



PROVISIONS FOR SPECIAL RIGHT AND PRIVILEGE FOR DISABLED THROUGH LEGISLATIONS

INTRODUCTION:

Children with disabilities and their families constantly experience barriers to the enjoyment of their basic human rights and to their inclusion in society. Their abilities are overlooked, their capacities are under estimated and their needs are given low priority. Yet, the barriers they face are more frequently as a result of the environment in which they live than as a result of their impairment. While the situation for these children is changing for the better, on the positive side, there has been a gathering global momentum over the past two decades, originating with persons with disabilities and increasingly supported by civil society and governments. The Disabilities Convention offers a unique opportunity for every country and every community to re-examine its laws and institutions and to promote changes necessary to ensure that persons with disabilities are guaranteed the same rights as all other persons. It expresses basic human rights in a manner that addresses the special needs and situation of persons with disabilities and provides a framework for ensuring that those rights are realized. Understanding barriers to inclusion the social model of disability acknowledges that obstacles to participation in society and its institutions reside in the environment rather than in the individual, and those barriers must be prevented, reduced or eliminated. They are reflected in policies and regulations created by governments. Such obstacles may be physical – for example barriers in public buildings, transportation and recreational facilities. They may also be attitudinal – wide spread under estimation of the abilities and potential of children with disabilities creates a vicious cycle of under expectation, under-achievement and low priority in the allocation of resources. Poverty is a pervasive barrier to participