability. Thailand, for example, specifies the number of decibels that a person considered deaf can hear. In India, eligibility for legal protections is based upon a diagnosis of 40% disability. This type of medical focus may be related to the prevalence of disability certificates in the region. Certificates are necessary to access services in both India and Thailand, resulting in the exclusion of many people with disabilities that are not registered. In Japan, the Law for the Welfare of Physically Disabled Persons includes the receipt of a certificate directly within the definition of a physically-disabled individual.

Other problems with definitions of disability in the region include lack of clarity, reliance on older definitions of disability, and the lack of standardized disability categories across the region. First, many definitions of disability in the region lack sufficient clarity for easy application. For example, India's requirement of a 40% disability results in extremely subjective determinations of disability in the case of psychiatric or intellectual disabilities. In Cambodia, each category of disability is defined via a list of potential related impairments, some of which include short-term, temporary conditions that expand the definition beyond the limits of usefulness. Second, the World Health Organizations' International Classification of Impairment, Disability and Handicap (ICIDH-1) forms the basis for definitions of disability in many parts of the region. Despite the release of the ICF, a more recent WHO classification system, definitions in the Philippines, Cambodia and Thailand are all influenced primarily by the ICIDH. Third, there is no standardized way of categorizing disability, resulting in an inability to compare disability statistics

across the region. (See table one.) While Cambodia has eight categories, Japan has only three officially recognized categories of disability – physical, intellectual and mental.⁴

Table 1: Categories of Disability by Country

Countries	Cambodia	China	India	Japan	Phillippines	Thailand	Vietnam
Categories of Disability	Moving Difficulty	Physical	Locomotor	Physical	Orthopedic	Mobility Impairment	Mobility
			Leprosy-Cured				
	People who have fits						
	Seeing Difficulty	Visual	Blindness		Visual	Visual Impairment	Visual
			Low Vision				
	Hearing Difficulty	Hearing	Hearing Impairment		Hearing	Hearing/ Communication Impairment	Hearing
	Speaking Difficulty	Speech			Oral		Speech
	Learning Difficulty	Intellectual	Intellectual	Intellectual	Intellectual/ Psychiatric	Intellectual/ Learning Impairment	Intellectual
							Mental Retardation
	Psychological Difficulty	Psychiatric	Mental Illness	Mental		Mental/ Behavioral Impairment	
	Feeling Difficulty						

4. Furthermore, the distinction between intellectual and mental disabilities is unclear in official Japanese documents, suggesting just two categories , physical and mental, in practice.

There are varying levels of consciousness of the need for more appropriate definitions that reflect the social model and elements of disability. For example, the Human Rights Commission of India has proposed a revised definition that refers to social and attitudinal barriers, and China reportedly is reviewing its definition in order to establish one that is more “responsive to people with disabilities.” However, in all official definitions, currently there is a general neglect for the social aspects of disability.

Disability Population

Scholars have noted that population-based data is often inadequate and/or lacking in developing countries.⁵ This trend generally holds true in the Asia region. All countries in this report have fielded surveys in an attempt to enumerate the disability population, but the state of disability statistics remains problematic. Disability is not included in the census forms of most countries; only India and the Philippines included questions on disability in their most recent censuses. Many of the reported figures are based on data more than five years old. Although a new survey is now underway, China has not collected new information on people with disabilities since 1987, and one frequently cited disability rate for the Philippines is based on data from 1980. In addition, the lack of consistent definitions presents problems of comparability both within and between countries. For example, psychiatric disabilities tend to be among the disabilities with the lowest reported prevalence, but Japan reports that psychiatric disabilities are the single most common disability.⁶ Table two shows the main disability surveys reported for each country and the disability rate found by each.

5. Glenn T. Fujiura and Violet Rutkowski-Kmitta, “Counting Disability,” in *Handbook of Disability Studies* (Thousand Oaks: Sage Publications, 2001), 69-96.

6. Although “physical disability” as a category includes more individuals, when disaggregated, no single type of disability (i.e. physical, visual, hearing, etc.) is large as the number of psychiatric disabilities reported by the Patient Survey.

Table 2: Disability Surveys and Reported Rates of Disability

Country	Survey	Disability Population
Cambodia		
	Socio-Economic Survey (1997)	2.2% (251,628)
	Asian Development Bank Study on Skills Training	9.8%
	United Nations/Disabled Peoples International (1999)	15%
China		
	First National Sampling Survey on Disability (1987)	5% (60 million)
India		
	2001 Census	2.13% (21.9 million)
	NSSO 3rd comprehensive sample survey of the disabled population (2002)	1.8% (18.49 million)
Japan		
	Survey of the Actual Status of Children and Persons with Physical Disability (2001); Basic Survey of Adults and Children with Mental Retardation (2000); Patient Survey (2002)	5.1% (6,559,000)
Philippines		
	National Disability Survey (1980)	4.4%
	1990 Census	1%
	1995 Census	1.3%
	2000 Census	1.23% (942,098)
	Disability Prevalence Survey (2002)	2.9%
Thailand		
	1996 Ministry of Public Health Survey	8.1%
	2001 Health & Welfare Survey	1.8%
	2002 Disability Survey	5.9%
Vietnam		
	Ministry of Labour, Invalids and Social Affairs Survey (1994-95 & 1998)	6.34% (5.1 million)

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Most countries report disability rates well under 10%, but these results are suspect. Where countries have undertaken multiple surveys dealing with disability, the surveys are often not coordinated and may even be sponsored by different government entities, leading to a lack of standardized methodologies and widely varying statistics. In Cambodia, studies show disability rates ranging from 2.2% of the population all the way up to 15% of the population. Reliability of the region's statistics is poor. In Thailand, disability surveys conducted in 2001 and 2002 report almost opposite gender distributions of persons with disabilities, with women reported at 42.4% of the disability population in 2001 and at 57.6% in 2002. Because official statistics tend to cite figures on the low end of the range, the likelihood that the disability population is underreported in many countries throughout the region is very high.

Legislation & Disability Rights

Overall, legal protections in the region are good. There are a variety of national laws, as well as widespread regional support for an international convention on the rights of people with disabilities. All but one of the governments included in this report have expressed support for the development of a UN convention on the rights of persons with disabilities. India is the only country included in this report that has not explicitly stated its support of the convention, although it has sent representatives to the Ad Hoc Committee meetings at the UN in New York. In addition, all of the countries included in this report participated in the Asian and Pacific Decade for Disabled Persons (1993-2002), and most have adopted the objectives of the Biwako Millennium Framework that was developed in association with the adoption of a second Asian and Pacific Decade for Disabled Persons (2003-2012.)

In addition to support for international agreements, most countries also have their own laws protecting the rights of people with disabilities. With the exception of Japan, the national Constitution of every country establishes protection for, and/or the State's obligation to, people with disabilities. Vietnam's Constitution, however, only specifically mentions the rights of children with disabilities and people disabled by war. All countries except Cambodia have also passed some type of legislation specifically dealing with people with disabilities. Although Cambodia has several laws that refer to the rights of people with disabilities, it does not have a specific disability law. However, the national Disability Action Council drafted a disability law in 2002, which is currently under review in Parliament.

One significant factor in the legal progress was the first Asian and Pacific Decade of Disabled Persons. Although three countries – China, Japan and Thailand – had disability legislation before the beginning of the Decade, activities and initiatives related to the Decade provided impetus to legislative action in several other participant countries. India, for example, passed its 1995 Persons with Disabilities Act in order to comply with its obligations as a signatory to the Decade's Proclamation on Equality of People with Disabilities. Of those countries with pre-existing legislation, only Japan has amended its legislation following the Decade, updating its Fundamental Law for Persons with Disabilities in 2004. China reports

that its Law on the Protection of Disabled Persons is currently under review. Four of the seven countries – China, Japan, the Philippines, and Thailand – include anti-discrimination measures among the available legal protections.

The effectiveness and influence of the provisions varies from country to country along with implementation and enforcement. Of particular importance is the tendency of national laws to “encourage” rather than “require” compliance. This trend undermines the enforceability of disability legislation. In addition, all countries unfortunately retain laws or regulations that serve as legal barriers to people with disabilities.⁷ As of 2001, Thailand had 50 laws that implicitly or explicitly prevented people with disabilities from enjoying their rights. People with disabilities in the majority of countries encounter significant legal and physical barriers to civic participation. In addition to the implicit barrier of inaccessible voting booths and centers that exists in most countries, India, Japan, the Philippines, and Thailand have laws that deny people with disabilities, most often those with mental disabilities, the right to stand for election and/or vote.

Communication

Provision of accessible and/or alternative formatted communication varies throughout the region. China and Japan offer the largest amount of publications, materials, and interpretation services. In addition, both China and the Philippines have held workshops regarding improving information accessibility through the use of communication technology. The impact of such technology remains limited, however, due to issues of cost, training, and the lack of familiarity with such materials outside of urban areas.

In most countries, the government, NGOs, or private entities provide a Braille version of the national Constitution. However, other alternative format materials are often only available in major cities. In addition to limited availability, alternative format materials in India and Cambodia are primarily focused on educational texts rather than texts that would be of interest to a larger audience of people who are blind. Closed captioning or sign language interpretation of television news broadcasts is limited, and when it is available, it is often only in large cities. In Vietnam and Thailand, daily news programs are reportedly broadcast with sign language interpretation or closed captioning. In India, there is a weekly news broadcast in sign language. China, Japan and the Philippines encourage broadcasters to provide such programming. Although provision of such services is not legally required, a number of companies in China and Japan have complied.

Few countries have systems allowing people with disabilities to communicate with authorities in the case of complex emergencies. In most countries, people with hearing impairments must rely on family members to communicate with authorities.

7. Vietnam did not report on legal barriers.

Only China and Japan provide sign language interpretation to people with hearing impairments in cases of criminal assault, and even in these countries, the existent services do not meet the demand. Additionally, emergency plans and policies in most of the countries lack specific measures for people with disabilities. China and Japan have specific information for responding to the needs of people with disabilities in times of emergency, but the information is predominantly targeted for use by volunteer organizations and NGOs, and is not included in the government's national disaster or emergency plans.

Education

Throughout the region, there is an overall lack of educational opportunities and rights for people with disabilities despite the fact that all countries guarantee access to education for all. Although several countries report enrollment rates of 50% or higher, attendance is substantially lower among children with disabilities than children without disabilities. For example, in China the enrollment rate of students with disabilities was 77%, compared to the national average of over 90% for children without disabilities. In addition, children with disabilities are far more likely to have never attended school. In the Philippines, 20% of children with disabilities have never attended school, while only 6% of children without disabilities have never attended school. Finally, the lack of sufficient education opportunities is evidenced in the educational outcomes for people with disabilities. In Vietnam, only 34% of people with disabilities are literate, as compared to over 90% of the general population, and in the Philippines less than 1/3 of people with disabilities ever advance beyond elementary schooling. Barriers to effective education include inaccessible schools, insufficient training of teachers, concentration of special education in urban areas, and a lack of financial resources for special education.

The majority of countries in this report have educational policies promoting inclusive education of people with disabilities although a mixture of inclusive and special schools is common and implementation varies. In China, as of 2004, 66.23% of students with special needs were studying in mainstream schools. On the other hand, in the Philippines, only 23 of 49,779 schools integrate children with disabilities into the mainstream education system. Moreover, there are concerns about the quality of inclusive education in some countries such as India and the Philippines, where class sizes for children with disabilities can be almost double the national average. Only Cambodia and Japan focus nearly exclusively on special education.

Table 3: School Enrollment Rates and Educational Setting

Country	% Enrolled	Primary type of educational setting (Inclusive/Special Education)
Cambodia	Unknown	Special Schools
China	77% for those deaf, blind, or intellectually impaired	Integrated w/ Special Education (66.23% in mainstream schools, including special classes)
India	46%	Integrated Education (promoted since 1974)
Japan	Unknown	Special Schools
Philippines	66%	Integrated w/ Special Education (primarily special classes)
Thailand	Unknown	Inclusive w/ Special Education
Vietnam	47.6	Integrated Education w/ Special Classes

Employment

All countries in the region except Cambodia have legislation promoting the right to employment of people with disabilities. Four of these laws prohibit discrimination in employment. Nevertheless, economic inactivity among people with disabilities remains high. In the Philippines, 40% of people with disabilities are unemployed, and in India, 74% of people with disabilities and 94% of people with mental retardation are unemployed. Even in China, where close to 84% of people with disabilities have jobs, the employment rate is substantially lower than the 95.7% rate for the population at large. Moreover, in Japan, where rates of employment are also slightly higher, sheltered, segregated employment is still considered acceptable.

To attempt to address this issue, most countries in the region have instituted quota systems for people with disabilities that apply to public and/or private entities. Only Cambodia does not have any type of quota system. However, compliance rates vary significantly and are unreliable. While in Japan, compliance rates among the different economic sectors ranges from 60-100%, estimates of non-compliance in Thailand range from 20-90%. Despite quota systems and other laws and policies regarding employer practices, lack of educational opportunities and inaccessible workplaces and transportation continue to create barriers to employment for people with disabilities. Table four details the existing quota systems and the unemployment rate for each country in this report.

Table 4: Unemployment Rates and Legal Protections (Anti-Discrimination and/or Hiring Quotas)

Country	% Unemployed	Anti-Discrimination Law	Quota
Cambodia	Unknown	None	None
China	16.1%	Law on the Protection of Disabled Persons	Private and Public Sectors: 1.5%
India	74%	None	Public Sector: 3%
Japan	Intellectually Disabled: 31.2% Mentally/Physically Disabled: Unknown	Fundamental Law for Persons with Disabilities	Private Sector: 1.8% Government: 2.1% National Organizations: 2.1% Municipal/Local Organizations: 2.1% Prefectural Boards of Education: 2.0%
Philippines	42.88%	Section 32 of the Magna Carta for Disabled Persons	Private and Public Sectors: 5%
Thailand	80%	Rehabilitation of Disabled Persons Act and Ministerial Regulations Nos. 1-3	Private and Public Sectors: .5%
Vietnam	70%	None	3% in all but a few stipulated industries, where it is 2%

In addition to quotas, countries also attempt to improve the employment situation for people with disabilities through public and private vocational training centers, job placement centers, and low-cost business loans for people with disabilities. Some services are available in every country, but results differ. In China, there are approximately 3,000 vocational institutes where 490,000 people with disabilities have received training and services. In Cambodia, on the other hand, only eight of the eleven government-mandated training facilities have been opened and only 50% of the graduates either have jobs or are self-employed. Less than 20% of the 2,800 people with disabilities registered with a job referral service in that country have gotten jobs. Finally, while training programs in Vietnam have not had a major impact, the self-employment loans have resulted in over 300,000 new registered businesses. Across the region, employment services are often lacking in rural areas. Non-governmental organizations at the national and international levels often play an important role in providing these services.

Health Services

Health care for people with disabilities in the region suffers from two major problems: affordability and availability. Even though some countries provide reduced fee or free health care services for people with disabilities, many people with disabilities remain unable to obtain adequate services as the need for services is greater than what is available. Community Based Rehabilitation (CBR) programs have been established in all countries, although the funding sources and availability of each varies. In Cambodia, public services and resources are lacking, and NGOs have stepped in to provide CBR services and training throughout the country. NGOs often play a vital role in attempting to fill the need for services, but rural areas especially remain underserved. This discrepancy between supply of and demand for services is exacerbated by a tendency to focus on issues of prevention. Cambodia, India and the Philippines all have health systems that deal primarily with disability prevention through vaccinations and other public health programs. In addition, there is an overall lack of appropriate mental health care in the region.

Access to assistive devices is generally low. Just over one-quarter of people who need such aids in Cambodia and Vietnam have them, and only 5-7% have the necessary aids in India. Medical professionals with proper training are also often unavailable. While many countries have some disability-related training, most is aimed at specialists. In line with its focus on disability prevention, India's training programs deal with early screening and intervention. Other countries such as Japan focus on issues of rehabilitation needs of those with newly acquired disabilities. In both situations, there is a lack of training to prepare doctors to meet the on-going needs of people with disabilities.

Housing

Due to cultural norms, people with disabilities throughout much of the region tend to live with their families. In Thailand, 80% of people with disabilities live with family. Although the Independent Living movement exists in several countries, it appears most well established in Japan. Furthermore, lack of adequate housing is a major issue for some countries in the region, suggesting a real need for attention to this area. For people who do not have family or the resources to live on their own, living situations vary with the availability of public housing. In Cambodia, there is no public housing, and many people with disabilities are homeless. On the other hand, both China and Vietnam report that public housing is available for people with disabilities in need, and in the Philippines 10% of all public housing is required to be constructed according to accessibility standards. However in other countries, public housing is often not accessible even when it may be made available. Both Thailand and India report that no accommodations are made for people with disabilities, despite the fact that India maintains a quota for people with disabilities in its public housing system.

Institutionalization

Policies and cultural norms regarding institutionalization vary from country to country. Institutionalization is uncommon in Cambodia, while involuntary admissions to institutions are high in India. In Thailand, guardianship cannot be imposed against one's will, although it is reported that family members may pressure some people with disabilities to enter institutions. Throughout the region, official monitoring of institutions is often thought to be insufficient. For example, Japan's system of reports of abuse has received strong criticism from NGOs, mainly for being biased in favor of the perpetrator and for not addressing the whole range of human rights abuses. Where reporting does exist, they generally find poor conditions. Monitoring activities in India, have reported some of the worst conditions in institutions for people with mental disabilities. Many institutions relied on a prison-like model, including locked doors, restraints, and seclusion of residents who are violent. In one case a number of residents died in an institution fire because they were chained to their beds and could not escape.

Accessibility

Most countries have established some official requirements regarding the accessibility of new or renovated buildings. However, enforcement and awareness of such legislation is lacking, and new construction often proceeds without incorporating accessible design features. In the Philippines, for example, some people with disabilities have brought lawsuits against inaccessible restaurants, which have resulted in some adaptations to already existing buildings. In Thailand, reports indicate that only .4% of buildings are in fact accessible. Where there is substantial progress, it tends to be focused in large cities. China reports that the major barriers to accessibility outside of large cities are lack of awareness, insufficient financial resources, and a lack of the necessary technical knowledge. Cambodia is the only country with no accessibility requirements for public buildings or facilities.

The availability of accessible transportation varies throughout the region, with newer transportation generally incorporating more accessibility than existing systems. For example, public transportation systems in Thailand are for the most part inaccessible, but some progress is being made in Bangkok. Less than 25% of SkyTrain system, which opened in 1999, is accessible, but the new subway, which opened in 2004, is fully accessible. A new light rail line in the Philippines and two new systems in China (a bus line in Beijing and the subway in Shenzhen) are all accessible to people with disabilities. Only Japan reports substantial efforts to adapt its existing system with accessible transportation including between $\frac{1}{3}$ and $\frac{1}{2}$ of buses in Tokyo and more than $\frac{1}{2}$ of the busiest train stations. Vietnam does not yet have accessibility codes and standards for public transportation, although they are under development and expected to be completed by 2007.

Culture, Sports and Recreation

The majority of countries in the region have established policies or departments to promote sports for people with disabilities. Chinese and Thai laws declare that the government should encourage people with disabilities' access to sport, recreation, and culture. Additionally, access to some cultural and recreational activities is provided free of charge for some people with disabilities in China and the Philippines. In other countries, such as India and Cambodia, private and non-governmental organizations are significantly involved in promoting the participation of people with disabilities in sports and recreation. Most countries also have teams, leagues of athletes with disabilities and organize or host national, regional, or international competitions for athletes with disabilities. In Bangkok, in 1999, Thailand sponsored the Far East and South Pacific Games Federation for the Disabled, which was the largest disability sporting event at that time. In addition, the Special Olympics were hosted by Japan in 2005, and will be in China in 2008.

Disability Action & Awareness

All countries in the region have a body in charge of coordinating disability issues, although participation in these entities by disability advocates varies. Only the Philippines has no official inclusion of disability organizations in its coordinating body, which is comprised solely of government officials, although consultation with disability groups is common. In India, disability organizations are to be included "whenever possible," providing the possibility that such groups could be excluded. Other countries have excellent participation rates. In Thailand, the coordinating body currently has more than twice the required number of representatives from the disability community – two are required and there are five members from disability organizations. In Japan, almost half of the coordinating body is made up of representatives from disability organizations.

Across the region, non-governmental organizations are very active in disability action and awareness. For example, China has 38,000 active grassroots disability organizations, and the Philippines has actively encouraged the establishment and activities of self-help groups. In Cambodia, international NGOs, rather than national NGOs or the government, coordinate a majority of the disability advocacy and activities that occur within the country. Despite the amount of effort being devoted to disability issues by non-governmental organizations, coordination among such organizations needs improvement.

In general, the first Asian and Pacific Decade for Disabled Persons was an important milestone in disability action and awareness. Many countries responded positively to the goals and objectives of the Decade, particularly with regard to legislation and the promotion of "self help groups." Furthermore, the Biwako Millennium Framework and the second Asian and Pacific Decade for Disabled Persons, which is currently underway, have provided new, updated objectives that

are fueling the plans of many countries in the region. Nevertheless, continued action and improved awareness are critical for improving the situation of people with disabilities. Despite the efforts noted here, even the most progressive governments and societies have not yet been able to satisfy the demands and needs of people with disabilities.

Regional Report of Asia: Country Reports



Cambodia

Key Factors: Cambodia has suffered a difficult and violent history. More than 20 years of conflict delayed much of its infrastructural, social, and economic development. The worst phase of the conflict was Pol Pot's Khmer Rouge regime, which reigned from 1975 to 1979 and killed more than 3 million people.¹ Conflict, landmines and unexploded ordnances (UXO) have led to an increased population of people with disabilities.

Although in many ways the conflict has resulted in delayed protections for people with disabilities, it has also lead to better services for people who have a war related disability.

Terminology

In the past, the most popular terms used for people with disabilities were "Akambut," translated as "physically disabled," "Akvak," translated as "visually impaired," "Akor," translated as "deaf," "Akven," translated "person with polio," "Kantue," translated as "dwarf or little person," and "Apeach," translated as "person who has Cerebral Palsy."² Although these words do not have English equivalents, they have very negative connotations in Cambodian and imply that people with disabilities have a lower social status. For example, the word for hearing impairments, "Akor," can translate to "dumb," instead of "deaf." This terminology has been used in public documents and legislation as well as by the general population. Furthermore, the English translation of terminology is often problematic. For example, in the eight categories of disability used by the Ministry of Health and the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY), the term "difficulties" is used rather than "disabilities" or "impairments." Official translations are maintained throughout this report.

Recently, terminology has improved, and public and legal documents now use "Chaun Pika," which translates to "people with disabilities". Despite this improvement, a large portion of the general pubic still uses the outdated and demeaning terms.

1. This is not an exact source however this is the common figured used within Cambodia. Causes of the death include genocide, malnutrition, and disease.

2. Interview Mr. Chhay Rithy landmine victim since 1995 during be a soldier. Currently work as security in the National Centre of Disabled Persons.

Definition of Disability

According to the draft Law on the Rights of People with Disabilities, “a person with a disability is any citizen who lacks any physical organ or capacity or suffers any mental impairment, which causes decent restriction on his/her daily life or activities such as loss of limbs, quadriplegia, visual or hearing impairment or mental handicap, etc which significantly causes difference from normal people and has a certified document issued by the Ministry of Health.”³

In the past, the Ministry of Health and the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY) have used different definitions for people with disabilities. However, they have agreed on the definitions of eight types of disabilities to be used until the draft law on the Rights of People with disabilities is passed. The eight types of disabilities are⁴:

- Seeing Difficulty;
- Hearing Difficulty;
- Speaking Difficulty;
- Moving Difficulty;
- Feeling Difficulty;
- Psychological Difficulty;
- Learning Difficulty and,
- People who have fits.⁵

The descriptions of these eight types of disabilities are very specific and are based on a medical interpretation of disability. For example, types of physical disabilities under the definition of physical impairment include muscular dystrophy, quadriplegia, paralysis, and spinal bifida. There are also examples of temporary, and generally short-term physical ailments such as sprains and fractures. The inclusion of temporary physical conditions in the descriptions complicates and hinders the government's ability to properly identify the total number of people with disabilities in the country.

3. Workshop on the Draft Cambodian Disability Law, 18-19 March 2002. This draft legislation is currently being reviewed by the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation and should be submitted to the Council of Ministers in the future. Once approved by the Council of Ministers, the legislation will need to be approved by the Cambodian Parliament. It is unclear when the legislations will be approved.

4. These terms were translated by the Disability Action Council (DAC).

5. The phrase “people who have fits” signifies people who have epileptic seizures.

Disability Population

There are no reliable disability statistics in Cambodia as the various disability studies conducted in the country have revealed different results. The differences among the various surveys can be attributed to the use of unclear definitions and the lack of data collection staff with disability training.⁶

The first survey of any kind that attempted to enumerate the country's disability population was the Socio-Economic Survey conducted in 1997 by the National Institute of Statistics, the United Nations Development Program (UNDP), the Swedish International Development Cooperation (SIDC), and the World Bank. The Socio-Economic Survey assessed poverty, education and health services, in preparation for the 1997 UNDP Human Development Report. The survey interviewed 6,000 people from 474 villages and estimated that 2.2% of the total population of 11,437,656 had a disability.⁷ The most common causes of disability reported were illness or disease (30 %), congenital conditions (24.8 %), accident (13 %), war or conflict (12.7 %), and landmine explosion (8 %).⁸

The most recent Census of Populations, conducted in 1998, did not include questions on disability.⁹ Prior to the census, which is said to have been the first full count of the population in 36 years, disability advocacy groups such as the Disability Action Council tried to negotiate with the National Institute of Statistics (NIS) to include questions designed to enumerate the disability population. The NIS decided not to include such questions, stating that there was no clear or consistent definition or measurement of disability.¹⁰ Therefore, it is difficult to ascertain the exact number of people with disabilities living in the country. The government tends to use the 2.2% estimate provided by the Socio-Economic Survey of 1997 and is reluctant to provide services to people with disabilities, claiming that their population is too small. This lack of accurate data has resulted in the following:¹¹

- Lack of support for and development of new projects and activities;
- Unclear target groups and difficulties monitoring and evaluating project outcomes;

6. United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and China Disabled Persons Federation (CDPF) Field Study cum Regional Workshop on Poverty Alleviation among Persons with Disability "Cambodia Background Paper" Lanzhou, Gansu Province, China, 25-29 October 2004 <http://www.worldeable.net/cdpf2004/papercambodia.htm>.

7. Workshop on Population Data Analysis, Storage and Dissemination Technologies, March 27-30, 2001. Country Paper: Cambodia, <http://www.unescap.org/stat/pop-it/pop-wdt/wdt-cambodia.asp#Background>.

8. Ministry of Planning "Cambodia Socio-Economic Survey (1997)."

9. National Institute of Statistics <http://www.nis.gov.kh/>.

10. Mr. Ngy San, Program Manager of Disability Action Council, Interview by author 19 April 2005.

11. *Ibid.*

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- Poor allocation of resources such as funds, material, equipment and facilities;
- Reluctance to promote the participation of people with disabilities in social, economic and civic programs; and
- Exclusion of people with disabilities in the design, policy and planning of the government, non-governmental, and private sectors.

Popular opinion is that the number of people with disabilities living in the country is much higher than the Socio-Economic Survey suggests. According to His Excellency Ith Samheng, the Minister of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY), approximately 12% of the total population has a disability, and of that population, approximately 1/3 has a physical disability.¹² The Asian Development Bank's (ADB) "Study on Skills Training as a National Strategy for Poverty Reduction in Cambodia" suggests that a conservative estimate of the number of people with disabilities is 9.8% and that Cambodia may have one of the world's highest per capita disability rates.¹³ Furthermore, a 1999 study by the United Nations and Disabled Peoples' International, estimated that 1.4 million people, or 15% of the total population, have disabilities.¹⁴

Due to landmine injuries, the number of people with disabilities appears to be increasing. Mr. Ol Seine of the Cambodian Mine Action Center states that 2 to 3 people per day are injured by landmines.¹⁵ Statistics from the Cambodian Red Cross reveal that from 1979 to June 1999, an average of 200 Cambodians per month were injured by landmines and that landmines continue to injure approximately 60 people per month. The majority of victims lose at least one limb, and approximately 45,000 Cambodians, or one in every 226, are amputees.¹⁶ The Landmine Monitor Report states that approximately 2.5% of the land in Cambodia is contaminated by landmines.¹⁷

12. His Excellency Ith Samheng, Minister of Ministry of Social Affairs , Labor, Vocational Training and Youth Rehabilitation "A speech by the given at the Opening Ceremony of Annual Meeting and Presenting the Strategic Plan 2004-2006 of the National Centre of Disabled Person", May 2004.

13. Asian Development Bank "Identifying Disability Issues Related to Poverty Reduction: Cambodia Country Report" Prepared by Foundation of International Training, March 2002, http://www.adb.org/Documents/Conference/Disability_Development/cam.pdf.

14. Country Paper on Human Rights of People with disabilities and implementation of the ESCAPE Biwako Millennium Framework, November 2003.

15. Mr. Ol Siene, Chief of the Landmine Awareness of Cambodian Mine Action Center (CMAC) Disabled People Forum (VCD Vol. 3).

16. Cambodia Red Cross, http://www.redcross.org.kh/news_events/2004/lma_day.htm.

17. Landmine Monitor Report, 2003 <http://www.icbl.org/lm/2003/cambodia.html>.

Legislation & Disability Rights

National Protections

The Constitution of the Kingdom of Cambodia of 1993, amended in 1999, is the principle law for people with disabilities. It states that “Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.” Article 74 specifically addresses the State’s obligation to assist people with disabilities, pronouncing that “the State shall assist the disabled and the families of combatants who sacrificed their lives for the nation.”¹⁸

Other than these Constitutional provisions, there is no legislation that relates specifically to the rights of people with disabilities. However, in May of 1996, a Disability Action Council (DAC) Legislative Working Group was created for the purpose of drafting a new law on the rights of people with disabilities. The working group was comprised of various NGOs and the Ministry of Social Action (MOSALVY), and was led by the Cambodian Disabled People’s Organization (CDPO).¹⁹ The draft law addresses quality of life, rehabilitation, health, disability prevention, public access, education, employment and vocational training, incentive programs, elections, statistics, disabled people funds, the Disability Action Council, the Disability Rights Committee, and penalties for non-compliance.²⁰ The draft legislation was finalized in May 2002 and is currently under review by the Ministry of Social Affairs.

Other laws that reference the rights of people with disabilities include:

- 1) Royal Decree NS RKM 0699/60 on MOSALVY, of June 1999, which states that the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation should have among its priorities the preparation of policies and guidelines to support disabled people;
- 2) Government Sub-decree on Investments No. 88/ANK/BK, of June 1999, which states that there should be a tax reduction for foreign enterprises based on several factors, including their number of disabled workers;

18. Constitution of the Kingdom of Cambodia. <http://www.constitution.org/cons/cambodia.htm>.

19. Asian Development Bank “Identifying Disability Issues Related to Poverty Reduction: Cambodia Country Report”.

20. Cambodian Disabled People’s Organization (CDPO) www.cdpo.org/law.php.

- 3) Government sub-decree on Supplementary Salary of Civil Servants, Military, Police, Retirees and Disabled Officials, No 059/ANK/BK, of April 1999, which authorizes an increase of 30% of "the net salary for civil servants, military, police, retirees and disabled officials;
- 4) Government Sub-decree on Establishment of the National Paralympics Committee of Cambodia (NPCC), No 070 AKK/BK, October 24, 1997, which states that NPCC is the government body for sports for disabled people in Cambodia;
- 5) Ministerial Decision on Establishment of the Disability Action Council (DAC), of October 1999, which states that DAC should be a national semi-autonomous coordinating body for rehabilitation; and
- 6) Ministerial Decision on Establishment of the National Centre of Disabled Persons (NCDP), No. 757/MOSALVA, of May 1997, which defines the NCDP as a semi-autonomous independent organization that facilitates the direct implementation of activities for people with disabilities in Cambodia.

International Protections

Cambodia has signed two of the important international treaties related to disabilities: the Universal Declarations of Human Rights and the Convention on the Rights of the Child, and its Constitution declares recognition of and respect for the human rights stipulated in these treaties.²¹ The government has adopted the United Nations Standard Rules on the Equalization of Opportunities for People with Disabilities. The government, the Ministry of Social Affairs, and NGOs such as Caritas report on the country's compliance with the Rules. Cambodia supports the creation of a Convention for the Rights of People with Disabilities but has not included people with disabilities in its delegation to the relevant Ad Hoc Committee Meetings. In October 2003, the government sent formal representatives to participate in a regional workshop that established a working group to develop a draft text of the convention.²²

At the regional level, Cambodia has signed and participated in the United Nations Economic and Social Commission for Asia and the Pacific's (UNESCAP) Decade of Disabled Persons (1993-2002) and the Biwako framework of 2003 to

21. Constitution of the Kingdom of Cambodia. Article 31.

22. Report to Australian Human Rights and Equal Opportunities Commission (HREOC) on Bangkok 2003 meeting on proposed Convention, November 2003 http://www.hreoc.gov.au/disability_rights/convention/bangkok.htm.

2012.²³ As a Biwako signatory, Cambodia has committed to achieving the goals of the framework's seven priority areas: "self-help organizations of person with disabilities and related family and parent organizations; women with disabilities; early detection, early intervention and education; training and employment, including self-employment; access to built environment and public transport; access to information and communications, including information, communication and assistive technologies; and poverty alleviation through capacity-building, social security and sustainable livelihood programs."²⁴

Legal Barriers

There are several laws that serve as barriers to people with disabilities. For example, according to the Driver's Licenses Law, people with disabilities are ineligible for driver's licenses. In addition, when people with disabilities are not specifically mentioned in legislation, it is often assumed that they are excluded from its provisions.

In the past, the Ministry of Education did not permit people with physical and intellectual disabilities to work as teachers. Council of Ministers' Decisions No. 1356/1995, 223/1997, 872/1997, 835/1998, and 39/1999 stated that recruitment of teachers "must be made among candidates of either sex, of Cambodian nationality, who have clear biodata, good health and are free of disabilities and who are not serving the public sector yet."²⁵ Often these criteria are specified in flyers and advertisements used for recruiting teachers.

Civic Participation

The Constitution of Cambodia guarantees the right of all citizens to vote and stand for elections at all levels. In fact, The Prime Minister of Cambodia, Samdech Hun Sen is partially blind and one Member of Parliament is an amputee. Although all citizens have the right to vote, many polling sites are not accessible. Of the polling sites observed by Action Disability Development, 58% were accessible for wheelchair users and other people with disabilities, while 42% were not accessible for wheelchair users. Approximately 37% had steps that prevented people with disabilities from reaching the polling site, and only 7.5% had an entrance ramp.²⁶ Currently, no Braille ballots are available.

23. United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) <http://www.unescap.org/esid/psis/disability/decade/about.asp>.

24. Biwako Millennium Framework, <http://www8.cao.go.jp/shougai/english/biwako/contents/html>.

25. Leang, P. and Sinoeun, M. "Strategic Plan and Action Plan for a Pilot Program for Enhancing Employment and Self-Employment Opportunities and Services for Persons with disabilities in Rural Cambodia". DAC/ILO, December 1999, p. 5.

26. Action Disability Development, "Observation the Process of the National Election in Cambodia", 27 July 2003 <http://www.electionaccess.org/Bp/Cambodia.htm>.

To improve accessibility, the National Election Committee has mandated the creation of a separate council that will be responsible for facilitating access to voting booths.²⁷ In addition, Action Disability Development (ADD) has initiated a joint project with the National Election Committee to train people with disabilities to serve as election observers. In the July 2003 election, 200 individuals with different types of disabilities were trained and served as observers.²⁸ However, they constituted less than 0.3% of the total number of election observers.

Inclusion

Communication

Communication for people with disabilities in Cambodia is not sufficient. The use of Braille and sign language is generally limited to education in specialized schools. National institutions and government agencies do not provide Braille materials or translations of official documents, such as the Constitution, and do not employ sign language interpreters. The national library does not provide audio, large print or electronic versions of their materials.

Closed captioning and sign language interpretation are not standard provisions in Cambodia, and the national news is not captioned for the hearing impaired. However, in June of 2004, the National Centre for Disabled Persons began broadcasting a TV program intended to raise viewers' awareness of issues related to disability, early detection, prevention, and rehabilitation, and to give information to service providers. The on-going program includes a sign language interpreter.²⁹

In cases of criminal assault, law enforcement authorities do not provide sign language interpretation and consider it the responsibility of the individual to find a means to communicate with authorities. Similarly, the national emergency plan does not address the specific needs of people with disabilities, who must rely on family members for assistance.

Education

By law, all Cambodian citizens are entitled to an education. However, accessibility and financial barriers make it difficult, if not impossible, for the majority of people with disabilities to obtain even the most basic level of schooling. There are a limited number of special schools and classes, and a few community based initiatives. The educational system lacks disability education experts, which creates additional barriers to school attendance for peoples with disabilities.

27. *Ibid.*

28. *Ibid.*

29. National Centre of Disabled Person (NCDP) "Disabled People Forum."

In the past, education for children with disabilities was provided primarily by NGOs, with most programs focused on children with physical or sensory disabilities living in or near the capital city of Phnom Penh. Although there are specialized schools at the provincial level, they are located only in the capital cities of provinces, so education for children with disabilities is generally unavailable in remote areas.³⁰

Lack of education is a general concern in Cambodia. Between 1.5 and 2 million children aged 6 to 18 do not attend school or enjoy educational support programs.³¹ However, it is believed that children with disabilities are at an even greater risk of not receiving an education. It is estimated that there are 260,000 children with disabilities, and most of them are not receiving any education.

Recently, the Ministry of Education established an office to deal specifically with education for people with disabilities. On 26 April 2005, the Deputy Prime Minister declared that Cambodia was fully committed to “education for all by 2015.” He stated that “The government has emphasized its strong determination to implementing the United Nations Convention on the Rights of the Child and the global forum for education held in Dhaka, Senegal, in 2000, which raised the direction towards ensuring education for all and all for education by the end of 2015.”³² One of the primary objectives of the program is “to reduce all types of disparities in learning opportunities through policy reform support and targeted programs for disadvantaged groups through inclusive education.”³³ It is hoped that the Millennium Development Goals will help to establish fully inclusive education for people with disabilities by the year 2015.

One of the largest obstacles to establishing inclusive education is the fact that there are very few training opportunities for teachers in the area of special education. Currently, there is no specialized training available in the area of special education. However, certain NGOs have provided such training to interested teachers.

A second major obstacle is that the majority of schools are not accessible to children with disabilities. Since many schools are used as voting sites and were made accessible for elections, the ground floors of many schools are accessible. However, most schools have inaccessible upper floors and many lack accessible bathrooms.

30. Neang Phala, Director, Blind and Deaf School for Krousar Thmey Interview by the author March 17, 2005.

31. Kol Pheng, Senior Minister, Ministry for Education, Youth and Sport “Speech During the Occasion of the Launch of Global Campaign for Education Under the Term of ‘Education for Poverty Alleviation’” 26 April 2005.

32. His Excellency Mr. Sok An, Deputy Prime minister and minister in charge of the office of the council of Ministers on the occasion of the launching of Global Campaign for Education , “Speech given under the theme of “Education for Poverty Alleviation.”

33. Ministry of Education, “Government/United Nations Children’s Fund (UNICEF) Master Plan, http://www.moeys.gov.kh/education_reform_in_cambodia/government_unicef_master_plan/project_one.htm, April 12, 2005.

There is no early detection system in the schools to identify children with disabilities, which delays prevention and rehabilitation efforts. The Ministry of Health has a disability program, but it has not yet cooperated with the school system to provide an early intervention service. In remote areas, there is little knowledge of or capacity for early detection.

Employment

There are no reliable statistics on the number of people with disabilities who are employed. Although there are both governmental and non-governmental job training and placement programs for people with disabilities, there is no law promoting the employment of people with disabilities in Cambodia. The labor law of Cambodia, which applies only to public sector employers, does not include a disability quota and only provides prevention and security standards to ensure there are no job related injuries or disabilities. There is no mechanism in place to monitor disability prevention and employment in the private sector.

Ministerial Decision on Implementation of the Cabinet Resolution No. 181/SSR (No. 02 PRNN) of 1991 and the Cabinet Resolution on Principles of Rehabilitation, Vocational Training and Job Placement for Persons with Disabilities (No. 181/SSR) established vocational training centers guidelines for employment for people with disabilities.³⁴ As part of this program, 11 vocational training centers have been established, and 3,493 people with disabilities have received training in various skills. However, only 8 of the centers are operational,³⁵ and less than 50% of graduates currently have a paid job or are self-employed in their own villages.³⁶

A study conducted by the International Labor Organization (ILO) and Disability Action Council identified some 5 international organizations, 40 international NGOs, and 20 local NGOs that provided training and income-generation programs in rural areas, most of which served people with disabilities.³⁷ According to a recent study by the DAC, approximately 25 international NGOs provide skills training or other income generation support targeted specifically to people with disabilities.³⁸ Currently there are 42 local and international NGOs working with the Ministry of Social Affairs to implement a vocational skills and small business training program to encourage job placement for people with disabilities.³⁹

34. International Labor Organization (ILO) "Status of Training and Employment Policy and Practices for People with Disability in Cambodia" http://www.logos-net.net/ilo/159_base/publ/cam_part3.htm#National.

35. Asia-Pacific Development Center on Disability "Cambodia Country Profile."

36. *Ibid.*

37. Disability Action Council (DAC)/International Labor Organization (ILO), "Vocational Training and Employment Opportunities for PWD in the Rural Areas of Cambodia", 1999.

38. Disability Action Council (DAC), "Study on Persons with Disabilities in Cambodia" 2001, p. 45-51.

39. Non Governmental Organization (NGO) list for Cambodia, 2004.

Since 1998, the NCDP has coordinated a project called Information and Referral Service (IRS), intended to provide job opportunities for people with disabilities. To date, 2,800 people with disabilities have registered at the IRS, and 500 of them have found permanent employment in the private sector.⁴⁰

The Business Advisory Council (BAC) was set up in 2001 to improve the situation of people with disabilities searching for employment. It is comprised of representatives from business, industry, and disability organizations such as the NCDP, and works to provide training programs for people with disabilities and raise employers' awareness of disability issues. Several International Organizations, such as the International Labor Organization and the World Rehabilitation Fund (WRF),⁴¹ have advised the BAC.

Health Services

The Ministry of Health (MoH) and the Ministry of Social Affairs are responsible for providing health services to people with disabilities. However, most of their efforts have been in disability prevention, such as polio vaccinations, and in physical rehabilitation, which is focused predominantly on landmine victims. The Ministry of Health is preparing a plan to offer more general health services for people with disabilities, which includes provisions for training primary health care service providers, health care packages for operational districts, and standards for the Minimum Packages of Activities (MPAs) for preventative, promotional, and curative medicine.⁴²

The provision of health services continues to be limited, because professionals are inadequately trained in dealing with people with disabilities. Typically, health services providers, such as doctors and nurses, receive general training that does not include specific training on how to treat or provide services to people with disabilities. However, the Technical School for Medical Care provides training in physiotherapy,⁴³ and physiotherapists are available in provincial hospitals and rehabilitation centers.⁴⁴

Due to Cambodia's financial limitations and lack of the resources needed to provide care for such a large disability population, the majority of health services have been provided by international non-governmental organizations. Many of these organizations focus on rehabilitation or the provision of mobility devices. There are

40. Long Ly, IRS Project Manager, National Centre of Disabled Persons, interview by author 11 May 2005.

41. Ability Asia Study "Training and Employment of People with disabilities: Cambodia 2002."

42. Asian Development Bank "Identifying Disability Issues Related to Poverty Reduction: Cambodia Country Report."

43. Disability Action Council (DAC) "Cambodia 2003."

44. Asian Development Bank "Identifying Disability Issues Related to Poverty Reduction: Cambodia Country Report."

over 30 international and national NGOs working just in the area of rehabilitation for landmine survivors and other amputees.⁴⁵ International organizations currently manage almost half of the rehabilitation centers in seven provinces, providing social, vocational, and medical rehabilitation as well as food and temporary accommodation for people with disabilities.⁴⁶

There are 14 Prosthetic and Orthotic workshops in the country, down from 16 in recent years.⁴⁷ In 2003, the International Committee for the Red Cross (ICRC) provided these workshops with mobility devices, such as crutches and prosthetic limb components, free of charge.⁴⁸ This provision was made official by the Ministry of Social Affairs, through the creation of Prakas No. 757 MOSALVY on Establishment of a Component Factory Supported by ICRC (Boeung Trabek).⁴⁹ Although there are many groups working with the ICRC to provide mobility and assistive devices, it is estimated that their services reach only 25% of the disabled population.⁵⁰

Specialized hospitals, namely Prasketomealear, serve combatants and those injured in the war. After they receive free medical care, amputees are sent to "Camp 317" for three to six months for follow-up health care and rehabilitation. At the center, they receive job and skills training, to encourage their reintegration. Injured soldiers also receive a pension from the government, of approximately US\$30 per month, which is more or less equivalent to the average wage of Cambodian citizens. The amount an individual receives depends on their type of military service, number of family members, and type of injury. People with severe disabilities resulting from the war can receive additional government money to pay for an assistant, but only those injured through military service are eligible to receive a pension.

The Center for Child Mental Health (CCMH) provides mental health and counseling services to children with developmental and psychiatric disabilities and is the only center in the country to do so. The center aims to provide early screening and intervention; encourage families to participate in the development of children with disabilities; provide supportive environments for abused children and children experiencing hardship; offer counseling services to children; and train child mental health professionals.⁵¹ In the future, the CCMH also hopes to establish a vocational training center for children with mental and intellectual disabilities.

45. 2004 Landmine Monitor Report, Cambodia Country Report.

46. Asia-Pacific Development Center on Disability "Cambodia Country Profile."

47. 2004 Landmine Monitor Report, Cambodia Country Report.

48. Japan International Cooperation Agency (JICA), Planning and Evaluation Department "Country Profile of Disability, Kingdom of Cambodia" March 2002 http://www.jica.go.jp/english/global/dis/pdf/cam_eng.pdf.

49. *Ibid.*

50. Asia-Pacific Development Center on Disability "Cambodia Country Profile."

51. List of Cambodian Disability Organizations.

There are limited resources available for adults seeking counseling or mental health services. Prior to 2001, there were only ten internationally qualified psychiatrists in the entire country, and another ten were scheduled to graduate from the Cambodian Mental Health Development Programme in 2001.⁵² The Ministry of Health employs one psychiatrist on a part-time basis, to coordinate the work of the Mental Health Subcommittee of the Coordinating Committee of the Ministry of Health (COCOM).⁵³ The departments working in mental health tend to be under staffed and lack necessary financial resources.

Similar to the Prosthetic and Orthotic workshops, the Cambodian Community Based Rehabilitation (CBR) and Community Work with Disabled People (CWDP) programs are almost entirely managed and implemented by NGOs. The primary goal of these programs is to include the community in the development of local solutions to the problems people with disabilities encounter. Although the NGOs do different types of work, some working with specific types of disability or specific age groups, all share some core objectives that include:⁵⁴

- raising awareness on disability issues at individual, family, and community level;
- promoting the self esteem and capability of people with disabilities;
- promoting the inclusion of people with disabilities in the community;
- promoting opportunities for employment;
- making links and referrals between people with disabilities and agencies (government and non government);
- providing family support; and
- promoting income generation for people with disabilities and their families.

Housing

In Cambodia, the shortage of land and the large number of refugees returning after the war make it very difficult for anyone to find housing. There are no Independent Living Centers for people with disabilities, and most people with disabilities live with relatives or close friends. People with disabilities who do not have family or friends tend to end up homeless and resort to begging. In some cases, people with disabilities who are now homeless sold their homes for income. Due to the difficult economic situation in the country and the high incidence of poverty, there is a large population of homeless people with disabilities.

52. The IDRM was not able to verify data on graduates past 2001 or obtain the most updated information on the total number of psychiatrist now in the country.

53. NGO Statement to the 2001 Consultative Group Meeting On Cambodia, http://www.ngoforum.org.kh/Development/Docs/ngo_statement_2001/mental_health.htm.

54. *Ibid.*

Due to cultural stigmas and lack of education, many women with disabilities live with their families, rather than independently. Living with families, they are kept inside doing family chores and cleaning. Although men with disabilities rarely live alone, they are more likely to do so than women.

The government does not provide any support or financial assistance for housing to people with disabilities. The only support provided is in the form of veterans' pensions. The King and Prime Minister have provided some housing materials to individuals with disabilities as an act of charity. For example, they provided metal roofs for the homes of 230 families of people with disabilities living in Veal Thom, which was destroyed during the Khmer Rouge regime.⁵⁵ In Veal Thom, people can live on the land free of charge, which makes the area a viable option for low-income people with disabilities. Because of the availability of free land and the fact that it is in a very remote area of the country, there tends to be a high concentration of people with disabilities living there.

Institutionalization

Institutionalization of people with disabilities is not a common practice in Cambodia. Although people with disabilities often stay in shared housing during rehabilitation, it is temporary, voluntary housing specifically for rehabilitation services.



Accessibility

There are no guidelines requiring public or private buildings to be accessible for people with disabilities. Moreover, most government offices and buildings do not have ramps, and people who use wheelchairs are often carried up the stairs in order to access them.

55. Touch Suarly, Director of Relief Association of Disabled People, Interview by author, 19 April 2005.

The Ministry of Transportation does not have guidelines for accessible public transportation or for making streets accessible through the installation of curb cuts. In general, it is very difficult for people with wheelchairs to travel on the streets since of heights the sidewalks or the distance between the street and the sidewalk is very large. As a result, people with disabilities are often forced to travel on the street, which can be dangerous.

The public bus system in Cambodia is still very new and needs improvement. There are no accessible public or private bus companies, and taxis and buses do not have the physical space needed to load or carry wheelchairs. The transportation system also lacks Braille or audio devices.

Culture, Sports and Recreation

The Ministry of Education, Youth and Sport is responsible for providing sports activities for the general population. However, the majority of the sports programs for people with disabilities are conducted by the National Paralympic Committee of Cambodia, which was founded in 1997 and is chaired by the Prime Minister, Samdech Hun Sen. Since then several Cambodian citizens, including women, have won medals at the Paralympics Game in the Far East and South Pacific Games for the Disabled (FESPIC) and the Southeast Asian Nations Games (ASEAN), where Cambodia returned with a gold, a silver, and a bronze medal. Cambodia also has a large National Volleyball League for people with disabilities. Comprised of 11 professional athletes with disabilities, the National team has been very successful at the international level and won a gold medal at the Far East Asian – Pacific Games.⁵⁶

In addition, Cambodia has organized the National Day of Handicapped Sports which coordinates public contests and games and includes people with disabilities. It has served as a very positive awareness raising tool.

Disability Action & Awareness

In 1997, the Disability Action Council (DAC) was established as a semi-autonomous national coordinating body composed of representatives from relevant agencies under MOLSAVY and from NGOs and individuals committed to promoting the well being of people with disabilities. Their mission is to “initiate, secure and coordinate the services required by people with disabilities, and to enable them to enjoy the same rights to opportunities for employment and quality of life as others in society.” The DAC also serves as a national focal point for disability and is responsible for overseeing disability action plans and monitoring and implementing recommendations.⁵⁷

56. National Volleyball League, Stand up Cambodia.

57. Disability Action Council, <http://www.dac.org.kh/>.

The DAC has developed the Strategic Directions for the Disability and Rehabilitation Sector, to identify gaps and develop strategies to overcome them. There are 15 components of the current strategic plan:

Table 1: Strategic Directions for Disability and Rehabilitation Sector⁵⁸

Number	Component
1.	National Coordination
2.	Legislation
3.	Information and Database
4.	Public Awareness
5.	Women with Disability
6.1	Accessibility
6.2	Communication
7.1	Education for Children with Disabilities
7.2	Accommodating the Needs of Children with Disabilities
8.	Training and Employment
9.	Prevention of Disability
10.1	Community Work with Disabled People
10.2	Training Community-Based Workers
11.1	Medical Rehabilitation
11.2	Physical Rehabilitation
12.	Self-help Organizations
13.	Regional and Global Cooperation
14.	Sustainability
15.	Recreation

Several national disability organizations work to raise awareness. The National Centre of Disabled Persons was established in 1994 and was officially launched on 5 May 1997. The organization's mission is to "provide services and opportunities for disabled persons to fully participate and develop their capacity in social, economic and political activities."⁵⁹ Programs include Community Based Rehabilitation (CBR), information referral services, advocacy, small business training and a retail outlet that sells crafts made by people with disabilities.⁶⁰ The Cambodian Disabled

58. *Ibid.*

59. National Centre of Disable Persons (NCDP) <http://www.ncdpcam.org/>.

60. *Ibid.*

People Organization (CDPO) is also active in Cambodia and mainly focuses on improving the lives of people with disabilities through legislative reform, awareness raising and the development of disability associations.⁶¹

However, the majority of disability programs and awareness-raising campaigns are conducted by experts brought in by international NGOs. It is necessary to make these programs more sustainable and to build the capacity of local disability leaders and government officials so they can maintain and continue the programs in the future.

61. Cambodian Disable People Organization (CDPO).



China¹

Key Factors:

China is the largest developing country in the world. During the past two decades, concurrent with the country's rapid economic growth and social development,²

and as a result of a series of positive legislative and administrative actions and the work of disability organizations,³ the general living conditions and overall social status of people with disabilities has improved remarkably. However, people with disabilities remain a vulnerable group and many still encounter specific difficulties in a society whose economy is experiencing a tremendous market-oriented transition. Much remains to be done in order to ensure the full realization of "Equality, Participation and Sharing" for people with disabilities.⁴

Terminology

Before the 1980s, discriminatory or offensive terms were commonly used to refer to people with disabilities. Even official documents regarding disabled veterans and public servants used the phrase "can fei," which means "the handicapped and useless."⁵ Since the late 1980s, however, social attitudes regarding disability have undergone a gradual but fundamental change, in response to the active advocacy

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1. This paper was prepared by the author, who was worked professionally in the disability field for some ten years. Views expressed here may not necessarily reflect either those of the government or any organizations in China. For technical reasons, the paper was written based upon the knowledge of the situation and relevant data about persons with disabilities in mainland China. It does not include information about Taiwan, Hong Kong and Macao areas.
 2. According to the United Nations, China's Human Development Index (HDI) was 0.522 in 1975 and 0.74 in 2002. In terms of world ranking, China's HDI ranking was 111th (among 174 countries) in 1992 and rose to 94th (of 177 countries) in 2002. See UNDP website at: <http://hdr.undp.org/reports>.
 3. Mr. Deng Pufang, Chairman of China Disabled Persons' Federation, received the UN Award in the Field of Human Rights on 10 December 2003 for his "outstanding contribution to the human rights in China and the world," see UN website: <http://www.un.org/News/Press/docs/2003/gasm340.doc.htm>.
 4. Canyon, Zhong. "Human Rights Protection and China's Undertakings for Persons with Disabilities," People's Daily [Beijing], 29 Apr. 2004. http://www.ccyl.org.cn/study_think/file/xxysk20040429.htm.
 5. For instance, both "A Joint Notification Concerning Disability Pension for Handicapped Staffs Serving State-run Medical Sector," issued by the Ministry of Health and the Ministry of Finance on 12 October 1979 and "Notification Concerning Ways of Pension Allocation for Revolutionary Handicapped Servicemen Died from Wounds," Issued by the Ministry of Civil Affairs on 15 January 1983 refer to servicemen with disabilities as "the handicapped and useless" ones.

of the disability community and governmental support for disability initiatives. Today, “can ji ren,” which means “persons with disabilities” or “disabled persons,” is used widely both in official documentation and by the general public.

Definition of Disability

Most laws and policies use the definition of disability in the Law on the Protection of Disabled Persons,⁶ promulgated in 1990. According to the Law, “a disabled person refers to one who suffers from abnormalities of loss of a certain organ or function, psychologically or physiologically, or in anatomical structure and has lost wholly or in part the ability to perform an activity in the way considered normal.”⁷

The Law adds that “the term disabled persons refers to those with visual, hearing, speech or physical disabilities, intellectual disabilities, psychiatric disabilities, multiple disabilities and/or other disabilities” and “the criteria for classification of disabilities shall be established by the State Council, or the cabinet of China’s central government.”⁸

The definition and its related standards on disabilities are deeply influenced by the medical-social models popular in the 1980s, in particular the World Programme of Action Concerning Disabled Persons⁹ and standards such as the World Health Organization’s (WHO) International Classification of Impairment, Disability and Handicap (ICIDH).

6. *Law of the People’s Republic of China on the Protection of Disabled Persons*, adopted and promulgated by the National People’s Congress on 28 December 1990, came into force on 15 May 1991. Official text in Chinese, see http://www.law-lib.com/law/law_view.asp?id=562. For a working English translation, see *Law of the People’s Republic of China on the Protection of Disabled Persons* (Beijing, Huaxia Publishing House, 1998), or http://www.cdpf.org.cn/english/info_01.htm.

7. Id., Article 2, Law of the People’s Republic of China on the Protection of Disabled Persons, 1. Note: To represent better the original Chinese text, the author has made two minor changes to the original translation: “mental retardation” was replaced by “intellectual disabilities,” and “mental disorder” was changed to “psychiatric disabilities.”

8. The State Council has not yet developed any official criteria for classification of disabilities. Currently, there are some different criteria set and used by different departments for various purposes, such as insurance, sports injury, pension for invalid veterans, criminal assessment, and so on. One of the most influential set of criteria was developed and approved by the State Council for the first national sampling survey on disability. For details, see “A Criteria of Classification of Disabilities for National Sampling Survey on Disabilities,” in “A Legislative Report on the Law of the People’s Republic of China on the Protection of Disabled Persons,” compiled by the Legal Affairs Committee of the National People’s Congress and others (Beijing, Huaxia Publishing House, 1992). Also see “A Practical Standards for Disability Assessment (for trial implementation),” issued by the China Disabled Persons’ Federation, available at: <http://www.fmed.net/main/case/standard/criterion/200406/158.html>.

9. United Nations, Refer to Part C. “Definition,” Chapter 1, “World Programme of Actions Concerning Disabled Persons,” 1982.

In November 2004, China began reviewing the Law of Protection of Disabled Persons and conducting a new national survey on disability. The survey will further examine disability issues and may lead to the establishment of a definition that is more appropriate for and responsive to the situation of people with disabilities.¹⁰

Disability Population

Although a new survey is underway, most currently available disability statistics for China are outdated. The national census has not yet included disability-specific questions, and most of the currently available statistical data on disability were collected through the First National Sampling Survey on Disability in 1987. The Survey was jointly conducted by governmental departments including the Ministry of Civil Affairs, the State Statistics Bureau, the Ministry of Health, the Ministry of Education, the Ministry of Public Security, the Ministry of Finance, the State Planning Commission, and the non-governmental organizations China Fund for the Handicapped, and China Association of the Blind and the Deaf. The Survey did not use a standard definition of disability, but included a number of questions to collect information about type, degree, and cause of disabilities, medical needs of people with disabilities, availability of assistive devices, income sources, and the capacity of people with disabilities to learn and function in daily life. Survey enumerators interviewed 1,579,314 people, or 0.150 % of the national population, in 369,816 households in 424 cities and counties of 29 provinces in China, and found that 77,345 people, or 4.90% of the sampled population, had a disability.¹¹

Based on the Survey and the rate of general population growth, the current number of people with disabilities is estimated to be 60 million, or 5% of the total population.¹² Of these estimated 60 million, 20.57 million are thought to have hearing impairments, 11.82 million to have intellectual disabilities, 8.77 million to have a physical disability, 8.77 million to have visual disabilities, 2.25 million to have psychiatric disabilities and 7.82 million to have multiple disabilities.

In 2001, the Ministry of Health, the State Statistics Bureau, the China Disabled Persons' Federation, and the United Nations Children's Fund (UNICEF) jointly

10. General Office of the State Council, "Notification of the General Office of the State Council on Conducting the Second National Sampling Survey on Disability" [guobanfa (2004) 73], see http://temp.cdpj.cn/dlzt/2005-01/18/content_3236.htm and Yang Weihua and Zhai Wei, "Protect rights of Persons with disabilities, Launching the Work of Revising the Law on the Protection of Disabled Persons," Xinhua News, 11 Nov. 2004, and: <http://news.xinhuanet.com/legal/2004-11-09>.

11. "Brief Introduction of 1987 National Sampling Survey on Disability," see www.cdpf.org.cn/shiye/sj-000b.htm.

12. State Statistics Bureau, "Basic information of people with disabilities," *China Statistical Yearbook 2003*, (Beijing, China Statistics Press, 2004), 850.

conducted a survey on children with disabilities under the age of six.¹³ The survey revealed that the annual detection rate of disability in children in this age group is 1.946%, which means that, annually, a disability is detected in 199,000 children, of whom approximately 153,000 have a single disability and 46,000 have multiple disabilities. Among children with a single disability, 54.21% have intellectual disabilities, 24.69% have physical disabilities, and 9%, 6.02% and 5.91%, respectively, have hearing, visual and psychiatric disabilities. Asphyxia at birth, cerebral palsy, drug abuse, and autism were found by the survey to be the leading causes of disability.¹⁴

The Chinese government recently began its 2nd National Sampling Survey on Disability to collect updated statistical data that will facilitate better planning and programming in the future.¹⁵ The survey is expected to be finalized in 2007.

Legislation & Disability Rights

National Protections

China's Constitution (enacted in 1982 and amended in 1988, 1993, 1999 and 2004) provides a general principle of protection of people with disabilities. Article 45 establishes that "all citizens ... have the right to material assistance from the state and society when they are old, ill or disabled. The state develops the social insurance, social relief and medical and health services that are required to enable citizens to enjoy this right..."¹⁶

In addition, more than 30 national laws contain specific provisions concerning people with disabilities and the protection of their rights, including the Election Law, the Civil Law, the Civil Procedure Law, the Criminal Law, the Criminal Procedure Law, the Law of Education, the Law on Higher Education, the Labor Law, the

13. The survey covered 60,124 children of 17,609,000 investigated citizens in 7 provinces and screened 1,847 suspected and 819 diagnosed disabled children, or 1.362% of the total child population. See report by Yao Yongmei, "An interview with UNICEF official on current situation of disabled children and their rehabilitation and education," <http://www.cautism.com/2004/8-31/235540.html>.

14. "Main result of the sampling survey on disability in 0-6 year-old children in China in 2001," by the Ministry of Health, the State Statistics Bureau, the Ministry of Public Security, CDPF, and UNICEF. For the original report text in Chinese, see <http://www.qltj.net/qltj/tjxw/tjxw/xw1179.htm>.

15. For the 2nd National Sampling Survey, a national office was already established, with members from 15 ministries, departments and civil organizations. See "Notification of the General Office of the State Council on Conducting the Second National Sampling Survey on Disability" [guobanfa (2004) 73], 30 September 2004. <http://www.fujian.gov.cn: 8080/gazette>.

16. Article 45 also establishes that "the state and society help make arrangements for the work, livelihood and education of the blind, deaf-mute and other handicapped citizens," *Constitution of People's Republic of China* (promulgated in 1982 and amended in 1988, 1993, 1999 and 2004), see a working English version at <http://www.constitution.org/cons/china.txt>.

Marriage Law, the Law on the Protection of Rights of Women, the Law on the Protection on Rights of Elderly People, the Law on Inheritance, the Adoption Law, the Insurance Law, and so on.

The Law on the Protection of Disabled Persons (adopted in 1990 and enacted in 1991) is of significant importance to the protection of the rights of people with disabilities. It contains 54 articles and 9 chapters that address rehabilitation, education, employment, cultural life, welfare, access, legal liability, etc.¹⁷ More than 10 million copies in Chinese, seven ethnic minority languages, and Braille were circulated nationwide through governmental channels and the network of disabled peoples' organizations, to raise public awareness of disability and the rights of people with disabilities.¹⁸

Article 3 of the Law establishes a principle of anti-discrimination which stipulates that:

“disabled persons are entitled to enjoyment of equal rights as other citizens in political, economic, cultural and social fields, in family life and other aspects. The rights of disabled persons as citizens and their personal dignity are protected by law. Discrimination against, insult of and infringement upon disabled persons is prohibited.”¹⁹

A large part of the Law is dedicated to articulating various positive measures to accommodate the special needs of people with disabilities in all aspects of their life, including rehabilitation, education, employment and welfare.

The Law has some unique features. For example, Article 46 of Chapter 7 deals with the social environment and establishes that “the State and society shall gradually create a sound environment to improve the conditions for disabled persons to participate in social life.”²⁰ Articles 47 and 48 to promote a culture and ethic of respect for people with disabilities and concludes by declaring the third Sunday of each May as the National Day for Assisting Disabled Persons.²¹ The law also sets requirements for an accessible physical environment, i.e., accessible public roads and buildings. Accessible information and communication, such as Braille and sign language, and the right to mobility (transportation) are discussed separately in Article 38, on Cultural life, and Article 44, on Welfare.

17. *Law of the People's Republic of China on the Protection of Disabled Persons*.

18. The Law was widely publicized due to its inclusion in the “Second Legal Publicity Campaign for Five Year Plan Period,” according to “A Review on the Undertakings for Persons with Disability,” at <http://www.cdpr.org.cn/nj/b1a001/index.html>.

19. Article 3, *Law of the People's Republic of China on the Protection of Disabled Persons*, or http://www.law-lib.com/law/law_view.asp?id=562.

20. *Id.*, Article 45, *Law on the Protection of Disabled Persons*.

21. *Ibid.*

The Law establishes only general provisions for enforcement. Articles 49 through 52 list some types of rights violations and their repercussions, and make reference to applicable civil or criminal laws and administrative procedures. Article 52 states that “Whoever, by violence or other means, publicly assaults disabled persons, shall be investigated for criminal responsibility, if the circumstances are serious, in accordance with the provisions of Article 145 of the Criminal Law”²² and Articles 53 and 54 oblige governmental departments and local congresses to take concrete actions to implement the Law.

By 2003, all 30 provincial congresses had issued local disability regulations, and local authorities are now taking more initiative to produce supplementary policies. For example, in western China’s Yunan Province, there are By-laws on Implementation of the Law on the Protection of Disabled Persons that the provincial congress adopted in 1995. The local government in Yunan province also issued Regulations on Preferential Treatments for Disabled Persons in Yunan Province on 14 June 2001, which grants additional supplementary preferential policies for people with disabilities.”²³

International Protections

China is party to some 20 international human rights treaties. In 1987, it was one of several countries that launched the Asian and Pacific Decade of Disabled Persons, and has supported and implemented the current second Decade and its policy guidelines, the Biwako Millennium Framework. China actively supports the United Nations Standard Rules on Equalization of Opportunities for Persons with Disabilities, and the ongoing UN efforts to draft an international convention on the rights of people with disabilities.²⁴ It also has ratified ILO Convention 159 Concerning Vocational Training and Employment (Disabled Persons).

22. Article 145 of the *Criminal Law* states that perpetrators of the above-mentioned public insults of other persons “shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights.”

23. For instance, Article 17 stipulates that “disabled persons may visit free of charge to museums, palaces of sciences and technology, arts galleries, exhibition palaces, sports stadiums, cultural centers, libraries, public parks, zoos and scenic spots, on a certificate of disabled person...” See Articles 17 & 18, *Regulations on Preferential Treatments for Disabled Persons in Yunan Province* (adopted on 14 June 2001 and enacted on 1 February 2002), see <http://www.cdpf.org.cn/zhengce/df-009.htm>.

24. China took a number of initiatives including, for instance, organizing the World Disability NGO Summit (Beijing, March 2000) and the China/UN ESCAP Asian and Pacific Regional Meeting on International Convention (November 2003) to call on support for the international and regional efforts for drafting an international convention on rights or persons with disabilities. For details, see <http://www.worldenable.net/beijing2003/>.

Legal Barriers

Although extensive disability legislation exists, more legislative effort is needed to enhance legal protections for people with disabilities. The Law on the Protection of Disabled Persons is of historical importance, yet its enforceability has received increasing attention and criticism in recent years.²⁵

Critics point out that there is uncertainty of what applicable rights individuals with disabilities may enjoy. Some provisions fail to establish protection for individuals in plain language and therefore may require further elaboration or interpretation. For example, though the Law states “discrimination against, insult of and infringement upon disabled persons shall be prohibited,”²⁶ it is not clear what type of act or non-act constitutes discrimination against or violation of the rights of people with disabilities. Likewise, although the current provisions establish some general principles on penalties for violation, they do not clearly define what recourse and remedies may be available for a victim of discrimination or rights violation. Moreover, the extent of enforcement of the Law often relies on local initiatives, which vary from place to place.

The government is reportedly taking actions to review its disability legislation and policies, including the Law on the Protection of Disabled Persons, and continuing its efforts to formulate more specific regulations on the promotion of rights enshrined in the Constitution.²⁷

Civic Participation

People with disabilities as a group are exhibiting increased political awareness and participation. In 2003, more than 3,200 people with various types of disabilities and their relatives were elected as deputies of the National People's Congress and local People's Congresses and as members of the National People's Political Consultative Conference and its local bodies above county levels. This inclusion increases the voice and influence of people with disabilities in national legislative and policy-making processes.²⁸

25. “The Law on Protection of Disabled Persons is more like a programme of action without too much binding power,” Ms. Liu Cuixiao stated in her paper, “Rights Protection of Disabled Persons in China: Current Situation and Problems,” see www.iolaw.org.cn.

26. Article 3, *Law on the Protection of Disabled Persons*.

27. For example, in order to further specify people with disabilities' right to work, the Ministry of Labour and Social Security is considering formulation of *Regulations on Employment for Disabled Persons*.

28. Zhong Canyon, “Human Rights Protection and The Work for Persons with Disabilities in China-Study and Implement the Constitutions” (Beijing, People's Daily, 29 Apr 2004), see http://www.ccyi.org.cn/study_think/file/xyysk20040429.htm.

Despite significant progress, however, many challenges and difficulties remain. Due to lack of awareness and resources, accessibility is uneven among regions; it has progressed rapidly in big cities, but needs further promotion in the countryside and in small towns. Although architectural and communication barriers have been substantially reduced in major cities, they are still prevalent. There are no statistical data on how many polling booths are accessible, and the high illiteracy rate among adults with disabilities remains a real barrier to civic participation. The Election Law therefore stipulates that “a voter, who is not capable to produce a voting card due to his or her illiteracy or disabilities, may assign someone else he or she entrust, to produce the voting cards on his or her behalf.”²⁹

Another considerable challenge that millions of people with disabilities face is overcoming economic hardship and achieving adequate living conditions. Though ten million people with disabilities have successfully overcome poverty through inclusive development and poverty alleviation programs in the last 10 or so years, further inclusion of people with disabilities, through national and local actions and programs, and in particular, economic and social development programs that specifically target people with disabilities living in poverty, is still one of the top priorities of the government and NGOs.³⁰

Inclusion

Communication

Articles 37, 38 and 45 of the Law on the Protection of Disabled Persons guarantee access to information and communication for people with disabilities. In accordance with the Law,³¹ the government has included goals for accessible information and communication in the latest national development program.³² Progress has been uneven, but the situation in coastal regions and major cities is encouraging. For example, in Shanghai, most local TV programs are broadcast in alternative formats, i.e., with subtitles or in sign language. In contrast, in many other parts of the country, accessible communication is still a new and underdeveloped concept and should be promoted further.

29. Paragraph 2, Article 36, *Law on Election of the National People's Congress and Local People's Congresses* (adopted in 1979, amended in 1982, 1986 and 1995).

30. Yutaka Takamine, “Poverty Reduction Program for Persons with Disabilities in China,” in *Disability Issues in East Asia: Review and Way Forward* (World Bank, July 2003), 34.

31. “Organize and support the compilation, writing and publication of Braille books, talking books for blind persons and reading materials for deaf and mentally retarded persons, offer TV programmes in sign language and put in subtitles or narrations in movies and TV programmes.” Article 38, *Law on the Protection of Disabled Persons*.

32. Under one of 16 major targeted areas and measures to “actively promote the work of accessibility,” the *Tenth Five-Year Work Plan on Disability*, which was approved and issued by the State Council on 10 April 2001 [guofa (2001) 7], requires the development of accessible information and communication, including subtitled news, films and TV programs, promotion of sign languages and appropriate technologies for deaf and blind people.

A standardized Chinese sign language has been developed to facilitate communication among people with hearing impairments. For people with visual impairments, the China Braille Publishing House and other publishers produce Braille and audio reading materials, including Braille versions of China's Constitution and other major laws.³³ There is a Braille Library in Beijing, and similar facilities are available in other regions. However, due to limited resources, there is still a large gap between supply and demand. Braille and talking materials are often available only in libraries and activities centers in major cities and towns.

In October 2004, the government, civil society, and disabled peoples' organizations sponsored an Information Accessibility Seminar attended by delegates and experts from the Ministry of Information Industry, the Ministry of Sciences and Technology, the China Disabled Persons' Federation, the China Blind Association, and more than 30 media and about 20 locally and internationally renowned corporations, such as Microsoft, IBM, Nokia, Motorola, Siemens and SONY. Participants discussed how to create an accessible information environment for people with sensory disabilities through legislation and the use of accessible technologies such as programming, web design, and communication format adaptation.

In economically developed regions, there are a number of newspapers that are popular among the disability community and are run by and for people with disabilities, such as the Chinese Times in Beijing. There are also some disability-specific journals and newsletters that enjoy local and national audiences, such as China Disability, a monthly magazine. Blind People in China, another monthly magazine, is printed in Braille, tailored to the blind, and circulated nationwide. By law, reading materials for the blind may be shipped free of charge through the public mail system.³⁴

The Criminal Procedure Law requires that personal and/or legal assistance, including sign language services, be provided to people with disabilities in cases of emergency, and in legal circumstances, such as court or public hearings.³⁵ These services are available, but sometimes are not sufficient to meet demand.

Due to the advocacy and promotional activities of disabled peoples' organizations, efforts have been made, in recent years, to develop high-tech devices that accommodate the needs of people with disabilities. User-friendly pagers, mobile phones and internet-based communication technologies and services have been developed for people who are blind or deaf.³⁶ There are also websites such as

33. Useful information can be found at the website of the China Braille Publishing House: www.cn-bp.com.

34. Article 44, *Law on the Protection of Disabled Persons*.

35. Article 34, *Law of People's Republic of China on Criminal Procedure*.

36. Sunshine Chinese computer-screen reader software was developed and is already used by many blind users in cities like Beijing and Shanghai, and has also benefited some overseas Chinese-speaking blind people. For details, see a report at <http://www.cn-bp.com/software>.

Chinese Deaf Online that have become popular among deaf youth.³⁷ However, these new services are rather expensive and so far have benefited only small groups of young people with disabilities living in cities. Many people with sensory difficulties still face communication barriers.

Education

Article 18 of the Law on Protection of Disabled Persons establishes that “the State guarantees the right to education for disabled persons... and provide[s] compulsory education for children and youth with disabilities... and the State charges no tuition for those disabled students receiving compulsory education.”³⁸ Some laws, such as the Law of Education, the Law of Vocational Education, and the Law of Higher Education, contain special provisions for people with disabilities. For example, the Law of Education stipulates that “the State supports and develops the undertaking of education for persons with disabilities,” and that “the State, society, schools and other educational institutes shall provide education to persons with disabilities according to their physical and psychological characters and needs and give them assistance and convenience.”³⁹ The Regulation on Education of Disabled Persons also promotes education for people with disabilities.⁴⁰

A mixed system of integrated education and special education has increased the educational opportunities of people with disabilities. The China Disabled Persons' Federation reported that in 2000 the overall enrollment rate of school-aged students who were deaf, blind, or intellectually impaired was about 77%,⁴¹ which was lower than the national enrollment average of school-aged children without disabilities.⁴² In 2003, there were still 323,000 school-aged children with disabilities that did not have any access to education, due to such factors as family poverty.⁴³ Through the initiatives of “Project Hope” and “Spring Drizzle,” there are efforts being made to help children who have dropped out, including boys and girls with disabilities, to return to school.⁴⁴

37. There are many websites by and for deaf persons, e.g. the website of Chinese Deaf at <http://www.cndeaf.com>.

38. Article 18, *Law on the Protection of Disabled Persons*.

39. Paragraph 3, Article 10, and Article 38, *Law of People's Republic of China on Education*, 1995. See http://www.law-lib.com/law/law_view.asp?id=11220.

40. *Regulations on Education of Disabled Persons*, promulgated as State Council Decree 161, on August 13 1994. See a Chinese version at the Ministry of Education website: <http://www.moe.edu.cn/jyfg/laws/cjr.htm>.

41. “Situation of education for disabled persons,” Page 5, “Implementation Outcome of the Ninth Five-Year Work Programme on Disabilities (1996-2000),” an internal report by the CDPF, Beijing, April 2001.

42. The national average enrollment rate of primary-school-aged children was 99.1% in 2000, *China Statistical Yearbook 2004* (Beijing, China Statistics Press, 2004), 724.

43. “Basic information of people with disabilities,” *China Statistical Yearbook 2003*.

44. “Right to Education,” pages 22-23, *Spring Breezes* (monthly), Beijing, ISSN 1003-109 Issue No.1, 2005.

Special education is available primarily for learners who are blind, deaf or have severe intellectual disabilities, although some such students have the option of studying in the mainstream system.⁴⁵ According to the Ministry of Education, in 2003 there were 1,551 registered special schools that enrolled 365,000 students with disabilities.⁴⁶ Mainstream institutions also accept people with disabilities. Overall, 66.23% of students with special learning needs were studying in mainstream schools or/and classes affiliated with mainstream schools.⁴⁷

According to the Law on Higher Education,⁴⁸ no institution may discriminate or reject any student on the basis of his or her disability. Yet, until recently, students with disabilities still experienced implicit barriers such as the physical examination requirements of some universities. Such requirements were recently lifted by the Ministry of Education in order to give effect to equal educational opportunities for students with disabilities. In 2003, there were 3,072 disabled students enrolled in universities and 827 at special higher institutions.⁴⁹ The lack of accessible conditions and reasonable accommodations on campuses remains a barrier for people with disabilities. However, in the case of Wang Wei vs. Henan Pingdingshan City Finance and Trade Institute,⁵⁰ the judge ruled that eligible student candidates like Mr. Wang, who has polio, could not be rejected by the Institute on such grounds as a lack of accessible computer labs. The ruling declared it the responsibility of the relevant institution, to the best of their ability, to provide people with disabilities equal opportunities for and access to education.

45. A substantial number of physically disabled and some intellectually disabled students may not have been counted by the authorities as disabled students, since they normally study in mainstream schools.

46. Compared to figures from 1990, when there were 746 special schools and 72,000 students. Table 75. "Basic Information on Education," in *China Development Report 2004* (Beijing, China Statistics Press, 2004), 338.

47. "China's Education and technology development in 2003," *China Development Report 2004*. However, a different source reported that in 2003, there were 1,655 special schools and 3,154 special classes affiliated with mainstream schools with 577,000 enrolled students with visual, hearing and intellectual impairments, *Statistics Report of the Development of the Undertakings for Disabled Persons in China in 2003* [canliangfa (2004) 10]. See <http://www.cdpf.org.cn/shiye/sj-03.htm>.

48. "Higher educational institutions must accept the enrollment of disabled students accorded with entrance standards set by the State and shall not refuse them based on their disability." Paragraph 3, Article 9, *Law of People's Republic of China on Higher Education* (promulgated in 1998 and enacted in 1999), see http://www.law-lib.com/law/law_view.asp?id=412.

49. *China Development Report 2004*, 158. According to another report, 93.93% of eligible disabled students were accepted by and enrolled in universities from 1996 to 2000. See page 47, *Statistics Yearbook on the Undertakings of People with Disabilities in China 2004*, an internal report by the CDPF Information Center, Beijing, 2004.

50. Zhen Guishen and others, *A Handbook of the Rights-Protection Laws on Disabled Persons*, (Beijing, China Procurator Press, ISBN 7-80086-926-1, Beijing (2002), 489.

Employment

Approximately 83.9 % of people with disabilities were employed in 2003,⁵¹ which was likely lower than that of other groups. In the same year, the registered employment rate of the general public in urban areas was 95.7%. Statistics showed that in 2002, some 3,020,000 people with disabilities in urban areas and 17,178,000 in rural areas were employed, while the unemployed populations of people with disabilities in urban and rural areas were 1,032,000 and 3,337,300 respectively.⁵² Compared to the figures from 1987,⁵³ when only 50.19% of people with disabilities in urban areas and 60.55% in rural areas were employed, the situation has improved greatly.

In China, the right to work is guaranteed by the Law on the Protection of Disabled Persons,⁵⁴ which states that “no discrimination shall be practiced against disabled persons in employment, engagement, status regularization, promotion, determining technical or professional titles, payroll for labor, welfare, labor insurance or in other aspects,”⁵⁵ and by other by-laws and policies. Correspondingly, even state-run welfare enterprises should not deny people with disabilities employment.⁵⁶

The government has established a quota system⁵⁷ that requires all public and private employers in all localities to reserve at least 1.5% of job opportunities for persons with disabilities, in accordance with the regulations established by local provincial governments.⁵⁸ Those who fail to meet the required quota must pay a fee to the Disabled Persons' Employment Security Fund, which supports vocational training and job-placement services for people with disabilities. The taxation authorities and disabled peoples' organizations are involved in the local monitoring process.

51. “Employment and social security of disabled people” in *China Development Report 2004*, 159; and “White-paper on Employment and Relevant Policy in China,” by State Council News Office (April 26 2004), see http://news.xinhuanet.com/zhengfu/2004-04/26/content_1440127.htm.

52. See Table 22-41, “Basic Information of People with Disabilities,” *China Statistical Yearbook 2003*, 850.

53. According to officially released data based on the 1987 National Sampling Survey on Disability, the employment rate of people with disabilities in 1987 was 50.19% in cities and 60.55% in rural areas. Legal Affairs Committee of the National People's Congress, “A Legislative Report on the Law of the People's Republic of China on the Protection of Disabled Persons,” (Beijing, Huaxia Publishing House, 1992), 96.

54. Article 27, *Law on the Protection of Disabled Persons*, 17.

55. Id., Article 34, *Law on the Protection of Disabled Persons*, 21-22.

56. According to the Ministry of Civil Affairs, in 2002, a total of 682,840 people with disabilities were employed by 35,758 welfare enterprises. See “Basic Statistics on Social Welfare Enterprises” in *China Statistical Yearbook 2003*, 839. However, in 2003, approximately 1,091,000 people with disabilities were employed by welfare enterprises, according to a different set of data provided by the CDPF in its report, *Statistic Report of the Development of the Undertakings for Disabled Persons in China in 2003*. See <http://www.cdpf.org.cn/shiye/sj-03.htm>.

57. By 2003, the quota policy was practiced by 1,519 counties and 640 cities throughout all 31 provinces. See <http://www.cdpf.org.cn/shiye/sj-03.htm>.

58. *Law on the Protection of Disabled Persons* establishes that a specific quota or ratio may be determined by local provincial governments, but in practice the quota is no less than 1.5%.

Through initiatives such as tax incentives and financial, technical and other resource assistance, the government supports welfare enterprises that recruit employees with disabilities and encourages people with disabilities to engage in self-employment.⁵⁹

In addition, the State promotes and provides vocational education and training for people with disabilities to enhance the employment prospects and opportunities of people with disabilities.⁶⁰ In 2003, there were more than 3,000 employment service centers and vocational institutes that provided training or support for more than 490,000 people with disabilities throughout the country, including those in rural areas.⁶¹ These centers were established with financial support from the government and local communities, and provide services ranging from practical job-oriented vocational training (including IT, sewing, and domestic animal raising skills) to employment matching and consultation for people with disabilities seeking jobs.

Health Services

China's health care system is currently undergoing tremendous transition, as the previous system of "medical care at public expense" is being gradually replaced by a moderately market-oriented "social basic medical insurance"⁶² system based on financial responsibility that is shared jointly by individuals, their employers, and the State. With this new system as a general background, people with disabilities access health services on an equal basis with others,⁶³ though appropriate services, especially rehabilitation services, might not always be available.

59. Article 31, 32 and 33, *Law on the Protection of Disabled Persons*.

60. For example, Article 7 stipulates "The State takes measures to ...support the development of vocational education for persons with disabilities." Article 15 states that "all kinds of vocational educational schools and training providers shall accept disabled students in line with relevant provisions of the state." Article 32 further requires that these schools and training providers "...grant fees exemption or reduction for students in economic difficulties and those with disabilities, based on their situation." See *Law of the People's Republic of China on Vocational Education* (enacted in September 1996), http://www.law-lib.com/law/law_view.asp?id=3636.

61. *China Development Report, 2004*, 158; "Basic Information of People with Disabilities," *China Statistical Yearbook 2003*.

62. According to "State Council Decree on Establishment a System of Basic Medical Insurance for Employed Workers in Urban Area" [Guofa (1998)44]" and "State Council General Office Notification on Establishment of a New Cooperative Medical Care in Rural Areas" [Guobanfa (2003)3], under the new medical care policy, health services shall be provided in line with the principle of shared financial responsibilities with payment from concerned individual beneficiaries, their employers and the State.

63. There is no statistical data on how many people with disabilities enjoy health and medical care. Although employed people used to and may still enjoy medical care at public expenses, currently more tend to buy basic private medical insurance. In 1994, only 374,600 employed workers and 25,700 retirees were covered by basic private medical insurance, while in 2002 and 2003, the amounts rocketed up to 94,000,000 and 109,020,000. This is also the case for people with disabilities. See Table 22-36 "Historic Figures of Unemployment Insurance and Basic Medical Insurance," *China Statistical Yearbook 2004*, 844, and "Information on cultural, health and sports," *China Development Report 2004*, 341.

The Law on the Protection of Disabled Persons, however, assigns great importance to rehabilitation,⁶⁴ and the government has included rehabilitation in four national economic and social development programs. The government has developed and supported rehabilitation programs that aim to mainstream and facilitate the participation of people with disabilities in society. These programs include sight-restoring cataract surgery, low-vision training, speech training for hearing-impaired children, corrective surgery for people with physical disabilities, and provision and installation of assistive devices. From 1996 to 2000, about 4.33 million people with disabilities throughout the country received rehabilitation services.⁶⁵ Services were delivered through key rehabilitation centers as well as Community Based Rehabilitation (CBR) initiatives. CBR aims to improve the physical functioning and independent living skills of people with disabilities in order to facilitate their participation in social life and their communities and is an important and foundational part of rehabilitation efforts in China. According to the ongoing "National Programme on Disability in Tenth Five-Year Plan Period," some 5.1 million people with disabilities will receive rehabilitation services delivered through the joint efforts of governments and communities from 2001 to 2005.⁶⁶

In response to the many people with disabilities, especially in poverty-stricken rural regions, who could not afford rehabilitation services, the government and NGOs collaborated on the projects "Rehabilitation for All among Leprosy-disabled Persons" and "Helping the Hearing-Impaired by Donating Hearing-Aids," which have helped over one million people. With support from commercial banks, the government also established a project called "Rehabilitation for Poverty Reduction among Persons with Disabilities." In the 5-year period from 1996 to 2000, the project received 2,210,148,000 RMB yuan of earmarked funds to help people with disabilities living in poverty. For 2003, 650 million RMB Yuan were earmarked for the project.⁶⁷

Housing

Although the Constitution establishes that "all citizens ... have the right to material assistance from the state and society when they are old, ill or disabled,"⁶⁸ no separate legal instrument specifically addresses the issue of housing for people with disabilities.

64. "Rehabilitation," *Law on the Protection of Disabled Persons*.

65. The CDPF system currently runs a nationwide rehabilitation network that in 2003 had more than 15,008 centers and posts. Rehabilitation services are also delivered by other care providers, especially public health care givers, although there were no data available on those services. For yearly CDPF-provided services, see *China Statistical Yearbook 2004*, 850.

66. "Notices on Implementation of the Tenth Five-Year Programme on Disability (2001-2005)" [Guofa (2001)7].

67. "Situation of the Undertakings for Disabled Persons," *China Development Report 2004*, 49 and 158-159.

68. Article 45, *Constitution of the People's Republic of China* (promulgated in 1982 and amended in 1988, 1993, 1999 and 2004).

In general, people with disabilities have the right to housing on an equal basis with others. Most people with disabilities are believed to live with their families and care-givers, as families usually play an important role in caring for and supporting members with disabilities. Some may own their own homes and others are entitled to equal access to public housing programs, such as the Affordable Housing Program and the Comfort Housing Program, most people with disabilities are believed to live with their families and care-givers, as families usually play an important role in caring for and supporting members with disabilities.

About 10 million, or approximately 17%, of people with disabilities remain living in poverty,⁶⁹ mostly in remote rural areas. Approximately 140,000 families with members with a disability do not have suitable housing, and another 60,000 families live in housing with poor-conditions that urgently need renovation. In response to this situation, the government is currently working with local partners on a program called "Helping Poor Disabled Persons in Renovating Housing." The project receives funds from the central government, local governments, and other sources, while disabled peoples' organizations and local communities contribute technical assistance and manpower to disabled peoples' households in need. The program began in 2003 and has benefited many people with disabilities.⁷⁰

Institutionalization

Family and community-based provision of care for people with disabilities is a tradition in China.⁷¹ The Ministry of Civil Affairs supervises welfare institutions /homes and other similar care-giving centers designed for disabled veterans, abandoned orphans, the elderly, and others who cannot live independently, including people with disabilities. Most of these institutions are financed and managed by the State, although some are run by collective units and, more recently, by private entities.

In 2002, there were 39,061 social welfare institutions that accepted 955,526 people,⁷² of whom approximately 440,000 were people with disabilities.⁷³ Most

69. "Helping the Poor and Relieving Those In Need to Building a Well-off Society For All- national conference on poverty-reduction among disabled persons convened," page 8-9, *Disability in China* (monthly) ISSN1003-1081, Issue No.11, Nov. 2004.

70. *Ibid.*

71. For example, Ms. Gloria Liu said in her paper, "Chinese Culture and Disability," that "...in China, people with mental illness are commonly cared for by their families and/or depend on community support rather than institutional care," (New York, Center for International Rehabilitation Research Information and Exchange, 2001), see http://cirrie.buffalo.edu/china.html#_Toc518185209.

72. "Basic Statistics on Social Welfare Institution 2002," *China Statistical Yearbook 2004*, 838.

73. "Rights Protection of Persons with Disabilities," from "White-paper on Progress of the Undertakings for Human Rights in China" (2003), State Council Press Office (March 30, 2004, Beijing), see http://news.xinhuanet.com/newscenter/2004-03/30/content_1391263.htm.

social welfare institutions and homes accept a variety of people, including the retired elderly, people with disabilities, and orphans. There are no data on how many institutions exist exclusively for people with disabilities.⁷⁴

The Law on the Protection of Disabled Persons stipulates that individuals without working capabilities, legal guardians, or financial income, shall be cared for by the State and society and may be accepted by State-run welfare institutions/homes or care centers.⁷⁵ In general, services for people in need are inadequate. Although private institutions provide an increasing number of services, they normally charge a fee that most people with disabilities cannot afford. Meanwhile, as the entire social welfare system transitions towards a market-based approach, the number of welfare institutions for targeted groups, including people with disabilities, seems to be decreasing, and official reports indicate that the number of state-run welfare institutions has decreased in recent years.⁷⁶

The Ministry of Civil Affairs is a key governmental department in charge of administrating affairs related to welfare institutions. Currently, there are no statistical data on abuse or violence committed against people with disabilities living in institutions. Occasionally, the mass media reports on incidences of maltreatment or medical accidents and the punishment received by their perpetrators.

Accessibility

Both the government and organizations of people with disabilities recognize the importance of accessibility to the full inclusion and participation of people with disabilities. As required by the Law on Protection of Disabled Persons and other policies, the State and society should take positive actions to promote and build accessible physical, information and communication environments.⁷⁷

The Codes for Design on Accessibility of Urban Roads and Buildings (JGJ 50-2001) are the most influential national accessibility policy.⁷⁸ The Codes were issued by the Ministry of Construction in June 2001 and were formulated based

74. *Ibid.*

75. Article 41 states "the State and society shall foster and provide relief, in accordance with relevant regulations, for disabled persons without work capabilities, legal fosters or financial resources," and Article 43 adds that "People's governments at various levels and the society shall establish welfare centers and other placement and foster institutions, settle and foster disabled persons in accordance with relevant regulations and gradually improve their living standards," *Law on the Protection of Disabled Persons*.

76. The number of "social welfare institutions" was reported as 38,785 in 2001 and dropped to 38,200 in 2002. *China Statistical Yearbook 2004*, 837.

77. Paragraph 4, Chapter 1, UN ESCAP "Guidelines on Building Barrier-free Physical Environment for Persons with Disabilities," United Nations ESCAP, New York, UN, 1995.

78. "Codes for Design on Accessibility of Urban Roads and Buildings (JGJ 50-2001)," by the Ministry of Construction and others, China Building Industry Publishing House, CSBN 15112.10264, Beijing, 2001. For a Chinese version, see <http://www.shucm.sh.cn/home/ztwork/wzashs/view/001.asp>.

on a document issued in 1988.⁷⁹ The Codes apply to all urban roads, built environments, and relevant facilities for public usage, residence, office space, business, services, cultural activities, education, sports activities and workplaces, both newly built and renovated. Most of the codes (24) are now compulsory.⁸⁰ The Codes are supported by the Law on the Protection of Disabled Persons, which requires that the government gradually take barrier-free measures to realize the Codes.⁸¹

There has been progress in improving accessibility, though implementation has not been satisfactory in all regions. Problems include limited awareness of accessibility needs, shortage of technical and financial resources, and the relative lack of local economic and social development in many regions. Although large cities such as Beijing, Shanghai, Tianjin, Guangzhou, Shenzhen, Shenyang, and Qingdao have made the most progress, 133 other cities and provinces have established government task forces to promote accessible construction and 147 cities have adopted local implementation regulations.⁸² Some regions, including Beijing, have even promulgated local by-laws on accessibility.⁸³ However, accessible environments and facilities remain unavailable in many localities, prompting the government to call for more action in small towns and rural areas, to progressively improve accessibility.⁸⁴

The accessibility of inner-city transportation has improved rather quickly in big cities. For example, an accessible bus line began operation in Beijing in November 2004 and city authorities promised more accessible bus and subway lines in coming years.⁸⁵ Likewise, in southern China's Shenzhen city, the newly constructed subway system that began operation in the end of 2004 is completely accessible.⁸⁶ Most major airports are now accessible, and the Ministry of Railways is developing new by-laws on accessibility for railway areas.

79. "The Design Code for the Accessibility of People with Disabilities to Urban Roads and Buildings (JGJ50-88)" was issued by the Ministry of Construction in September 1988 as a trial professional standard. See "Design Code for the Accessibility of People with Disabilities To Urban Roads and Buildings," ISBN7-80053-445-6/T003, Huaxia Publishing House, Beijing (1992).

80. See 1.0.2 and 1.0.3, "Codes for Design on Accessibility of Urban Roads and Buildings (JGJ 50-2001)."

81. Article 46 stipulates that, "the State and society shall gradually regularize the Design Codes for the Accessibility of Disabled Persons to Urban Roads and Buildings and adopt barrier-free measures," *Law on the Protection of Disabled Persons*.

82. *Statistic Report of the Development of the Undertakings for Disabled Persons in China in 2003* [canliangfa (2004)100]. See <http://www.cdpf.org.cn/shiye/sj-03.htm>.

83. Yuan Zhujun, "Beijing will have the first law on accessibility by end of the year," *Beijing Youth Daily*, 25 Jan. 2003.

84. "Accessibility Construction," Part 3, "Work Program for Disabled Persons during the 10th Five-year Plan Period (2001-2005)" an official decree by the State Council [Guafa (2001)] No.7 issued on 10 April 2001.

85. Liu Yang, "First Accessible Bus Line Opened in Beijing," *Beijing Youth Daily*, 21 Nov. 2004, see <http://www.bdpf.org.cn/xwzxInfo.asp?id=2094>.

86. Deng Xiaoqun, "Disabled Persons Experiencing Accessible Subways," *Shenzhen Business Daily*, 4 Dec. 2004, at <http://www.hrol.org/news/info.php?id=510>.



An accessible bus line in Beijing started operation (photo: Xue Jun) Beijing Youth Daily, Beijing (Nov. 21, 2004), see <http://www.bdpf.org.cn/xwzxInfo.asp?id=2094>

Culture, Sports and Recreation

According to the Law on Protection of Disabled Persons, the needs of people with disabilities should be integrated into the mainstream cultural arena, to promote their full participation in society.⁸⁷ Public cultural facilities, such as libraries, museums, art galleries, public parks, and sports venues are open to and should make reasonable accommodations for people with disabilities.⁸⁸ Depending on the policies of local authorities, admittance to such activities may be available free of charge.⁸⁹ In some cities, there are community-based cultural and recreation facilities, although some may be used infrequently by people with disabilities due to a lack of accessible local transportation.

The China Disabled People's Performing Arts Troupe is one of 131 arts troupes of people with disabilities in the country.⁹⁰ In recent years, it has toured through dozens of cities in China and throughout the world, portraying positively and demonstrating the special arts talents of people with disabilities.⁹¹

87. "Cultural life," *Law on the Protection of Disabled Persons*.

88. By 2000, there were 266 audio-reading library corners for blind people and 1,632 recreation centers for people with disabilities, see page 51, "Statistics Yearbook on the Undertakings of People with Disabilities in China 2004," a CDPF internal report, compiled by the CDPF Information Office, Beijing (2004).

89. For example, even in economically under-developed northwestern China's Gansu Province, people with disabilities who have disability certificates may enjoy free visits to cultural and sports venues and facilities. See Article 12, *Provisional Regulations of Gansu Provincial Government Concerning Preferential Treatments for Disabled Persons* (Governor Decree No.5, Nov. 24, 1999), <http://www.gsdpf.org.cn/zcfg/yhdyzxxgd.htm>.

90. *Statistic Report of the Development of the Undertakings for Disabled Persons in China in 2003*, 10. See <http://www.cdpf.org.cn/shiye/sj-03.htm>.

91. For details of the China Disabled People's Arts Troupe, see their website: <http://www.cdppat.org.cn/>.

Every four years, there is a national sports competition for people with disabilities, which attracts thousands of athletes from every part of the country. In recent years, Chinese athletes with disabilities also have been active in the international arena, particularly in world championships such as the Paralympic Games and other international and regional sports tournaments. China also will host the upcoming 2008 Paralympic Games in Beijing,⁹² and the 2007 Special Olympic World Games in Shanghai.⁹³

Disability Action & Awareness

The State Council Coordination Committee on Disability (SCCCD) is the national coordinating body for disability policy in China. It was initially set up in the 1980s, as the China Coordination Committee for Celebrating the UN Decade of Disabled Persons. The Coordination Committee is currently chaired by a Vice Premier of the government, and has members from 36 governmental departments and ministries in the fields of health, civil affairs, education, labor, and social security, as well as a national organization of people with disabilities. The main responsibilities of the SCCCD are to formulate and monitor the implementation of key disability policies, strategies and programs; resolve major issues concerning disability; and coordinate the actions of different governmental departments.⁹⁴ The SCCCD has played a significant role in drafting disability-specific laws and policies, and in particular, the Law on the Protection of Disabled Persons and four consecutive national development programs for disability. Every five years since the 1980s, these national programs have set goals and medium-range objectives for the disability-related activities of various governmental departments and local authorities, obliging them to take positive measures and actions, such as providing rehabilitation and education services, promoting accessible conditions, and supporting access to sports, culture and artistic activities for people with disabilities. Each year, the SCCCD and its local bodies in provincial, city and county level governments throughout the country coordinate major events, such as the observance of the National Day of Assisting Disabled Persons, on the third Sunday of May.

The China Disabled Persons' Federation (CDPF) is a national umbrella organization of and for people with various types of disabilities.⁹⁵ The CDPF and

92. "Beijing Paralympic Games: a great games," <http://www.beijing-2008.org/31/41/article211634131.shtml>.

93. "Shanghai to host the next Special Olympics: Agreement Signing Ceremony Attended by Vice Premier Hui Liangyu, Shanghai Mayor Chen Liangyu and Mr. Deng Pufang," see http://www.sh.xinhuanet.com/2004-03/03/content_1716634.htm.

94. "SCCCD: its institutional structure, membership composition and main responsibilities," see <http://www.cdpf.org.cn/jigou/jg-cgw.htm>.

95. In 2003, there were 78,693 full-time staff members working at the CDPF and its local branches in 357 cities and 2,799 counties. Page 67, *Statistics Yearbook on the Undertakings of People with Disabilities in China 2004*. For more information on the CDPF, see their website: www.cdpf.org.cn (in Chinese and English).

its associated local federations are playing an important and unprecedented role in advocating and protecting the rights of people with disabilities, and participating in the development of policies that affect or concern people with disabilities. In close collaboration with other departments and civic organizations, the CDPF also provides assistive devices and rehabilitation, education, and employment services for people with disabilities. The CDPF receives financial support from the government, charitable donations, and fund-raising activities. In December 2003, Mr. Deng Pufang, Chairman of China Disabled Persons' Federation, received the United Nations Prize in the Field of Human Rights.⁹⁶

With the support of the CDPF, there are some 38,000 grassroots associations of people with disabilities that are active throughout the country, at the community and village levels, and that provide various types of practical assistance and services for citizens with disabilities in their communities.⁹⁷

96. Mr. Deng Pufang received the Award for his "outstanding contribution to the human rights in China and the world" at the UN headquarters in New York. See <http://www.un.org/News/Press/docs/2003/gasm340.doc.htm>.

97. Page 39, *Statistics Yearbook on the Undertakings of People with Disabilities in China 2004*.



India

Key Factors: Despite impressive gains in economic investment and output, fundamental concerns in India include the ongoing dispute with Pakistan over Kashmir, massive overpopulation, environmental degradation, extensive poverty, and ethnic and religious strife.¹ Although India has several laws providing comprehensive rights of people with disabilities, there still is a lack of implementation and poor monitoring mechanisms resulting in a less

inclusive environment. In addition, on 26 December 2004, an earthquake off the coast of Indonesia caused one of the largest tsunamis in the 20th century. In India, the tsunami hit hardest on the central coast of Tamil Nadu and the Andaman and Nicobar Islands and caused thousands of deaths and widespread destruction. The tsunami also resulted in an increased number of people with mental and psychological disabilities.²

Terminology

The term “people with disabilities” was first used in legislation through the enactment of the Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act of 1995 (PDA). Prior to the passage of the Act, the terminology used for people with disabilities tended to be derogatory. For example, the 1961 Conduct of Election Rules uses the terms “infirm” and “physical infirmity.” The 1992 Rehabilitation Act uses the words “handicapped,” and “mental retardation” to describe people with intellectual disabilities. The PDA continues to use the language of “mental illness.”

In the vernacular, it is common for people to use the terms “crippled” and “lame” to describe people with physical disabilities, “deaf and dumb” to describe people with hearing impairments and “mad” to describe people with mental and psychological disabilities.³

1. US Central Intelligence Agency “World Factbook” <http://www.cia.gov/cia/publications/factbook/geos/in.html>.

2. For more information please see the IDRM and the UN Special Rapporteur on “Disability and Early Tsunami Relief Efforts in India Indonesia and Thailand.”

3. Panel discussion.

Definition of Disability

In India, disability is defined according to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995, No. 1 of 1996 (PDA). According to the PDA, “person with disability” means “a person suffering from not less than forty per cent of any disability as certified by a medical authority.” The PDA identifies and defines seven categories of disability: blindness; low vision; leprosy-cured; hearing impairment; locomotor disability; intellectual disability; and mental illness. The definitions are extremely specific and medicalized. For example, the PDA states that to be considered a person who is blind, one must not possess visual acuity greater than 6/60 or 20/200 with corrective lenses, and it specifies the necessary chronic, continuing ailments that classify someone as leprosy-cured.⁴

The PDA also categorizes people with disabilities according to the degree of their disability, as mild, moderate, severe, or profound. Only those belonging to the last three categories, i.e. those with over 40% disability, are covered by the PDA. The government provides no concessions to those people with less than 40% disability. The extent and degree of disability must be determined by a medical board that consists of at least three members appointed by the central/state government, at least one of whom should be a specialist of the relevant disability.⁵ Guidelines for the evaluation and assessment of mental disabilities were developed in 2002,⁶ but the PDA's provisions do not apply to people with mental disabilities due to the challenges of establishing a mental disability of 40%. Limited protections of the health rights of people with mental disabilities are established in the Mental Health Act of 1987, which defines a “mentally ill person” as a person in need of treatment by reason of any “mental disorder” other than mental retardation.⁷

Besides the seven categories of disability outlined by the PDA, the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999 defines a person with disability in accordance with the following categories or conditions:

Section 2(j) “ ‘person with disability’ means a person suffering from any of the conditions relating to autism, cerebral palsy, mental retardation or a combination of any two or more of such conditions and includes a person suffering from severe multiple disability.”⁸

4. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, <http://socialwelfare.delhigovt.nic.in/disabilityact.htm>.

5. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996.

6. Guidelines for evaluation and assessment of mental illness and procedure for certification, Notification no. 16-18/97-NI.I dated 18 February 2002, <http://socialjustice.nic.in/disabled/mentguide.htm>.

7. Mental Health Act, 1987: <http://disabilityindia.org/mentalact.cfm>.

8. National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999: <http://www.nationaltrust.org.in/act.htm>.

The National Trust Act further defines each of the terms included in the definition as follows:⁹

- (a) “autism” means a condition of uneven skill development primarily affecting the communication and social abilities of a person, marked by repetitive and ritualistic behavior;
- (b) “cerebral palsy” means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, perinatal or infant period of development;
- (c) “mental retardation” means a condition of arrested or incomplete development of mind of a person which is specially characterized by sub-normality of intelligence;
- (d) “multiple disabilities” means a combination of two or more disabilities as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); and
- (e) “severe disability” means disability with eighty per cent or more of one or more of multiple disabilities.

In India, a disability certificate is an important means by which a disabled person can access government benefits. Disability certificates are closely linked with the definition of the disability in question¹⁰, and only individuals in possession of a medical certificate are considered eligible for government benefits. Without a disability certificate, a person with a disability cannot receive preferential school admission or special travel concessions, benefit from employment quotas, or receive any other government benefits such as pensions and loans.¹¹ India has developed specific definitions of eligibility for disability certificates. Similar to the definitions used by the PDA, these definitions include specific medical criteria for mental retardation (mild, moderate, severe and profound), visual disability, hearing impairment and locomotor disability.¹² All government departments use these definitions and guidelines in their policy documents and as the basis for extending benefits to people with disabilities.¹³

However, since the scope of a definition is restricted to a person’s medical condition, the National Human Rights Commission (NHRC) of India has proposed

9. *Ibid.*

10. Disability India Network “Definition and Certification”: <http://www.disabilityindia.org/certificate.cfm>.

11. Uma Tuli, Chief Commissioner for Persons with Disabilities, interview on 2 June 2004

12. Disability India Network “Definition and Certification.”

13. Anuradha Mohit, Special Rapporteur, Disability, National Human Rights Commission (NHRC), Interview by author 12 June 2004.

a broader definition of disability for government consideration and adoption.¹⁴ The proposal defines people with disability as:

“...those who temporarily or permanently, experience physical, intellectual or psychological impairment of varying degrees and their lives are handicapped by social, cultural, attitudinal and structural barriers, which hamper their freedom of participation, access to opportunities and enjoyment of rights on equal terms”.¹⁵

Disability Population

The second most populous country in the world, India is home to over one billion people, or 16% of the world's population. The Office of the Registrar General of India has conducted a Population Census every 10 years since its creation in 1872. From 1872 to 1931, the Census collected some useful data on physical and intellectual disabilities, but the collection of such data was discontinued after 1931.

In 1981, an attempt was made to collect information on disability for the first time after India gained its independence from the British Empire in 1947. The United Nations' declaration of 1981 as the International Year for Disabled Persons was one of the primary reasons for including questions on disability in this Census.¹⁶ However, the collection of disability information was once again discontinued in 1991, due to difficulties encountered in the 1981 Census, which were mainly concerned with defining disability. The 1981 Census included only three categories of disability: “totally crippled,” “totally blind,” and “totally dumb.” Defining “totally” proved difficult and complicated, and the definitions of disabilities were deemed too complex to be understood by either the respondents or the enumerators. Moreover, since the term “totally” was very restrictive, a large section of the population was inevitably excluded, including people with mild or moderate disabilities and people with hearing and mental disabilities.¹⁷

The Office of the Registrar General and Census Commissioner initially did not consider including a question on disability in the 2001 Census. However, a question was ultimately included after intense lobbying by various disability activists and NGOs, and a request from the Ministry of Social Justice & Empowerment.¹⁸ The

14. *Ibid.*

15. Annual Report – 2003-04, NHRC, Chapter 2.

16. UN Economic and Social Commission for Asia and the Pacific (UNESCAP) “Country Paper, India, Sources of National Disability Data” <http://www.worldenable.net/escapstats/paperindia.htm>.

17. Javed Abidi, Executive Director, National Centre for Promotion of Employment for Disabled People (NCPEDP), interview by author 14 June 2004.

18. National Centre for Promotion of Employment for Disabled People (NCPEDP) Press Release, India: Disability Advocates Win the Right to be Counted, http://www.disabilityworld.org/01-02_01/news/census.htm.

2001 Census collected information on the prevalence of five types of disabilities: visual, hearing, speech, movement, and mental. To collect the information, the Census Commissioner simplified the definitions of each disability. For example, a person with visual disability was defined as “a person who cannot see at all (has no perception of light) or has blurred vision even with the help of spectacles”. Similarly, a person with hearing disability was defined as “a person who cannot hear at all (deaf) or can hear only loud sounds.”¹⁹

To obtain better information, the Office of the Registrar General took measures to train Census Enumerators and sensitize people about disability related questions, and initiated various publicity activities.²⁰

According to the 2001 Census findings, India's disability population was 21.9 million, or 2.13% of the total population. Of the total population, 1.03% are people with visual disabilities, 0.16% are people with speech disabilities, 0.12% are people with hearing disabilities, 0.59% are people with locomotor disabilities, and 0.22% are people with mental disabilities. People with visual and mental disabilities are slightly more concentrated in urban areas, while people with speech, hearing and locomotor disabilities were reported to be somewhat more concentrated in rural areas.²¹

Among those reporting a disability, visual disabilities tend to be most common among those 0-9 years of age and those over 60. In addition, reports of speech disabilities tend to decline with respondent age while the prevalence of hearing disabilities tends to increase.²² Among those people with disabilities age 15-59, people with mental disabilities report the highest rate (53.4%) of “never married,” followed by people with speech disabilities (48.9%). The highest rate of “married” is reported by people with hearing disabilities (63.4%.) People with hearing disabilities also report the highest rate of being “widowed” (8%) and people with mental disabilities report the highest rates of “divorce” (4.1%).²³

Disability activists have expressed skepticism regarding the validity of the information collected by the 2001 Census. According to critics:

- The question on disability was question number 15, which Census Enumerators usually did not ask, since it was too far back on the list;²⁵

19. Javed Abidi; V.M. Tamhane, Census Commissioner, <http://www.cdc.gov/nchs/ppt/citygroup/tamhane.ppt>.

20. *Ibid.*

21. http://www.censusindia.net/results/C_Series/C_series_pdf/data_highlights_c20c21c23c24.pdf?

22. *Ibid.*

23. *Ibid.*

24. Census of India, 2001 Report, <http://www.censusindia.net/disability/index.html>.

25. Javed Abidi.

- Because disability is a sensitive topic, the Census Enumerators needed additional and more comprehensive training for collection of information on such a topic;²⁶
- Enumerators exhibited bias and a lack of personal interest while collecting data on disability;²⁷
- Some of the disabilities are considered stigmatized and therefore respondents did not reply to questions honestly;²⁸ and,
- Respondents' lack of awareness regarding the motivation for collecting such information led to low levels of reporting.²⁹

Besides conducting its decennial Census, the government of India conducts socio-economic sample surveys to formulate reliable estimates of requisite parameters.³⁰ The National Sample Survey Organization (NSSO), the governmental organization created to conduct socio-economic surveys, made its first attempt to collect information on the number of physically disabled people in its 15th round (July 1959 to June 1960,) its 16th round (July 1960 to June 1961,) its 24th round (July 1969 to June 1970,) and its 28th round (October 1973 to June 1974). The objective of these early enquiries was to devise estimates of the number of people in the country who had specific physical disabilities. The types of physical disability included in each round were not always the same, and the enquiries were not comprehensive, due to limitations of the survey methodology.³¹

The NSSO conducted its first comprehensive disability survey in its 36th round, during the second half of 1981, the International Year of Disabled Persons. Ten years later, it conducted a second survey on disability in its 47th round (July to December 1991.) The objective of these surveys was to collect data on the incidence and prevalence of disability in the country. The results of the 36th round survey were released in two mimeographed reports; Report No. 305, Report on the Survey of Disabled Persons, and Report No. 337, Characteristics of Disabled Persons, and those of the 47th round survey were released in Report No. 393, A Report on Disabled Persons in India.³²

In its 58th round, the NSSO conducted its third comprehensive sample survey of the disabled population (July to December 2002). The survey included persons with mental disability, visual disability, hearing disability, speech disability and

26. *Ibid.*

27. Javed Abidi, Anuradha Mohit.

28. V. M. Tamhane, Assistant Director of Census Operations, http://www.cdc.gov/nchs/about/otheract/citygroup/Tamhane_comment.htm.

29. Anuradha Mohit.

30. Improving Disability Data for Policy Use - Materials Paper from India.htm, Workshop on Improving Disability Data for Policy Use, 23-26 September 2003, Bangkok, Thailand.

31. NSSO 58th Round (July-December 2002), Report No.485 (58/26/1), Disabled Persons in India: http://mospi.nic.in/mospi_nssorept_pubn.htm.

32. *Ibid.*

locomotor disability, and gathered data on the incidence and prevalence of the different types of disability, the causes of disability, and the marital status, educational level, living arrangements, and activity status of individuals with disabilities. The random sample included 45,571 households in 4,637 villages and 24,731 households from 3,354 urban blocks.³³

According to this latest survey, the disabled population is estimated at 18.49 million, or 1.8% of the total population,³⁴ which is slightly less than the 2001 Census findings. In rural areas, 1.85% of the population has a disability, and in urban areas, 1.5% of the population has a disability. About 8.4% of rural households and 6.1% of urban households report having at least one member with a disability. In both rural and urban areas, the average size of these households is approximately 5.7, which is significantly higher than the national average.

The survey revealed that about 10.63% of people with disabilities have more than one type of disability and about 13% of people with disabilities are severely disabled or deemed unable to take care of themselves even with aids or appliances. As with the Census findings, the incidence of disability was found to be higher among males than females.³⁵

Unlike in the Census where visual disabilities predominated, the NSSO survey found locomotor disability to be the most prevalent type of disability, affecting about 1,046 in 100,000 people in rural areas and 901 in 100,000 people in urban areas. The majority of people with disabilities acquired their disability during their lifetime, with only about 69 people in 100,000 who were either born with a disability or had become disabled during the previous 365 days. About 84% of people with mental retardation and 82% of people with a speech disability were born with their disability.³⁶ The survey did not assess the prevalence of all disabilities, which has led disability organizations to question its accuracy and credibility.

The NSSO results suggest that the number of people with disabilities in the country has declined in the last 10 years. However, the substantial difference between the 2001 and 2002 findings suggests that methodological issues, rather than any real shift in population numbers, may account for any noticeable change in disability statistics.

In view of the unreliability of the existent data, and considering that the World Health Organization (WHO)'s estimates of the number of people with disabilities at 10% of the total population, for the last two decades disability activists and NGOs

33. *Ibid.*

34. The estimates have been obtained for the NSS Report No. 485 on 1st October, 2002, by applying decennial (exponential) growth rate of population for 1991–2001 on Census 2001 Population.

35. Census of 2001; NSS Report No. 485: Disabled Persons in India, July–December 2002.

36. *Ibid.*

in India have accepted a middle path, and pronounced the number of people with disabilities to be 5-6% of the total population. Since the numbers obtained through the census are unreliable, the disability population and many government agencies use this estimate when formulating policies, schemes and budgets.³⁷

Legislation & Disability Rights

National Protections

The Constitution of India, adopted in 1950, is the country's primary piece of legislation and the foundation of all national laws, rules, and policies. The Constitution embodies the basic concept of 'equality in all spheres of human activity' in its chapter on fundamental rights³⁸ and prohibits discrimination on the grounds of race, caste, sex, descent and place of birth. However, it does not explicitly mention disability as prohibited grounds for discrimination.³⁹

The Constitution grants power over each legislative issue in one of three ways: solely to Parliament; solely to state legislatures; or jointly to Parliament and state legislatures.⁴⁰ However, under article 253 of the Constitution, Parliament can enact a law regarding a subject of the State in order to comply with its international obligations.⁴¹ Article 51 of the Constitution also contains a special provision that declares that the states should "foster respect for international law and treaty obligations in the dealings of organized peoples with one another." Based on these provisions, the courts have used international conventions and norms to construe the fundamental rights expressly guaranteed in the Constitution.⁴²

Legislative initiatives on disability gained momentum in India after the United Nations Economic and the Social Commission for Asia and Pacific (UNESCAP) convened a meeting to launch the Asian and Pacific Decade of Disabled Persons, 1993-2002.⁴³ The meeting adopted the 'Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region', to which India is a signatory and for which India enacted the PDA in order to fulfill its mandate.⁴⁴ Thus, one of the most important outcomes of India's participation in the Asian

37. Javed Abidi, Anuradha Mohit.

38. National Federation of Blind, U.P. Branch and Another v/s State of U.P. and Others, 2000 AIR (All) 258.

39. S.K. Rungta, General Secretary, National Federation of the Blind, Presentation, NHRC-CHRC-IGNOU Linkage Project Workshop held in Bangalore, 11 July 2005.

40. Anuradha Mohit "Initiatives of the Government of India to Advance Asia & Pacific Decade of Disabled Persons", <http://www.disabilityworld.org/April-May2000/Governance/India.htm>.

41. *Ibid.*

42. *Ibid.*

43. The meeting was held in Beijing from 1 to 5 December, 1992.

44. Preamble, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

and Pacific Decade of Disabled Persons was the creation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995 (PDA).

In an attempt to promote preventive and promotional rehabilitation, the Act includes provisions for education, employment and vocational training, research and manpower development, aid for the creation of a barrier-free environment, rehabilitation of people with disabilities, unemployment allowances for persons with disabilities, special insurance schemes for employees with disabilities, and the construction of homes for people with severe disabilities.⁴⁵

The Act also establishes a Central Coordination Committee and State Coordination Committees to facilitate the continuous evolution of a comprehensive policy to address and resolve the difficulties encountered by people with disabilities. The Central Coordination Committee serves as the National focal point on disability matters while the State Coordination Committee serves as the State focal point.⁴⁶

A central Chief Commissioner and State Commissioners for people with disabilities were established to monitor the implementation of the PDA's provisions and oversee utilization of the budget allocated to each department head. Although these quasi-judicial bodies are vested with the powers of a civil court, since the Act limits their powers, many of their recommendations are not strictly followed by the governments, and poor implementation results.⁴⁷ The low level of awareness of the Act also has resulted in slow implementation of its provisions.⁴⁸

Other pieces of disability specific legislation complement the PDA. The Rehabilitation Council of India Act of 1992 was enacted to regulate the training of professionals in the field of education for people with special needs. Additionally, in 1999, the government passed the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, No. 44 of 1999.⁴⁹ The Trust provides legal advice on guardianship issues and assists in the establishment of organizations through capacity building efforts, management and resource training, and monitoring and evaluation. The Trust's objective is "to enable and empower people with disability to live as independently and as fully as possible within or close to the community," and strengthen the facilities that

45. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

46. *Ibid.*

47. Desk Officer, Office of Chief Commissioner for Persons with Disabilities, Interview by author.

48. *Ibid.*

49. National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999: <http://disabilityindia.org/trustact.cfm>.

provide support, enabling people with disabilities to live within their own family structure. The Trust also supports registered organizations providing need-based services during periods of family crisis.⁵⁰

The Mental Health Act of 1987, which went into effect on 1 April 1993, replaced the outdated and inadequate Lunacy Acts of 1912 and 1977. It was enacted to provide better social services to people with learning disabilities, and lays down improved criteria for admission into psychiatric hospitals and psychiatric nursing homes, as well as for the custody and property management of people with mental disabilities. It also mandates the establishment and maintenance of hospitals and nursing homes for persons with intellectual disabilities.⁵¹ Due to poor implementation and weak enforcement mechanisms, the intended changes, such as improved environment and clearer guidelines on appropriate admission to institutions, have not been realized. Because of this, people with mental disabilities are still being subjected to prohibited forms of treatment without their consent, and until 1995 many of them were imprisoned. The conditions of jails and mental health institutions are far below the stipulated standards.⁵²

In addition to specific legislation, rules, and regulations for people with disabilities, there are special provisions for people with disabilities within other legislation. For example, Sections 80U and 80DD of the 1961 Income Tax Act establish exemptions for people with disabilities and their parents and legal guardians. Sections 80G and 80GGA of the same Act include provisions that allow deductions for individuals who make donations to registered trusts and groups doing work for people with disabilities. The Employees State Insurance Act (ESI Act) of 1948 provides health benefits to people employed in government agencies and public sector organizations, and includes certain provisions for employees with disabilities. Section 46 of the Act proclaims that every insured employee is entitled to receive disability benefits, provided at periodic intervals, in case of an employment injury that results in disability.⁵³ The Workmen's Compensation Act of 1923 also contains provisions pertaining to compensation and health care in case of disability or injury while at work.⁵⁴

Legislation and government agencies also provide financial support and benefits to people with disabilities. Packages containing literature for people who are blind are exempt from postage and postal fees under prescribed conditions, and special learning and mobility aids for the personal use of a person with disability are exempt from import duties.⁵⁵ The Ministry of Railways offers a 75% discount on all fares,

50. National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities: <http://www.nationaltrust.org.in/>.

51. Anuradha Mohit, NHRC International Journal of Human Rights 1st Edition.

52. *Ibid.*

53. International Labor Organization (ILO) "Employment of People with Disabilities-The Impact on Legislation, India Country Report" March 2003.

54. *Ibid.*

55. Disability India Network <http://www.disabilityindia.org/benefits.cfm>.

and a 50% discount on season tickets, for people with visual disabilities, mental retardation, or leprosy; a 75% discount on coach fares and 50% on AC class for people with locomotor disabilities; and a 50% discount on all fares for people with hearing and speech disabilities who present a valid Certificate of Disability. The concession also applies to escorts accompanying a person with disability.⁵⁶ People with visual impairments and locomotor disabilities are eligible for a 50% discount on all airlines' airfare.⁵⁷

People with visual and locomotor disability receive preferential allotments for running STD/PCO telephone facilities, and a 7.5% reservation from oil companies for being awarded retail outlet/ kerosene/L.D.O. dealership.⁵⁸ People with physical disabilities and institutions working for such persons can obtain loans from public sector banks at reduced interest rates, and under the Integrated Rural Development Programme, people with physical disabilities receive subsidies of up to Rs 5,000⁵⁹ (approximately 135.00 US dollars).⁶⁰ The National Handicapped Finance and Development Corporation (NHFDC), established in 1997, to provide financial assistance to people with disabilities, also finances self-employment ventures and assists people with disabilities to improve their technical and entrepreneurial skills to encourage effective management of their self employment ventures.⁶¹

International Protections

India is a party to the Convention on Civil and Political Rights; the International Convention on Economic, Social and Cultural Rights; the International Convention on the Rights of the Child; the Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and on the Sale of Children; Child Prostitution and Child Pornography; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All International Forms of Racial Discrimination; and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.⁶²

Of the disability-specific international instruments, India has adopted the World Programme of Action concerning Disabled Persons (1981); the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991); the Standard Rules for the Equalization of Opportunities for Persons with Disabilities (1993); and the Proclamation of the Economic and

56. National Centre for Promotion of Employment for Disabled People (NCPEDP) <http://www.ncpedp.org/access/acc-travelcon.htm>.

57. Anuradha Mohit.

58. *Ibid.*

59. *Ibid.*

60. As of June 20, 2005 1 US dollar equaled 43.58 Indian Rupees.

61. National Handicapped Finance and Development Corporation (NHFDC).

62. Office of the United Nations High Commissioner for Human Rights, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=78&Count=15&Expand=79#79>.

Social Commission for Asia and the Pacific on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region (1993).⁶³

Initially, the Indian government did not take a clear position regarding the International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities. However, the National Human Rights Commission of India played an active role in convincing the government to support the convention on disability⁶⁴ and although it has not issued a written statement on its position, the government has participated actively in the Second, Third and Fourth Ad Hoc Committee Meetings.⁶⁵

Legal Barriers

Although there are a variety of legal protections in place, some people with disabilities, particularly those with mental disabilities, continue to face legal barriers. For example, people with mental disabilities are denied the right to stand for public office, pursuant to the Representation of the People Act of 1950:

Section 102(1): "A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament (b) if he is of unsound mind and stands so declared by a competent court".

Section 191(1): "A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State (b) if he is of unsound mind and stands so declared by a competent court."⁶⁶

People with mental disabilities also face legal barriers in more private issues. India does not have a uniform civil code and each community in India has its own family law. However, in the majority of situations, people with mental disabilities or who are described as being of "unsound mind" are discriminated against in exercising their right to marry. The Hindu Marriage Act of 1955 nullifies a marriage if a spouse is of "unsound mind", and mental disabilities are also deemed a valid reason for seeking divorce. The Act, however, does not define "unsound mind," which is left for the doctors or the courts to interpret as they wish. Additionally, in accordance with Muslim law, a Muslim woman is granted the right to a divorce if her husband has been of "unsound mind" for more than two years.⁶⁷

63. Anuradha Mohit.

64. *Ibid.*

65. Aloka Guha, Chairperson, National Trust, interview by author on 1 July 2004.

66. The Representation of the People Act, 1950, Act No. 43 of 1950 dated 12th May 1950, <http://www.indialawinfo.com/bareacts/rpa.html>.

67. Amita Dhandha, Presentation, NHRC-CHRC-IGNOU Linkage Project Workshop held in Bangalore, 10 July 2005.

Until the introduction of Persons with Disabilities Act, no legislation prohibited discrimination on the grounds of disability. As a result, people with disabilities could easily be denied jobs or admission to schools and colleges on account of their disability. The situation has since improved, because some of the discriminatory practices have been challenged on the basis of the Persons with Disabilities Act. However, ingrained negative beliefs and attitudes have a strong hold and it will take many years before there is a change in society's attitude that will allow for the equal participation of people with disabilities.⁶⁸

Civic Participation

People with disabilities are legally entitled to the same rights and duties as other members of society with regards to voting, standing for elective office, freedom of association, marriage, and parental authority over their children. However, throughout national legislation, there are explicit violations of the rights of "people with unsound mind." Though the right to vote is guaranteed to people with disabilities under Article 326 of the Constitution, people with mental disabilities are disqualified from voter registration. Pursuant to the 1950 Representation of the People Act (43 of 1950),⁶⁹ Section 16(1) (b), "A person shall be disqualified for registration in an electoral roll if he (b) is of unsound mind and stands so declared by a competent court". Section 16 (2) of the Act provides that if a person is declared of "unsoundness of mind" after being registered in an electoral roll his name shall be struck off. Section 16(2) states, "the name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included."

However, the Conduct of Election Rules of 1961⁷⁰ contains special provisions to assist people with visual and physical disabilities when casting their vote. Rule 40 provides that, "the presiding officer shall permit the elector to take with him a companion of not less than eighteen years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and, if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box." Companions are only allowed to accompany one person per polling station per day and must agree to maintain the secrecy of the vote cast. The officer providing over the polling station keeps records of votes using these provisions.

Rules 49N and 49P mandate the provision of voting machines for "blind or infirm electors" to cast their votes⁷¹ and establish guidelines for managing "blind or infirm"

68. NHRC-CHRC-IGNOU Linkage Project Workshop held in Bangalore, 5-12 July 2005.

69. The Representation of the People Act, 1950, Act No. 43 of 1950 dated 12th May 1950, <http://www.indialawinfo.com/bareacts/rpa.html>.

70. Conduct of Election Rules, 1961 <http://lawmin.nic.in/ld/subord/cer1.htm>.

71. *Ibid.*

voters who claim to be a particular elector after another person has already voted as such elector.⁷²

The Rules also provide for off-site voting alternatives for electors with “blindness or physical infirmity”. Section 25 states:

- (1) If an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with declaration and the covers required by him to an officer competent to attest his signature under sub-rule (2) of Rule 24 and request the officer to record his vote and sign his declaration on his behalf.
- (2) Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign the declaration on his behalf and complete the appropriate certificate contained in Form 13A.

The Poll Worker Manuals contain rules for people with disabilities voting with indelible ink.⁷³

Although these rules exist, polling booths are not accessible to people with disabilities, who are thus largely unable to exercise their right to vote. Polling officers’ lack of sensitivity towards voters with disabilities, including people with hearing impairments, makes it more difficult for such citizens to cast their votes.⁷⁴ In the recent general elections held during March and April, 2004, noted disability activist Javed Abidi, Convener, Disabled Rights, took up this issue with the Election Commission of India, and asked the Election Commission to:

- Provide ramps in all the booths to make them accessible for voters with disabilities;
- Provide Braille numbering in the new electronic voting system to cater to the blind;
- Sensitize officials and staff in public transport to the difficulties encountered by voters with disabilities;
- Provide more written instructions outside and inside polling booths for voters who are deaf; and,
- Remove vehicle barricades, so that people with physical disabilities can take their vehicles directly to the booths.⁷⁵

72. *Ibid.*

73. Conduct of Elections Rules, 1961 Electoral Law: Section 25 dated 1999 <http://www.electionaccess.org/LR/Countries%20A-L/India.htm>.

74. Delhi Newslines, “Disabled sidelined, lose out on right to vote” 1 April 2004, <http://cities.expressindia.com/fullstory.php?newsid=80462>; National Centre for Promotion of Employment for Disabled People, “Disabled persons too want to vote”, <http://ncpedp.org/access/acc-news01.htm>; World, “India is ‘X’ factor in Nepal’s diplomacy battle” 15 March 2005.

75. Javed Abidi.

When the response of the Election Commission was not satisfactory, Abidi filed a petition with the Supreme Court of India.⁷⁶ On 19 April 2004⁷⁷ the Supreme Court issued directions to the State governments to provide wooden ramps as far as possible in all polling booths across the country for the second phase of elections, and without fail in the last two phases on May 5 and May 10. It also directed that in all future elections, beginning in September 2004, Braille labels of the names and numbers of candidates should be on all voting machines.⁷⁸ This was an expansion of the original request, which was for the provision of Braille numbers on Electronic Voting Machines.⁷⁹

People with disabilities, other than the exceptions noted earlier, have the right to stand for elections. However, their representation in the political arena, is very limited and there is no quota for them in political representation. Representation requirements are provided for people with disabilities in the formulation of disability policy, including in the Central and State Coordination Committees established under the Persons with Disabilities Act. However, these seats are not exclusively for people with disabilities, but are shared by representatives of non-governmental organizations and associations concerned with disability, who may be non-disabled people.⁸⁰

People with disabilities do have the right to raise children. Although there is no law that denies people with disabilities the right to adopt children, they are usually discriminated against when attempting to adopt, as they are not deemed capable of raising a child.⁸¹

Inclusion

Communication

The national TV news channel, Doordarshan, broadcasts the news in sign language on a weekly basis, and other channels provide closed-captioning of their news programs.⁸² However, communication for people with hearing

76. *Ibid.*

77. Disabled Rights Group vs Chief Election Commissioner, CWP No 187 of 2004 order dated April 19, 2004.

78. Although this was the original goal set by the Supreme Court, it was not achieved nor strictly followed. One of the reasons for not obtaining the goal was that it was issued only weeks prior to the elections making its implementation difficult. Disabilities organizations are optimistic and feel that access to future elections will be improved as a result of this mandate.

79. National Centre for Promotion of Employment for Disabled People, "Polling booths will now be accessible" <http://ncpedp.org/policy/pol-sucs01.htm>.

80. Amita Dhandha, Bangalore Workshop.

81. Anuradha Mohit.

82. Asian-Pacific Development Center on Disability, 2005, http://www.apcdproject.org/countryprofile/india/india_current.html.

disabilities is a major problem as there is no standard national sign language and every region has its separate variation. In the future, the National Human Rights Commission (NHRC) is planning to engage experts in the development of a standardized sign language.⁸³

Communication for people with visual disabilities is also problematic. For example, the government does not provide a Braille copy of the Constitution. The National Association for the Blind (NAB) is the main non-governmental organization for the blind. Through 18 state branches, 7 institutions, and 106 institutional members, it provides support for integrated education, Braille production talking books, and e-books through CDs and e-mails. The National Institute for the Visually Handicapped (NIVH) has a National library that provides Braille and audio materials by mail throughout India,⁸⁴ and the All India Confederation of the Blind and Blind Relief Association in Delhi also supply Braille and talking books. Although most of the Braille material and talking books are course related, these organizations also provide a few magazines, novels, and storybooks by subscription, as well as books for competitive exams. Delhi Public Library supplies novels and story books in Braille through mobile vans located in Delhi.⁸⁵

India does not have a strategy to communicate with people with disabilities in the case of a natural disaster or emergency.⁸⁶ Additionally, India does not have a national disaster plan in place and the primary responsibility for disaster management and coordination lies with the individual state or province. On 11 May 2005, the Indian government introduced a National Disaster Management Plan⁸⁷ as a direct response to the tsunami disaster, however that plan does not mention people with disabilities, despite the Indian government's goal to include at-risk populations.⁸⁸

Education

The literacy rate in India is 65.38%, 75.85% for males and 54.16% for females,⁸⁹ but it is only approximately 45% for people with disabilities. Approximately 9% of people with disabilities have completed a 'secondary and above' level of education, only 15 to 35 of every 1,000 people with disabilities have completed a vocational course, and of these, 74% to 80% have completed a non-engineering course.

83. Anuradha Mohit.

84. Veena Mehta, Counselor, NAB India Centre for Blind Women on 16 July 2004.

85. *Ibid.*

86. For more information about Natural Disasters and specifically how people with disabilities were included in the relief effort, please see the IDRM and the UN Special Rapporteur on Disability's report on Disability and the Tsunami.

87. Kamil Zaheer, Shaken by tsunami, India brings in disaster bill, Reuters News Agency.

88. United States Agency for International Development (USAID) "India Strategy 2003-2007" [//www.usaid.gov/in/LookingAhead/strategy6.htm](http://www.usaid.gov/in/LookingAhead/strategy6.htm).

89. Census of India, 2001.

Article 21A of India's Constitution establishes free and compulsory education for all children aged six to fourteen years and Article 45 of the Constitution provides for early childhood care and education for all children until they reach age six.⁹⁰ However, the first comprehensive legislation on education for children with disabilities was only implemented in 1995, with the enactment of the Persons with Disabilities Act, which specifically establishes the right to education, in a conducive and appropriate learning environment, for children with disabilities.⁹¹ The PDA requires that 3% of seats in all educational institutions be reserved for children with disabilities. In addition, the Ministry of Social Justice and Empowerment provides financial assistance to voluntary organizations to encourage the establishment of special schools for children with disabilities.⁹² Non-governmental organizations receive over 90% of the funding.⁹³

Since 1974, the government has promoted integrated education for children with disabilities. The Ministry of Education's Integrated Education for Disabled Children (IEDC) scheme seeks to integrate children with disabilities into regular schools. Schools that participate in the integrated system receive 100% financial assistance from the government for the costs related to integration which include scholarships, uniforms, books and school-related transport facilities to children with disabilities.⁹⁴

'Sarva Shiksha Abhyas' or 'Education for All,' another government initiative that focuses on the education of children with disabilities in integrated settings, identified 1,632,228 children with disabilities in 2004.⁹⁵ According to the Ministry of Social Justice and Empowerment Country Report, 755,408 children with disabilities enrolled in schools, suggesting an enrollment rate of approximately 46%.⁹⁶ The percentage of children with disabilities aged 5 to 18 enrolled in schools is higher in rural areas, where it is 47%, than in urban areas, where it is 44%. According to the Central Coordination Committee established under the PDA, there are approximately 2,500 schools that provide integrated and inclusive education or non-formal education for children with special needs, and approximately 100,000 children with special needs attend these schools.⁹⁷

90. Constitution of India, Eighty Sixth Amendment.

91. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

92. Ministry of Social Justice and Empowerment, <http://socialjustice.nic.in/disabled/welcome.htm>.

93. A. Misra "Special Education in India" Current Status and future direction." Journal of International Special Need Education" 2000.

94. Department of Education "Scheme for Integrated Education for Disabled Children" http://www.education.nic.in/htmlweb/iedc_sch_draft.htm.

95. WorldEnable, "Regional Workshop on Monitoring the Implementation of 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): India Country Report 2004" <http://www.worldenable.net/bmf2004/slideindia.htm>.

96. The IDRM was not able to verify how this number compares to the total number of children enrolled in school; *Ibid*.

97. Asian-Pacific Development Center on Disability.

Despite these efforts, integrated schools remain under-funded and under-staffed, lack appropriate resources, facilities, and materials, and are staffed by teachers that possess inadequate training and knowledge.⁹⁸ Disability organizations have expressed concern regarding the poor services that some students receive under the integrated and inclusive education program and many would prefer the continuation of special schools that may provide a better education to children with disabilities. In most of the schools running these schemes in Andaman and Nicobar, children with all types of disabilities and of different age groups are placed in a single room, as the schools lack the facilities and the infrastructure to accommodate these children.⁹⁹ Inaccessible environments are another primary barrier to children's integration into school settings.

There are approximately 37 programs that provide diplomas in special education and about three that offer a Bachelor of Education Degree.¹⁰⁰ The Rehabilitation Council of India (RCI) regulates courses on the education, training and management of people with disabilities, and has also introduced a short term course for training teachers in inclusive education.¹⁰¹ To improve the enrollment rate, retention, and achievement of learners with disabilities in general education and regular schools, 1,191,856 teachers received short-term teacher training in inclusive education in 2004.¹⁰² The Rehabilitation Council of India Act of 1992, amended in 2000, was enacted with the intention of providing minimum standards for professionals working with people with disabilities, and requires the Rehabilitation Council to approve the establishment of special education programs or teacher training programs.¹⁰³ In order to improve and ensure quality training, the RCI is attempting to streamline the syllabus, infrastructure, and staffing pattern of teacher training programs.¹⁰⁴

The Ministry of Social Justice and Empowerment¹⁰⁵ offers approximately 500 educational scholarships to people with disabilities to pursue higher education.¹⁰⁶ The scholarships are approximately equivalent to Rs.5000 per year.¹⁰⁷ However, university enrollment of students with disabilities is still very low, and according to a 2004 Disabled Peoples International (DPI) survey, only 1,635 students with

98. Japan International Cooperation Agency (JICA), Anuradha Mohit, S.K. Rungta.

99. Ealiyamma, Salvation Fellowship Trust, interview by author.

100. MINDS ESCAP "Intellectual Impairment in India: Government Policies and Legislation" presented at Millennium Symposium on Intellectual Disability, Singapore, 28 Nov-2 Dec, 2000.

101. Official from Rehabilitation Council of India (RCI) , Interview by author; Rehabilitation Council of India, <http://www.rehabcouncil.nic.in/home.html>.

102. WorldEnable.

103. *Ibid*.

104. Vijayalakshmi Myreddi and Jayanthi Narayan "Preparation of Special Education Teachers: Present Status and future trends" Asia Pacific Disability Rehabilitation Journal Vol. 10 No. 1 2000.

105. Ministry of Social Justice and Empowerment.

106. <http://www.worldenable.net/bmf2004/slidesindia.htm>.

107. Shalini Khanna, Assitant Director, NAB India Centre for Blind Women, interview by author.

disabilities were enrolled in the 119 universities that responded.¹⁰⁸ The reasons for such low enrollment numbers include inaccessible infrastructure, poor availability of resource materials, non-implementation of the 3% reservation by various educational institutes, and attitudinal barriers of society.

Employment

The Persons with Disabilities Act requires that 3% of public sector jobs be reserved for people with physical, hearing and visual disabilities. It also provides a list of jobs that have been identified for people with these disabilities. In 2004, there were 1,075 jobs for people with disabilities identified in the private sector and 1,900 in the public sector.¹⁰⁹ At present more than 40,000 people with disabilities hold government jobs. The PDA mandates that benefits be provided to private companies at which people with disabilities constitute more than 5% of the workforce. However, until now the government of India has not implemented any such benefits, and private sector employment of people with disabilities is very low.¹¹⁰

Although India has a strong legislative framework, people with disabilities are still under-employed when compared to the general public. According to the NSSO survey approximately 74% of people with disabilities are unemployed,¹¹¹ and people with mental retardation have the highest rate of unemployment of all groups of people with disabilities, at 94%. In contrast, in 2004, the estimated general unemployment rate for India was 9.2%.¹¹² Although people with disabilities are employed in many sectors, only about 0.1 million are employed in the industrial sector.¹¹³ Furthermore, according to a survey conducted by National Centre for Promotion of Employment for Disabled People in 2000, of the 100 major companies surveyed, the percentage of employees with a disability was only 0.40%, and 20 of the companies surveyed did not employ any individuals with disabilities.¹¹⁴ Approximately 37% of people with disabilities were working before the onset of their disability.

The primary factors contributing to the low employment rates of people with disabilities include inaccessible work environments, inaccessible transportation facilities, and low employer awareness of the capabilities and special needs of

108. A. Ramakrishnan "Education Remain Elusive for India's Disabled" One World South Asia 20 September 2004 <http://southasia.oneworld.net/article/view/94362/1/2117>.

109. WorldEnable.

110. S.K.Rungta.

111. NSSO. The International Labor Organization reports similar findings with 11.4 (71.3%) of 16 million people with disabilities unemployed.

112. World Factbook.

113. Japan International Cooperation Agency (JICA).

114. Redef.com "India gives Cold Shoulder to Disabled People" 25 April 2000 <http://www.rediff.com/business/2000/apr/25disabl.htm>.

people with disabilities.¹¹⁵ Attitudes also play a significant role,¹¹⁶ and although the introduction of the PDA and the many suits filed against non-compliant companies has led to some improvement in the last few years, there is a need for more awareness raising measures.

The Ministry of Labor is responsible for vocational centers and for ensuring economic opportunities for people with disabilities.¹¹⁷ The Ministry has developed a number of strategies for promoting the inclusion of people with disabilities in the workforce including development of the Apprentice Training Scheme, the District Rehabilitation Scheme, and the National Program for the Rehabilitation of Persons with Disabilities.¹¹⁸ The Ministry has also established 17 vocational rehabilitation centers (VRCs) that provide in-factory training facilities for people with disabilities living in remote areas, in order to encourage their vocational rehabilitation.¹¹⁹ There are 40 Employment Exchanges for people with disabilities in India, which have secured employment for 11,400 people with disabilities.¹²⁰ These employment exchanges provide registration for job seekers, collection of public and private sector vacancies, placement services, and guidance for small business initiatives.¹²¹ Pursuant to the PDA, people with disabilities who are registered with special employment exchange for more than two years and have not found employment are entitled to an unemployment allowance.

In 1997, the Ministry of Social Justice and Empowerment established the National Handicapped Finance and Development Corporation (NHFDC), which provides loans to self-employed individuals with 40% or more disability and an annual income less than Rs. 100,000 in urban areas, or Rs. 80,000 in rural areas.¹²² In 2004, the NHFDC provided Rs. 5806.26 lakhs (approximately 13,500 USD) in self-employment loans to 12,941 people with disabilities.¹²³

Non-governmental organizations have also played an important role in providing employment opportunities for people with disabilities. One of the largest and most active organizations is the National Centre for Promotion of Employment for Disabled People (NCPEDP), which has as one of its goals the provision of pre-vocational training, and focuses on the provision of economic opportunities to women with disabilities and people with disabilities living in rural areas.¹²⁴

115. Javed Abidi.

116. Veena Mehta.

117. International Labor Organization (ILO) "Employment of People with Disabilities-The Impact on Legislation, India Country Report" March 2003.

118. *Ibid.*

119. Japan International Cooperation Agency (JICA).

120. WorldEnable.

121. Ministry of Labor "Annual Report 2001-2002."

122. *Ibid.*

123. WorldEnable.

124. National Centre for Promotion of Employment for Disabled People (NCPEDP), <http://www.ncpedp.org/>.

Health Services

In order to provide the services mandated by various policies regarding people with mental and physical disabilities, the government has established institutes for each major area of disability. The primary goals of the Institutes are development of human resources and service-delivery program models for rehabilitation, outreach activities, and research and development.¹²⁵ The institutes provide outreach and extension services and multi-professional rehabilitation services to various areas through community awareness programs and community-based rehabilitation facilities and services, including diagnostic, fitting and rehabilitation camps,¹²⁶ and the distribution of assistive devices to people with disabilities.

The following disability related departments and agencies operate under the Ministry of Social Justice and Empowerment:

- The National Institute for Visually Handicapped;
- The National Institute for Orthopaedically Handicapped;
- The National Institute for Hearing Handicapped;
- The National Institute for Rehabilitation Research and Training;
- The Institute for Physically Handicapped;
- The National Institute for Multiple Handicapped;
- The Rehabilitation Council of India; and
- The Office of the Chief Commissioner for Persons with Disabilities¹²⁷

The Ministry of Health and Family Welfare conducts and coordinates programs for the prevention of disabilities throughout the country. These programs include tetanus immunization for expectant mothers, diphtheria toxoid immunizations for children, prophylaxis against nutritional anemia, provision of Vitamin A to prevent blindness, and nutrition education.¹²⁸ National prevention programs also include measures for early intervention.

Through a program of the Rehabilitation Council of India, doctors can receive training on prevention, early identification of disability, and referral of people with disabilities. In 2004, there were 183 institutions offering rehabilitation training,¹²⁹

125. Japan International Cooperation Agency (JICA).

126. Since many smaller cities and towns do not have permanent rehabilitation services available, often teams of experts are deployed for short periods of time to provide rehabilitation and accessibility devices.

127. The various departments are centralized but each department is located in different cities throughout the country; Ministry of Social Justice & Empowerment & Discussion with Experts. Annual Report 1999-2000, 1999.

128. Ministry of Health and Family Welfare <http://mohfw.nic.in/dofw%20website/MATERNAL%20HEALTH%20%20PROGRAMME%20%20.htm>.

129. *Ibid.*

18,422 physicians trained in early detection and intervention, 25,000 rehabilitation professionals registered by the Rehabilitation Center of India (RCI). Approximately 5,600 graduate and post-graduate professionals were pursuing degrees in rehabilitation. On average, 1,500 individuals receive B.Ed degrees in rehabilitation each year.¹³⁰ However, there is still a significant gap between the number of medical professionals available and the demand for rehabilitation services. Furthermore, doctors do not receive training for the rehabilitation of acquired disabilities, and as a result people with disabilities waste considerable years trying to find suitable rehabilitation resources.¹³¹

Although the population of people with disabilities in rural areas is greater than that in urban areas, early identification and rehabilitation services in rural areas are not able to meet the demand. Services in rural areas have been provided through a rural rehabilitation center plan started in 1985, and rehabilitation at the community level, where access was previously limited, is being promoted through Community Based Rehabilitation (CBR). India has had some form of CBR programs since the early 1980s. Programs were initially designed to provide health care to people with disabilities, but have expanded to include worker skills and education.¹³² The government also has developed a scheme called the National Programme for Rehabilitation of Persons with Disabilities (NPRPD), which provides CBR through the Gram Panchayat (GP), Block, District, and State levels.¹³³ CBR programs are mainly conducted door-to-door in rural areas where organized infrastructure is lacking and professionals visit the areas to provide services, basic education, and skill development to the local population. The RCI provides introductory CBR courses to rehabilitation professionals.¹³⁴ However, as limited resources and high illiteracy rates continue to hinder effective and sufficient service provision, new facilities, CBR promotion, and rural-centered human resource development remain necessary.¹³⁵

With regard to technical aids, there are a limited number of formal assistive-device manufacturers in India, which can provide only about 5% to 7% of demand. In 2001, the Artificial Limb Manufacturing Corporation produced more than 913,000 assistive devices and components, which were distributed to approximately 45,000 people with disabilities.¹³⁶ Informal manufacturers may fulfill an additional

130. WorldEnable.

131. Shivjeet, Head of Counselling Department, Indian Spinal Injuries Centre, Interview by author on 7th June, 2004.

132. John Paterson Community-Based Rehabilitation Workers of South India "Their Attitudes and Education" <http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0300/z13jo0307.html>.

133. Rakesh Arora, Ministry of Social Justice & Empowerment "National Programme for Rehabilitation of Persons with Disabilities-A blend of CBR and IBR."

134. Rehabilitation Council of India "Short-Term Programmes" http://www.rehabcouncil.nic.in/short_term.html.

135. Japan International Cooperation Agency (JICA).

136. Asian-Pacific Development Center on Disability.

2% to 3% of demand.¹³⁷ The government provides free aids or 50% subsidies for aids to eligible low-income people with disabilities.¹³⁸ According to the Ministry of Social Justice and Empowerment, in 2001, more than 150,000 citizens received assistive devices from the government.¹³⁹ Schools are another source for assistive aids, and in 2004 provided 191,113.¹⁴⁰

Wheelchairs, Braille readers, hearing aids, prostheses, and products manufactured by institutions of people with disabilities are exempt from excise and sales taxes and customs duties.¹⁴¹

Housing

People with disabilities receive housing loans at favorable rates and the government has introduced a public housing quota scheme to give allotment priority to people with disabilities who apply for housing. However, people with disabilities must pay the actual cost of the house and there are no provisions for accessible housing. Although people with disabilities can request a ground floor house, the design of the house is the same as all other houses.¹⁴²

The government's Indira Awas Yojana scheme, which provides free housing to people living below poverty line, reserves 3% of its funds for people with disabilities who are living below the poverty line in rural areas, including those who belong to Scheduled Castes/Tribes, are freed bonded laborers, or are non-SC/ST categories.¹⁴³ This scheme also fails to provide housing that is accessible for people with disabilities.

India does not have Independent Living Centers as there are strong family and community ties and people with disabilities are therefore rarely expected to live on their own.¹⁴⁴

Accommodation for children with disabilities is provided in special schools and vocational training centers while they receive their education. Very few hostels or other facilities exist for children with disabilities to live independently after completing their education. Some charity groups provide hostel facilities for boys

137. United Nations. "Production and Distribution Assistive Devices for People with Disabilities Part 2" 1995.

138. Asian-Pacific Development Center on Disability.

139. *Ibid.*

140. WorldEnable.

141. Asian-Pacific Development Center on Disability.

142. Shivani Gupta, architect and advocate for providing accessible infrastructure, Interview by author on 3 June 2005.

143. Indira Awas Yojana <http://kar.nic.in/raichur/iay.htm>.

144. Anuradha Mohit.

with disabilities, but these are in very poor condition.¹⁴⁵ The problem is more acute for girls with disabilities.

The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act of 1999 contains provisions for day care, respite, and residential services for people with severe disabilities, such as autism, cerebral palsy and multiple disabilities. Currently, 4718 people live in 113 institutions supported by The Trust. Since many parents of children with these disabilities are very poor and unemployed, there is high demand for such government supported institutions where parents or guardians can send their children.¹⁴⁶

Institutionalization

Currently there are 37 institutions aimed at providing comprehensive mental health care, which are run by the State governments of India.¹⁴⁷ In an attempt to survey the functioning of mental health institutions, the superintendents of these institutions organized a series of conferences and workshops, which took place in Agra (1960), Ranchi (1986), Bangalore (1988), Delhi (1995) and Bangalore (1999).¹⁴⁸

The most recent effort to assess the state of mental health institutions was made by the National Human Rights Commission in 1997. According to the project report compiled in June 1999, after visiting 33 of the 37 institutions, the Commission found that institutions were being managed and administered based on the custodial model of care, using prison-like structures with high walls, watchtowers, fenced wards, and locked cells. In almost all of the mental hospitals, a number of patients who no longer required mental counseling were still living in the institutions because their families either could not be located or were unwilling to take them back. The Commission found very little NGO and civil society group involvement in improving the conditions of mental hospitals and helping with the rehabilitation of the patients no longer requiring counseling.¹⁴⁹

Most institutions were practicing old and archaic diagnosis and treatment methods and lacked psychological, psycho-socio, and behavioral therapy facilities. Because of the absence of psychological and psycho-social facilities, violent patients were being controlled by a combination of drug therapy, physical restraint, and seclusion. The re-admission rate was found to be very high, and largely due to medication complications and lack of family support. Kitchen facilities were primitive at most

145. Shalini Khanna, Assistant Director, Centre for Blind Women, National Association for the Blind India, Interview with author 16 March 2005.

146. Aloka Guha, Chairperson, National Trust, Interview on by author 1 July, 2004.

147. NHRC Intervention in Mental Health by Chaman Lal, Special Rapporteur.

148. K. Krishnamurthy, D. Venugopal & A.K. Alimchandani "Mental Hospitals In India" <http://www.ijponline.org/indIJPAprRevArt1MentHosp.html>.

149. NHRC Intervention in Mental Health by Chaman Lal, Special Rapporteur.

places and the hygiene and sanitation services poor. Maintenance of institutions' infrastructure received little attention.¹⁵⁰

It was also reported that although the Mental Health Act had been in effect since 1987, admissions and discharges were still being governed by the archaic and inhumane provisions of the Indian Lunacy Act, 1912. The report stated that in NIMHANS (Karnataka) "some referrals from the magistracy still come under the Indian Lunacy Act." The percentage of involuntary admissions was reported to be very high and the provisions of Section 19 of the Mental Health Act, 1987, permitting admission under certain special circumstances by a relative or a friend, widely abused.¹⁵¹

The NHRC, pursuant to its mandate under Section 12 of the Protection of Human Rights Act, 1993, to visit government run mental hospitals to "study the living conditions of the inmates and make recommendations thereon," has been making recommendations for improvement of the living conditions, and monitoring the overall conditions, of these hospitals.

The atrocious conditions of many mental health institutions were further highlighted in 2002 when 25 patients with mental disabilities died in an institution when a fire broke out and they were unable to escape because they were chained to their beds. Following this incident, commonly referred to as the "Erawadi tragedy," the Supreme Court issued instructions to "the central and state government to undertake a comprehensive awareness campaign with a special rural focus to educate people as to provisions of law relating to mental health, rights of people with mental disabilities, the fact that chaining of people with mental disabilities is illegal and that patients seeking treatment should be sent to doctors and not to religious places such as temples or dargahs."¹⁵² Although due to these efforts some improvement in these mental health institutions has been observed, the overall situation is still far from satisfactory.

Accessibility

As part of the Asian and Pacific Decade of Disabled Persons, the Ministry of Health and Family Welfare and the National Coordination Committee of Disability (NCCD) are responsible for ensuring the accessibility of public facilities, places of employment, schools, and public institutions.¹⁵³

150. *Ibid.*

151. *Ibid.*

152. Amita Dhandha, Prof. NALSAR University, Author of several articles on Mental Health in India, in the NHRC-CHRC-IGNOU Linkage Project workshop in Bangalore on 9th July, 2004.

153. Anuradha Mohit "Initiatives of the Government of India to Advance Asia & Pacific Decade of Disabled Persons."

The Persons with Disabilities Act includes stipulations to encourage accessibility of new and existing public transportation and physical infrastructure; traffic signals and signs; restrooms; and hospital, health, rehabilitation and other health centers. According to the Ministry of Social Justice and Empowerment, as a result of these stipulations, 150 Indian Railways railway stations have made their facilities accessible to people with physical and visual disabilities, and the Delhi Metro system is designed to comply with accessibility standards. The Ministry of Urban Development and the Central Public Works Department have disseminated building by-laws and designs for accessibility to encourage States' adoption of accessibility standards. However, overall implementation of these standards is poor, even in newly constructed buildings and facilities. Architecture schools do not train their architects to include accessible features in their course curriculum.

The Department of Tourism has made efforts to improve the accessibility of hotels and other tourist facilities and created guidelines for hotels on the potential special needs of guests with physical disabilities. The Indian Hotel Association was very receptive to the guidelines and developed additional guidelines for lobby areas, parking, elevators, rooms, bathrooms, and emergency evacuation plans.¹⁵⁴ However, there is a lack of information and reporting on the level and progress of their implementation.

Culture, Sports and Recreation

People with disabilities participate in various athletic activities and competitions through several sports clubs and associations that promote and support such activities. In addition, the government has sponsored Indian athletes' participation in a number of international competitions. The first Petro World Cup Cricket for the Blind was held in New Delhi in 1998.¹⁵⁵

Samarthya-Yatra, a non-governmental organization, works to promote travel and tourism for people with disabilities in India. The organization has organized 29 awareness trips to historical and cultural attractions in various cities of India, "to promote travel therapy, inclusion, socialization of children with disabilities, socialization among people with disabilities, and societal and government sensitization."¹⁵⁶

154. Disability India Network, "Barrier Free Tourism for People with Disabilities" <http://www.disabilityindia.org/dept.cfm>.

155. Cricket World "Blind Cricket From Around the World" 22 October 2004 <http://www.cricketworld.com/wbcc/detail.asp?articleid=1533&sid=&menu=&sn=World%20Blind%20Cricket%20Council> (JICA).

156. Disability India Network, "Samarthya Yatra" <http://www.disabilityindia.org/barrierMore.cfm>.

In general, very few groups provide recreational opportunities for people with disabilities, and according to the National and Program Directors of Disability India, “recreational activities and entertainment receive the lowest attention in the agenda for People with Disabilities...”¹⁵⁷

Disability Action & Awareness

The Central Coordinating Committee serves as the focal point for all disability issues in India and coordinates all activities between governmental and non-governmental organizations. It works to ensure a barrier-free environment in employment, education, and other areas of life. The Committee is composed of 12 representatives from different departments of the Ministry of Welfare and, when possible, representatives of various disability groups.¹⁵⁸

Disability issues have received increasing attention and consideration since India's first Five Year Plan (1951/52-1955/56). In its 9th Five Year Plan (1997/98-2001/02), the government mentioned “the adaptation of an integrative approach to empowering people with disabilities,” including the convergence of “existing services including health, nutrition, education, science and technology, rural development, urban development, women and child development, information and broadcasting.”¹⁵⁹ The Ministry of Social Justice and Empowerment and various other governmental entities provide informational and publicity materials that can be used by people and organizations concerned with prevention and rehabilitation. The government also funds programs that disseminate information on prevention, early detection, and rehabilitation.¹⁶⁰

Despite the Central Ministry's existence, there is a lack of coordinated effort by various NGOs to collaborate on advocacy for cross disability issues, and as a result the demand of less strong groups are not met.

157. Disability India Network, “Barrier Free Tourism for People with Disabilities” <http://www.disabilityindia.org/barrierFree.cfm>.

158. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Central Coordinating Committee Chapter II Section 3.

159. Planning Commission “10th 5 Year Plan 2002-2007” <http://planningcommission.nic.in/plans/planrel/fiveyr/welcome.html>.

160. Asian-Pacific Development Center on Disability.



Japan

Key Factors: Despite a slow down in the 1990s, Japan continues to be one of the strongest economies in the world and therefore is able to provide a variety of social services. Through the Japanese International Cooperation Agency (JICA), Japan has also been an advocate and supporter of improving the situation of people with disabilities in Asia and throughout the world. However, outside of the Fundamental Law, Japan's most comprehensive disability legislation, the

majority of laws and programs tend to specialize, addressing one of only three recognized categories of disability.

Terminology

In Japanese legal documents, the word "shogai" is used to refer to disability. "Shogai" can be translated as "impairment," "disability," or "handicap," depending on the way in which the word is written. As traditionally written, the Chinese character (ideogram) "sho" means "obstacle" or "disturbance," while "gai" means "harm" or "misfortune." Due to the negative connotation of "gai," some disability organizations intentionally use another Chinese character that has the same pronunciation but means "obstruction."

In April 2001, Shiki City of Saitama Prefecture announced that all official documents issued by the City would use the Japanese character, or hiragana (phonogram), of "gai."¹ Since then, many municipalities and prefectures have followed suit and now use this phonogram, which seems to have a less negative connotation. The original sense of the words has been preserved in translation whenever possible. The Japanese terms used to describe people with disabilities translate most directly as "disabled person," and this linguistic structure is reflected throughout the report.

Until recently, official documents used the term "seishin-hakujaku," which literally translates as "feeble minded," to describe "mental retardation." However, in April 1999, the enactment of the Law for Adjustment of Term "seishin-hakujaku" in Related Laws² mandated the replacement of this term with the more positive, "chiteki-shogai," which roughly translates as "intellectual disability."

1. Asahi Shimbun, April 3 2001.

2. http://www.shugiin.go.jp/itdb_housei.nsf/html/housei/h143110.htm?OpenDocument.

In August 2002, the National Federation of Organizations of Families of Persons with Psychiatric Disabilities and the Japanese Society of Psychiatry and Neurology (JSPN) demanded that the term used to refer to schizophrenia, “seishin-bunretsu-byo,” be replaced with “togo-shiccho-sho.” Soon after, the Ministry of Health, Labour and Welfare made the replace in all official documents and issued a statement that all prefectures and major cities should use the latter term. JSPN explained that the old term led to misunderstandings, prejudice and discrimination, and that new terminology was needed to reflect the new understanding of schizophrenia resulting from recent progress in psychiatry.³

Definition of Disability

The most commonly used definition for people with disabilities is derived from Article 2 of the Disabled Persons' Fundamental Law that went into effect in 1970 and was amended on 4 June 2004. The Law defines “persons with disabilities” as “individuals whose daily life or social life is substantially and continuously limited due to physical, intellectual or mental disability.”⁴ Although the law does not further specify the meanings of physical, intellectual or mental disability, other official documents provide more specific definitions.

Physically Disabilities. The Law for the Welfare of Physically Disabled Persons states in article 4 that “Physically Disabled Person as used in this Law shall mean a person over 18 years of age who has physical disability which comes under one of those enumerated in the attached list, and who has received a Physical Disabled Person's Certificate from the governor of a local public body.” The list of types of physical disabilities ranks the various impairments by degree and includes visual impairments, hearing impairments, para-equilibrium, upper or lower limb impairments, voice or language disorders, loss of mastication function, dysfunction of the trunk, renal disorder, respiratory disorder, cardiac disorder, bladder or rectal disorder, small intestine disorder, and immune dysfunction caused by HIV.⁵

Intellectual Disabilities. Although there is no official definition of intellectual disabilities in Japanese statute law, the Survey for Mentally Retarded Persons states that “A Person with mental retardation is a person who has an intellectual disability manifested during the developmental period (birth to 18 years of age) and displays functional deficits in skills for daily life which require supportive services.”⁶

3. Japanese Society of Psychiatry and Neurology (JSPN) <http://www.jspn.or.jp/05schizophrenia/schizophrenia00.html>.

4. Disabled Persons' Fundamental Law, <http://www8.cao.go.jp/shougai/english/law/no84.html>!The Cabinet Office uses “Basic Law” which is equivalent to Fundamental Law.

5. Law for the Welfare of Physically Disabled Persons http://law.e-gov.go.jp/cgi-bin/idxselect.cgi?IDX_OPT=1&H_NAME=%90%67%91%cc%8f%e1%8a%51%8e%d2%95%9f%8e%83%96%40&H_NAME_YOMI=%82%a0&H_NO_GENGO=H&H_NO_YEAR=&H_NO_TYPE=2&H_NO_NO=&H_FILE_NAME=S24HO283&H_RYAKU=1&H_CTG=1&H_YOMI_GUN=1&H_CTG_GUN=1.

6. Survey for Mentally Retarded Persons.

Mental Disabilities. The Mental Health and Welfare Law of Mentally Disabled Persons states that “Under this Law, Mentally Disabled Persons shall mean those with schizophrenia, psychotic disorders due to psychoactive substance use, mental retardation, psychopathy, and/or other mental disorders.”⁷ In this law, intellectual and psychiatric disabilities are combined under the category of “mental disabilities.”

In the latest amendment to the Fundamental Law, the Cabinet Committee of the House of Councilors adopted a resolution that states, “With regard to the definition of ‘persons with disabilities,’ the government should make efforts for appropriate and necessary adjustment, considering the advancement of medical knowledge of ‘disability’ and so forth.”⁸ However, many disability groups feel that providing categories for only three types of disabilities is limiting and that more inclusive definitions of disabilities are needed.⁹

Disability Population

The National Census does not include any questions on disability. Instead, a variety of surveys are used to estimate the size of the disability populations. According to the Ministry of Internal Affairs and Communications, as of October 2004, the population of Japan was estimated at 127,660,000.¹⁰ The 2003 Whitepaper on Disability, published by the Cabinet Office, reported that approximately 6,559,000 people, or 5.1% of the population, had some type of disability. Among them, 3,516,000 had physical disabilities, 459,000 had intellectual disabilities, and 2,584,000 had psychiatric or mental disabilities.¹¹ The statistics referenced in the White Paper were collected from various surveys conducted by the Ministry of Health, Labor and Welfare.

The population of people with physical disabilities is measured through the Survey on the Actual Status of Children and Persons with Physical Disabilities, which has been conducted every five years since 1951. The most recent survey was conducted in 2001 and collected information on communication skills such as Braille and sign language, usage of personal computers, medical care, housing, household composition and income, employment, in-home welfare services,

7. Mental Health and Welfare Law of Mentally Disabled Persons http://law.e-gov.go.jp/cgi-bin/idxselect.cgi?IDX_OPT=1&H_NAME=%90%b8%90%5f%8f%e1%8a%51%8e%d2&H_NAME_YOMI=%82%a0&H_NO_GENGO=H&H_NO_YEAR=&H_NO_TYPE=2&H_NO_NO=&H_FILE_NAME=S25HO123&H_RYAKU=1&H_CTG=1&H_YOMI_GUN=1&H_CTG_GUN=1.

8. <http://www8.cao.go.jp/shougai/suishin/kihonhou/kaisei.html#4>.

9. Shuhei Ohta, “Japan: Step by Step Towards Disability Anti-discrimination law”, Normalization, June 2004.

10. Ministry of Internal Affairs and Communication, Bureau of Statistics <http://www.stat.go.jp/data/jinsui/tsuki/index.htm#05k2-1>.

11. The White Paper on Disability is published every year by the Cabinet Office where the focal point exists. Its publishing is stipulated by the basic law for disabled persons. <http://www8.cao.go.jp/shougai/english/annualreport/2003/mokuji.html>.

assistive devices, and so forth.¹² Survey results indicated that an estimated 53.9% of people with physical disabilities have a physical disability related to a limb or the body, 9.3% have a visual disability, 10.7% have a hearing or speech impairment, and 26.2% have an internal organ disorder.¹³ Of the people surveyed, 54.1% were aged 65 or older, and results showed that physical disabilities had risen from 40.1% to 43.2% in the last five years.

Information on intellectual disabilities is collected through the Basic Survey of Adults and Children with Mental Retardation, which was last conducted in 2000.¹⁴ The survey contained questions on future goals, activities in the community, experience with discrimination, employment, and pensions. The results suggested that almost 40% of respondents had a severe intellectual disability.

Both the Survey on the Actual Status of Children and Persons with Physical Disabilities and the Basic Survey of Adults and Children with Mental Retardation excluded people with disabilities living in institutions.

The Patient Survey, which has been conducted every three years since 1984, documents the number of people with mental or psychiatric disabilities. However, it bases its conclusions upon the number of patients who used or visited medical institutions on a particular day, instead of conducting an actual census or survey of the general population.¹⁵ According to the most recent survey, the number of people with mental disabilities increased from 2,040,000 in 1997 to 2,584,000 in 2002. An official of the Cabinet Office believes that the cause of the increase may be a reflection of the recent attitudinal changes regarding mental health and that the survey is therefore not useful.¹⁶

Legislation & Disability Rights

National Protections

In 1970, Japan enacted the initial Fundamental Law for Persons with Disabilities,¹⁷ which was amended in June 2004. The Law's general provisions establish the responsibilities of national and local governments and of the people, as well as basic policies, and a basic program, for people with disabilities. Its basic measures for welfare of persons with disabilities include medical and care services, pension,

12. Ministry of Health, Labour and Welfare <http://www.mhlw.go.jp/houdou/2002/08/h0808-2.html>.

13. http://www8.cao.go.jp/shougai/whitepaper/h16hakusho/zenbun/html/zuhyo/fig02_01_04.html.

14. Ministry of Health, Labor and Welfare, <http://www.mhlw.go.jp/houdou/0109/h0919-3.html>.

15. Ministry of Health, Labour and Welfare, Guide to Official Statistics in Japan, <http://www.stat.go.jp/english/index/official/215.htm>.

16. Anonymous Cabinet Official, Interviewed by author, October 2004.

17. The Basic Law for Persons with Disabilities, <http://www8.cao.go.jp/shougai/english/law/no84.html>.

education, vocational counseling, employment promotion, securing of housing, accessible public facilities, accessible communication, consultation, alleviation of economic burden, and adjustments of conditions of cultural activities. It also contains and promotes basic measures for prevention of disability and establishes the week of persons with disabilities. Lastly, it provides for the creation of the council on promotion of measures for persons with disabilities, including the central and local councils, and for membership of the councils.

Article 3 of the amended Fundamental Law contains a new clause that prohibits discrimination against people with disabilities. It states that “No one shall be allowed to discriminate against persons with disabilities or violate their rights and benefits on the basis of disability”¹⁸ However, Mr. Kim Jeong-Ok of the Disabled Peoples’ International (DPI) Advocacy Center of Persons with Disabilities criticizes the amended law because it does not contain a definition for “discrimination on the ground of disability” and therefore is not an effective tool to protect the rights of people with disabilities.¹⁹

In addition to the Fundamental Law, there are approximately 30 disability-related laws that stipulate measures for people with disabilities.²⁰ However, none of them clearly prohibits discrimination based on disability. For example, the Law for the Promotion of the Employment of Persons with Disabilities stipulates the responsibilities of central and local governments and employers but does not include anti-discrimination policies among them.

International Protections

Japan has ratified/signed a number of international human rights laws including: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child, including two optional protocols.²¹

In June 2003 in New York, the Japanese government delivered two statements at the second session of the United Nations Ad Hoc Committee on the Convention for the Rights of People with Disabilities. Although Japan has not formally announced that it will sign the convention after it is completed, the country clearly supports

18. *Ibid.*

19. Kim Jeong-ok, Comments on ILO country study of Japan, January 2003 <http://homepage2.nifty.com/ADI/ILO2003.html>.

20. Disability INformation Resources, <http://www.dinf.ne.jp/doc/english/law/japan/30select.html>.

21. Office of the United Nations High Commissioner for Human Rights <http://www.ohchr.org/english/countries/ratification/index.htm>.

the development of the convention. According to one of the statements, the Japanese government stated that it “stands ready to contribute to elaborating an international convention on the promotion and protection of the rights of persons with disabilities.”²²

In addition, Japan has been very active in the Asian and Pacific Decade of Disabled Persons, 1993-2002, and has adapted and revised several of its current laws to comply with the goals and priorities that were developed in 49th Commission of the UN Economic and Social Commission for Asia and the Pacific (UNESCAP).²³ Japan also hosted the High-level Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons that took place in October 2002 and resulted in the creation of the Biwako Millennium Framework.

Legal Barriers

In 1993, the New Long-term Plan for Measures for Disabled Persons stated “the government shall consider the necessary amendment of the restriction of licenses on the ground of various kinds of disabilities, including psychiatric disabilities and visual/hearing disabilities, in order that such restriction should not exist as obstacles which unreasonably prevent persons with disabilities from social participation.”²⁴ Based on the plan, in 1999 the Cabinet Office decided on the principles for the reconsidering disqualifying clauses regarding persons with disabilities.²⁵ According to those principles, the government identified 63 laws and regulations that contained disqualifying clauses. In 2002, the end year of the Plan, a law was passed to ensure the amendment of the laws containing disqualifying clauses.²⁶ After its enactment, the government announced that all 63 disqualifying clauses had improved.²⁷

However, some disability advocates feel that many disqualifying clauses still exist within Japan’s legislation. For example, Article 11 of the Public Officers Election Law, which lists the exceptions to universal suffrage, establishes that those who are judged incompetent by the court are not allowed to exercise the right to vote or stand for election.²⁸ Many NGOs feel that the guardianship laws, as they currently

22. Mr. Kazuhiro Kuno, Deputy Director, Human Rights and Humanitarian Affairs Division, Multilateral Cooperation Department, Ministry of Foreign Affairs on 18 June 2003.

23. United Nations Economic and Social Commission for Asia Pacific (UNESCAP) <http://www.unescap.org/esid/psis/disability/decade/otsujapan2002/paper1.asp>.

24. New Long-term Plan for Measures for Disabled Persons was adopted on March 22, 1993 by the Headquarters of Promoting Disability Policy, Cabinet Office. This plan was effective by the end of 2002 and was replaced by the Basic Program for Persons with Disabilities <http://www8.cao.go.jp/shougai/english/basicprogram/contents.html>.

25. The plan was decided and announced on August 9, 1999.

26. Law for the Amendment of Related-Laws to Improve Disqualification for Persons with Disabilities passed the Diet on May 7, 2002. This law requested its enactment within two months. <http://www8.cao.go.jp/hourei/kanpou/h14/0515sho/jobun.pdf>.

27. <http://www8.cao.go.jp/shougai/suishin/minaosi/sinchoku.html>.

28. Public Officers Election Law <http://law.e-gov.go.jp/htmldata/S25/S25HO100.html>.

exist, serve as a legal barrier and are too dependent on the families of people with disabilities and institutionalized care.²⁹ According to Mr. Kim Jeong-Ok, as of December 2000, there were more than 200 disqualifying clauses within the legislation, as opposed to the 63 estimated by the government.³⁰ The difference in estimates is attributable to the methods used to identify disqualifying clauses.

Civic Participation

Article 14 of the Japanese Constitution states that universal adult suffrage is guaranteed with regard to the election of public officials, but Article 11 denies that right to people with mental disabilities.³¹

The Ministry of Internal Affairs and Communications, which is responsible for managing election procedures, collects data on the provision of aids at polling stations.³² The latest available data is from the 43rd general election of the House of Representatives, which took place on 9 November 2003. The data indicates that of approximately 53,000 polling stations:

- 17,710 were fully accessible;
- 12,328 provided temporary ramps at the entrance;
- 21,852 provided assistants to carry wheelchair users at the entrance; and
- 1,112 were located on the upper/lower floor and were fully inaccessible.

Pukupuku no kai,³³ an NGO, organizes a nation-wide movement named “B-Free” which has conducted several surveys on the accessibility of polling stations. The latest survey was completed on 11 July 2004, during the 20th Regular Election of the House of Councilors and collected data from 1,488 polling stations.³⁴ According to the data:

- 15% of polling stations had sign-language interpretation;
- 35% prepared a Braille or large print version of the candidate list;
- 65% provided manual Braille writing aids;

29. DPI-Japan Country Report 2000 <http://homepage2.nifty.com/ADI/DPIJ00.html>.

30. Kim Jeong-Ok.

31. Constitution of Japan, <http://www.solon.org/Constitutions/Japan/English/english-Constitution.html>.

32. Survey on the Results of General Election of the House of Representatives and National Review of the Judges of the Supreme Court on November 9, 2003, Election Division, Local Administration Bureau of the Ministry of Internal Affairs and Communications. This data shows the numbers of polling stations which provided aids to meet the needs of persons with disabilities and does not include the stations which are already accessible.

33. Pukupuku no kai Corp is a community-based service provider in Suita-city, Osaka. Its activity includes advocacy, sheltered welfare workshop and personal assistant services. <http://www.puku-2.com/>.

34. <http://www.b-free-w.org/Page.htm>.

- 73% provided reading glasses;
- 81% had lower writing desks for wheelchair users;
- 49% had parking spaces for wheelchair users; and
- 41% had wheelchair-accessible bathrooms.

Inclusion

Communication

In 1993, the Law for Promoting Businesses that Facilitate the Use of Communications and Broadcast Services by the Physically Disabled Persons was enacted to establish subsidies to encourage businesses to broadcast programs with closed captioning and video descriptions.³⁵ In 1997, the Ministry of Post and Telecommunications, now the Ministry of Internal Affairs and Communications, began setting goals for the percentage of television programming that should be captioned. At the request of the government, broadcasting corporations have set their own targets, since 2001. Table 1 shows the time dedicated to captioned TV programs broadcast by NHK, a public broadcasting corporation, and five major private broadcasting companies, which has been increasing progressively.³⁶ NHK broadcasts nightly news with closed captioning and news with sign language.

Table 1: Proportion of time of captioned TV programs to that of all programs that could be captioned³⁷

Fiscal	1997	1998	1999	2000	2001	2002
Major 5 private companies	3.5%	5.3%	7.1%	8.6%	16.1%	28.9%
NHK (general TV ³⁸)	32.5%	35.7%	55.6%	67.6%	73.4%	77.9%

35. Disability INformation Services, <http://www.dinf.ne.jp/doc/japanese/law/etc/I00002e/I00002e06.htm>.

36. Chapter 3 of White Paper on Information and Communications in Japan 2004. This white paper is published yearly by the Ministry of Internal Affairs and Communications. <http://www.johotsusintokei.soumu.go.jp/whitepaper/ja/h16/html/G3703300.html>.

37. White Paper on Information and Communications in Japan 2004.

38. NHK has two core TV terrestrial channels: General TV and Educational TV.

There are 103 Braille libraries in Japan and many public libraries have resources to meet the needs of people with disabilities.³⁹ For example, the National Diet Library, the archive of the legislative branch of the government, provides various services for people with disabilities, including print magnifying equipment, Braille resources, large print resources, tape-recorded books, a recording room for blind people, and rental wheelchairs.⁴⁰ Materials are updated continuously. The government does not provide a Braille version of the Constitutions; however, other groups and organizations provide this material and ensure that it is available at the various Braille libraries.

Some police officers in Japan have been trained in sign language and other aspects of communication with people with disabilities.⁴¹ Furthermore, Japan has implemented a “110 fax service” in order to better serve and potentially prevent crimes against people with disabilities.⁴² In addition, the Guidebook for Voluntary Organizations on Disaster Protection was revised in December 2002 to include a pre-disaster plan to communicate with foreign residents, the elderly, and people with disabilities. The Law for Promotion of Measures Protection against Landslides Disaster in Districts on Alert, of April 2001, also establishes several measures to protect people with disabilities in case of a landslide.⁴³

Education

The School Education Law of 1947 was the first law to specify that children with disabilities should receive an education, either through general classes, specialized classes, non-residential classes, or special schools. In 1979, the special school equivalent to elementary and junior high school became a part of compulsory education.

Since then, in general, children with disabilities receive education in segregated schools or classes at the suggestion of the local education board. At age six, all children are asked by the municipal education board to receive a health examination screening for disability. If a child fits the conditions listed by the law, the municipal education board informs the prefectural education board, stating it is appropriate for this child to enter a special school.⁴⁴ The prefectural education board tells the parents of that child to send him/her to special school.

39. Japan Library Association, Japan Library Year Book 2004.

40. <http://www.ndl.go.jp/en/service/tokyo/support.html>.

41. The IDRM was not able to verify the number or percentage of police officers who have received this training.

42. Japan Cabinet Office, “Annual Report on Government Measures for Persons with Disabilities (Summary) December 2003.

43. Japan Cabinet Office, “Annual Report on Government Measures for Persons with Disabilities (Summary) December 2003.

44. Article 22-3 of enforcement order of School Education Law.

In 2002, the Enforcement Ordinance for the School Education Law was amended to provide a more flexible and modernized approach to the placement of children with disabilities into specialized classes.⁴⁵ The Ministry of Education officially states that “those pupils and students who are disabled are properly educated at schools for the blind, schools for the deaf and schools for the other disabled, or in special classes at elementary and lower secondary schools, depending upon the type and extent of disability, or attend both ordinary schools and special support services in resource rooms⁴⁶ if the disability is a minor one.”⁴⁷

Table 2: Number of Children attending Special Schools, Special Classes and Resource Rooms⁴⁸

Type of Education or School	Number of Children with Disability
Schools for children who are blind	3,926
Schools for children who have hearing impairments	6,719
Schools for children with intellectual disabilities, physical disabilities and health impairments	83,526
Special classes in elementary or lower secondary schools	81,827
Resource rooms in elementary or lower secondary schools	31,767
Total students	207,706

The Ministry of Education does not explicitly encourage inclusive education but does emphasize the importance of joint activities with schools for people with disabilities to raise awareness of non-disabled children.⁴⁹

NGOs that have worked for inclusive education since the system of special schools become mandatory in 1979 are not satisfied with these recent changes of the

45. Japan Cabinet Office, “Annual Report on Government Measures for Persons with Disabilities (Summary) December 2003.

46. Rooms where students with disabilities can access special education personnel, take tests under specialized conditions, and receive other appropriate services throughout the day.

47. Ministry of Education, School System. <http://www.mext.go.jp/english/org/struct/012.htm>.

48. Ministry of Education Culture, Sports, Science and Technology, May 1, 2002.

49. Ministry of Education, “National Curriculum Standards for Kindergarten”, http://www.mext.go.jp/a_menu/shotou/youji/english/youryou/11.htm.

Ministry of Education. For example, Mr. Toshihiko Kimura⁵⁰ reported that through the dialogue with the Ministry it became clear that:

- the Ministry has no intention of changing the principle of segregation
- children who would be supported at regular classes are those with learning disabilities, ADHD and autism. Children with physical or intellectual disabilities would not be supported under the new special support education scheme
- children with physical or intellectual disabilities who are accepted at regular classes would be supported under the responsibility of municipalities that accept them.⁵¹

The deaf community also shows concern regarding the new governmental initiative. The Japanese Federation of the Deaf (JFD) believe that sign language should be used as a language for education and that the creation of a single license for special education teachers (as opposed to separate licenses for those teaching at each type of specialized school) may decrease the quality of teachers providing deaf education. The JFD supports the existence of schools for children who are deaf and opposes the governmental idea of merging special schools for children with different disabilities.⁵²

In October 1971, the National Institute of Special Education (NISE) was established to serve as a central research and training facility for special education. The NISE provides professional and technical in-service training to special education teachers and offers advisory services on educational guidance for children with disabilities and their parents. Special education courses are also part of the general teaching curriculum within Japan. Those training to teach at the elementary or junior high school level should experience practical training at special schools or residential institutions.

In March 2004, the Ministry of Education, Culture and Science issued a guideline for promoting barrier-free school facilities.⁵³ School facilities should be accessible so that they may be used by the community at large for life-long education as well as evacuation in case of disaster. The Heart Building Law as amended in 2002 also includes schools among those facilities whose owners should attempt to make accessible. Because most education for children with disabilities is still provided at separate schools, it is unclear how many mainstream schools are accessible at this time.

50. Mr. Kimura is a core member of a group to eliminate disqualifying clause in education.

51. Toshihiko Kimura, "Report of negotiation with the Ministry of Education, Culture and Science", Quarterly Fukushi Rodo, March 2005.

52. Japanese Federation of the Deaf "Request letter to the Ministry of Education, Culture and Science concerning Special Support Education" <http://www.jfd.or.jp/yobo/2004/monbu20040511.html>.

53. The IDRM was not able to verify the percentage of schools that are accessible to people with disabilities.

The building of the Ministry of Education, Culture and Science is currently under renovation and its temporary office is accessible. The new building should comply with the Heart-Building Law which requires governmental buildings to be made accessible.

Employment

In 1993, 68.8% of people with intellectual disabilities were fully employed in private or public enterprises or in sheltered workshops.⁵⁴ Unfortunately, sheltered workshops are seen as an acceptable employment resource for people with disabilities in Japan. For example, Kyosaren, or Association of Sheltered Workshops, has 1546 membership workshops which employ approximately 33,000 individuals with disabilities. The workshops receive small stipends national and local governments.⁵⁵ Between 1993 and 1998, the number of individuals with intellectual disabilities employed in all sectors increased 15%.⁵⁶ 24% of people with physical disabilities are reported to be self-employed.⁵⁷

The Law for Employment Promotion of Persons with Disabilities established a quota system requiring private enterprises and national and local governments to employ a certain percentage of people with disabilities. The quota system is overseen by the Public Employment Security Office (PESO). PESO works with non-compliant businesses and governments to develop a plan to hire more people with disabilities and can share with the public all businesses or government agencies that are not complying with the law. In 1997, the government revised the Law to specify that the quota system pertains to all people with disabilities and not only people with physical disabilities.⁵⁸ Table 3 shows the discrepancies between the required quota and the actual situation.

54. International Labor Organization (ILO) "Employment of People with Disabilities: Impact on Legislation, Japan Country Profile" March 2003 <http://www.ilo.org/public/english/employment/skills/disability/download/cpjapan.pdf>.

55. 24th Kyosaren membership survey, <http://www.kyosaren.or.jp/research/2004/1101.pdf>.

56. The IDRM was not able to verify the total percentage of people with mental or physical disabilities who are employed.

57. International Labor Organization (ILO) "Employment of People with Disabilities: Impact on Legislation, Japan Country Profile."

58. International Labor Organization (ILO) "Employment of People with Disabilities: Impact on Legislation, Japan Country Profile."

Table 3: Percentage of People with Disabilities Employed Regulated by Law Compared to Actual Employment⁵⁹

Type of enterprise	% Regulated by Law	% of people with disabilities actually employed
General Private Enterprise (56 or more employees)	1.8%	1.47 to 1.49%
Government-affiliated Organizations in Certain Categories (48 or more employees)	2.1%	1.96 to 1.97%
National Organizations	2.1%	2.14%
Municipal or local Organizations	2.1%	2.44 to 2.46%
Prefectural Boards of Education	2.0%	1.22 to 1.23%

The Law for Employment Promotion of Persons with Disabilities, also establishes measures for vocational training and job placement services. In order to promote employment for people with disabilities, the government established the National Institute of Vocational Rehabilitation, as well as both regional and local vocational rehabilitation centers for people with disabilities. The centers provide training, such as computer use and other work-related skills, as well as job guidance and support.⁶⁰ The Japanese Association for Employment of the Elderly and Persons with Disabilities (JEED), in collaboration with the Ministry of Health, Labor and Welfare, is responsible for managing the government's vocational centers and job placement programs.⁶¹

Health Services

Until recently, the Mental Health and Welfare Law of Mentally Disabled Persons and the Law for the Welfare of Mentally Retarded Persons served as the primary legislation for health services for people with disabilities. In 1995, the Japanese government established an "Action Plan for Persons with Disabilities: A Seven-Year

59. Cabinet Office Japan.

60. Japanese Organization for Employment of the Elderly and Persons with Disabilities, "Employment Measures for Persons with Disabilities in Japan" <http://www.jeed.or.jp/english/download/reference02.pdf>.

61. International Labor Organization (ILO) "Employment of People with Disabilities: Impact on Legislation, Japan Country Profile."

Strategy to Achieve Normalization," which aims to improve the health benefits and other services received by people with disabilities and to ensure that they receive the same "normal" health care as people without disabilities. The normalization of health care was intended to achieve:

"respect [for] the decision of the disabled and to establish the equal relationship between the service providers and users, the mechanism for using welfare services is being revised from the conventional system of the administrative office to decide the services offered to the users including the welfare facilities and home helpers to a new system in which the user selects services and directly make contract with service providers."⁶²

Currently, the government is considering enacting a new law that would integrate the health rights of people with physical, mental and intellectual disabilities into a single law, entitled "Supporting Independence of Persons with Disabilities Bill." However, many disability organizations oppose this new bill and are concerned that it focuses too much on the medical model of disability and fails to incorporate the social or human rights based models. Additional concerns about the bill include that:

- Consumers of welfare services would be required to pay 10% of the cost, making it difficult for people with severe disabilities or people without steady employment to receive services;
- Decentralization of the "guide help service" may result in many persons with disabilities being denied opportunities to leave their houses, since most local governments will not be able to afford the cost of the service; and
- Home-based welfare services would become more restrictive, limiting health services available for people with severe disabilities.

These disability organizations feel that the government has not fulfilled many commitments made since the 1980s that have promoted progressive efforts toward community living.

In addition to these potential legal changes, the medical infrastructure has been experiencing change. According to the Japanese Survey of Medical Institutions, as of 1 October 2002, there were 171,181 medical institutions or hospitals in the country, of which 99%, or 169,079, were operational. Although the number of hospitals increased from 1953 to 1990, by 1992, there was a decrease in the total number of hospitals and many clinics reported having insufficient beds for

62. Ministry of Health Labor and Welfare, Department of Health and Welfare for Persons with Disabilities "Aiming at the Independence and Social Participation of the Disabled" <http://www.mhlw.go.jp/english/org/policy/p31.html>.

the number of patients.⁶³ The number of doctors has been declining as well. In 2001, there were 1,055 doctors, while in 1958, there were 1,821.⁶⁴ Disability training is only available for physicians specializing in rehabilitation techniques. Some disability organizations are optimistic that these decreases will lead to an increased interest in community-based services, which could potentially improve health services for people with disabilities who find it difficult to travel to the hospital regularly.

Japan has an active and strong CBR program that provides health assistance to people with disabilities in rural areas. According to Yukiko Oka Nakanishi, President of the Asia Disability Institute and Chairperson of the DPI-Japan International Committee, the program also improves the lives of women with disabilities: "since CBR encourages women with disabilities towards community participation as CBR workers and service users, it is an effective way to give women access to decision making and benefits."⁶⁵

Housing

According to the 2004 Whitepaper on Disability, approximately 10% of people with disabilities are living in institutions.⁶⁶ Community living, on the other hand, includes living with a family member or in a group home.

According to the Japan Council on Independent Living (JIL), as of December 2004, there were 129 independent living centers (ILC) in Japan.⁶⁷ In order to become a member of the JIL, a center should offer services to people with all types of disabilities and provide at least two of the following: personal assistant service, peer-counseling, independent living skill program, and/or housing information.⁶⁸

63. Ministry of Internal Affairs and Communication, Statistics Bureau "Survey of Medical Institutions" <http://www.stat.go.jp/english/index/official/215.htm#2>.

64. Statistics and Information Department, Minister's Secretariat, Ministry of Health, Labour and Welfare, "Health Centres and Staff Members (F.Y.1937--2001)" <http://www.stat.go.jp/english/data/chouki/24.htm>.

65. Yukiko Oka Nakanishi is the President of the Asia Disability Institute and Chairperson of the DPI-Japan International Committee "Situation of Women with Disabilities in Asia" http://www.rehab-international.org/publications/Leadership_Women/NAKANISHIYukiko.html.

66. http://www8.cao.go.jp/shougai/whitepaper/h16hakusho/zenbun/html/zuhyo/fig02_01_02.html.

67. Number of memberships to Japan Council on Independent Living Centers <http://www.j-il.jp/jil.files/kamei/kamei-2.html>.

68. <http://www.j-il.jp/jil.files/kamei/youken-1.html>.

The Public Housing Law⁶⁹ stipulates that people with physical disabilities⁷⁰ below a certain income level⁷¹ are eligible for public housing. Although eligibility typically is based on the family unit, in exceptional cases it considers just the individual.⁷² The Law also allows local governments to establish group homes within public collective housing facilities for people with intellectual and psychiatric disabilities and elderly people with dementia.⁷³

However, the Law excludes people with severe physical, mental, and psychiatric disabilities from eligibility for public housing. The Ministry of Land, Infrastructure and Transport justifies this exclusion by claiming that to realize full inclusion of people with intellectual or psychiatric disabilities, the Ministry of Health, Labour and Welfare must establish a support system to enable them to live independently. Moreover, it states that Article 6 of the Law stipulates provisions only for exceptional cases, and that not all people are eligible for public housing for living alone.⁷⁴

Institutionalization

According to the 2004 Whitepaper on Disability, there are approximately 664,000 people with disabilities living in institutions. Among them, 189,000 have physical disabilities, 130,000 have intellectual disabilities, and 345,000 have psychiatric disabilities and live in mental health facilities.⁷⁵

69. This law was enacted on July 1, 1951 <http://law.e-gov.go.jp/htmldata/S26/S26HO193.html>.

70. In Japanese laws, physical disability includes not only orthopedic impairment, but also hearing impairment, visual impairment, speech impairment and dysfunction of specific internal organs. See footnote 3.

71. Article 6 of the government ordinance of Public Housing Law orders local government to set their own ordinances which should stipulate income level for eligibility under 268,000 JPY, (approximately 2,464 USD) in case of persons with physical disabilities. In this law, income is the deducted one and disability-related pension/allowance is not included.

72. Article 23 of Public Housing Law ;Article 6 of the government ordinance of Public Housing Law.

73. In case of intellectual disability, program for supporting community life of persons with intellectual disabilities is stipulated by the Welfare Law for Persons with Intellectual Disabilities. According to the standard of personnel, facility and management of contractors of assigned in-home assistance program stipulated by the welfare law for persons with intellectual disabilities, such group home has capacity of four to seven persons with intellectual disabilities with one supervisor.

74. DPI-Japan et al., Record of negotiation with the Ministry of Land, Infrastructure and Transport, May 30 2003.

75. Whitepaper on Disability in 2004.

Table 4: Adults (age 18 and over) with physical disability living in institutions⁷⁶

	Category	Number of residents
1	Institutions for Persons with Physical Disabilities	805
	Rehabilitation for persons with orthopedic impairments	920
	Rehabilitation for persons with visual impairments	99
	Rehabilitation for persons with hearing/speech impairments	308
	Rehabilitation for persons with dysfunction of internal organs	22,615
	Nursing for persons with physical disabilities	4,339
	Rehabilitation/Nursing for persons with severe physical disabilities	495
	Welfare housing for persons with physical disabilities	3,415
	Vocational rehabilitation for persons with physical disabilities	8,149
	Vocational rehabilitation for persons with severe physical disabilities	1,364
2	Institution for blind children	30
3	Institution for deaf children	27
4	Institution for children with orthopedic impairments	348
5	Nursing institution for children with orthopedic impairments	126
6	Institution for children with profound multiple disabilities	7,951
7	Institutions stipulated by the Public Assistance Law	3,875
8	Institutions for the welfare of elderly persons	
	Special nursing home for elderly persons	78,169
	Other forms of nursing homes for elderly persons	18,530
9	Institutions for people with intellectual disabilities	16,470
10	National sanatoria for Hansen's disease	4,595
11	National sanatoria's ward used for people with progressive muscular dystrophy	1,854
12	National sanatoria's ward used for people with multiple disabilities	6,923
TOTAL		181,407

76. *Ibid.*

Table 5: Children (under age 18) with physical disabilities living in institutions⁷⁷

	Category	Numbers of residents
1	Institutions for Persons with Physical Disabilities	
	Rehabilitation for persons with orthopedic impairments	1
	Rehabilitation for persons with visual impairments	0
	Rehabilitation for persons with hearing/speech impairments	0
	Rehabilitation for persons with dysfunction of internal organs	0
	Nursing for persons with physical disabilities	26
	Rehabilitation/Nursing for persons with severe physical disabilities	2
	Welfare housing for persons with physical disabilities	0
	Vocational rehabilitation for persons with physical disabilities	2
	Vocational rehab. for persons with severe physical disabilities	2
	Welfare factory for persons with physical disabilities	2
2	Institution for blind children	148
3	Institution for deaf children	204
4	Institution for children with orthopedic impairments	3,900
5	Nursing institution for children with orthopedic impairments	131
6	Institution for children with profound multiple disabilities	1,371
7	Institutions for persons with intellectual disabilities	1,143
8	National sanatoria's ward used for persons with progressive muscular dystrophy	245
9	National sanatoria's ward used for persons with multiple disabilities	938
TOTAL		8,115

77. *Ibid.*

Table 6: People with intellectual disabilities living in institutions⁷⁸

	Category	Number of children	Number of adults
1	Institutions for children with intellectual disabilities	5,717	6,559
2	Institution for autistic children	191	67
3	Institution for children with profound multiple disabilities	1,371	7,951
4	National sanatoria's ward used for children with profound multiple disabilities	938	6,923
5	Institution for rehabilitation for people with intellectual disabilities	401	85,634
6	Institution for vocational rehabilitation for people with intellectual disabilities	127	13,984
TOTAL		8,745	121,118

The Social Welfare Law stipulates a system for addressing grievances concerning welfare services, including the conditions of institutions. According to the Ministry of Health, Labour and Welfare, since the system was established in 2000, over 90% of such grievances have been resolved.⁷⁹ However, NGOs such as DPI-Japan have expressed three main concerns about the system.⁸⁰ First, the system does not address all human rights abuses but only those grievances related to using welfare services, which suggests that the government is reluctant to recognize the grievances of people with disabilities as a human rights matter. Second, the service provider involved selects the third party that mediates negotiations among the affected parties. Finally, if the problem is not solved by negotiations among the affected parties as described, then the Committee on Appropriate Service Provision of the prefecture social welfare councils manages the case. However, the committee functions only under the service provider's agreement. Furthermore, the committee merely serves as a conciliator and does not give binding recommendations to service providers.

Some local governments have conducted their own research to monitor and evaluate residential institutions. For example, in 2002, the Tokyo Metropolitan

78. *Ibid.*

79. <http://www.mhlw.go.jp/wp/seisaku/jigyoku/03jisseki/7-3-2.html>.

80. DPI-Japan Country Report 2000 <http://homepage2.nifty.com/ADI/DPIJ00.html>.

Government asked workers and ombudspersons of 165 residential institutions to evaluate the services of those institutions.⁸¹ The evaluation examined the institutions to which people with disabilities from Tokyo were sent by the local government. It assessed accommodation for users' advocacy, daily living assistance, professional services, and the institution's conditions, management and contribution to community welfare.

Some NGOs also conduct their own independent monitoring activities. For example, in 2003, the Advocacy Center of Psychiatry in Tokyo received 614 phone calls and letters of complaints from patients in mental hospitals, their family and friends, and other citizens. In 2004 it also surveyed Tokyo's mental hospitals. As of 6 June 2005, 33 of the 80 mental hospitals in Tokyo agreed to answer both a written questionnaire and a face-to-face survey, 8 agreed only to the questionnaire, and 39 refused to participate in the survey. The results of the survey will be available from the Advocacy Center of Psychiatry in August 2005.

Accessibility

There are two major laws regarding accessibility to the built environment. The Law for Buildings Accessible to and Usable by the Elderly and Physically Disabled Persons, also known as the "Heart Building Law,"⁸² applies to public and private buildings that are used by the general public. The Law lists "special specified buildings" that are frequently used by people who are elderly or have physical disabilities and whose owners are obliged to make an effort to meet accessibility standards.⁸³ The list includes schools, hospitals, theatres, meeting halls, exhibition centers, department stores, hotels, collective housing, nursing institutions for people who are elderly or have a disability, welfare centers, gymnasiums, museums, libraries, public baths, restaurants, post offices, and banks.⁸⁴

The Law for Promotion of Accessibility for the Use of Public Transportation of Elderly Persons and Persons with Physical Disabilities, also known as the "Barrier-free Transportation Law,"⁸⁵ applies to all public and private transportation companies and stipulates that all newly built transportation facilities and all newly purchased vehicles should meet accessibility standards.⁸⁶ Companies are obliged to make an effort to renovate existing facilities and vehicles to meet accessibility

81. Tokyo Metropolitan Government <http://www.fukushihoken.metro.tokyo.jp/kaikaku/hyoka/index.htm>.

82. This law was adopted on June 29 1994. <http://www.mlit.go.jp/jutakukentiku/build/kensetu.files/hbl/02law.pdf>.

83. Article 2 of the Law for Buildings Accessible to and Usable by the Elderly and Physically Disabled Persons.

84. Article 1 of the government ordinance of the Law for Buildings Accessible to and Usable by the Elderly and Physically Disabled Persons <http://www.mlit.go.jp/jutakukentiku/build/kensetu.files/hbl/03seirei.pdf>.

85. This law was adopted on May 17 2000. <http://law.e-gov.go.jp/htmldata/H12/H12HO068.html>.

86. Excerpt from the chart of the Ministry of Land, Infrastructure and Transport. http://www.mlit.go.jp/barrierfree/transport-bf/explanation/wakugumi_.html.

standards. Municipalities are encouraged to establish plans to improve physical accessibility of specific areas including transportation facilities.

At the end of 2003, there were 5,267 buses used for public transportation in the capital city of Tokyo. Among them, 1,856 were low-floor buses, or “non-step buses”, 124 had lifts for people with disabilities, and 582 were “one-step buses.” The guidelines of the “Barrier-free Transportation Law” consider “one-step buses,” which have a height of 65cm from the ground to the floor, to be accessible vehicles.⁸⁷ Therefore, according to legal standards the Tokyo Bus Association states that 49% of the city’s buses are accessible for wheelchair-users.⁸⁸

However, Mr. Shunji Matsui, secretary of the Tokyo Executive Committee for the National Campaign for Transportation for All, disagrees with this claim. He explained that the “one-step buses” that are considered to be accessible vehicles are not safe for wheelchair users because of the angle of the temporary ramps, which in many cases reach 30 degrees. He maintains that the “one-step bus” therefore should not be categorized as an “accessible vehicle.”⁸⁹

Prior to 1999, only 990 of approximately 9,500 train stations in Japan had escalators and 480 had elevators. Following the enactment of the Barrier-free Transportation Law, the Ministry of Land, Infrastructure and Transportation announced that by 2010 it planned to install elevators in all of the approximately 2,000 train stations nationwide that have more than 5,000 passengers a day and more than five meters height/depth between gate and platform. As of the end of March 2004, 58% of such stations (2,169 stations) have elevators.⁹⁰

Culture, Sports and Recreation

According to Japan Sports Association for the Disabled, there are 22 sports centers designed especially for persons with disabilities.⁹¹ For example, the Tokyo Metropolitan Sports Center is fully accessible and offers sporting activities such as sitting volleyball. Furthermore, through an initiative sponsored by the Japan International Cooperation Agency (JICA), the Tokyo Metropolitan Sports Center has provided training on sporting opportunities for people with disabilities to over 100 instructors from Asia, Africa, and Latin America.⁹² From 26 February to 5

87. Article 36 of the standard of structure and equipment of facilities and vehicles necessary for accessible mobility, the Ministry of Land, Infrastructure and Transport <http://law.e-gov.go.jp/htmldata/H12/H12F03902005010.html>.

88. Response to the questionnaire of the Tokyo Executive Committee for National Campaign for Transportation for All, August 19, 2004.

89. Mr. Shunji Matsui, Secretary of the Tokyo Executive Committee for National Campaign for Transportation for All, Interviewed by author, November 8 2004.

90. http://www.mlit.go.jp/tetudo/barrier/05_15station02.html.

91. <http://www.jsad.or.jp/sportscenter.htm>.

92. Japan International Cooperation Agency (JICA), “Sports give both disabled and non-disabled people joy and a sense of achievement” http://www.jica.go.jp/english/publication/network/2001/net_vol11/main03.html.

March, Japan hosted the 2005 World Games for Special Olympics in Nagano Japan. Over 1,800 athletes and 650 coaches from more than 80 countries attended the games.⁹³

Disability Action & Awareness

The Fundamental Law for Persons with Disabilities stipulates that the government should establish the Central Council on Promotion of Measures of Persons with Disabilities. The government invited eleven people with disabilities and three non-disabled people from family organizations to be among the 30 Council members.⁹⁴

Japan also has active non-governmental disability organizations. In October 2004, a new coalition of umbrella organizations, called Japan Disability Forum (JDF), was officially inaugurated after a one-year formative stage. According to the JDF Basic Outline, the organization's mission is to help "Nationwide organizations of persons with disabilities and its concerned bodies collaborate toward the promotion of the 2nd Asian and Pacific Decade of Disabled Persons and disability policies in Japan as well as the promotion of the rights of persons with disabilities, following the outcomes of International Forum on Disabilities to Mark the End Year of the Asian and Pacific Decade of Disabled Persons."⁹⁵

In order to accomplish its mission, JDF plans to promote the UN Convention on the Rights of Persons with Disabilities and the 2nd Asian and Pacific Decade of Disabled Persons and the Asia and Pacific Disability Forum (APDF); improve and raise awareness of disability policies in Japan; assist in the implementation of national legislation concerning the anti-discrimination and rights of people with disabilities; and participate in other activities that may relate to their mission.

JDF was designed as a membership organization and hopes to include affiliates of the Japanese International Disability Alliance as well as major national disability

93. Special Olympics, Fact Sheet 2005 World Games http://www.specialolympics.org/Special+Olympics+Public+Website/English/Compete/World_Games/2005_World_Winter_Games/Fact+Sheet.htm.

94. <http://www8.cao.go.jp/shougai/kyougai/1.html>.

95. Japan Disability Forum.

organizations that have participated in the International Forum on Disabilities to mark the last year of the Asian and Pacific Decade of Disabled Persons.⁹⁶ As of 1 June 2005, there were nine full members and two observers:

- Japanese Federation of Organizations of Disabled Persons;
- Japan Council on Disability;
- Japan National Assembly of Disabled Peoples' International;
- Japan Federation of the Blind;
- Japanese Federation of the Deaf;
- Inclusion Japan;
- Japan Federation of Family Organizations for Persons with Psychiatric Disabilities;
- Japanese Society for Rehabilitation of Persons with Disabilities;
- National Council of Social Welfare;
- Japan Deaf blind Association (observer status); and
- Japan National Group of Mentally Disabled People.

96. This "International Forum" was formed mainly to organize two big international events in Japan in 2002: one is the 6th DPI World Assembly in Sapporo, the other is NGO Campaign Conference to Promote the Asia-Pacific Decade of Persons with Disabilities in Osaka. <http://www.normanet.ne.jp/~forum/>.



Philippines

Key Factors: In the Philippines, people with disabilities have often been marginalized. Their right to achieve their full potential and their ability to contribute to their families and communities have been unrecognized; their access to government services has been limited; and the rehabilitation services available to them have been inadequate. However, recent international developments have effected major change in the philosophical, social and developmental assistance provided to people with disabilities, and services for people with disabilities are now managed in the same framework as those provided to other citizens. Despite this progress, much still needs to be done to enable people with disabilities to reach their full potential, ensure the protection of their rights, facilitate adequate provision of the services they need, and promote their integration into mainstream society.

Terminology

Prior to the International year of the Disabled Persons in 1981, derogatory terms that translate as “handicapped” and “crippled” were used to refer to people with disabilities. In addition, some disability surveys use a phrase that has been translated as “mental illness.” This language has been retained in direct quotations. Current legislation uses the term “may kapansanan”, which translates into “people with disabilities”.

Definition of Disability

There are several definitions of disability used in the Philippines, and most focus on impairments. According to Section 4 of the Republic Act No. 7277, also known as the Magna Carta for Person with Disabilities Act, of 1992:¹

1. Republic Act No. 7277, An Act Providing for the Rehabilitation, Self Development, and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes, <http://www.ncwdp.gov.ph/drdb/legislations/locallegis/html/RA7277page2.htm>.

Disabled Persons “are those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being”;

Impairment is “any loss, diminution or aberration of psychological, physiological; or anatomical structure or function”;

Disability “shall mean (1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment”; and

Handicap “refers to disadvantage for a given individual resulting from an impairment or a disability, that limits or prevents the function or activity, that is considered normal given the age and sex of the individual”.

Other legal documents tend to adopt medical definitions of disability. For example, the Accessibility Law refers to disability strictly in terms of various impairments, and the Economic Independence of Disabled Persons Act of 1999 defines people with disability as “persons who cannot perform work in the usual and customary way due to loss of limbs or any part of the body by injury or absence thereof by birth.”² Most recently, the 2000 Census on Population and Housing adopted the definition of disability put forward by the ICIDH, stating that disability is “any restriction or lack of ability (resulting from impairment) to perform an activity in the manner or within the range considered normal for a human being. Impairments associated with disabilities may be physical, mental or sensory motor impairment such as partial or total blindness and deafness, muteness, speech defect, orthopedic handicaps, and mental retardation.”³

Disability Population

There are no accurate statistics on disability in the Philippines. Attempts have been made to enumerate the disability population, but the results do not accurately portray the country’s disability profile. The most detailed information available is that collected in the 2000 National Population Census of the National Statistics

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2. Japan International Cooperation Agency (JICA), Planning and Evaluation Department “Country Profile of Disability, Philippines” March 2002 http://www.jica.go.jp/english/global/dis/pdf/phi_eng.pdf; Asia-Pacific Development Center on Disability “Philippines Country Profile” <http://www.apcdproject.org/countryprofile/philippines/situation.html>.
 3. National Statistics Office “Collecting National Disability Data in a Census in the Philippines” a paper presented at the workshop on Improving Disability Data for Policy Use, 23 September 2003.

Office (NSO), which included two questions on disability.⁴ The results of the census revealed that the population of people with disabilities was 942,098, or 1.23% of the total population of 76,504,077.⁵ Close to 4.8% of households reported having at least one person with a disability. Of the population of people with disabilities, 50.24% are female and 49.75% are male. Table one shows the number of people with each type of disability recorded by the census.

Table 1: Persons with Disabilities in the Philippines⁶

Disability	Number	Percentage
Visual Disability	473,143	50.22%
Orthopedic Disability	135,569	14.40%
Intellectual /Psychiatric Disability	133,407	14.16%
Hearing Disability	121,598	12.90%
Oral Disability	50,862	5.40%
Multiple Disabilities	27,519	2.92%
TOTAL	942,098	100%

The regions with the highest number of households reporting a person with disability, Eastern Visayas and the Bicol region, are predominantly rural.⁷ The concentration of people with disabilities in rural areas is significant because of the prevalence of poverty in the country's rural areas. The inequitable distribution of wealth and resources, coupled with a quickly-growing population, has 34% of Filipinos living below the poverty line.⁸ In addition, people with disabilities living in rural areas often have little opportunity to benefit from programs and services offered by the government and other organizations, which are almost always found in urban areas.

4. National Statistics Office "Collecting National Disability Data in a Census in the Philippines." Categories included: "totally blind, partially blind, low vision, totally deaf, partially deaf, hard of hearing, oral defect, one hand, no hands, one leg, no legs, quadriplegic – regular, quadriplegic – severe, retarded – regular, retarded – severe, mentally ill – regular, mentally ill – severe, multiple impairment – regular, multiple impairment – severe" (APCD, Country Profile.).

5. National Statistics Office. NSO Philippines in Figures 2003 Edition. Retrieved from <http://www.census.gov.ph>.

6. National Statistics Office. *Persons with Disability (Results from Census 2000)* brochure.

7. Philippines National Statistics Office, *Philippines: Urban population was registered at 48.05%*, (press release number 2003-82, 10 October 2003), available at <http://www.census.gov.ph/data/pressrelease/2003/pr0382tx.html>; Philippines National Statistics Office, 2000 Census of Population and Housing: Persons with Disability, special release number 150, 18 March 2005, available at <http://www.census.gov.ph/data/sectordata/sr05150tx.html>. Although the census reports do not give precise percentages for the number of people with disabilities living in rural areas, other sources suggest that it is approximately 75% (APCD, Country Profile.).

8. National Statistics and Coordination Board (NSCB). "4.3 Million Filipino Families are Living Below Poverty Line". Posted 02 October 2003. Retrieved August 10, 2004 from http://www.nscb.gov.ph/factsheet/pdf03/fs3_07.asp.

Despite the relative thoroughness of recent studies in the Philippines, the inconsistency of national disability statistics renders them unreliable. A 1980 National Disability Survey conducted by the National Commission Concerning Disabled Persons (NCCDP) found that 4.4% of the population had a disability.⁹ The 1990 Census reported that people with disabilities were 1% of the population, while the 1995 Census reported they were 1.3%. After the 1995 census, disability organizations reported that the number of people with disabilities identified in some districts was lower than the number of people in their membership records.¹⁰ The Department of Health, on the other hand, reported that their Disability Prevalence Survey, conducted between July 2000 and October 2002, found that 2.9% of the population had a disability.¹¹ Finally, studies focused on specific disabilities have consistently found larger numbers of people with particular disabilities than the more general, national studies.¹² These differences may be attributed to the use of different definitions and inadequate data collection techniques and tools, such as problems with enumerators and poor methods for identifying people with less obvious disabilities.¹³ The small sample sizes used for the surveys may also have impacted the findings.

A National Registration campaign for people with disabilities, spearheaded by the Department of Health, was initiated in 1995 to obtain an accurate measure of the number of people with disabilities and identify their needs. The registration form included questions on personal identification, education, employment, type and cause of disability, and assistance needed, but failed to identify a large number of people with disabilities. The registration drive was re-initiated two years later, but the results were no better and showed a disability prevalence rate of only 0.78%. The campaign was fraught with problems, including a lack of resources and personnel for data analysis and administrative difficulties such as an inadequate budget and poor coordination among government agencies.¹⁴ Other potential reasons for the low number of registered people with disabilities include people with disabilities' unawareness of the registration process and the difficulty they encounter in accessing public welfare offices or other registration locations.¹⁵

The causes of disabilities can be traced to poor and unsafe living conditions, accidents, and the war/conflict with Muslim separatists in Mindanao. Although there are no accurate data on how many people in the Philippines are disabled because of landmines, from 1995 to 2004, over 150 people were injured by a

9. *Ibid.*

10. Catalina L. Fermin, "The Philippine Disability Data Situation," (presentation at the Workshop on Improving Disability Data for Policy Use, 23-26 September 2003, Bangkok, Thailand), available at <http://www.unescap.org/stat/meet/widd/paperphilippines2.htm>.

11. The survey was conducted in collaboration with medical service providers.

12. *Ibid.*; Visual disabilities were estimated in 1987 at 1.67% of the total population, and in 1972, mental disabilities were estimated at 3.6% of the population.

13. Catalina L. Fermin "The Philippine Disability Data Situation,," National Statistics Office "Collecting National Disability Data in a Census in the Philippines."

14. Catalina L. Fermin "The Philippine Disability Data Situation,"

15. Japan International Cooperation Agency (JICA), Planning and Evaluation Department "Country Profile of Disability, Philippines."

landmine. The majority of those injured are civilians.¹⁶ According to figures of the National Statistics Office (NSO), the number of people with disabilities increases by an average of 2 to 4% per year, mostly due to malnutrition, accidents, disabling diseases and congenital disabilities.¹⁷ Disability rates among minority groups, who are usually located in rural and isolated areas, are typically higher. A study conducted among such groups suggests that the factors contributing to higher minority disability rates are “poor pre-natal and peri-natal care, nutrition and diet, greater risk for physical injury because of living conditions.”¹⁸

Most disability organizations do not believe that the numbers obtained through the surveys and other data collection efforts reflect reality. Furthermore, due to the significant variations of the results, they do not feel that these surveys can serve as a basis for policy formulation or advocacy efforts. Since all the estimates produced to date are extremely low and apparently unreliable, the Philippines continue to use on the World Health Organization estimate that 10% of a given population has some type of disability.

Legislation & Disability Rights

National Protections

The Philippine Constitution mandates that “the State shall formulate, adopt, and implement policies, programs and plans responsive to the needs of disabled persons and ensure their participation in its affairs.”¹⁹

In addition to the Constitution, a number of specific laws have been formulated to promote the welfare of people with disabilities. Batas Pambansa Blg. 344, otherwise known as the “Accessibility Law” aims to facilitate the mobility of people with disabilities.²⁰ The law requires that any building permits for new construction or renovation of buildings intended for public use be issued only upon incorporation of design elements that facilitate use of the building by people with disabilities. Streets, highways, transportation services and other public utilities are also required to be accessible.

16. Landmine Monitor Report “Philippines” 2004.

17. The general population in the Philippines increased 2.32% from 1995 to 2000. National Statistics Office. Persons with Disability (Results from Census 2000) brochure.

18. Asian Development Bank (ADB) “Identifying Disability Issues Related to poverty Reduction in Philippine Country Report” November 2000.

19. The 1987 Constitution of the Republic of the Philippines, <http://www.gov.ph/aboutphil/constitution.asp>.

20. Republic of the Philippines. National Council for the Welfare of Disabled Persons. “Accessibility Law (Batas Pambansa Bilang 344) and its Original and Amended Implementing Rules and Regulations” Pasig City: Capitol Publishing House, 1995.

One of the most important developments in legislation for people with disabilities was the passage of Republic Act 7277, or the Magna Carta for Disabled Persons, and its Implementing Rules and Regulations.²¹ The Act provides for “the rehabilitation, self-development, and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes.” Through the Act, the state seeks to ensure the “attainment of a more meaningful, productive and satisfying life” for people with disabilities through the provision of basic services necessary to ensure opportunities to participate in community life.

The government has also passed several laws designed to promote awareness and acceptance of people with disabilities. The White Cane Act, Republic Act 6759, serves as a legal basis for a campaign to raise awareness of issues concerning visually-impaired persons, and designates the first of August of each year as White Cane Safety Day.²² More recently, a presidential proclamation declared the last Monday of March as Women with Disabilities Day, and designated 16-22 September as Cerebral Palsy Awareness and Protection Week.²³

National legislation committing the Philippines to observance of both the 1993-2002 and the 2003-2012 Asian and Pacific Decades of Disabled Persons represents the impact of these documents on the Philippines’ commitment to the well-being of people with disabilities and their integration into mainstream society. Proclamation No. 125 declared observance of the first Asian and Pacific Decade of Disabled Persons, 1993-2002. Support for the first Decade of Disabled Persons adhered to the government’s overall poverty reduction policy as stated in the Medium-Term Philippine Development Plan for 1993-1998 that “all development should be for the many, not just for a few.” The goal of social equity and the betterment of disadvantaged sectors has been a major impetus for the government’s anti-poverty framework.²⁴ In support of the Second Asian and Pacific Decade of Disabled Persons, 2003-2012, and the Biwako Millennium Framework, President Gloria Arroyo declared in Proclamation No. 240 that it would also be the Philippine Decade of Persons with Disabilities. As a result, the National Council for the Welfare of Disabled Persons was directed to create and implement a Comprehensive National Plan of Action for the Decade, which would “translate the objectives of disability related laws and policies and concrete programs of action for the decade.”²⁵

21. Republic of the Philippines. National Council for the Welfare of Disabled Persons. “Magna Carta for Disabled Persons and its Implementing Rules and Regulations (Republic Act No. 7277)” Pasig City: Capitol Publishing House, 1998.

22. National Council for the Welfare of Disabled Persons (NCWDP) The White Cane Act Retrieved August 9, 2004 from <http://www.ncwdp.gov.ph>.

23. Proclamation No. 744, http://www.gov.ph/op_issuances/proc_no744.htm; Proclamation No. 588, http://www.gov.ph/op_issuances/proc_no588.htm.

24. Dan Joseph N. Arriola, DPI Philippines “Country Report” <http://www.dpi.org/en/resources/publications/documents/philippines.doc>.

25. Catalina L. Fermin, Executive Director, National Council for the Welfare of Disabled Persons, “Country Paper on the Elaboration of the Proposed International Convention on Disability: Philippines” 23 October 2003 <http://www.worldenable.net/beijing2003/paperphilippines.htm>.

International Protections

The Philippine government has signed and ratified a number of United Nations human rights treaties, including the Convention for the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention against Racial Discrimination, and the Convention on Political and Civil Rights.²⁶ It has also signed International Labor Organization (ILO) Convention No. 159 on vocational rehabilitation of people with disabilities. The Philippines supports the creation of a United Nations convention on disability and was an active participant in the Expert Group Meeting and Seminar on an International Convention to Promote the Rights and Dignity of Persons with Disabilities held on June 2-4, 2003 in Bangkok, which drafted one of the first texts for the convention.²⁷

Legal Barriers

Some laws continue to prohibit many people with disabilities from exercising their right to vote and to hold political office. For example, Section 118 of the Electoral Law prohibits people with mental disabilities from voting. Additionally, various articles and sections of the Constitution and Election law state that a candidate must be able to read and write in order to be elected, thereby discriminating against people with visual impairments.²⁸

Civic Participation

Article 5, Section 2 of the Constitution establishes the right to vote for people with disabilities, stating "...The Congress shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot."²⁹ Furthermore, both the Magna Carta for Disabled Persons and the Electoral Law allow and provide specific instructions for people with disabilities to have an assistant to help them vote.³⁰ In order to be eligible for such assistance, a person's disability must be indicated on his or her voter registration card.

26. United Nations High Commissioner for Refugees (UNHCR).

27. Catalina L. Fermin.

28. *Ibid.*

29. The 1987 Constitution of the Republic of the Philippines, <http://www.gov.ph/aboutphil/constitution.asp>.

30. International Foundation for Election Systems (IFES) "Global Initiative to Enfranchise People with Disabilities: Philippines" <http://www.electionaccess.org/LR/Countries%20M-Z/Philippines.htm>.

The majority of polling sites are not accessible, thus limiting the participation of people with physical disabilities. However, the poll workers' manual does provide advice on how to facilitate the voting process for people with disabilities to ensure it is more convenient.³¹

Inclusion

Communication

Sign language is recognized as an official language of the Philippines and is reported to be similar to American Sign Language (ASL).³² In 1999, the Philippine Dictionary of Signs was developed with funding from the United Nations Development Programme (UNDP).³³ Chapter 5 of the Magna Carta for Disabled Persons states that "television stations shall be encouraged to provide a sign language inset or subtitles in at least one (1) newscast program a day and special program covering events of national significance."³⁴ The same section encourages telephone companies to provide special devices to promote communication among people with hearing impairments.³⁵ However, the use of the word "encourage" in this section implies that it is only a recommendation and therefore not legally binding.

The government does provide a Braille version of the Constitution, but it is difficult to obtain other Braille materials, even in large public libraries, due to high production costs. Most of the Braille materials that do exist were made to order by individuals or NGOs.

To promote the knowledge and inclusion of people with disabilities in the area of modern communication, the Katipunan ng Maykapansanan sa Pilipinas, Inc. (KAMPI), a local NGO, sent technical staff abroad to attend a training in "Information and Communications Technology". Upon completion of the training, KAMPI, in collaboration with the National Council for the Welfare of Disabled Persons, held a series of workshops on the topic in the Philippines.³⁶ In March 2003, the Department of Social Welfare and Development, the National Council for the Welfare of Disabled Persons, the United Nations Development Program, and the Department of Foreign Affairs developed a workshop on "Empowering

31. *Ibid.*

32. Ethnologue.com "Languages of Philippines" http://www.ethnologue.com/show_language.asp?code=psp.

33. Asia-Pacific Development Center on Disabilities "Country Profile: Republic of Philippines" <http://www.apcdproject.org/countryprofile/philippines/index.html>.

34. Republic Act No. 7277, An Act Providing for the Rehabilitation, Self Development, and Self-Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes.

35. *Ibid.*

36. Dan Joseph N. Arriola.

Persons with Disabilities through IT.” The Manila Declaration on Accessible ICT and Manila Accessible ICT Design Recommendations were produced as a result of the workshop.³⁷

The police department does not provide sign language interpretation for individuals with hearing impairments in cases of criminal assault and most people therefore depend on family members or volunteers for interpretation. In trials, however, the courts do use sign-language interpreters from the government and non-governmental organizations. The national guidelines for responding to disasters, such as floods or bombings, do not mention disability as a concern or establish specific provisions for people with disabilities.³⁸ Between the period of 18 May and 1 June 2005, the United Nations Disaster Assessment and Coordination team (UNDAC) carried out an assessment of Disaster preparedness on the Philippines but failed to assess provisions for the specific needs of people with disabilities.³⁹

Education

There is a considerable lack of educational opportunities for people with disabilities, which leads to high unemployment and other negative consequences. Although primary and secondary education in public schools is free, a large number of people with disabilities still are not able to go to school. One reason for this is the inaccessibility of school facilities. According to a report published by the United Nations Economic and Social Commission for Asia Pacific (UNESCAP) nearly all educational institutions are inaccessible. Although there is legislation in place and a basic knowledge of accessible design features, there is no national or local government agency to oversee its implementation or monitor institutions' compliance.⁴⁰ Despite the lack of implementation at the school level, the Department of Education is accessible to people with physical disabilities.

In the Philippines, there are 94 specialized schools for children with disabilities, 19 boarding schools for children with disabilities and 4,292 special education classes within regular public schools. Although in 1987 the Philippine government proclaimed: “The ultimate goal of special education shall be the integration or

37. Asia-Pacific Development Center on Disability “Philippines Country Profile.”

38. National Disaster Coordinating Council (NDCC) ‘Preparing for disasters’ , 9 May 2005, http://ndcc.gov.ph/ndcc/index.php?module=pagemaster&PAGE_user_op=view_page&PAGE_id=4&MMN_position=23:23.

39. United Nations, Office of Coordination of Humanitarian Affairs, “UNDAC mission to the Philippines, Assessment of National Disaster Response Capacity” 18 May – June 1, http://ndcc.gov.ph/ndcc/index.php?module=documents&JAS_DocumentManager_op=viewDocument&JAS_Document_id=28.

40. United Nations Economic and Social Commission for Asia Pacific (UNESCAP) “Promotion of Non-Handicapping Physical Environments for Disabled Persons: Case Studies, Chapter 4: The Role of Education System” 1995 <http://www.dinf.ne.jp/doc/english/intl/z15/z15008cs/z1500805.htm>.

mainstreaming of learners with special needs into the regular school system and eventually in the community," only 23 schools integrate children with disabilities into their regular education program.⁴¹

The National Council for the Welfare of Disabled Persons reported that 136,523 children with disabilities were enrolled in public and private primary and secondary schools.⁴² According to the national census, approximately 20% of children with disabilities have never attended school, compared with only about 6% of children without disabilities. At most, only one-third of people with disabilities have received any education beyond elementary school. Current children report slightly higher attendance, averaging around two-thirds enrollment across primary and secondary school. Overall, children with disabilities constitute less than 0.07% of the total student population.⁴³

The government has established a small scholarship fund of approximately 7,500 php (approximately US\$135.00)⁴⁴ for higher (tertiary) education for people with disabilities. However, most universities lack adequate accessibility features and trained personnel. According to the 2000 census, only 4.13% of people with disabilities held a college degree, while another 5.46% had attended some college and 2.57% had some other type of post-secondary education. Only 0.47% had any post-baccalaureate training.⁴⁵

The shortage of personnel who are properly trained to teach and work with students with disabilities is a critical factor in the lack of educational opportunities for people with disabilities.⁴⁶ The low salaries received by government special education (SPED) teachers exacerbate the problem. In 2002, SPED teacher salaries were reported to be around US\$240 per month, while the average monthly salary of other teachers is US\$886.⁴⁷ Consequently, a large number of special education teachers choose to teach in private schools or establish their own schools instead of teaching in public schools. Because of the staff shortage, it is not unusual to

41. According to the Ministry of Education there are a total of 49,779 primary and secondary schools in the Philippines; United Nations Educational, Scientific, and Cultural Organization (UNESCO) "UNESCO Survey on Special Needs Education Law 1996" <http://inclusion.uwe.ac.uk/csie/unscolaw.htm#Philippine>; Japan International Cooperation Agency (JICA), Planning and Evaluation Department "Country Profile of Disability, Philippines."

42. Asia-Pacific Development Center on Disability "Philippines Country Profile."

43. This number is based off of Department of Education's Basic Education Statistics, which states that there is a total of 12,983,349 Filipino students enrolled in Primary schools in 2004 and 6,270,208 students enrolled in Secondary Schools. In addition, the Basic Education Fact Sheet does not mention children with disabilities nor the special education system. Department of Education, "Basic Education Fact Sheet" Education Act of 1982 <http://www.deped.gov.ph/>.

44. As of 21 June 2005 1 US dollar equaled 55.65 Philippines Peso (php).

45. National Statistics Office "Collecting National Disability Data in a Census in the Philippines."

46. The IDRM was not able to verify the number of special education teachers in the country.

47. Sheila de Torres, 2002, *Understanding Persons of Philippine Origin: A Primer for Rehabilitation Service Providers*, <http://cirrie.buffalo.edu/philippines.html>; UNESCO, "More children, fewer teachers: new UNESCO-ILO study sees global teacher shortage causing decline in quality education," (press release on 4 October 2002.).

see students with all types of disabilities and of different ages placed together in one class. The nation-wide average class size for public schools is 45, while some classes of students with disabilities reportedly have 70 students.⁴⁸

The Department of Education has developed special education curricula for training regular teachers, and to raise awareness, has included subjects on disability in its elementary, high school and college curriculums.⁴⁹ Furthermore, the Special Education section of the Department of Education has developed a program to train special education teachers. In April and May of 2005, the Ministry of Education, in coordination with the Philippine Normal University (PNU), Cebu Normal University (CNU), the University of Southeastern Philippines (USP), and the Holy Cross College of Davao City, conducted a summer training for special education teachers. In order to encourage the participation of the 434 teachers who attended, the Department of Education provided free tuition and a small monthly stipend.⁵⁰

While the government advocates inclusive education and would like to accommodate all students with disabilities in regular schools, financial constraints limit its capability to make the necessary accessibility adjustments and provide proper training for their personnel. In order to better address this difficulty, the Department of Education has forged partnerships with NGOs to provide teacher training. Beginning in 1992, prospective teachers of the children with visual impairments have been trained with financial support from NGOs such as Resources for the Blind, Inc. and the Christoffel Blindenmission. In partnership with KAMPI or DPI-Philippines, training on inclusive education has been provided to some 788 teachers in 5 regions of the country.⁵¹

Although the Department of Social Welfare, the NCWDP, local governmental units, and health care centers have established medical centers that provide early intervention,⁵² they do not appear to be collaborating with schools.

Employment

Section 32 of the Magna Carta for Disabled Persons prohibits discrimination against persons with disabilities in the area of employment, stating that, "No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee compensation, job training, and other terms,

48. Dan Joseph N. Arriola; Asia Development Bank, "Poverty in the Philippines: Income, Assets, and Access" 2005, <http://www.adb.org/Documents/Books/Poverty-in-the-Philippines/>.

49. Asia-Pacific Development Center on Disability "Philippines Country Profile."

50. Department of Education, "Department of Education Updates" April 16-30 2005 <http://www.deped.gov.ph/posts.asp>.

51. KAMPI "Accomplishment Report of the Breaking Barrier for Children 2003."

52. Asia-Pacific Development Center on Disability "Philippines Country Profile."

conditions, and privileges of employment.”⁵³ In addition, Republic Act No. 8759 created Public Employment Services at the municipal level to assist and provide job placement opportunities for people with disabilities.⁵⁴

Despite these measures, there are still a disproportionate number of people with disabilities who are unemployed or underemployed. Of the total population of people with disabilities, 57.12% are employed,⁵⁵ compared to 82.3% of the general population.⁵⁶ Of the people with disabilities who are employed, 30.94% work in the area of agriculture as farmers, forestry workers or fishermen and 10.81% are employed as laborers or unskilled workers.

The government’s goals in employment of people with disabilities are based on two objectives; to provide training for those who lack the skills and qualification to venture into employment, and to provide employment opportunities for qualified people with disabilities. The Department of Labor and Employment (DOLE) is the government agency in charge of the development and implementation of policies and programs concerned with the employment of people with disabilities.

In 1981, the Philippine Congress passed Parliamentary Bill No. 1453, which requires that all offices, agencies and organizations that employ 100 or more persons reserve at least 5% of their total workforce for people with disabilities who meet the requirements or qualifications necessary for employment. The Magna Carta for Disabled Persons provides an incentive for private companies that employ people with disabilities, by granting them a deduction in their taxable gross income equivalent to 25% of the total amount of salaries and wages paid to people with disabilities. Private companies that modify their physical facilities for accessibility are also eligible for a deduction on their net taxable income equivalent to 50% of the cost of such renovation or modification.⁵⁷

Republic Act No. 1179, “An Act to Provide for the Promotion and Vocational Rehabilitation of the Blind and other Handicapped Persons and their Return to Civil Employment,” mandates the creation of a separate Vocational Rehabilitation Office within the Department of Social Welfare and Development (DSWD), dedicated to the economic inclusion of people with disabilities.⁵⁸ The DSWD provides services mainly through the National Vocational Rehabilitation Centers

53. Magna Carta for Disabled Persons and its Implementing Rules and Regulations (Republic Act No. 7277).

54. Asia-Pacific Development Center on Disability “Philippines Country Profile.”

55. National Statistics Office “Collecting National Disability Data in a Census in the Philippines.”

56. According to the Department of Labor and Employment’s Order No. 4, the working age within the Philippines is age 16 and older, while jobs that are considered hazardous are restricted to those who are over the age of 18; Central Intelligence Agency “World Fact Book: Philippines” 17 May 2005 <http://www.cia.gov/cia/publications/factbook/geos/rp.html>.

57. Yukiko Nakanishi, “CBR Profile on Asia Countries” www.din.jp.org.

58. Republic Act No. 1179 “An Act to Provide For the Promotion and Vocational Rehabilitation of the Blind and other Handicapped Persons and their Return to Civil Employment” <http://www.ncwdp.gov.ph/drdb/legislations/locallegis/html/RA1179.htm>.

and the Area Vocational Rehabilitation Center (AVRC), which are located in 4 key regions throughout the country. The main objectives of the AVRCs are to assist people with disabilities in gaining and/or recovering their working capacity by focusing on providing livelihood training and job placement. Over 100 people with disabilities have obtained employment through the Department of Social Welfare's job placement services.⁵⁹

Health Services

The Department of Health (DOH) is the agency in charge of the implementation of programs and services for people with disabilities. However, most of the DOH's efforts toward this end have been in the prevention of disability, specifically immunizations against the poliomyelitis virus, tetanus toxoid and measles. As a result, the country is now polio-free. The DOH also provides medical care and rehabilitation for people with disabilities but the funding for these programs is limited. The government approaches health care delivery through a strategy of community engagement and participation. The DOH trains Barangay Health Workers (BHWs) and Barangay Nutrition Scholars (BNS) from within the communities to assist in the delivery of health care services to their communities. A Barangay is a community composed of a minimum of 100 families.

The National Council for the Welfare of Disabled Persons (NCWDP) has launched a Community Based Rehabilitation Program, which was pilot-tested in metropolitan Manila. The DOH is coordinating a separate Community Based Rehabilitation (CBR) program in a few Barangays throughout the country. In addition, a social mobilization project of people with disabilities and their families was implemented in over 125 municipalities and cities and 1,263 Barangays nationwide.⁶⁰

Other efforts in the provision of community-based rehabilitation services have been initiated by non-governmental disability organizations in various regions of the country. Despite the relative success achieved by such initiatives, however, a significant number of people with disabilities, especially children and women, are not served or are underserved, due to the limited coverage and reach of these initiatives. Most of the CBR programs are located near the cities and very few programs are in rural areas. There remains an outstanding need for the government to enlarge its CBR programs to benefit more people with disabilities.

While the DOH is responsible for the general health care of people with disabilities, the Department of Social Welfare, NCWDP and the Department of the National Defense provide funds for people with disabilities to purchase assistive devices. There are 16 governmental organizations and 10 NGOs that produce assistive devices and train people with disabilities in how to use them. In addition, the

59. Dan Joseph N. Arriola.

60. Christoffel-Blinden Mission.

Department of Trade and Industry has created a Wheelchairs Standards Manual.⁶¹ However, many people still lack assistive devices and there is no national quality control standard for assistive devices.⁶²

People with disabilities can obtain health insurance through the Philippine Health Insurance System, or PhilHealth, and are exempt from having to undergo a medical examination prior to receiving coverage. The Department of Social Welfare will pay the premium if the person with a disability can not afford the cost.⁶³

Housing

The government provides people with disabilities the opportunity for full and equal use of public accommodations. According to the Accessibility Law, 10% of government owned housing units (detached houses and duplexes) must be constructed to be accessible to people with disabilities. Although fewer units in private buildings must conform to the code, according to the Law, privately owned tenement houses and apartments with more than 50 units must also comply with these accessibility requirements. Presidential Executive Order 105 directs the Social Security System, the Government Service Insurance System and the Home Development Mutual Fund to develop innovative financing/lending schemes for housing for people with disabilities who have the capacity to pay.⁶⁴

There are no Independent Living Centers in the Philippines, and according to the 2000 Census, 90.13% of people with disabilities live in detached family homes. While 5.02% of people with disabilities live in multi-residential homes, 3.18% live in a duplex, and 0.39% live in other types of housing units. People with disabilities exhibit the same tendency towards living in single family homes as people without disabilities.⁶⁵

Institutionalization

Through Executive Order 105, the President approved and directed the implementation of the "Provision of Group Home / Foster Home for Neglected, Abandoned, Abused, Detached and Poor Older Persons and Persons with

61. Asia-Pacific Development Center on Disability "Philippines Country Profile."

62. Japan International Cooperation Agency (JICA) "Country Profile on Disability: Republic of Philippines."

63. Asian Development Bank (ADB) "Identifying Disability Issues Related to Poverty Reduction: Philippines Country Report."

64. Republic of the Philippines. Housing and Urban Development Coordinating Council. Rules and Regulations Implementing Executive Order No. 105 Approving and Directing the Implementation of the Program "Provision of Group Home/Foster Home for Neglected, Abandoned, Abused, Detached, and Poor Older Persons and Persons with Disabilities.

65. National Statistics Office "Collecting National Disability Data in a Census in the Philippines."

Disabilities” program.⁶⁶ All donations made to the program are tax-deductible, and individuals or families that serve as caregivers are entitled to personal income tax deductions, including a tax exemption of 25,000php (approximately US\$450).

Although institutions for people with severe mental disabilities exist, there is no information available on the number of residents in, or the conditions of, such institutions.

Accessibility

As provided in the Accessibility Law, in order to promote the right of people with disabilities to participate fully in society and societal development, and to enjoy the opportunities available to other citizens, the requirements for construction, repair, and renovation licenses and permits should include the incorporation of design features that facilitate the mobility of people with disabilities, such as sidewalks, ramps, and railings. These requirements apply to public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking spaces, workplaces, and public utilities. If feasible, all such existing buildings, institutions, establishments or public utilities should be renovated or altered to enable people with disabilities to have access to them.⁶⁷ In order to improve accessibility, the Department of Works has allocated a portion of their budget to improve accessibility to public structures.⁶⁸

In reality, many public buildings are still being built in a manner which makes them inaccessible for people with disabilities. For example, many new restaurants, including Kentucky Fried Chicken and Max’s restaurants were built without ramps and/or accessible bathrooms, resulting in law suits.⁶⁹

There are also challenges in the area of accessible public transport. The public bus system is not accessible and many train stations lack elevators. However, all of the Line 2 stations of the Light Rail Transit (LRT) have wheelchair ramps, Braille buttons in the elevators and a space designated for wheelchairs.⁷⁰ The NCWDP has also attempted to install curb cuts in major streets of Manila and other key cities and is in the process of developing an identification system for

66. Republic of the Philippines. Housing and Urban Development Coordinating Council.

67. Batas Pambansa 344 “An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices” <http://www.ncwdp.gov.ph/drdb/legislations/locallegis/html/bp344.htm>.

68. Asia-Pacific Development Center on Disability “Philippines Country Profile.”

69. Michelle Favis, “The Philippine Disability Rights Movement Goes to Court” Disability World, April-May 2002. The KFC restaurants are reported to have improved accessibility conditions as a result.

70. Tina Santos “LRT Line Helps Blind ‘See’ Their Way” Inquirer News Service, 2 October 2002, http://news.inq7.net/metro/index.php?index=1&col=&story_id=13642.

receiving reduced rates on transportation.⁷¹ Through the NCWDP, people with disabilities can receive discounts of 10-20% for land, sea and air transportation.⁷² In return, the DSWD-NCWDP conducted a training on “Assisting Disabled and Elderly Persons who Travel” to personnel and crew of transportation facilities. A manual based on this training was produced, and accessibility seminars for public utility vehicles and bus operators have taken place. In addition, it is considered discrimination if the franchisees, operators, or personnel of sea, land, and air transportation facilities charge higher fares or refuse to transport a passenger, his or her orthopedic devices, personal effects or merchandise, because of his or her disability.⁷³

At institutions of higher education, accessibility is not offered as a separate course of study.⁷⁴ However, accessibility is included in the curricula of architectural and engineering courses and in the Philippine National Building Code of 1993.⁷⁵

Culture, Sports and Recreation

People with disabilities can use government owned recreational or sports centers free of charge for social, sports or recreational activities. The Philippines has a National Sports Association of people with disabilities called PHILSPADA-Philippin that has won honors in several international competitions.⁷⁶ There are also several organizations that promote the participation of people with disabilities in sports. The Philippines participated in the 2000 and 2004 Paralympics Games,⁷⁷ and has an active Special Olympics chapter that provides sporting opportunities for individuals with intellectual disabilities.⁷⁸

Disability Action & Awareness

In 1978, Presidential Decree 7509 established the National Commission Concerning Disabled Persons, a national coordinating body under the Office of the President. The body was later renamed the National Council for the Welfare of Disabled Persons (NCWDP), and affiliated with the Department of Social Welfare and Development. The mandate of the NCWDP includes the formulation of policies, coordination, and monitoring of all governmental

71. Asia-Pacific Development Center on Disability “Philippines Country Profile.”

72. National Council for the Welfare of Disabled Persons <http://www.ncwdp.gov.ph>.

73. Accessibility Law Batas Pambansa 344.

74. UNESCAP “Promotion of Non-Handicapping Physical Environments for Disabled Persons: Case Studies, Chapter 4: The Role of Education System.”

75. Asia-Pacific Development Center on Disability “Philippines Country Profile.”

76. *Ibid.*

77. Paralympics www.paralympics.org.

78. Special Olympics, http://www.geocities.com/specialolympics_ph/Home.htm.

and non-governmental organizations related to disability. Membership of the Council is made up of the Secretaries of government agencies, including, inter alia, the Department of Health, the Department of Labor and Employment, the Department of Education, the Department of Public Works and Highways, the Department of Justice, the Department of Transportation and Communication, the Department of Interior and Local Government, the Philippine Information Agency.

The country's observance of the Asian and Pacific Decade of Disabled Persons was instrumental in promoting the situation of people with disabilities in the Philippines, and advancing the disability concerns and stated goals regarding disability such as rehabilitation, self-development and self-reliance, and integration into mainstream society. Governmental policy in the Philippines has encouraged the development and growth of self-help groups (SHGs) of people with disabilities. The NCWDP has had a significant impact in this, and has worked closely with major disability umbrella organizations such as the Katipunan ng Maykapansanan sa Pilipinas, Inc. (KAMPI), the Philippine Blind Union (PBU), and the Philippine Federation of the Deaf. It has provided technical and limited start-up financial assistance to support the efforts of grassroots self-help groups throughout the country. Also, government social workers have been instrumental in helping establish organizations of self-help groups in areas where they previously did not exist.

The significant efforts of the government and self-help groups have developed and strengthened disability organizations particularly in identifying leaders, establishing links with potential funding partners, providing training on cooperative operation and management and advocacy and awareness raising, and organizing seminars in small business development and management. However, with the large number of people with disabilities in need of assistance and the diversity of the assistance they require, the services available are not sufficient to satisfy everyone in need.



Thailand

Key Factors: Thailand, previously known as Siam, is the only country in South Asia that avoided European colonization and also escaped the type of conflict or civil war experienced by many of its neighbors. In the last decade, Thailand has been very active in international disability issues. The government has hosted several international and regional events, including the regional workshop on the Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities that adopted the “Bangkok Draft” document presented to the UN. Thailand received the 2001 Franklin D. Roosevelt International Disability Reward. Nevertheless, the provision of services to people with disabilities remains limited as it depends on an individual’s registry with the government. In addition, the tsunami of 26 December 2004 caused extensive damage to the country’s primary health care system as well as to the tourism and fishing industries upon which Thailand’s economy relies heavily.¹

Terminology

In Thailand, the terms generally used to refer to people with disabilities are demeaning. For example, “Pigan,” the term used for people with physical disabilities, can be translated into English as “completely broken,” implying that one cannot function, work or be productive. “Kon ta bord” is used to refer to people who are blind. This terminology is derogatory and reflects widespread public opinion that such an individual cannot see and therefore cannot learn. The word “Bi” is often used to describe people who are deaf and literally translates into English as “mad.”

1. For more information please see the IDRM and the UN Special Rapporteur on “Disability and Early Tsunami Relief Efforts in India Indonesia and Thailand.”

Official translations into English also tend to use problematic language. For example, the English versions of several pieces of legislation use the terms “handicapped,” “deficient” and “mental infirmity” to describe people with disabilities. These translations have been retained within direct quotations.

Definition of Disability

In surveys and epidemiological activities, the definition of a person with a disability is “an individual who is limited by function and/or ability to conduct activities in daily living and to participate in society through methods used by persons without disabilities due to visual, hearing, mobility, communication, psychological, emotional, behavioral, intellectual or learning impairment, and has special needs in order to live and participate in society as to others.”²

The Rehabilitation of Disabled Persons Act establishes a general definition of disability and five medically based disability categories. Section 4 of the Act defines a “disabled person” as “a person with physical, intellectual or psychological abnormality or impairment as categorized and prescribed in the Ministerial Regulations.”³ Ministerial Regulation No.2 A.D.1994 (B.E. 2537) classifies disabilities into five categories: physical; hearing and communication; intellectual and learning; visual; and mental or behavioral. Classification into one of these categories is based on very specific, largely medical criteria. For example, the definition of hearing disabilities specifies the number of decibels that can be heard by a person in order to be legally classified as having a hearing impairment.⁴

Disability Population

Thailand’s national census does not collect information on the number of people with disabilities. However, there are several national surveys that have included questions regarding disability. The National Statistics Office, the Ministry of Public Health, the Ministry of Social Development and Human Security and the Ministry of Education have all conducted official data on the disability population. The level of reliability is low, with disability prevalence rates ranging from 1.8% to 8.1%. The highest percentage of people with disabilities resulted from a survey conducted in 1996 by the Ministry of Public Health.⁵ The most recent figure, which is from

2. Asia-Pacific Development Center on Disability (APCD) “Thailand Country Profile” http://www.apcdproject.org/countryprofile/thailand/thailand_current.html#current5.

3. Rehabilitation of Disabled Persons Act <http://www.dredf.org/international/thailand.html>.

4. Asia-Pacific Development Center on Disability (APCD).

5. Yutaka Takamine, World Bank Working Paper: Disability Issues in East Asia: Review and Ways Forward (WP # 292990), May 2004. p. 8.

the 2002 Disability Survey, estimates that people with disabilities comprise 5.9% of the population.⁶ Table one compares results from surveys conducted in 2001 and 2002.

Table 1: Number and Percentage of Persons with Disabilities⁷

	Total population	Total people w/ disabilities	% of pop	Males with disabilities	Females with disabilities
2001 Health & Welfare Survey	62,821,000	1,100,761	1.8%	657,769	442,922
2002 Disability Survey	49,667,900	2,911,000	5.9%	1,235,700	1,675,300

The gender distribution further highlights the lack of reliability of the current statistics. In 2001, men comprised 59.8% of people with disabilities and women 42.4%. In 2002, the percentages were almost reversed with men comprising only 40.2% and women 57.6%. Similarly, people age 60 or over comprised 30.9% of the disability population in the 2001 survey and over 40% of the disability population in the 2002 survey. Table two shows number of people with disabilities by age in the 2001 and 2002 surveys.

Table 2: Number of People with Disabilities by Age⁸

Age	2001 Health & Welfare Survey	2002 Disability Survey
0 – 14	96,469	104,000 ⁹
15 - 24	143,628	136,100
25-59	520,576	1,397,100
60 and over	340,079	1,353,200

6. National Statistical Office, Ministry of Information and Communication Technology, *Report of the 2002 Disability Survey*.

7. *Report of Disabled Persons Survey 2001*, National Statistics Office.

8. *Ibid.*

9. This figure is approximate and is likely smaller than the actual number of people with disabilities in this age group. The official report categorizes results by age for those over 13. Figures for those under 13 were derived by comparing these results with the results on education.

The large differences in these statistics are likely the result of different definitions of disability and different methodologies. The National Statistics Office obtained information on disability by adding questions to the Basic Household Information Survey, which had responses from 49,997 sampled households.¹⁰ It divided disabilities into five categories, including physical disabilities, hearing and communication disabilities, intellectual and learning disabilities, visual disabilities and mental or behavior disabilities. The 2002 Disability Survey sampled 50,000 households and had a response rate of 82%. The 2002 survey looked at “health problems,” which was focused on general functional limitations as well as “impairments.” The percentage of respondents with “impairments” was less than half that of those who had a “health problem” that resulted in some functional limitation, 1,097,900 and 2,911,000 respectively. Moreover, the figure from 2002 is based only on those over 13 years of age, so the total percentage is likely somewhat greater than reported. Thailand also has a registry for people with disabilities that could be used to assess the size of the disability population; however, as of March 2002, it was estimated that a very small percentage of people with disabilities within the country were registered.¹¹

According to the Ministry of Public Health, the number of people with disabilities has increased in the past five years.¹² Motor vehicle accidents, which injure approximately 900,000 people per year, are a significant factor in that increase and are the third largest cause of disability. Work and factory related accidents are another factor, reportedly injuring 50,000 people per year.¹³ Physical disability appears to be the most prevalent disability type, with estimates ranging from 46.6% to 56.9% of people with disabilities. Based on survey results, congenital disabilities, illness and traffic accidents are the three main causes of physical disability.¹⁴

Legislation & Disability Rights

National Protections

At the national level, a combination of specific and general national legislation ostensibly protects the rights of people with disabilities. National legislation on

10. National Statistics Office, Report of Disabled Persons Survey 2001. Online: Asia-Pacific Development Center on Disability (APCD: http://www.apcdproject.org/countryprofile/thailand/thailand_stat.html <http://www.worldenable.net/escapstats/paperthailand.htm>.

11. Japanese International Cooperation Agency (JICA) and Planning and Evaluation Department “Country Profile on Disability-Kingdom of Thailand” March 2002 http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_Thailand.1.pdf.

12. Ministry of Public Health.

13. Takamine, Yutaka. *Disability Issues in East Asia: Review and Ways Forward* (WP # 292990), World Bank Working Paper: May 2004.

14. *Ibid.*

education, employment, the right to marriage, the right to parenthood/family, political rights, access to due process and the right to privacy and property ownership applies to people with different disabilities. Although these rights are protected officially by due process,¹⁵ according to human rights and international observers, the government does not enforce them effectively.¹⁶

The 1997 Constitution contains a number of sections that specifically address disability, provide for access to public facilities, and prohibit discrimination against people with disabilities in employment and education.¹⁷ Section 30 prohibits “unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view.” Section 55 guarantees the right of people with disabilities to “receive public conveniences and other aids from the State, as provided by law.” Section 80 makes the State responsible for ensuring a good quality of life for people with disabilities and promoting their ability to depend upon themselves for health protection and quality of life.

The Rehabilitation of Disabled Persons Act (B.E. 2534) of 1991 is the most important piece of disability legislation in Thailand.¹⁸ The Act protects and promotes the rights of people with disabilities and establishes their right to medical, educational and occupational rehabilitation services, employment, financial security, community support, and decision making. In order to receive such services, however, one must register with the Central Registrar at the Office of the Committee for Rehabilitation of Disabled Persons or at the Registrar of the Provincial Public Welfare Office in the province of his or her residence.¹⁹ Despite efforts made by disability organizations and the government, the number of people with disabilities registered at these offices is still very low. Poor accessibility of offices and hospitals and lack of information about the registration process are deemed the primary reasons for the low number.²⁰

The rights of people with disabilities are also addressed in the National Education Act of 1999; several ministerial regulations and cabinet resolutions on employment, training, health and accessibility; and provisions within other items of general legislation, including the Workers Compensation Act of 1979 and the Social Security Act of 1990.

15. Independent Living Institute “Government Action on Disability Policy A Global Survey, Country Profiles” http://www.independentliving.org/standardrules/UN_Answers/Thailand.html.

16. US Department of State. *Country Report on Human Rights Practices 2003: Thailand* (25 February, 2004) <http://www.state.gov/g/drl/rls/hrrpt/2003/27790.htm>.

17. The Constitution of the Kingdom of Thailand, 1997; http://www.kpi.ac.th/en/con_th.asp.

18. Independent Living Institute.

19. Asia-Pacific Development Center on Disability (APCD).

20. Japanese International Cooperation Agency (JICA) and Planning and Evaluation Department “Country Profile on Disability-Kingdom of Thailand” March 2002 http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_Thailand.1.pdf.

People with disabilities enjoy the same rights enjoyed by the general population. With the exception of those with mental retardation, people with disabilities have the right to adopt children, provided that they meet the requirement of an average annual income of no less than US\$ 6,000. Although the income requirement applies to all individuals who wish to adopt, it may implicitly disadvantage people with disabilities, who face higher rates of unemployment. People with disabilities have the right to immigrate and seek asylum. However, there are some general restrictions on the movement of immigrants from Vietnam, Burma, Laos, and China, who entered the country from 1945-1955, as well as of some ethnic tribe members.²¹

The primary obstacles to achieving more effective disability legislation and implementation of existing legislation include bureaucracy and inactive enforcement of laws, a centralization of service provision which leaves rural areas neglected, and cultural norms.

International Protections

Thailand is considered a regional leader in progressive disability action and awareness and hosts the offices of the United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP) and the Asia Pacific Center on Disability. In July 2001, Thailand received the United Nations' Franklin Delano Roosevelt International Disability Award for its work in support of its disability population.²²

Thailand was one of 27 participant countries at the Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons (1993-2002), held in October 2002 in Japan. During this meeting, participants adopted the Biwako Millennium Framework for Action toward an Inclusive, Barrier-free and Rights-Based Society for Persons with Disabilities in Asia and the Pacific (BMF). The BMF "encourages governments to actively implement the paradigm shift from a charity-based approach to a rights-based approach."²³

Thailand is generally supportive of United Nations initiatives and treaties to promote and protect disability and human rights issues. It has adopted the 1994 United Nations Standard Rules on the Equalization of Opportunities for Persons with Disability, and according to Rehabilitation International is in compliance with

21. US Department of State.

22. Mr. Pravit Chaimongkol, Deputy Permanent Representative of Thailand to the United Nations, Statement to the Chairman at Second Session of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of Rights of Persons with Disabilities" 16 to 27 June 2003, <http://www.un.org/esa/socdev/enable/rights/contrib-thailand.htm>.

23. *Ibid.*

all its relevant reporting requirements.²⁴ The government has made statements in support of future engagement with the Standard Rules and other UN documents.

The government has also expressed continued support of and has been very active in the development of a United Nations Convention on the Rights of Persons with Disabilities. In October 2003, Thailand hosted the Regional Workshop towards a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities that adopted the “Bangkok Draft” document.²⁵ The “Bangkok Draft” was based on recommendations made at several expert and regional meetings. The draft was intended as a contribution and response to the United Nations Ad Hoc Committee for a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities and was submitted to the Working Group of the 3rd Ad Hoc Committee Meeting in January 2004.²⁶

Legal Barriers

There are still more than 50 laws that prevent people with disabilities from having equal access to opportunities, especially in education and employment. Even the Constitution, which generally protects the rights of people with disabilities, contains some barriers to full participation. For example, Section 106 denies the voting rights of anyone who is “of unsound mind or mental infirmity.”²⁷

As of 2001, there were 26 laws discriminating against people with disabilities in the area of employment alone.²⁸ In 2002, activists coordinated demonstrations to encourage Parliament to amend these laws.²⁹ In the same year, however, the Constitutional Court upheld a law that prohibits people with physical disabilities from becoming judges and judicial officials, ruling that the law does not contradict the Constitution’s proscription of unjust discrimination against a person on the grounds of physical or health conditions. At the end of that year, only one judge and approximately five state prosecutors in office were people with disabilities.³⁰

24. Rehabilitation International: Government Implementation of the Standard Rules As Seen By Member Organizations of Rehabilitation International: Thailand. http://www.independentliving.org/standardrules/RI_Answers/Thai.html.

25. Regional Workshop towards a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, 14-17 October 2003, Bangkok, Thailand, <http://www.worldenable.net/bangkok2003a/>.

26. Mr. Pravitt Chaimongkol.

27. International Foundation for Election Systems “Global Initiative to Enfranchise People with Disabilities: Thailand Country Profile” <http://www.electionaccess.org/LR/Countries%20M-Z/Thailand.htm>.

28. Disability World: http://www.disabilityworld.org/11-12_01/employment/thailand.shtml.

29. US Department of State.

30. *Ibid.*

Elimination of legal barriers in the area of education has seen more progress. National education policy and the current government are making notable efforts to promote improvement of the law in accordance with the 1997 Constitution and the 1999 National Education Bill.

Civic Participation

Prior to 1997, people with disabilities were not eligible to participate in politics, and people who are deaf were not allowed to vote. Section 17 of the 2000 Electoral Law grants the right to vote and stand for election to any person who is Thai by birth, in accordance with the provisions of the Constitution. The only restrictions, as mentioned above, concern people with mental disabilities.

Section 55 of the updated 1997 Constitution states that, “for facilitating the disabled in casting a ballot, the Election Commission shall provide a facilitation for casting ballot of the disabled specifically or provide assistance in casting ballot under the supervision of the committee of a polling station.” Despite this law and although most people with physical disabilities enjoy full voting rights, only about 20% of voting booths are deemed accessible. The remainder cannot be accessed by wheelchair users, lack a sign language interpreter for the deaf, and/or do not provide properly designed Braille ballot sheets. Thus, many people with disabilities cannot exercise their civil rights. The media have reported on these inadequate conditions.

Sections 44 and 45 of the 1997 Constitution guarantee the right of people with disabilities to form associations without restriction.³¹ Therefore, although people with disabilities have limited direct participation in government and the judiciary, they participate to a greater extent in the legislature and in NGOs.

Inclusion

Communication

The government provides a Braille version of the Constitution, which is available at the National Library and the Association of the Blind. Regular communication and updates on government activities are available in printed text only, and not in Braille. The National Library does not provide materials in alternative formats (e.g. Braille, audiocassette, large print, electronic), and individuals with visual disabilities must obtain such materials from other sources. Some private charities provide alternative communication resources for people with multiple disabilities and their families, teachers, and caregivers. The national news is captioned

31. The Constitution of the Kingdom of Thailand.

for viewers who are hearing-impaired, and some TV channels (e.g. Channel 11) provide simultaneous sign-language interpretation of the news. To improve communication systems for people with disabilities, the government established an Information Technology Subcommittee for Persons with Disabilities in 1999 and collaborated with Japan to establish the Asia-Pacific Development Centre on Disability in Bangkok, which opened in 2004.³²

The government plans to establish a method or strategy through which people with speech impediments or hearing impairments can communicate with authorities in case of natural disaster, civil emergency or criminal assault. Until then, people with disabilities must rely on volunteers or relatives for communication. Although people with disabilities are not explicitly excluded from official emergency procedures, there are no specific measures in place to ensure their inclusion.³³

Education

The National Education Act of 1999 codifies educational rights of people with disabilities, in accordance with the rights established in the Constitution. All children should receive 12 years of basic education free of charge, and the Act establishes the right to free education for people with physical, mental, intellectual emotional and communication disabilities or impairments.³⁴ According to the act, children with disabilities are also entitled to early intervention services, accessible educational materials and facilities, and government-supported home schooling.³⁵ Because maintaining a separate special education system was understood to limit the educational potential of children with disabilities, the Act also encourages inclusive education as the best option for education of children with disabilities.³⁶

Nevertheless, in the approximately 92,939 schools throughout Thailand, education for students with disabilities remains inadequate, and special services often are unavailable. A 1998 survey by the Special Education Division of the Ministry of Education estimated that as a result of the limited number of special schools and the lack of trained teachers, only 7.3% of children with disabilities were receiving an education.³⁷ In 1999, the percentage increased to 11.33%, up from 1993, when the number was reported at only 3%, with 7242 children with disabilities enrolled in a school of any type.³⁸ According to the 2002 Disability

32. United Nations "Review and Appraisal of World Programme of Action Concerning Disabled Persons" May 2003 <http://www.un.org/esa/socdev/enable/disa5861e2.htm>.

33. Interview with Topong Kulkhanchit, Regional Development Officer, 'Disabled Peoples' International Asia-Pacific Region, 16 May 2005.

34. National Education Act of B.E. 2542 (1999): <http://www.moe.go.th/English/edu-act.htm>.

35. Asia-Pacific Development Center on Disability (APCD).

36. Apinwong Kutalad, "Preparedness of the Thai Schools to Implement Inclusive Education" Summer 2002.

37. Japanese International Cooperation Agency (JICA) and Planning and Evaluation Department.

38. Disability Issues in East Asia: Review and Ways Forward ; <http://www.fao.org/sd/PPdirect/PPre0040.htm>.

Survey, however, approximately 360,200 people between the ages of 5 and 30 with “health problems or illness” or “impairments” were enrolled in the educational system in Thailand, comprising about 2% of 15,023,500 enrolled individuals.³⁹ It is unclear who is included among the 360,200 individuals and precisely what percentage of children with disabilities is now receiving education. Since the overall enrollment for 2001/2002 was only 73% and education rates for children with disabilities are unlikely to surpass the overall enrollment rate, the 360,200 figure of students reported as having “problems” is likely to use a much broader definition of disability.

Of the total number of students, approximately 29,800, or less than 1% of all students, are children with disabilities attending special schools, and 16,500 attended schools for children both with and without disabilities.⁴⁰ Elementary education for students with disabilities is also available at public schools throughout the country, though many children with disabilities are assigned to classes that do not have adequate materials, are not accessible, or lack trained teachers.

Special schools for students with disabilities are boarding schools that provide on-campus accommodations and activities and tend to be located only in major cities. Of the 43 public special schools, 20 are for people who are deaf, 19 are for people with intellectual or learning disabilities, 2 are for people with visual disabilities, and 2 are for people with physical disabilities. In addition, within the private and non-profit sectors, there are 7 schools for people with visual disabilities, three schools for the deaf, three for those with intellectual and learning disabilities, and one school for students with physical disabilities.⁴¹ Private or non-profit entities also run five vocational training centers and three libraries for the blind or visually-impaired.

Some people with severe, profound and/or multiple disabilities are cared for at home by their families, who participate in their intellectual rehabilitation and education to the best of their abilities. Others are sent to charity homes. After receiving basic education, people with intellectual disabilities over the age of 18 may receive vocational training, be placed in a charity home, or return to living with family.

Currently, 1,444 students with disabilities are enrolled in higher education classes at 67 institutions.⁴² Some institutions of higher education refuse to provide services or education to people with disabilities. Others, however, attempt to encourage the attendance of students with disabilities by establishing a quota

39. National Statistic Office “2002 Disability Survey.”

40. The IDRM was not able to verify the number of children that are attending the regular schools system but are in either attending special classes. The IDRM was also not able to verify the number of children with disabilities who are receiving their education in integrated or inclusive classrooms.

41. Ministry of Public Health, Thailand Health Profile 1999-2000.

42. Higher Education Commission of Thailand.

system or administering entrance exams so that students with disabilities can take the tests. The government also offers scholarships for students with disabilities to pursue undergraduate or graduate studies abroad. There are a number of university level courses on disability policy, disability rights, inclusive education, and other disability-related topics, including policy, welfare, assistive devices and technology, medical rights, and therapy. Several hundred students are estimated to take these courses, which are taught by specifically trained professors and people with disabilities.

National law requires schools to make physical infrastructure, communications and counseling accessible to people with disabilities and to provide teacher training and alternative format educational materials. Although different groups provide varying estimates, approximately 1% of schools are reported to be in compliance with this policy. Rural areas exhibit very little compliance or are unaware of the law, while urban areas exhibit higher levels of compliance. The Ministry of Education is accessible to wheelchair users, although over 95% of offices are still inaccessible. Training on teaching children with disabilities is included in the national teacher curriculum, and special education training is available for teachers who wish to receive it.

The Ministries of Education and Public Health are responsible for a national program of early detection of disability in school-aged children. Approximately 40-60% of schools participate in this program. When a disability is detected, a child is registered and referred to appropriate rehabilitation and schooling. Schools that do not participate in the program are unable to detect or assess disability, due to a lack of knowledge on the detection process.

Employment

The Rehabilitation of Disabled Persons Act and Ministerial Regulations No.s 1-3 of 1994 protect people with disabilities from employer discrimination.⁴³ As of 1994 private firms are legally required to hire one person with a disability for every 200 employees, or contribute to a fund that benefits people with disabilities.⁴⁴ Cabinet Resolution 8 of 1997 extended hiring requirements to public employers as well. The hiring requirement has not been enforced. Government officials estimate that in 2003 between 20% and 30% of firms disregarded the law, and some public enterprises had discriminatory hiring policies.⁴⁵ However, the Office

43. Rehabilitation of Disabled Persons Act A.D. 1991 (B.E. 2534), Ministerial Regulation No. 1 A.D. 1994 (B.E. 2537) on the Employment of Disabled Persons and the Contribution to the Fund for Rehabilitation of Disabled Persons, Ministerial Regulation No. 2 A.D. 1994 (B.E. 2537) on Designation of Type and Criteria of Disabled Persons, Ministerial Regulation No. 3 A.D. 1994 (B.E. 2534) on Provision of Medical Rehabilitation Service and Expenses for Nursing Care and Equipment.

44. *Ibid.*

45. US Department of State.

of the Committee for Rehabilitation of Disabled Person (OCRDP) believed that the percentage of companies in compliance with the law was even lower and estimated that only 8% of companies were employing the required amount of people with disabilities.⁴⁶

People with disabilities constitute 0.9% of the employed in Thailand. The northern and northeastern regions of the country have the highest percentages of employees with disabilities, with 1.2% and 1.3%, respectively.⁴⁷ Table three demonstrates the employment distribution of people with disabilities throughout the country.

Table 3: Number of Employed Persons (aged 15 years over) by Region and Governing Zone⁴⁸

Region and Governing Zone	Total Employees	Non-Disabled Employees	Employees w/ Disabilities	% of Employees w/ Disabilities
Entire country	34,191,816	33,871,134	320,682	0.9%
• Municipal	10,692,007	10,634,448	57,559	0.5%
• Non-municipal	23,499,809	23,236,686	263,123	1.1%
Bangkok Metropolis	4,179,094	4,162,892	16,202	0.4%
Central (excluding Bangkok)	7,735,836	7,688,732	47,104	0.6%
Northern	6,352,313	6,268,368	83,945	1.3%
Northeastern	11,132,808	11,592,483	140,325	1.2%
Southern	4,191,791	4,158,685	33,106	0.8%

The Cabinet Resolution on Vocational Rehabilitation and Employment for People with Disabilities (CR 12, 1994) and the Declaration on the Rights of People with Disabilities (CR 10, 1998) require that vocational training be made available to people with disabilities. In major cities, the national government, religious

46. Japanese International Cooperation Agency (JICA) and Planning and Evaluation Department.
47. Asia-Pacific Development Center on Disability (APCD).
48. Report of Disabled Person Survey 2001, National Statistic Office.

organizations, and corporations provide training and job placement programs for people with disabilities. However, despite these programs, the unemployment rate of people with disabilities is very high, at an estimated 80%, and a large number are underemployed.⁴⁹ Public and private sector job placement standards, which generally require 6-12 years of compulsory education, exclude many people with disabilities who are unable to fulfill such requirements. Other barriers to employment include inaccessible work environments, lack of training programs or accessible transportation, cultural norms, and employers' negative attitudes regarding people with disabilities.

In order to foster opportunities for self employment, the government established a fund that provides interest-free loans to people with disabilities endeavoring to start their own businesses. In order to be eligible for a loan, an individual must be registered with the OCRDP and present a viable business proposal for approval by a pre-established committee.⁵⁰ The loans last for five years, except for those of individuals who lost their businesses to tsunami damage, who were granted an additional year to pay back the loan. To date, the government has provided a total of 545 million baht (US\$13.6 million) in loans to 28,000 people with disabilities.⁵¹

Health Services

According to the 1991 Rehabilitation Act, people with disabilities who are registered with the Public Welfare Office are eligible to receive free health care and medical services from the government. Registered individuals are also eligible to receive mobility aids, technical aids, and assistive devices, such as wheelchairs, spectacles, canes, and artificial limbs.⁵² The Workers Compensation Act of 1979 and the Social Security Act of 1990 also contain various provisions, including limited health benefits, for some people with disabilities.

From 1999 to 2000, 5,464,350 services were provided to outpatients and 260,817 services were provided to inpatients who received rehabilitation services, and assistive devices were supplied to 67,990 people with disabilities through government-funded programs.⁵³ There are also privately funded organizations where people with disabilities can obtain auxiliary materials and technical aids. Thai law prohibits health insurance providers from denying coverage to people with disabilities.

49. Report Evaluation Committee of the Five Year National Plan for Employment for People with Disabilities of Thailand.

50. International Labor Organization (ILO) "Employment of People with Disabilities: The impact of Legislation" March 2003 <http://www.ilo.org/public/english/employment/skills/disability/download/cpthaila.pdf>.

51. US Department of State.

52. Asia-Pacific Development Center on Disability (APCD).

53. Ministry of Public Health <http://eng.moph.go.th/ContentDetails.php?intContentID=1777&strOrgID=001>.

As part of national policy, the National Health Service has implemented a strategy of Community-Based Rehabilitation.⁵⁴ The publicly funded rehabilitation services available in the capital city cover individuals from birth to death and include early intervention. In 1990, the Sirindhorn National Medical Rehabilitation Center (SNMRC), a hospital in Thailand that also provides comprehensive rehabilitation services, introduced a CBR program especially designated to serve people with disabilities in rural areas.⁵⁵

Training programs on the provision of services to people with disabilities are available for primary care physicians, obstetricians and gynecologists, pediatricians, nurses, physician assistants, and rural healthcare workers. The new national curriculum makes training on provision of care to people with disabilities compulsory for all medical students and specialists. Specialized disability training is available in physical therapy, occupational therapy, physiatry for nurses and for other health professionals, prosthetics and orthotics, and speech therapy. However, there is a continuing shortage of trained professionals in the fields of mental health and general counseling services. Thailand only has 300 psychiatrists for a population of approximately 60 million people, and only about 20 new psychiatrists are trained each year, primarily at hospitals in Bangkok.⁵⁶

Housing

In the past, the majority of people with disabilities in Thailand have lived with their families.⁵⁷ Statistics indicate that 80% of people with disabilities are living with family, 10% are located in institutions, and 10% are homeless.⁵⁸ However, there is now an Independent Living Center that provides peer counseling and referral services to people with disabilities, which is operated by non-governmental and charitable organizations. People with disabilities enjoy greater freedom to select their housing arrangements if they are financially stable and/or possess a good education.

No public housing funds are designated specifically for loans to people with disabilities, but people with disabilities do enjoy equal rights to bank loans and mortgages and are eligible for public housing. Although public housing is affordable, consistent with general living conditions, and integrated into the community, there is no special building design for people with disabilities.

54. Asia-Pacific Development Center on Disability (APCD).

55. *Ibid.*

56. Mark Ragins, M.D., "A Personal Worldwide Perspective of Psychiatric Rehabilitation", http://www.village-isa.org/Ragin's%20Papers/worldwide_perspective.htm.

57. Yukiko Oka, Programme Specialist, Social Development Division, Economic and Social Commission for Asia and the Pacific (ESCAP) "Paper for Independent Living Institute on Independent Living of Disabled People in the Asia-Pacific" 10 September 1988.

58. The IDRM was not able to verify the statistics on how many people with disabilities, if any, live independently; Report on Public Welfare 2004.

Institutionalization

There are several types of institutions in Thailand that operate with the specific and exclusive mission of providing long-term (more than one year) housing and care to people with disabilities. There are 14 charity-based care and rehabilitation institutions that provide psychological and psychiatric counseling, rehabilitation services, acute care services, and education/training. Typically, residential institutions have 50 to 250 residents. Some long-term care institutions have 200-300 residents, while some are overcrowded and house up to 1,000 residents. Some people with disabilities may live in such institutions their whole life.

People with disabilities are not typically placed in rehabilitation and education centers against their will; however, many are pressured against their will into long-term care homes. It is common for parents of families in poor villages to travel to work in the city and leave their child with a disability in the care of a grandparent with little education, and it is reported that grandchildren often are sent to charity homes in hopes that they will receive better care. In general, guardianship or legal representation cannot be imposed against an individual's will, in violation of his or her assertion of legal rights. The only exceptions are the cases of young children and people with intellectual or learning disabilities.

Although there are many institutions in Thailand, their services often are of inadequate standards. Institutions operate within a defined system based on guidelines for community participation in operation and management. Conditions are monitored by an outside entity, law, regulations, quality control, and national evaluation. Investigations into the incidence of death and abuse at these institutions are conducted regularly, including in the past year, by the responsible body of each institution. There are no reports of death in the evidence collected. The Ministry of Social Development and Human Security also keeps official records of abuse and violence committed against people with disabilities and of discrimination against people with disabilities in housing, employment, education, and transportation.

Accessibility

Thai law requires that public buildings and facilities be accessible to people with disabilities. Cabinet Resolution 10 of 1998 requires state agencies to modify existing facilities to ensure access to people with disabilities, but most government agencies have not complied. The 1999 Ministerial Regulations that make compliance mandatory have not been enforced. The main post office in the capital city is not wheelchair accessible, and only about 0.4 % of public buildings are reported to be accessible to people with mobility disabilities. Many of the elevators in wheelchair accessible buildings are not adapted for people with visual or other disabilities.

Law also requires private buildings and facilities to be accessible to people with disabilities. Requirements apply to new buildings, and adaptation of existing structures is also advised. In accordance with the Revenue Code, the

owner of any building, site, vehicle, or service provision offering equipment to facilitate people with disabilities is entitled to claim tax exemption for double the expenses incurred.⁵⁹

The public transportation system in the capital city remains fairly inaccessible to wheelchair users. In August of 1999, the first four buses with hydraulic lifts for wheelchair users were introduced into Bangkok's bus system.⁶⁰ Of the 23 stations in Bangkok's Skytrain rail system, which began operating in 1999, only five have platforms that are accessible by elevator. In response to the advocacy efforts of local disability organizations, the government has promised to make all elevators accessible in the future.⁶¹ In July 2004, Thailand opened a new subway system that runs from the railway station in Bangkok to the two major thoroughfares of Rama 4 Road and Ratchadaphisek Road.⁶² All of the subway stations and trains are accessible to people with disabilities.⁶³ However, despite these promises and advances, the majority of people with a physical disability still are forced to travel by taxi or private car.

Courses in Universal Design are available to architects and engineers in Thailand. Some architects and engineers take advantage of these courses, but there are no official records regarding the number of professional who have been trained.

Culture, Sports and Recreation

Pursuant to the Rehabilitation of Disabled Persons Act, the government should promote access to sport, recreation and culture for people with disabilities, and the Budget Bureau is required to request a budget for funding disability activities.

In 1999, 2,500 disabled athletes participated in 15 sporting competitions at the Far East and South Pacific Games Federation for the Disabled (FESPIC) in Bangkok.⁶⁴ The games were the largest disability sporting activity to date and many disability groups felt the event was extremely positive and served as an effective disability awareness raising activity.⁶⁵

59. Rehabilitation of Disabled Persons Act (1991), Section 17: <http://www.dredf.org/international/thailand.html>.

60. Topong Kulkhanchit, "First fully accessible buses in Thailand", <http://www.independentliving.org/docs5/thaius.html>.

61. Japanese International Cooperation Agency (JICA) and Planning and Evaluation Department.

62. Tourism Authority of Thailand "Transportation" http://www.tourismthailand.org/about_thailand.php?module=transportation&file=transportation03.

63. Disabled Persons International (DPI) "Asia Pacific" http://www.apcdproject.org/countryprofile/thailand/thailand_current.html#current17.

64. Dr. Sirinart Tongsiri and Dr. Ratana Taweangsaksakul "Sports for the Person with a Disability- The 7th FESPIC Games in Bangkok, Thailand" May 1999.

65. Asia-Pacific Development Center on Disability (APCD).

Disability Action & Awareness

There are a number of government offices responsible for dealing with people with disabilities. The Ministry of Social Development and Human Security, the Ministry of Education, and the Ministry of Public Health are responsible for promoting the interests of people with disabilities in Thailand. The Office of Empowerment for Persons with Disabilities, which operates under the Bureau of Welfare Promotion and Protection of Children, Youth, Disadvantaged Persons with Disabilities and Older Persons and the Ministry of Social Development and Human Security, is the focal point of national disability policy and planning and is directly responsible for disability issues.⁶⁶ The Committee for Rehabilitation of Disabled Persons develops and coordinates disability policy. Pursuant to the Rehabilitation of Disabled Persons Act, the Committee must include at least two people with disabilities. Currently, it includes five people with disabilities from national organizations of the blind, the deaf, people with physical disabilities, and parents of children who are autistic or have intellectual disabilities. There is a similar structure at the provincial level.

Disability issues have received more attention, awareness, and acceptance since the International Year of Disabled Persons, in 1981. The Fifth and Sixth National Economic and Social Development Plans (1982 – 1991) made an explicit attempt to emphasize disability issues and designated people with disabilities as an underprivileged population whose well-being and independence would be promoted by government assistance.⁶⁷ However, specific strategies for people with disabilities were not elaborated until the 8th National Economic and Social Development Plan (1997 – 2001),⁶⁸ which promoted the provision of free medical services, all levels of education, and scholarships for people with disabilities. It also encouraged private sector employment of people with disabilities. Subsequent plans have enhanced employment opportunities and supported the formation of groups and campaigns for improved attitudes towards people with disabilities, and have made comprehensive rehabilitation a national goal. The Council Body on Disability is responsible for implementing national disability plans and ensuring that government ministries are in compliance.

Disability organizations advocate for equal rights and improved services; promote and organize mobilization and income generating activities; identify needs and priorities; contribute to public awareness; provide services; and participate in the planning, implementation and evaluation of services and measures affecting people with disabilities. These organizations collaborate on many activities, including elections, rights campaigns, formulation of disability policy, social activities, council meetings, and provincial, regional, and national assemblies.

66. *Ibid.*

67. <http://www.fao.org/sd/PPdirect/PPre0040.htm>.

68. Disability INformation Systems "Thailand Country Report" http://www.dinf.ne.jp/doc/english/intl/02rnn/thai_e.html.

Disabled Peoples' International (DPI) is an international, cross-disability, self-help organization with an office in Thailand, whose members include associations of the blind, deaf, and physically handicapped, as well as parents of children with mental retardation or autism. Moreover, some general civil society associations interested in disability are equipped to promote disability rights.

The government provides financial support to existing or new disability organizations and consults them during the preparation of national laws and policies relevant to disability.⁶⁹ Disability organizations can not only apply for government assistance, they may also receive funding from international organizations or NGOs, although these sources of funding have become less available in recent years.

The most important activity for advancing the rights and agenda of Thai people with disabilities is campaigning to promote the selection of directly and indirectly elected members of parliament. The goals of disability advocacy and awareness activities in Thailand are to establish a rights-based society and ensure equality, full enjoyment of rights, and access to all services and facilities. Such activities are managed by disability organizations and parents of people with disabilities, in partnership with the media. These efforts have brought about a certain amount of legal change and public understanding of the rights, needs, and potential of people with disabilities.

On the other hand, as a result of these activities, the public sometimes perceives the disability movement as overly aggressive, for example when disability advocates block roadways during campaigning and advocacy activities. In addition to this negative perception, the greatest obstacles to achieving more effective disability action are commercial laws, bureaucracy, lack of political will, and social and cultural barriers.

69. Independent Living Institute http://www.independentliving.org/standardrules/UN_Answers/Thailand.html.



Vietnam¹

Key Factors: From independence in 1945 until 1975, Vietnam experienced a series of conflicts. These conflicts, as well as the resulting landmines and unexploded ordnances, have greatly increased the number of people with disabilities in the country. It is estimated that as many as 1,200 to 2,000 people per year are still injured or killed by landmines and UXOs.² In February 1987, the Ministry of Labour, Invalids and Social Affairs (MOLISA) was established to provide services for all people with disabilities.³ In the past, there had been a separate ministry providing services to war victims and another ministry working on disability issues.

Terminology

The following terminology is used to describe people with disabilities: “Nguoi khuyet tat” or “Nguoi tan tat” for “people with disabilities” or “disabled people”; “Nguoi khiem thinh” for “people with hearing impairment”; “Nguoi diec” for “deaf people”; “Nguoi

khiem thi” for “people with visual impairment” and “Nguoi mu” for “blind people.” These words are used in legal documents and by the public and generally have positive connotations.

Although the Constitution and the name of the Ministry responsible for disability issues use a word that is translated into English’s as “invalid,”⁴ the Vietnamese translation of the terminology is not negative or derogatory. There has been a series of discussions within the Ministry concerning the possibility of removing the word “Invalid” from the English translation and providing a new translation that is more inclusive and empowering for people with disabilities. However, there are some concerns that changing the Ministry’s name could create confusion. The official translation has been retained in this report.

1. In addition to the IDRM Vietnam Researcher, Ms. Duong Thi Van, Mr. Nghiem Xuan Tue, the Director of the National Coordinating Council on Disabilities of Vietnam (NCCD) and Vi Hai Nam, a staff member of the NCCD, assisted in writing and editing the IDRM Vietnam country report.

2. Landmine Monitor Report 2004 “Vietnam.”

3. Japanese International Cooperation Agency “Country Profile on Disability-Socialist Republic of Vietnam”, March 2002 http://www.jica.go.jp/english/global/dis/pdf/vie_eng_02.pdf.

Definition of Disability

The 1998 Ordinance on Disabled Persons states that “disabled people by the definition of this Ordinance, irrespective of the causes of disability, are defective of one or more parts of the body or functions which are shown in different forms of disability and which reduce the capacity and causes many difficulties to work, life and studies.”⁴

Prior to this Ordinance, the government predominantly used the World Health Organization definition of disabilities. Once the Ordinance was issued, all ministries and government offices adopted the new definition

Disability Population

Although the government conducts a regular census, it has not included questions on disability. The most relevant information collection has been done by the Ministry of Labour, Invalids and Social Affairs (MOLISA), which has conducted two surveys on people with disabilities. The first was conducted in 1994-1995 and used the World Health Organization definition on disability. The second, a follow-up survey, was conducted in 1998 and focused on the situation of children with disabilities, awareness of rehabilitation services, and the general public’s attitudes towards people with disabilities.⁵

According to these surveys, there are approximately 5.1 million people with disabilities in Vietnam, which account for 6.34% of the total population. Of this population, 1.3 million have a severe disability, and this number is increasing. 87.27% of people with disabilities live in rural areas, 12.73% live in urban areas, and the majority live in poverty with their family. Approximately 64% of people with disabilities are male, and 36% are female.⁶ 66.8% of people with disabilities are under the age of 48.

4. When the title of the Ministry was translated into English, the word “Invalid” was considered to be more socially acceptable as a means of describing people who were disabled as a result of the war.

5. Japanese International Cooperation Agency “Country Profile on Disability-Socialist Republic of Vietnam.”

6. Ms. Nguyen Thi Hai Van, Vice Director, Department of Labour, Employment, (MOLISA) “Vietnam Country Report” Presented at the Regional Forum on Employment for People with Disabilities dated 19 – 23 April, 2004, Thailand.

Table 1: Causes of Disability in Vietnam⁷

No.	Category	Percentage
1	Congenital	35.87%
2	Diseases	32.49%
3	Occupational accident	3.49%
4	Traffic accident	1.16%
5	War aftermath	25.56%
6	Others	1.57%

Table 2: Disability Profile in Vietnam⁸

No.	Types of Disability	Percentage
1.	Visual disability	13.84%
2.	Hearing disability	9.33%
3.	Speech disability	7.08%
4.	Mobility disability	29.41%
5.	Intellectual disability	16.82%
6.	Mental retardation	6.25%
7.	Others	17.00%

In both rural and urban areas, 17.59% of the disability population is over the age of 60, while 8.40% is between 6 and 12 years old.⁹ 35.58% of people with disabilities are illiterate.¹⁰

Legislation & Disability Rights

National Protections

The Constitution of the Socialist Republic of Vietnam was adopted by the Standing Committee of the National Assembly in 1992 and specifically addresses the rights of people disabled by war and children with disabilities:

Article 67: “war invalids shall enjoy favourable conditions for their physical rehabilitation, shall be given employment suited to the state of their health and assistance in securing stable living conditions.”

7. Mr. Tran Dinh Hoan, Ministry of the Ministry of Labour, Invalids and Social Affairs (MOLISA) “Report Given at the Conference on the 5-year Assessment of the Implementation of the Ordinance on Disabled Persons” 27 November 2003.

8. *Ibid.*

9. Ms. Nguyen Thi Hai Van.

10. *Ibid.*

Article 67: “war invalids, sick soldiers, and the families of fallen soldiers and revolutionary martyrs shall enjoy preferential treatment in State policies. War invalids shall enjoy favorable conditions for their physical rehabilitation, shall be given employment suited to their state of health and assistance in securing stable living conditions. Individuals and families credited with meritorious service to the country shall be given commendation and reward and shall be looked after. Old people, infirm people and orphans without support shall receive State assistance.”

Article 59: “the state and society shall create the necessary conditions for handicapped children to acquire general knowledge and appropriate job training.”¹¹

In 1998, the Ordinance on Disabled Persons was adopted by the Standing Committee of the National Assembly. The purpose of the Ordinance is to protect, care for and create conditions for community integration of people with disabilities. The Ordinance states the responsibilities of the family, the government, and society regarding people with disabilities and stipulates the rights and obligations of people with disabilities. The Ordinance's provisions include health services and other care; cultural education for people with disabilities; job training and employment; access to culture, physical training, sport activities, and public works; state management of the protection and care for people with disabilities; benefits; and response to violations.

International Protections

The government of Vietnam has signed and ratified several international treaties relevant to disability issues, including the Convention for the Rights of the Child¹² and the International Covenant on Economic, Social and Cultural Rights. Vietnam also supports the adoption of a United Nations Convention for the Rights for People with Disabilities and has sent a delegation, supported by the government, to the United Nations in New York, to attend the 3rd and 4th Sessions of the Convention's Ad Hoc Committee.¹³ During these sessions, the delegation made several interventions, including a statement on the need for an international sign language and a statement in support of the right to education for all.¹⁴

Vietnam was also very active in the Asian and Pacific Decade for People with Disabilities (1993-2002). Through this initiative, Vietnam implemented a Plan of Action for the decade, which addressed 12 areas: national coordination, legislation,

11. Constitution of the Socialist Republic of Vietnam, 1992, Article 67.

12. United Nations Children's Fund (UNICEF) <http://www.unicef.org/crc/crc.htm>; Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/countries/ratification/3.htm>.

13. National Coordinating Council on Disabilities of Vietnam (NCCD).

14. Rights for All, Summaries of the Ad Hoc Committee Meeting, www.rightsforall.com.

information, raising social awareness, access to information, education, training and employment, prevention of causes of disability, rehabilitation services, assistive devices, self-help organizations, and regional cooperation.¹⁵ Vietnam hosted the 9th Campaign to promote the Decade in Hanoi in December 2001, aimed at “Facilitation of Community Integration of People with Disabilities.” Over 1,700 participants attended the event, including over 700 local people with disabilities from Vietnam and 519 people with disabilities from over 39 countries in the region.¹⁶

The government also has developed 2-year Action Plans to support the Biwako Millennium Framework (BMF) goals of an inclusive, barrier-free and rights-based society for disabled persons in Asia and the Pacific. The Action Plans address the seven priority areas of the BMF, as well as an additional area on raising the awareness of the community and people with disabilities. The Plans were developed by the National Co-ordinating Council on Disabilities of Vietnam (NCCD), which has representatives from 15 related Ministries and 5 disability organizations. The relevant Ministries and disability organizations are responsible for implementation of the plans.

Civic Participation

According to Article 54 of the 1992 Constitution, all citizens, regardless of ethnicity, gender, social class, religion or belief, educational background, employment, or length of residence, who are over the age of 18, have the right to vote, and those over the age of 21 have the right to run for elected positions in the National Assembly and the People Committee.

The majority of voting sites are not accessible to wheelchair users. Braille ballots are not available, but all voting sites do provide assistance for people who are blind.

Inclusion

Communication

The Constitution is available in Braille and the National, Hanoi, and Ho Chi Minh City Libraries provide books and other documents in Braille. The government has provided financial support for the teaching of Braille to people who are blind.¹⁷ From 1997 to 2002, the Centre for Training and Rehabilitation for the Blind provided

15. United Nations Economic and Social Commission for Asia Pacific (UNESCAP) www.unescap.org.

16. National Coordinating Council on Disabilities of Vietnam (NCCD).

17. The IDRM was not able to verify the amount of financial support that has been provided to teaching Braille to people who are blind.

training to 244 Braille teachers, 175 masseuses, 756 staff members of the Vietnam Blind Association and its branches, and a number of collaborators and musical performers. According to the Vietnam Blind Association, funding assistance from the government has enabled its branches to offer hundreds of classes that have benefited tens of thousand of people who are blind.¹⁸

Vietnam Television (VTV) is the largest television station in Vietnam and is controlled by the Ministry of Culture and Information. VTV broadcasts programs that raise awareness of disability issues and orders its editorial committees to allocate a certain amount of time for broadcasting programs pertaining to disability issues, including education, employment, and the participation of people with disabilities in society.¹⁹ VTV also broadcasts programs on such issues specifically for people who are deaf and broadcasts a nightly closed captioned news program at 10 p.m.

Approximately 50-60 programs and reports on people with disabilities are broadcast each year, and news programs provide reports on the disability-related activities of government ministries and the NCCD. In addition, various types of television programs regularly mention the content of the Ordinance on Disabled Persons; legal documents related to the Ordinance, such as Decree 55/1999/ND/CP of the government; building codes and accessibility standards; education renovation for children with disabilities; tax policies that favor enterprises of people with disabilities; employment and enterprises of people with disabilities; and many other disability issues.²⁰

Sign language interpretation is not available nationwide, although teachers of the deaf usually act as volunteer interpreters. Self-help groups for people with hearing impairments exist in some cities. The activities of these groups include raising awareness of issues pertaining to deafness, employment searches, sign language dissemination, participation in seminars and conferences, and collaboration with other disability groups on a variety of disability related activities.

There are no specific measures for communicating with people with disabilities in the case of a natural disaster or an emergency. The Disaster Management Unit (DMU) is responsible for creating emergency plans and coordinating relief efforts, especially pertaining to floods. The DMU states that "Viet Nam has one of the

18. Ms. Vu Hong Chin, Vice Chairman of the Vietnam Blind Association "Report presented at the Seminar on Initial Assessment of 5-year Implementation of the Ordinance on People with Disabilities, 1998 – 2003", Hanoi, 19 March 2003.

19. The IDRM was not able to verify the amount of time allocated or the regularity of the programs designated to people with hearing impairments.

20. Mr. Do Van Hong, Head of Editorial Board, Vietnam Television, Member of NCCD "Report presented at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998 – 2003" Hanoi, 19 March 2003.

most well-developed institutional, political and social structures in the world for mitigating water disasters.” However, the DMU’s plans do not mention or provide specific provisions for people with disabilities.²¹

Education

In Vietnam, people with disabilities are legally entitled to equal educational rights, as is stated clearly in the Law on Education. Prior to the passage of that law, UNICEF’s 1998 survey suggested that only 2 to 3% of children with disabilities attended school.²² According to Vietnam’s 2001-2010 Educational Development Strategy, 47.6% of children with disabilities now attend school. Of those who were not enrolled in school, approximately 15.8% have dropped out and 36.6% have never attended. Despite this improvement in the number of children with disabilities attending school, the general education level of children with disabilities aged 6-17 is very low and almost half of these children are illiterate.²³ MOLISA and the United Nations Children’s Fund (UNICEF) report that only 34% of people with disabilities in Vietnam are illiterate.²⁴ In contrast, the overall literacy rate in Vietnam is high, at 91.1% of the total population.²⁵

A variety of legal documents on the orientation, formulation, implementation, and supervision of the progress of educating children with disabilities have been established during the last two decades. They include:

- The Constitution of the Socialist Republic of Viet Nam issued in 1992;
- The Law for Primary Educational Universalization (1991);
- The Law on Protection and Education of Children (1991);
- Ordinance for People with Disabilities (1998);
- Law on Education (1999);
- Decree 26/CP on July 17, 1995 on the delegation of education of children with disabilities to the education sector;
- Circular 20/GDDT on October 11, 1995: Introduction of Plan on Educational Development for Children with Disabilities;
- Decision 201/QD-TTg on December 28, 2001 of the Prime Minister on Approving the “Education and Training Development Strategy for the period 2001 – 2010”;

21. Disaster Management Unit (DMU) “Institutional framework Document” <http://www.undp.org.vn/dmu/dm-in-vietnam/en/frame.htm>.

22. MOLISA Centre for Information Statistics on Labour and Social Affairs and UNICEF, “Viet Nam Child Disability Survey 1998.”

23. Educational Development Strategy 2001 – 2010.

24. National Statistics Data Collection.

25. “On the Road to Inclusive Education.”

- Decision No. 4431/QD-BGD&DT-TCCB on 30 September 2002 for the establishment of the steering committee on education for children with disabilities of the Ministry of Education and Training.

The 1999 Law on Education is the main law regulating education for children with disabilities. Article 58 of the Law encourages organizations and individuals to establish schools and classes for people with disabilities, in order to promote their rehabilitation, education, vocational training, and social integration. Article 77 of the Law mentions scholarships and social allowances for people with disabilities who have economic difficulties.

The aforementioned legal documents stipulate the formulation of a specific policy on education for children with disabilities. Pursuant to this requirement, on 30 September 2002, the Minister of Education and Training (MOET) signed decision No. 4431/QD-BDG&DT-TCCB to establish a steering committee on education for children with disabilities (BCD.GDTKT). The National Steering Committee on Education for Children with Disabilities, established the same day, advises MOET on the state administration's role in education for children with disabilities. Among the objectives of the policy for education of disabled children that has been developed are:

- To ensure that people with disabilities in general and children with disabilities in particular enjoy full protection of their educational rights and be able to enjoy their rights as citizens;
- To enable the government to meet the demand of people with disabilities and successfully coordinate and implement projects that are funded by international and non-governmental organizations and that provide educational assistance to children with disabilities;
- To improve the status and conditions of children with disabilities and facilitate their better enjoyment of education, employment, health, housing, means of transportation and participation in various aspects of society;
- To integrate children with disabilities into society and community to facilitate their participation in participating in all activities in life;
- To create a favorable physical environment in educational facilities;
- To ensure the preparedness of service provision and the ability to participate in different systems of society and community, so as to ensure equal opportunities for children with disabilities.;²⁶

26. Mr. Dang Tu An, Vice Head of Committee For Education of Disabled Children, Ministry of Education and Training, member of NCCD "Report Presented at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998 – 2003" Hanoi, 19 March 2003.

Achieving these objectives requires attention to the special needs of children with disabilities and the specific needs of each type of disability, including Braille for people who are blind, sign language for people who are hearing impaired and accessible environment(s) for people with a physical disability. Currently there are no special schools, and students with disabilities attend special classes in regular schools. Students with severe intellectual disabilities are also taught in special classes in integrated schools. Integrated classes are available in urban and rural areas. However, most schools remain inaccessible to children with physical disabilities.

The concept of integrated education was first introduced in Vietnam in 1985 at a Conference organised by the United Nations Education, Science and Culture Organization (UNESCO). Since then, several international and non-governmental organisations, such as World Vision International and Pearl S. Buck International, and Catholic Relief Services (CRS) have supported inclusive education projects in Vietnam.²⁷ The first government project on inclusive education was designed and implemented by MOET and the National Institute on Education, and was sponsored by UNESCO, UNICEF and Save the Children Sweden. The project aimed to decrease discrimination against children with disabilities through awareness-raising activities aimed at national and local education authorities, principals, and teachers, and through encouraging community involvement to ensure effective inclusive education.²⁸

Since the inclusive education model has been implemented, the number of children with disabilities attending schools appears to have been rising steadily. Mr. Le Vu Hung, Vice Minister of Education and Training stated that “there were 32,000 children with disabilities in 36 cities and provinces attending school in the period from 1991 to 1995, and in the 1999-2000 school year, more than 38,650 students with disabilities in 34 cities and provinces attended school, of which 31,086 were attending integrated schools. The remaining approximate 7,564 students with disabilities studied at 92 special schools/centers and vocational training centers located in major cities such as Hanoi, Ho Chi Minh City, Hai Phong and Da Nang.”²⁹ People with disabilities may also access education through community based informal schools or disability organizations. Vocational training is available for people with disabilities in all areas of the country.

The “Strategy for Development of Education in the period of 2001 – 2010,” which is one of the most important documents for inclusive education, states clearly that the target of the education and training sector is to have 50% and 70% of the total number of children with disabilities attending schools by early 2005 and 2010, respectively.³⁰ In May 2005, MOET organized a conference to assess the 10 year

27. On the road to inclusive education.

28. Swedish Development Cooperation “Position Paper on Education, Democracy and Human Rights” Box 9, April 2001 <http://www.sida.se/content/1/c6/02/01/68/TheRight.pdf>.

29. Mr. Le Vu Hung, Vice Minister of the Ministry of Education, Interview by the author.

30. Ministry of Education “The Educational Development Strategy 2001 – 2010” www.worldbank.org.

implementation of the strategy. MOET is currently developing draft regulations pertaining to education for children with disabilities and a draft strategy on inclusive education for children with disabilities for the next 10 years.³¹

The fulfilment of current educational policies requires a multi-disciplinary approach that incorporates the participation of all relevant government agencies, including MOET; MOLISA; Construction; and Public Transportation, as well as other institutions whose functions are related to people with disabilities, such as universities, educational science institutions, the national paediatrics hospital and the Vietnam Blind Association. Disability organizations feel that in order to achieve the goals established by the Strategy there must be close collaboration between the ministries and the national and international organizations working to improve education for children with disabilities.

Training on teaching children with disabilities is included in the national teacher training curriculum. However, at this time, teachers working with students with disabilities do not possess adequate knowledge, awareness, or skills, due to insufficient training. Although there has been some increase in the number and skill level of special education teachers, educational programs and the conditions of classes do not meet the demand for special education. Disability organizations feel that Vietnam should be more focused on its short-term target of implementing partially inclusive and/or integrated education for children with mild and average disabilities, as full inclusion of all children with disabilities is currently a difficult target to reach and should instead be considered a long-term goal of the educational sector.³²

Employment

Approximately 69% of the 5.1 million people with disabilities living in Vietnam are between the working ages of 16 and 55-60. Currently, only 30% of people with disabilities have a job and a stable income to support themselves and their family.³³ This group creates a significant demand for jobs. 33.92% of the total income of people with disabilities comes from economic activities, while 69.37% comes from family support.³⁴

Only 17.8% of people with disabilities depend on social allowances.³⁵ As stipulated by Law, people with disabilities who live in the community and/or with their families and encounter financial difficulties receive an allowance of 45,000 Vietnamese Dong (VND) (approximately US\$2.80) per person per month from

31. Mr. Dang Tu An, Vice Head of Committee For Education of Disabled Children, Ministry of Education and Training, member of NCCD presented at the plenary meeting of NCCD on 10 June 2005 in Hanoi.

32. Mr. Dang Tu An.

33. Ms. Nguyen Thi Hai Van.

34. *Ibid.*

35. Mr. Le Vu Hung.

the government.³⁶ People with disabilities who experience extreme difficulties and have no relatives to rely on are placed in State-affiliated institutional care centers, receive an allowance of VND 100,000 – 115,000 per month and are provided shoes, sandals, clothes, mosquito nets, blankets, and medicine. In cases of death, funeral expenses are covered. Currently, over 30% of people with severe disabilities receive social allowances, including 1% who are cared for in the Centre of Social Welfare. During the past five years, the number of disabled people who receive a social allowance has increased by around 2% per year.³⁷ Some people with disabilities also receive assistance from the community and/or individuals.

According to the Ordinance on Disabled Persons, organizations and individuals of all sectors, including people with disabilities, should create positions for and employ people with disabilities.³⁸ The Labour Code and Article 14 of Decree No 81/CP also stipulate that enterprises of all economic sectors and all forms of ownership must employ a certain number of disabled workers. The stipulated number is 2% in the electricity production, metallurgy, chemicals, geology, mapping, oil and gas, mining and mineral exploitation, capital construction and transportation industries, and 3% in all other industries.³⁹ According to regulations of MOLISA and the Ministry of Finance, enterprises that employ fewer people with disabilities than is stipulated in Article 14 of the Decree must make a monthly financial contribution to the Fund for People with Disabilities.

Articles 125-128 of Chapter XI of the Labour Code, which was revised in 2002, establish specific provisions for workers with disabilities. Various legal documents specify and provide implementation measures for these provisions, including Governmental Decree 81/CP of 23 November 1995, which provides detailed guidelines for the implementation of several articles related to workers with disabilities, as well as other circulars.

Supplemental documents provide detailed instructions for the implementation of Labor Code provisions that encourage employment of and job generation for people with disabilities, as well as policies for providing self-employment loans to people with disabilities. Policies provide initial on-site support, facilities and equipment, tax exemptions, and loans to vocational training centers and productive enterprises of people with disabilities. These centers and enterprises also enjoy priority status in the allotment of premises and special consideration for locations that are convenient and appropriate for their activities. Policies also provide a number of tax reductions and exemptions (land and housing tax, agricultural land-

36. As of 16 June 2005, 1 US dollar equalled approximately 15,885 Vietnamese Dong.

37. Mr. Luong Phan Cu, Vice Chairman, National Assembly Committee on Social Affairs, "Report presented at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998– 2003" Hanoi, 19 March 2003.

38. Ordinance on Disabled Persons.

39. The Labour Code issued on 23 June 1994; Decree No.181/CP, Article 14 issued on 23 November 1995.

use tax, and enterprises-income tax) for vocational training centers and production and business enterprises of people with disabilities, and specify the work and rest periods permitted for people with disabilities.⁴⁰

Currently, only 3% of people with disabilities living in urban areas have received training and possess technical skills. This figure demonstrates the urgent need for training and employment for people with disabilities and for improved educational opportunities and accessibility. Disability organizations feel that improved governmental and non-governmental provisions would allow people with disabilities greater access to the labour market and an improved standard of living and socio-economic status. Under the Ordinance on Disabled Persons, educational centers, vocational training centers, and economic organizations should create opportunities for people with disabilities to study, participate in self-employment schemes, or work from home. People with disabilities studying at these centers receive reduced fees or fee exemptions and receive a social allowance, as stipulated by the government.

MOLISA is responsible for helping the government manage the vocational training and employment of workers, including those with disabilities. Vocational training in Vietnam is conducted largely through 178 employment service centers that provide employment consulting, labor market information, employment introduction, and labor and vocational training, as stipulated in employment law. Among these centers, there are 10 employment service centers that are implementing pilot vocational training programs intended to provide training for 300 people with disabilities, 80% of whom are expected to secure stable employment. One such program is the US funded Vietnam–US Cooperation Project on Employment Services for People with Disabilities.⁴¹

In Vietnam, people with disabilities who are self-employed receive support from the Employment Fund for People with Disabilities of the National Fund for Employment, which provides lowered interest loans. Through this and similar initiatives, there has been a strong increase in self-employment among people with disabilities. In 2000-2001, over 300,000 new businesses were registered.⁴² However, only the Vietnam Blind Association (VBA) is eligible for loans from the National Fund for Employment. The VBA has proven the ability of people with disabilities to manage and repay funding. The business enterprise loans received by the VBA have had a good recovery rate and a very low overdue debt rate. The overdue debt of the VBA was 0% in 1997, 1.32% in 1998, 1.48% in 1999, 1.68% in 2000, 0.79% in 2001, and 0.84% and in the first six months of 2002. In contrast, the overdue debt rate of business enterprises of people without disabilities was much higher, at 8.49%

40. Ms. Nguyen Thi Hai Van.

41. *Ibid.*

42. Julie Yoder "Training and Employment of People with Disabilities: Vietnam" 2003, <http://72.14.207.104/search?q=cache:6jej-ig3P4QJ:www.ilo.org/public/english/region/asro/bangkok/ability/download/vietnam-final.pdf+ILO+AND+Vietnam+AND+Disability&hl=en>.

in 2000, 6.55% in 2001, and 7.27% in the first six months of 2002. At the end of 2003, the VBA received 23,310,960,000 VND (approximately US\$ 1.5 million) and since then has created regular employment for 36,290 workers.⁴³

The First Conference of the Vietnam Association of Business and Enterprises of Disabled People of Vietnam (VABED) took place on 18 September 2003 in Hanoi. The Conference drew the participation of 130 member delegates from 3 regions throughout the country, and the Association's membership has since increased to 156.⁴⁴ During the Conference the VABED adopted its regulations and 5-year orientation plan. The establishment of the VABED has created significant potential for providing jobs for people with disabilities.

Health Services

To implement the Ordinance on Disabled Persons the health sector, in collaboration with relevant bodies including MOET and MOLISA, have carried out many activities in support of people with disabilities. 100% of central hospitals, both military and civilian, and more than 90% of the provincial and city hospitals have established a rehabilitation department. Currently, there are more than 31 hospitals that are providing rehabilitation services. In the future, some of these hospitals will be entirely converted into specialized rehabilitation hospitals responsible for all rehabilitation activities for people with disabilities throughout the country.⁴⁵ According to the regulations of the Ministry of Health, all new general hospitals should have a rehabilitation department.

People with severe disabilities who have no income or support, and all people with disabilities living in poverty, are guaranteed medical examination and treatment at medical facilities. People with disabilities should receive functional rehabilitation and necessary orthopedic services from specialized agencies and the community. People with disabilities living in poverty receive services free of charge or at reduced costs. They may also be helped to make ordinary aids in functional rehabilitation.⁴⁶

Community Based Rehabilitation (CBR) programs are being created and strengthened in many areas of the country. CBR programs have been implemented in 46 out of 64 provinces and cities, in 156 out of 597 districts and in 1,600 out of 10,331 wards and communes throughout the country. The community based rehabilitation program is closely linked with primary health care networks at the central and local levels.

43. Ms. Nguyen Thi Hai Van.

44. *Ibid.*

45. Mr. Do Khang Chien, Deputy Director of Treatment Department, Ministry of Health, 45 of NCCD "Report Presented at the at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998 – 2003" Hanoi, 19 March 2003.

46. Ordinance on Disabled Persons, Articles 10 and 11.

In addition to the assistance it received from international organizations (most of which are non-governmental organizations), the program received funding from the Ministry of Health, provincial committees, and provincial health care departments. To date, CBR programs have been continually maintained and expanded.⁴⁷ However due to lack of funding, implementation, expansion, and maintenance have been difficult and the program has not been able to keep up with the demand of people with disabilities. Dissemination of educational knowledge, rehabilitation techniques, and disability prevention measures to health clinics and the community has been limited.

People with disabilities receive free basic technical aids, including wheelchairs, hearing aids and prostheses from the Department of Labour, Invalids and Social Affairs. Some international organizations and individuals also provide these aids. However, only 26% of people with disabilities have assistive devices and only 30% can afford to independently buy specialized or used equipment. The government of Vietnam provides 48.12% of the assistive devices.⁴⁸

Housing

A government fund has been established to support the poor and disability communities. People with disabilities who are homeless are cared for in government sponsored social protection centers located in each province. In addition to these centers, there are institutions where people with all types of disabilities and poor and/or homeless people may live voluntarily or be placed. These institutions are managed by the community, or non-governmental organizations. In recent years, nationwide efforts to build houses for the poor and the homeless including poor and homeless people with disabilities have increased significantly. Civil society, non-governmental organizations, and related agencies and companies are supporting these efforts.

Accessibility

Modern construction technology and increasing responsiveness to the demand of users with disabilities and the international push for integration have led to improved quality and convenience of facilities. However, the environments of and equipment in the majority of both newly-built and existing facilities have not been able to meet the special needs of people with disabilities.

Vietnam's 1997 Building Code contains articles that regulate accessibility principles for some public facilities. The 2002 Building Code for Accessibility of People with Disabilities was passed by the Ministry of Construction in order to

47. *Ibid.*

48. *Ibid.*

implement the Ordinance on Disabled Persons, as were three separate standards on the accessible design of housing, pavement and streets. These standards and codes apply to new constructions, as well as facilities that need to be renovated. Facilities must meet the accessibility standards required for appraisal, construction permits, and approval and acceptance for the construction of facilities such as health clinics, administrative offices at all levels, for educational services, sport, cultural services, hotels, living quarters, roads and pavement.⁴⁹

Some constructions in Hanoi and Ho Chi Minh City have been built and renovated to meet the requirements of these Standards and Codes.⁵⁰ However, the main post office in Hanoi remains inaccessible to people with disabilities. The Hanoi Architecture University has developed an accessible design curriculum for undergraduate and graduate students of Architecture and Construction.

Public transportation is not accessible for people with disabilities, although currently the Ministry of Public Transport is developing a transportation code and an accessibility standard for public transportation, which will be completed by 2007.⁵¹ Upon completion of the transportation code and standards, the public transportation system is expected to gradually enact the new accessibility guidelines.

Culture, Sports and Recreation

Sports and physical activity for people with disabilities gradually has received increased attention and assistance from governmental organizations, localities, and businesses throughout the country. On 31 December 1995, the Prime Minister officially established the Vietnam Sport Association for Disabled People to manage, facilitate, and organize sports activities for people with disabilities throughout the country. The Association is intended to improve the health of people with disabilities and create an equalized community setting. To date, 35 of the 61 provinces and cities have established clubs to promote sports and physical exercise for people with disabilities. Many sport competitions for people with disabilities also have been organized in different provinces for important events, such as the Vietnamese Day for Martyrs and Wounded Veterans.

The Committee on Sport and Physical Exercises collaborated with the Vietnam Sport Association to organize five annual national sport competitions for people with disabilities. These competitions took place in Hanoi, Da Nang, Ho Chi Minh

49. Professor, Dr. Nguyen Huu Dung, Professor, Dr. Nguyen Huu Dung, Director of Science and Technology, Ministry of Construction, Standing member of NCCD "Report at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998 – 2003" Hanoi, 19 March 2003.

50. National Coordinating Council on Disabilities of Vietnam (NCCD).

51. *Ibid.*

City, and Hue. There also have been two National Sport and Musical Tournaments, in Quang Tri province and Thua Thien Hue province in 2002. The Committee on Sport and Physical Exercises also has provided instruction to relevant local departments on investing in and constructing stadiums equipped with special devices for people with disabilities, such as the newly built National Sport Complex, which has reserved 550 seats for disabled athletes and participants and their assistants. Other competition facilities and sport centers have established accessible ramps, steps, and rest rooms for disabled participants.⁵²

Disability Action & Awareness

The National Co-ordinating Council on Disabilities of Vietnam (NCCD) was established in January 22nd 2001, pursuant to the provisions of the Ordinance on Disabled Persons, and in response to the pressing demand for a national body to coordinate ministry and agency action on disability, and to implement the first of the 12 priorities of the Asian and Pacific Decade of Disabled Persons (1993 - 2002). The NCCD is an inter-agency planning and co-ordinating body comprised of representatives from fifteen ministries, including the Ministries of Labour, Invalids and Social Affairs; Health; Education and Training; Construction; Public Transportation; Culture and Information; Home Affairs; Justice; and Finance, as well as the Committee on Social Affairs of the National Assembly, the Department of Family and Social Affairs of Vietnam's Women Union, the National Steering Committee for Information Technology, the National Committee for Sport and Physical Exercises, the General Department of Taxation, VTV, and representatives of the Vietnam Blind Association, the Hanoi Club for the Deaf, and the Bright Future Group, the Vietnam Red Cross and Vietnam Association for the Support of Vietnamese Handicapped and Orphans.⁵³

As a National Coordinating body, the NCCD is responsible for:

- Collaborating with relevant bodies to assess the effectiveness and adequacy of disability policies, programs and projects of the government, non-governmental organisations, and society;
- Collaborating with relevant agencies to evaluate the implementation of the Ordinance on Disabled persons;
- Collaborating and exchanging ideas with relevant government entities on the development and amendment of laws, policies, standards and codes to assist people with disabilities;

52. Le Hong Diep Chi, Deputy Director, Department of Public Sports, Committee on Sports and Physical Exercise, Member of NCCD "Report Presented at the Seminar on Initial assessment of 5-year implementation of the Ordinance on People with Disabilities, 1998 – 2003" Hanoi, 19 March 2003.

53. National Coordinating Council on Disabilities of Vietnam (NCCD).

- Collaborating continuously with relevant agencies and localities to determine the actual situation and demands of people with disabilities and provide agencies with recommendations on the development and coordination of disability related programs and projects of the government, NGOs, society, and domestic and foreign individuals;
- Coordinating technical and financial assistance, from governmental and non-governmental organizations and domestic and foreign individuals, for assisting people with disabilities; and
- Collaborating with domestic organisations to engage in regional and international disability related activities.

Among its many functions, the NCCD office provides recommendations to NCCD constituents, advises on the design and development of programs and projects for people with disabilities, collaborates on disability surveys, and provides information and consultations to people with disabilities.

A number of organisations work on disability issues in Vietnam. In addition to the NCCD and relevant government ministries these include: the network of disability associations at the local and national levels; the Vietnam Association of Business and Enterprises of Disabled Persons (VABED); the Vietnam Blind Association and its provincial branches; the Vietnam Sport Association for Disabled People, Save the Children with Disabilities of Vietnam, the Vietnam Association for Support of the Handicapped and Orphans and its provincial branches, and the Red Cross Society. Self-help groups of people with disabilities exist in cities and provinces, and include organizations of people with physical disabilities, people who are deaf, and parents of children with intellectual disabilities.

Appendices

Appendix A:

UN- Standard Rules on the Equalization of Opportunities for Persons with Disabilities

Website: <http://www.un.org/documents/ga/res/48/a48r096.htm>

A/RES/48/96
85th plenary meeting
20 December 1993

48/96. Standard Rules on the Equalization of Opportunities for Persons with Disabilities

The General Assembly,

Recalling Economic and Social Council resolution 1990/26 of 24 May 1990, in which the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, and requested the Commission, should it establish such a working group, to finalize the text of those rules for consideration by the Council in 1993 and for submission to the General Assembly at its forty-eighth session,

Also recalling that in its resolution 32/2 of 20 February 1991 the Commission for Social Development decided to establish an ad hoc open-ended working group of government experts in accordance with Economic and Social Council resolution 1990/26,

Noting with appreciation the participation of many States, specialized agencies, intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, in the deliberations of the working group,

Also noting with appreciation the generous financial contributions of Member States to the working group,

Welcoming the fact that the working group was able to fulfil its mandate within three sessions of five working days each,

Acknowledging with appreciation the report of the ad hoc open-ended working group to elaborate standard rules on the equalization of opportunities for persons with disabilities,

Taking note of the discussion in the Commission for Social Development at its

thirty-third session on the draft standard rules contained in the report of the working group,

1. Adopts the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, set forth in the annex to the present resolution;
2. Requests Member States to apply the Rules in developing national disability programmes;
3. Urges Member States to meet the requests of the Special Rapporteur for information on the implementation of the Rules;
4. Requests the Secretary-General to promote the implementation of the Rules and to report thereon to the General Assembly at its fiftieth session;
5. Urges Member States to support, financially and otherwise, the implementation of the Rules.

ANNEX

Standard Rules on the Equalization of Opportunities for
Persons with Disabilities

INTRODUCTION

Background and current needs

Previous international action

Towards standard rules

Purpose and content of the Standard Rules on the Equalization of
Opportunities for Persons with Disabilities

Fundamental concepts in disability policy

PREAMBLE

I. PRECONDITIONS FOR EQUAL PARTICIPATION

- Rule 1. Awareness-raising
- Rule 2. Medical care
- Rule 3. Rehabilitation
- Rule 4. Support services

II. TARGET AREAS FOR EQUAL PARTICIPATION

- Rule 5. Accessibility
- Rule 6. Education

- Rule 7. Employment
- Rule 8. Income maintenance and social security
- Rule 9. Family life and personal integrity
- Rule 10. Culture
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III. IMPLEMENTATION MEASURES

- Rule 13. Information and research
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- Rule 15. Legislation
- Rule 16. Economic policies
- Rule 17. Coordination of work
- Rule 18. Organizations of persons with disabilities
- Rule 19. Personnel training
- Rule 20. National monitoring and evaluation of disability programmes in the implementation of the Rules
- Rule 21. Technical and economic cooperation
- Rule 22. International cooperation

IV. MONITORING MECHANISM

INTRODUCTION

Background and current needs

1. 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 large and is growing.
2. Both the causes and the consequences of disability vary throughout the world. Those variations are the result of different socio-economic circumstances and of the different provisions that States make for the well-being of their citizens.
3. Present disability policy is the result of developments over the past 200 years. In many ways it reflects the general living conditions and social and economic policies of different times. In the disability field, however, there are also many specific circumstances that have influenced the living conditions of persons with disabilities. Ignorance, neglect, superstition and fear are social factors that throughout the history of disability have isolated persons with disabilities and delayed their development.
4. Over the years disability policy developed from elementary care at institutions to education for children with disabilities and rehabilitation for persons who became disabled during adult life. Through education and rehabilitation, persons with disabilities became more active and a driving force in the further

development of disability policy. Organizations of persons with disabilities, their families and advocates were formed, which advocated better conditions for persons with disabilities. After the Second World War the concepts of integration and normalization were introduced, which reflected a growing awareness of the capabilities of persons with disabilities.

5. Towards the end of the 1960s organizations of persons with disabilities in some countries started to formulate a new concept of disability. That new concept indicated the close connection between the limitation experienced by individuals with disabilities, the design and structure of their environments and the attitude of the general population. At the same time the problems of disability in developing countries were more and more highlighted. In some of those countries the percentage of the population with disabilities was estimated to be very high and, for the most part, persons with disabilities were extremely poor.

Previous international action

6. The rights of persons with disabilities have been the subject of much attention in the United Nations and other international organizations over a long period of time. The most important outcome of the International Year of Disabled Persons, 1981, was the World Programme of Action concerning Disabled Persons, adopted by the General Assembly by its resolution 37/52 of 3 December 1982. The Year and the World Programme of Action provided a strong impetus for progress in the field. They both emphasized the right of persons with disabilities to the same opportunities as other citizens and to an equal share in the improvements in living conditions resulting from economic and social development. There also, for the first time, handicap was defined as a function of the relationship between persons with disabilities and their environment.
7. The Global Meeting of Experts to Review the Implementation of the World Programme of Action concerning Disabled Persons at the Mid-Point of the United Nations Decade of Disabled Persons was held at Stockholm in 1987. It was suggested at the Meeting that a guiding philosophy should be developed to indicate the priorities for action in the years ahead. The basis of that philosophy should be the recognition of the rights of persons with disabilities.
8. Consequently, the Meeting recommended that the General Assembly convene a special conference to draft an international convention on the elimination of all forms of discrimination against persons with disabilities, to be ratified by States by the end of the Decade.
9. A draft outline of the convention was prepared by Italy and presented to the General Assembly at its forty-second session. Further presentations concerning a draft convention were made by Sweden at the forty-fourth session of the Assembly. However, on both occasions, no consensus could be reached on the suitability of such a convention. In the opinion of many

representatives, existing human rights documents seemed to guarantee persons with disabilities the same rights as other persons.

Towards standard rules

10. Guided by the deliberations in the General Assembly, the Economic and Social Council, at its first regular session of 1990, finally agreed to concentrate on the elaboration of an international instrument of a different kind. By its resolution 1990/26 of 24 May 1990, the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons. The Council also requested the Commission to finalize the text of those rules for consideration in 1993 and for submission to the General Assembly at its forty-eighth session.
11. The subsequent discussions in the Third Committee of the General Assembly at the forty-fifth session showed that there was wide support for the new initiative to elaborate standard rules on the equalization of opportunities for persons with disabilities.
12. At the thirty-second session of the Commission for Social Development, the initiative for standard rules received the support of a large number of representatives and discussions led to the adoption of resolution 32/2 of 20 February 1991, in which the Commission decided to establish an ad hoc open-ended working group in accordance with Economic and Social Council resolution 1990/26.

Purpose and content of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities

13. 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 International Bill of Human Rights, comprising the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, as well as the World Programme of Action concerning Disabled Persons, constitute the political and moral foundation for the Rules.
14. Although the Rules are not compulsory, they can become international customary rules when they are applied by a great number of States with

the intention of respecting a rule in international law. They imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities for persons with disabilities. Important principles for responsibility, action and cooperation are indicated. Areas of decisive importance for the quality of life and for the achievement of full participation and equality are pointed out. The Rules offer an instrument for policy-making and action to persons with disabilities and their organizations. They provide a basis for technical and economic cooperation among States, the United Nations and other international organizations.

15. 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. In all societies of the world there are still obstacles preventing persons with disabilities from exercising their rights and freedoms and making it difficult for them to participate fully in the activities of their societies. It is the responsibility of States to take appropriate action to remove such obstacles. Persons with disabilities and their organizations should play an active role as partners in this process. The equalization of opportunities for persons with disabilities is an essential contribution in the general and worldwide effort to mobilize human resources. Special attention may need to be directed towards groups such as women, children, the elderly, the poor, migrant workers, persons with dual or multiple disabilities, indigenous people and ethnic minorities. In addition, there are a large number of refugees with disabilities who have special needs requiring attention.

Fundamental concepts in disability policy

16. The concepts set out below appear throughout the Rules. They are essentially built on the concepts in the World Programme of Action concerning Disabled Persons. In some cases they reflect the development that has taken place during the United Nations Decade of Disabled Persons.

Disability and handicap

17. The term "disability" summarizes a great number of different functional limitations occurring in any population in any country of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature.
18. The term "handicap" means the loss or limitation of opportunities to take part in the life of the community on an equal level with others. It describes the encounter between the person with a disability and the environment. The purpose of this term is to emphasize the focus on the shortcomings in the environment and in many organized activities in society, for example, information, communication and education, which prevent persons with disabilities from participating on equal terms.

19. The use of the two terms “disability” and “handicap”, as defined in paragraphs 17 and 18 above, should be seen in the light of modern disability history. During the 1970s there was a strong reaction among representatives of organizations of persons with disabilities and professionals in the field of disability against the terminology of the time. The terms “disability” and “handicap” were often used in an unclear and confusing way, which gave poor guidance for policy-making and for political action. The terminology reflected a medical and diagnostic approach, which ignored the imperfections and deficiencies of the surrounding society.
20. In 1980, the World Health Organization adopted an international classification of impairments, disabilities and handicaps, which suggested a more precise and at the same time relativistic approach. The International Classification of Impairments, Disabilities, and Handicaps makes a clear distinction between “impairment”, “disability” and “handicap”. It has been extensively used in areas such as rehabilitation, education, statistics, policy, legislation, demography, sociology, economics and anthropology. Some users have expressed concern that the Classification, in its definition of the term “handicap”, may still be considered too medical and too centred on the individual, and may not adequately clarify the interaction between societal conditions or expectations and the abilities of the individual. Those concerns, and others expressed by users during the 12 years since its publication, will be addressed in forthcoming revisions of the Classification.
21. As a result of experience gained in the implementation of the World Programme of Action and of the general discussion that took place during the United Nations Decade of Disabled Persons, there was a deepening of knowledge and extension of understanding concerning disability issues and the terminology used. Current terminology recognizes the necessity of addressing both the individual needs (such as rehabilitation and technical aids) and the shortcomings of the society (various obstacles for participation).

Prevention

22. The term “prevention” means action aimed at preventing the occurrence of physical, intellectual, psychiatric or sensory impairments (primary prevention) or at preventing impairments from causing a permanent functional limitation or disability (secondary prevention). Prevention may include many different types of action, such as primary health care, prenatal and postnatal care, education in nutrition, immunization campaigns against communicable diseases, measures to control endemic diseases, safety regulations, programmes for the prevention of accidents in different environments, including adaptation of workplaces to prevent occupational disabilities and diseases, and prevention of disability resulting from pollution of the environment or armed conflict.

Rehabilitation

23. The term “rehabilitation” refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric and/or social functional levels, thus providing them with the tools to change their lives towards a higher level of independence. Rehabilitation may include measures to provide and/or restore functions, or compensate for the loss or absence of a function or for a functional limitation. The rehabilitation process does not involve initial medical care. It includes a wide range of measures and activities from more basic and general rehabilitation to goal-oriented activities, for instance vocational rehabilitation.

Equalization of opportunities

24. The term “equalization of opportunities” means the process through which the various systems of society and the environment, such as services, activities, information and documentation, are made available to all, particularly to persons with disabilities.
25. The principle of equal rights implies that the needs of each and every individual are of equal importance, that those needs must be made the basis for the planning of societies and that all resources must be employed in such a way as to ensure that every individual has equal opportunity for participation.
26. Persons with disabilities are members of society and have the right to remain within their local communities. They should receive the support they need within the ordinary structures of education, health, employment and social services.
27. As persons with disabilities achieve equal rights, they should also have equal obligations. As those rights are being achieved, societies should raise their expectations of persons with disabilities. As part of the process of equal opportunities, provision should be made to assist persons with disabilities to assume their full responsibility as members of society.

PREAMBLE

States,

Mindful of the pledge made, under the Charter of the United Nations, to take joint and separate action in cooperation with the Organization to promote higher standards of living, full employment, and conditions of economic and social progress and development,

Reaffirming the commitment to human rights and fundamental freedoms, social justice and the dignity and worth of the human person proclaimed in the Charter,

Recalling in particular the international standards on human rights, which have

been laid down in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Underlining that those instruments proclaim that the rights recognized therein should be ensured equally to all individuals without discrimination,

Recalling the Convention on the Rights of the Child, which prohibits discrimination on the basis of disability and requires special measures to ensure the rights of children with disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for some protective measures against disability,

Recalling also the provisions in the Convention on the Elimination of All Forms of Discrimination against Women to ensure the rights of girls and women with disabilities,

Having regard to the Declaration on the Rights of Disabled Persons, the Declaration on the Rights of Mentally Retarded Persons, the Declaration on Social Progress and Development, the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care and other relevant instruments adopted by the General Assembly,

Also having regard to the relevant conventions and recommendations adopted by the International Labour Organisation, with particular reference to participation in employment without discrimination for persons with disabilities,

Mindful of the relevant recommendations and work of the United Nations Educational, Scientific and Cultural Organization, in particular the World Declaration on Education for All, the World Health Organization, the United Nations Children's Fund and other concerned organizations,

Having regard to the commitment made by States concerning the protection of the environment,

Mindful of the devastation caused by armed conflict and deploring the use of scarce resources in the production of weapons,

Recognizing that the World Programme of Action concerning Disabled Persons and the definition therein of equalization of opportunities represent earnest ambitions on the part of the international community to render those various international instruments and recommendations of practical and concrete significance,

Acknowledging that the objective of the United Nations Decade of Disabled Persons (1983-1992) to implement the World Programme of Action is still valid and requires urgent and continued action,

Recalling that the World Programme of Action is based on concepts that

are equally valid in developing and industrialized countries,

Convinced that intensified efforts are needed to achieve the full and equal enjoyment of human rights and participation in society by persons with disabilities,

Re-emphasizing that persons with disabilities, and their parents, guardians, advocates and organizations, must be active partners with States in the planning and implementation of all measures affecting their civil, political, economic, social and cultural rights,

In pursuance of Economic and Social Council resolution 1990/26, and basing themselves on the specific measures required for the attainment by persons with disabilities of equality with others, enumerated in detail in the World Programme of Action,

Have adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities outlined below, in order:

- (a) To stress that all action in the field of disability presupposes adequate knowledge and experience of the conditions and special needs of persons with disabilities;
- (b) To emphasize that the process through which every aspect of societal organization is made accessible to all is a basic objective of socio-economic development;
- (c) To outline crucial aspects of social policies in the field of disability, including, as appropriate, the active encouragement of technical and economic cooperation;
- (d) To provide models for the political decision-making process required for the attainment of equal opportunities, bearing in mind the widely differing technical and economic levels, the fact that the process must reflect keen understanding of the cultural context within which it takes place and the crucial role of persons with disabilities in it;
- (e) To propose national mechanisms for close collaboration among States, the organs of the United Nations system, other intergovernmental bodies and organizations of persons with disabilities;
- (f) To propose an effective machinery for monitoring the process by which States seek to attain the equalization of opportunities for persons with disabilities.

I. PRECONDITIONS FOR EQUAL PARTICIPATION

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.

1. States should ensure that responsible authorities distribute up-to-date information on available programmes and services to persons with disabilities, their families, professionals in the field and the general public. Information to persons with disabilities should be presented in accessible form.
2. States should initiate and support information campaigns concerning persons with disabilities and disability policies, conveying the message that persons with disabilities are citizens with the same rights and obligations as others, thus justifying measures to remove all obstacles to full participation.
3. States should encourage the portrayal of persons with disabilities by the mass media in a positive way; organizations of persons with disabilities should be consulted on this matter.
4. States should ensure that public education programmes reflect in all their aspects the principle of full participation and equality.
5. States should invite persons with disabilities and their families and organizations to participate in public education programmes concerning disability matters.
6. States should encourage enterprises in the private sector to include disability issues in all aspects of their activity.
7. States should initiate and promote programmes aimed at raising the level of awareness of persons with disabilities concerning their rights and potential. Increased self-reliance and empowerment will assist persons with disabilities to take advantage of the opportunities available to them.
8. Awareness-raising should be an important part of the education of children with disabilities and in rehabilitation programmes. Persons with disabilities could also assist one another in awareness-raising through the activities of their own organizations.
9. Awareness-raising should be part of the education of all children and should be a component of teacher-training courses and training of all professionals.

Rule 2. Medical care

States should ensure the provision of effective medical care to persons with disabilities.

1. States should work towards the provision of programmes run by multidisciplinary teams of professionals for early detection, assessment and treatment of impairment. This could prevent, reduce or eliminate disabling effects. Such programmes should ensure the full participation of persons with disabilities

and their families at the individual level, and of organizations of persons with disabilities at the planning and evaluation level.

2. Local community workers should be trained to participate in areas such as early detection of impairments, the provision of primary assistance and referral to appropriate services.
3. States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society.
4. States should ensure that all medical and paramedical personnel are adequately trained and equipped to give medical care to persons with disabilities and that they have access to relevant treatment methods and technology.
5. States should ensure that medical, paramedical and related personnel are adequately trained so that they do not give inappropriate advice to parents, thus restricting options for their children. This training should be an ongoing process and should be based on the latest information available.
6. States should ensure that persons with disabilities are provided with any regular treatment and medicines they may need to preserve or improve their level of functioning.

*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.

1. States should develop national rehabilitation programmes for all groups of persons with disabilities. Such programmes should be based on the actual individual needs of persons with disabilities and on the principles of full participation and equality.
2. Such programmes should include a wide range of activities, such as basic skills training to improve or compensate for an affected function, counselling of persons with disabilities and their families, developing self-reliance, and occasional services such as assessment and guidance.
3. All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation should have access to it.
4. Persons with disabilities and their families should be able to participate in the design and organization of rehabilitation services concerning themselves.
5. All rehabilitation services should be available in the local community where the person with disabilities lives. However, in some instances, in order to attain

a certain training objective, special time-limited rehabilitation courses may be organized, where appropriate, in residential form.

6. Persons with disabilities and their families should be encouraged to involve themselves in rehabilitation, for instance as trained teachers, instructors or counsellors.
7. States should draw upon the expertise of organizations of persons with disabilities when formulating or evaluating rehabilitation programmes.

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.

1. States should ensure the provision of assistive devices and equipment, personal assistance and interpreter services, according to the needs of persons with disabilities, as important measures to achieve the equalization of opportunities.
2. States should support the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them.
3. To achieve this, generally available technical know-how should be utilized. In States where high-technology industry is available, it should be fully utilized to improve the standard and effectiveness of assistive devices and equipment. It is important to stimulate the development and production of simple and inexpensive devices, using local material and local production facilities when possible. Persons with disabilities themselves could be involved in the production of those devices.
4. States should recognize that all persons with disabilities who need assistive devices should have access to them as appropriate, including financial accessibility. This may mean that assistive devices and equipment should be provided free of charge or at such a low price that persons with disabilities or their families can afford to buy them.
5. In rehabilitation programmes for the provision of assistive devices and equipment, States should consider the special requirements of girls and boys with disabilities concerning the design, durability and age-appropriateness of assistive devices and equipment.
6. States should support the development and provision of personal assistance programmes and interpretation services, especially for persons with severe and/or multiple disabilities. Such programmes would increase the level of participation of persons with disabilities in everyday life at home, at work, in

school and during leisure-time activities.

7. Personal assistance programmes should be designed in such a way that the persons with disabilities using the programmes have a decisive influence on the way in which the programmes are delivered.

II. TARGET AREAS FOR EQUAL PARTICIPATION

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.

(a) Access to the physical environment

1. States should initiate measures to remove the obstacles to participation in the physical environment. Such measures should be to develop standards and guidelines and to consider enacting legislation to ensure accessibility to various areas in society, such as housing, buildings, public transport services and other means of transportation, streets and other outdoor environments.
2. States should ensure that architects, construction engineers and others who are professionally involved in the design and construction of the physical environment have access to adequate information on disability policy and measures to achieve accessibility.
3. Accessibility requirements should be included in the design and construction of the physical environment from the beginning of the designing process.
4. Organizations of persons with disabilities should be consulted when standards and norms for accessibility are being developed. They should also be involved locally from the initial planning stage when public construction projects are being designed, thus ensuring maximum accessibility.

(b) Access to information and communication

5. Persons with disabilities and, where appropriate, their families and advocates should have access to full information on diagnosis, rights and available services and programmes, at all stages. Such information should be presented in forms accessible to persons with disabilities.
6. States should develop strategies to make information services and documentation accessible for different groups of persons with disabilities. Braille, tape services, large print and other appropriate technologies should be used to provide access to written information and documentation for persons

with visual impairments. Similarly, appropriate technologies should be used to provide access to spoken information for persons with auditory impairments or comprehension difficulties.

7. Consideration should be given to the use of sign language in the education of deaf children, in their families and communities. Sign language interpretation services should also be provided to facilitate the communication between deaf persons and others.
8. Consideration should also be given to the needs of people with other communication disabilities.
9. States should encourage the media, especially television, radio and newspapers, to make their services accessible.
10. States should ensure that new computerized information and service systems offered to the general public are either made initially accessible or are adapted to be made accessible to persons with disabilities.
11. Organizations of persons with disabilities should be consulted when measures to make information services accessible are being developed.

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.

1. General educational authorities are responsible for the education of persons with disabilities in integrated settings. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.
2. Education in mainstream schools presupposes the provision of interpreter and other appropriate support services. Adequate accessibility and support services, designed to meet the needs of persons with different disabilities, should be provided.
3. Parent groups and organizations of persons with disabilities should be involved in the education process at all levels.
4. In States where education is compulsory it should be provided to girls and boys with all kinds and all levels of disabilities, including the most severe.
5. Special attention should be given in the following areas:
 - (a) Very young children with disabilities;

- (b) Pre-school children with disabilities;
 - (c) Adults with disabilities, particularly women.
6. To accommodate educational provisions for persons with disabilities in the mainstream, States should:
- (a) Have a clearly stated policy, understood and accepted at the school level and by the wider community;
 - (b) Allow for curriculum flexibility, addition and adaptation;
 - (c) Provide for quality materials, ongoing teacher training and support teachers.
7. Integrated education and community-based programmes should be seen as complementary approaches in providing cost-effective education and training for persons with disabilities. National community-based programmes should encourage communities to use and develop their resources to provide local education to persons with disabilities.
8. In situations where the general school system does not yet adequately meet the needs of all persons with disabilities, special education may be considered. It should be aimed at preparing students for education in the general school system. The quality of such education should reflect the same standards and ambitions as general education and should be closely linked to it. At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities. States should aim for the gradual integration of special education services into mainstream education. It is acknowledged that in some instances special education may currently be considered to be the most appropriate form of education for some students with disabilities.
9. Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools. At the initial stage, in particular, special attention needs to be focused on culturally sensitive instruction that will result in effective communication skills and maximum independence for people who are deaf or deaf/blind.

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.

1. Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment.

2. States should actively support the integration of persons with disabilities into open employment. This active support could occur through a variety of measures, such as vocational training, incentive-oriented quota schemes, reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprises employing workers with disabilities. States should also encourage employers to make reasonable adjustments to accommodate persons with disabilities.
3. States' action programmes should include:
 - (a) Measures to design and adapt workplaces and work premises in such a way that they become accessible to persons with different disabilities;
 - (b) Support for the use of new technologies and the development and production of assistive devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities to enable them to gain and maintain employment;
 - (c) Provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services.
4. States should initiate and support public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.
5. In their capacity as employers, States should create favourable conditions for the employment of persons with disabilities in the public sector.
6. States, workers' organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.
7. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. It is important that the quality of such programmes be assessed in terms of their relevance and sufficiency in providing opportunities for persons with disabilities to gain employment in the labour market.
8. Measures should be taken to include persons with disabilities in training and employment programmes in the private and informal sectors.
9. States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities, including flexible hours, part-time work, job-sharing, self-employment and attendant care for persons with disabilities.

Rule 8. Income maintenance and social security

States are responsible for the provision of social security and income maintenance for persons with disabilities.

1. States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities. States should ensure that the provision of support takes into account the costs frequently incurred by persons with disabilities and their families as a result of the disability.
2. In countries where social security, social insurance or other social welfare schemes exist or are being developed for the general population, States should ensure that such systems do not exclude or discriminate against persons with disabilities.
3. States should also ensure the provision of income support and social security protection to individuals who undertake the care of a person with a disability.
4. Social security systems should include incentives to restore the income-earning capacity of persons with disabilities. Such systems should provide or contribute to the organization, development and financing of vocational training. They should also assist with placement services.
5. Social security programmes should also provide incentives for persons with disabilities to seek employment in order to establish or re-establish their income-earning capacity.
6. Income support should be maintained as long as the disabling conditions remain in a manner that does not discourage persons with disabilities from seeking employment. It should only be reduced or terminated when persons with disabilities achieve adequate and secure income.
7. States, in countries where social security is to a large extent provided by the private sector, should encourage local communities, welfare organizations and families to develop self-help measures and incentives for employment or employment-related activities for persons with disabilities.

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.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules

regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.

2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.
3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.
4. Persons with disabilities and their families need to be fully informed about taking precautions against sexual and other forms of abuse. Persons with disabilities are particularly vulnerable to abuse in the family, community or institutions and need to be educated on how to avoid the occurrence of abuse, recognize when abuse has occurred and report on such acts.

Rule 10. Culture

States will ensure that persons with disabilities are integrated into and can participate in cultural activities on an equal basis.

1. States should ensure that persons with disabilities have the opportunity to utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of their community, be they in urban or rural areas. Examples of such activities are dance, music, literature, theatre, plastic arts, painting and sculpture. Particularly in developing countries, emphasis should be placed on traditional and contemporary art forms, such as puppetry, recitation and story-telling.
2. States should promote the accessibility to and availability of places for cultural performances and services, such as theatres, museums, cinemas and libraries, to persons with disabilities.
3. States should initiate the development and use of special technical arrangements to make literature, films and theatre accessible to persons with disabilities.

Rule 11. Recreation and sports

States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.

1. States should initiate measures to make places for recreation and sports, hotels, beaches, sports arenas, gym halls, etc., accessible to persons with disabilities. Such measures should encompass support for staff in recreation and sports programmes, including projects to develop methods of accessibility, and participation, information and training programmes.
2. Tourist authorities, travel agencies, hotels, voluntary organizations and others involved in organizing recreational activities or travel opportunities should offer their services to all, taking into account the special needs of persons with disabilities. Suitable training should be provided to assist that process.
3. Sports organizations should be encouraged to develop opportunities for participation by persons with disabilities in sports activities. In some cases, accessibility measures could be enough to open up opportunities for participation. In other cases, special arrangements or special games would be needed. States should support the participation of persons with disabilities in national and international events.
4. Persons with disabilities participating in sports activities should have access to instruction and training of the same quality as other participants.
5. Organizers of sports and recreation should consult with organizations of persons with disabilities when developing their services for persons with disabilities.

Rule 12. Religion

States will encourage measures for equal participation by persons with disabilities in the religious life of their communities.

1. States should encourage, in consultation with religious authorities, measures to eliminate discrimination and make religious activities accessible to persons with disabilities.
2. States should encourage the distribution of information on disability matters to religious institutions and organizations. States should also encourage religious authorities to include information on disability policies in the training for religious professions, as well as in religious education programmes.
3. They should also encourage the accessibility of religious literature to persons with sensory impairments.
4. States and/or religious organizations should consult with organizations of persons with disabilities when developing measures for equal participation in religious activities.

III. IMPLEMENTATION MEASURES

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.

1. States should, at regular intervals, collect gender-specific statistics and other information concerning the living conditions of persons with disabilities. Such data collection could be conducted in conjunction with national censuses and household surveys and could be undertaken in close collaboration, inter alia, with universities, research institutes and organizations of persons with disabilities. The data collection should include questions on programmes and services and their use.
2. States should consider establishing a data bank on disability, which would include statistics on available services and programmes as well as on the different groups of persons with disabilities. They should bear in mind the need to protect individual privacy and personal integrity.
3. States should initiate and support programmes of research on social, economic and participation issues that affect the lives of persons with disabilities and their families. Such research should include studies on the causes, types and frequencies of disabilities, the availability and efficacy of existing programmes and the need for development and evaluation of services and support measures.
4. States should develop and adopt terminology and criteria for the conduct of national surveys, in cooperation with organizations of persons with disabilities.
5. States should facilitate the participation of persons with disabilities in data collection and research. To undertake such research States should particularly encourage the recruitment of qualified persons with disabilities.
6. States should support the exchange of research findings and experiences.
7. States should take measures to disseminate information and knowledge on disability to all political and administration levels within national, regional and local spheres.

Rule 14. Policy-making and planning

States will ensure that disability aspects are included in all relevant policy-making and national planning.

1. States should initiate and plan adequate policies for persons with disabilities at the national level, and stimulate and support action at regional and local levels.
2. States should involve organizations of persons with disabilities in all decision-

making relating to plans and programmes concerning persons with disabilities or affecting their economic and social status.

3. The needs and concerns of persons with disabilities should be incorporated into general development plans and not be treated separately.
4. The ultimate responsibility of States for the situation of persons with disabilities does not relieve others of their responsibility. Anyone in charge of services, activities or the provision of information in society should be encouraged to accept responsibility for making such programmes available to persons with disabilities.
5. States should facilitate the development by local communities of programmes and measures for persons with disabilities. One way of doing this could be to develop manuals or check-lists and provide training programmes for local staff.

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.

1. National legislation, embodying the rights and obligations of citizens, should include the rights and obligations of persons with disabilities. States are under an obligation to enable persons with disabilities to exercise their rights, including their human, civil and political rights, on an equal basis with other citizens. States must ensure that organizations of persons with disabilities are involved in the development of national legislation concerning the rights of persons with disabilities, as well as in the ongoing evaluation of that legislation.
2. Legislative action may be needed to remove conditions that may adversely affect the lives of persons with disabilities, including harassment and victimization. Any discriminatory provisions against persons with disabilities must be eliminated. National legislation should provide for appropriate sanctions in case of violations of the principles of non-discrimination.
3. National legislation concerning persons with disabilities may appear in two different forms. The rights and obligations may be incorporated in general legislation or contained in special legislation. Special legislation for persons with disabilities may be established in several ways:
 - (a) By enacting separate legislation, dealing exclusively with disability matters;
 - (b) By including disability matters within legislation on particular topics;
 - (c) By mentioning persons with disabilities specifically in the texts that serve to interpret existing legislation.

A combination of those different approaches might be desirable. Affirmative

action provisions may also be considered.

4. States may consider establishing formal statutory complaints mechanisms in order to protect the interests of persons with disabilities.

Rule 16. Economic policies

States have the financial responsibility for national programmes and measures to create equal opportunities for persons with disabilities.

1. States should include disability matters in the regular budgets of all national, regional and local government bodies.
2. States, non-governmental organizations and other interested bodies should interact to determine the most effective ways of supporting projects and measures relevant to persons with disabilities.
3. States should consider the use of economic measures (loans, tax exemptions, earmarked grants, special funds, and so on) to stimulate and support equal participation by persons with disabilities in society.
4. In many States it may be advisable to establish a disability development fund, which could support various pilot projects and self-help programmes at the grass-roots level.

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.

1. The national coordinating committee or similar bodies should be permanent and based on legal as well as appropriate administrative regulation.
2. A combination of representatives of private and public organizations is most likely to achieve an intersectoral and multidisciplinary composition. Representatives could be drawn from concerned government ministries, organizations of persons with disabilities and non-governmental organizations.
3. Organizations of persons with disabilities should have considerable influence in the national coordinating committee in order to ensure proper feedback of their concerns.
4. The national coordinating committee should be provided with sufficient autonomy and resources to fulfil its responsibilities in relation to its decision-making capacities. It should report to the highest governmental level.

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.

1. States should encourage and support economically and in other ways the formation and strengthening of organizations of persons with disabilities, family members and/or advocates. States should recognize that those organizations have a role to play in the development of disability policy.
2. States should establish ongoing communication with organizations of persons with disabilities and ensure their participation in the development of government policies.
3. The role of organizations of persons with disabilities could be to identify needs and priorities, to participate in the planning, implementation and evaluation of services and measures concerning the lives of persons with disabilities, and to contribute to public awareness and to advocate change.
4. As instruments of self-help, organizations of persons with disabilities provide and promote opportunities for the development of skills in various fields, mutual support among members and information sharing.
5. Organizations of persons with disabilities could perform their advisory role in many different ways such as having permanent representation on boards of government-funded agencies, serving on public commissions and providing expert knowledge on different projects.
6. The advisory role of organizations of persons with disabilities should be ongoing in order to develop and deepen the exchange of views and information between the State and the organizations.
7. Organizations should be permanently represented on the national coordinating committee or similar bodies.
8. The role of local organizations of persons with disabilities should be developed and strengthened to ensure that they influence matters at the community level.

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.

1. States should ensure that all authorities providing services in the disability field give adequate training to their personnel.
2. In the training of professionals in the disability field, as well as in the provision of information on disability in general training programmes, the principle of full

participation and equality should be appropriately reflected.

3. States should develop training programmes in consultation with organizations of persons with disabilities, and persons with disabilities should be involved as teachers, instructors or advisers in staff training programmes.
4. The training of community workers is of great strategic importance, particularly in developing countries. It should involve persons with disabilities and include the development of appropriate values, competence and technologies as well as skills which can be practised by persons with disabilities, their parents, families and members of the community.

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.

1. States should periodically and systematically evaluate national disability programmes and disseminate both the bases and the results of the evaluations.
2. States should develop and adopt terminology and criteria for the evaluation of disability-related programmes and services.
3. Such criteria and terminology should be developed in close cooperation with organizations of persons with disabilities from the earliest conceptual and planning stages.
4. States should participate in international cooperation in order to develop common standards for national evaluation in the disability field. States should encourage national coordinating committees to participate also.
5. The evaluation of various programmes in the disability field should be built in at the planning stage, so that the overall efficacy in fulfilling their policy objectives can be evaluated.

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.

1. Measures to achieve the equalization of opportunities of persons with disabilities, including refugees with disabilities, should be integrated into general development programmes.
2. Such measures must be integrated into all forms of technical and economic

cooperation, bilateral and multilateral, governmental and non-governmental. States should bring up disability issues in discussions on such cooperation with their counterparts.

3. When planning and reviewing programmes of technical and economic cooperation, special attention should be given to the effects of such programmes on the situation of persons with disabilities. It is of the utmost importance that persons with disabilities and their organizations are consulted on any development projects designed for persons with disabilities. They should be directly involved in the development, implementation and evaluation of such projects.
4. Priority areas for technical and economic cooperation should include:
 - (a) The development of human resources through the development of skills, abilities and potentials of persons with disabilities and the initiation of employment-generating activities for and of persons with disabilities;
 - (b) The development and dissemination of appropriatedisability-related technologies and know-how.
5. States are also encouraged to support the formation and strengthening of organizations of persons with disabilities.
6. States should take measures to improve the knowledge of disability issues among staff involved at all levels in the administration of technical and economic cooperation programmes.

Rule 22. International cooperation

States will participate actively in international cooperation concerning policies for the equalization of opportunities for persons with disabilities.

1. Within the United Nations, the specialized agencies and other concerned intergovernmental organizations, States should participate in the development of disability policy.
2. Whenever appropriate, States should introduce disability aspects in general negotiations concerning standards, information exchange, development programmes, etc.
3. States should encourage and support the exchange of knowledge and experience among:
 - (a) Non-governmental organizations concerned with disability issues;
 - (b) Research institutions and individual researchers involved in disability issues;

- (c) Representatives of field programmes and of professional groups in the disability field;
 - (d) Organizations of persons with disabilities;
 - (e) National coordinating committees.
4. States should ensure that the United Nations and the specialized agencies, as well as all intergovernmental and interparliamentary bodies, at global and regional levels, include in their work the global and regional organizations of persons with disabilities.

IV. MONITORING MECHANISM

1. The purpose of a monitoring mechanism is to further the effective implementation of the Rules. It will assist each State in assessing its level of implementation of the Rules and in measuring its progress. The monitoring should identify obstacles and suggest suitable measures that would contribute to the successful implementation of the Rules. The monitoring mechanism will recognize the economic, social and cultural features existing in individual States. An important element should also be the provision of advisory services and the exchange of experience and information between States.
2. The Rules shall be monitored within the framework of the sessions of the Commission for Social Development. A Special Rapporteur with relevant and extensive experience in disability issues and international organizations shall be appointed, if necessary, funded by extrabudgetary resources, for three years to monitor the implementation of the Rules.
3. International organizations of persons with disabilities having consultative status with the Economic and Social Council and organizations representing persons with disabilities who have not yet formed their own organizations should be invited to create among themselves a panel of experts, on which organizations of persons with disabilities shall have a majority, taking into account the different kinds of disabilities and necessary equitable geographical distribution, to be consulted by the Special Rapporteur and, when appropriate, by the Secretariat.
4. The panel of experts will be encouraged by the Special Rapporteur to review, advise and provide feedback and suggestions on the promotion, implementation and monitoring of the Rules.
5. The Special Rapporteur shall send a set of questions to States, entities within the United Nations system, and intergovernmental and non-governmental organizations, including organizations of persons with disabilities. The set of questions should address implementation plans for the Rules in States. The questions should be selective in nature and cover a number of specific rules for in-depth evaluation. In preparing the questions the Special Rapporteur should

consult with the panel of experts and the Secretariat.

6. The Special Rapporteur shall seek to establish a direct dialogue not only with States but also with local non-governmental organizations, seeking their views and comments on any information intended to be included in the reports. The Special Rapporteur shall provide advisory services on the implementation and monitoring of the Rules and assistance in the preparation of replies to the sets of questions.
7. The Department for Policy Coordination and Sustainable Development of the Secretariat, as the United Nations focal point on disability issues, the United Nations Development Programme and other entities and mechanisms within the United Nations system, such as the regional commissions and specialized agencies and inter-agency meetings, shall cooperate with the Special Rapporteur in the implementation and monitoring of the Rules at the national level.
8. The Special Rapporteur, assisted by the Secretariat, shall prepare reports for submission to the Commission for Social Development at its thirty-fourth and thirty-fifth sessions. In preparing such reports, the Rapporteur should consult with the panel of experts.
9. States should encourage national coordinating committees or similar bodies to participate in implementation and monitoring. As the focal points on disability matters at the national level, they should be encouraged to establish procedures to coordinate the monitoring of the Rules. Organizations of persons with disabilities should be encouraged to be actively involved in the monitoring of the process at all levels.
10. Should extrabudgetary resources be identified, one or more positions of interregional adviser on the Rules should be created to provide direct services to States, including:
 - (a) The organization of national and regional training seminars on the content of the Rules;
 - (b) The development of guidelines to assist in strategies for implementation of the Rules;
 - (c) Dissemination of information about best practices concerning implementation of the Rules.
11. At its thirty-fourth session, the Commission for Social Development should establish an open-ended working group to examine the Special Rapporteur's report and make recommendations on how to improve the application of the Rules. In examining the Special Rapporteur's report, the Commission, through its open-ended working group, shall consult international organizations of persons with disabilities and specialized agencies, in accordance with rules 71 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council.

12. At its session following the end of the Special Rapporteur's mandate, the Commission should examine the possibility of either renewing that mandate, appointing a new Special Rapporteur or considering another monitoring mechanism, and should make appropriate recommendations to the Economic and Social Council.
13. States should be encouraged to contribute to the United Nations Voluntary Fund on Disability in order to further the implementation of the Rules.

Appendix B:

SUMMARY PAPER:

DRAFT BIWAKO MILLENNIUM FRAMEWORK FOR ACTION TOWARDS AN INCLUSIVE, BARRIER-FREE AND RIGHTS-BASED SOCIETY FOR PERSONS WITH DISABILITIES IN ASIA AND THE PACIFIC

In May 2002, ESCAP adopted the resolution “Promoting an inclusive, barrier-free and rights-based society for people with disabilities in the Asian and Pacific region in the twenty-first century”. The resolution also proclaimed the extension of the Asian and Pacific Decade of Disabled Persons, 1993-2002, for another decade, 2003-2012.

The “Draft Biwako Millennium Framework” outlines issues, action plans and strategies towards an inclusive, barrier-free and rights-based society for persons with disabilities.

To achieve the goal, the framework identifies seven priority areas for action, in each of which critical issues and targets with specific time frames and actions follow. In all, 18 targets and 15 strategies supporting the achievement of all the targets are identified.

The next decade will ensure the paradigm shift from a charity-based approach to a rights-based approach to protect the civil, cultural, economic, political, and social rights of persons with disabilities.

To pursue the targets and strategies, consultations with and involvement of civil society, inter alia, self-help organizations and concerned NGOs are essential.

The following sections summarize the seven priority areas for action, the targets, strategies, time-frames, and the supporting/monitoring mechanisms.

(1) Self-help organizations of persons with disabilities

Persons with disabilities and their self-help organizations are the most equipped, best informed to speak on their behalf and can contribute to solutions on issues that concern them. Two targets are set to make the difference:

- 1) By 2004, Governments, international funding agencies and NGOs should establish policy to support and develop self-help organizations.
- 2) By 2005, Governments and civil society organizations should fully include self-help organizations in decision-making processes. Actions for the targets include the participation of persons with disabilities in policy-making, political representations and capacity building.

Self-help organizations should include marginalized persons with disabilities such as women and girls with disabilities, persons with intellectual disabilities, persons who are HIV-positive and affected by leprosy.

(2) Women with disabilities

Women with disabilities are multiply disadvantaged through their status as women, as persons with disabilities, and majority numbers as persons living in poverty. Three targets are set to solve these problems:

- 1) By 2005, Governments should ensure anti-discrimination measures to protect women with disabilities.
- 2) By 2005, self-help organizations adopt policies to promote full representation of women with disabilities,.
- 3) By 2005, women with disabilities should be included in the membership of national mainstream women's associations.

(3) Early intervention and education

Less than 10 per cent of children and youth with disabilities have access to any form of education compared with an enrolment rate of over 70 per cent for non-disabled children and youth in primary education in the Asian and Pacific region. This exclusion from education for children and youth with disabilities results in exclusion from opportunity for further personal, social and vocational development. Three targets are set for these problems:

- 1) Children with disabilities will be an integral part of the population targeted by Millennium Development Goal Target 3, which is to ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.
- 2) By 2010, at least 75 per cent of children and youth with disabilities will be able to complete a full course of primary schooling.
- 3) By 2012, all infants and young children (0 – 4 years) will have access to and receive community-based early intervention services.

Actions in this area include adequate legislation for inclusive education and national data collection on children with disabilities (0-16 years).

(4) Training and employment, including self-employment

Persons with disabilities remain disproportionately undereducated, untrained, unemployed, underemployed and poor. They have insufficient access to the mainstream labour market partially due to social exclusion, lack of trained and competent staff and adequate training for independent workers. Three targets follow:

- 1) By 2012, at least 30 per cent of the signatories (member states) will ratify ILO Convention 159 concerning Vocational Rehabilitation on Employment (Disabled Persons).
- 2) By 2012, at least 30 per cent of all vocational training programmes in signatory countries will include persons with disabilities.
- 3) By 2010, reliable data on the employment and self-employment rates of persons with disabilities will exist in all countries.

(5) Access to built environment and public transport

Inaccessibility to the built environment, including public transport systems, is still the major barrier for persons with disabilities. This problem will only exacerbate, as the number of older people with disabilities increase in the region. Universal design approaches benefit all people in society including older persons, pregnant women and parents with young children. Its economic benefits have been legitimized, yet substantive initiatives at policy level have not been taken. Three targets are set to improve the situation:

- 1) Governments should adopt and enforce accessibility standards for planning of public facilities, infrastructure and transport, including those in rural/agricultural contexts.
- 2) By 2012, existing public transport systems and all new and renovated public transport systems should be accessible.

(6) Access to information and communication including ICT

In the last 10 years, there has been much progress in Information and Communication Technology (ICT) development, and it opens up many opportunities for people with disabilities in networking, solidarity employment and independent living. But it has also widened the gap between persons with disabilities and the non-disabled. The Digital divide includes inaccessibility to infrastructure for ICT, Internet, and ICT skills. These problems are acute in rural areas. The multi-media environment is creating barriers for people with visual disabilities. Three targets are set to improve the situation:

- 1) By 2005, persons with disabilities should have at least the same rate of access to the Internet and related services as the rest of citizens in a country of the region.
- 2) By 2004, international organizations should incorporate accessibility standards for persons with disabilities in their international ICT standards.
- 3) Governments should adopt, by 2005, ICT accessibility guidelines for persons with disabilities in their national ICT policies.

(7) Poverty alleviation through social security and livelihood programmes

Persons with disabilities are the poorest of the poor. It is estimated that 160 million persons with disabilities, over 40 per cent of disabled persons are living in poverty, unable to benefit from their socio-economic rights. Poverty and disability worsens each other when persons with disabilities are socially excluded and adequate social services are not provided. Pursuant to the UN Millennium Development Goal target 1:

- 1) Governments should halve, between 1990 and 2015, the proportion of persons with disabilities whose income/consumption is less than one dollar a day. Actions call for Governments to integrate disability dimensions into MDG baseline data collection and analysis, to allocate a certain percentage of the total rural development / poverty alleviation funds towards persons with disabilities. National plan of action (five-year) on disability

Strategy 1 calls for Governments to develop and adopt, by 2004, a five-year comprehensive national plan of action to implement the targets and strategies of the framework. Promotion of rights-based approach to disability issues

Strategy 2 calls for Governments to adopt and implement non-discrimination policies. Strategy 3 draws attention to National Human Rights Institutions as agencies to protect disabled people's rights. Strategy 4 calls for Governments to actively involve persons with disabilities in any policy development. Strategy 5 calls for Governments to ratify the core international human rights treaties. Strategy 6 calls for Governments to support the Ad Hoc Committee for the comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities Disability statistics/common definition of disabilities for planning

A common system of definition and classification of disability is not uniformly applied in the region. Two strategies are set to solve the problem. Strategy 7 calls for Governments to develop, by 2005, their system in disability-related data collection and analysis. Strategy 8 calls for Governments to adopt, by 2005,

definitions on disability based on the United Nations publication “Guidelines and Principles for the Development of Disability Statistics. Strengthened community development approach to prevention, rehabilitation and empowerment of persons with disabilities

Community-based approach is augmenting and replacing traditional institutional and centralized rehabilitation programmes for disabled people’s economic, social and other human rights enhancement. Strategy 9 calls for Governments to immediately develop national policies to promote community-based approaches. Cooperation and support for action: subregional, regional and interregional

Special focus is on strengthening cooperation among governments at the subregional level. Strategy 10 and 11 call for formulating subregional priorities and plans of action, by 2004, to achieve the targets. At a regional level, strategy 12 calls for Governments, the United Nations system, civil society organizations and the private sector to collaborate, support and take advantage of the training and communication capability of the Asia-Pacific Development Center on Disability. This center is to be opened in 2004 in Bangkok, as a legacy of the Asian and Pacific Decade of Disabled Persons. It has the capacity of one of the most powerful focal points in the region. Strategy 13 and 14 call for Governments, civil society organizations and the private sector to establish a network of centres of excellence in focused areas to maximize cooperation and collaboration. ESCAP and other United Nations agencies should assist in the establishment of a network of centres of excellence. Strategy 15 emphasizes cooperation between ESCAP and other regional agencies for exchange of information, experiences and expertise. Monitoring and review

ESCAP should convene biennial meetings to review achievements and to identify actions that may be required to implement the Biwako Millennium Framework for Action. At these meetings, the representatives of national coordination committees on disability matters comprising Government ministries/agencies, NGOs, self-help organizations and the media will be invited to present reports to review progress in the implementation of the framework.

The mid-point review of the Biwako Millennium Framework for Action should be conducted. Based on the review, the targets and strategic plans for the second half of the Decade may be modified and new targets and strategic plans formulated.

Appendix C:

IDRM Regional Report of Asia 2005 Report Card Questions

Convention Support

Has your government issued a statement in support of the creation of a United Nations Convention on the Rights of Persons with Disabilities?

Legal Protections

Is there a national law that specifically references and protects of the rights of people with disabilities?

Is there a national coordinating organization that develops disability policy?

Education & Employment

Is training on teaching children with disabilities included in the national teacher curriculum?

Does the largest employer of the private sector have a policy that states people with disabilities cannot be discriminated against in employment on the basis of his or her disability?

Accessibility

Is the bus system in the capital city wheelchair accessible?

Is the main post office in the capital city wheelchair accessible?

Health Services & Housing

Is training on provision of care to people with disabilities available for physicians, both before and after they acquire a medical degree?

Is there a center that provides peer counseling and referral services (Independent Living Center) to people with disability in your country?

Communication

Does the government provide a Braille version of the Constitution?

Is the national news captioned for hearing-impaired viewers?



The International Disability Rights Monitor (IDRM) Project is an ongoing collaboration between the International Disability Network (IDN), Disabled People's International (DPI), and many other international and national disability groups. The goals of the IDRM project are to promote the full inclusion and participation of persons with disabilities in society and to advance the use of international law to ensure that the rights of persons with disabilities are respected and enforced. The IDRM research seeks to define and quantify issues of importance to people with disabilities internationally, while strengthening a grassroots network to advance the rights and agenda of people with disabilities in the communities where they live.



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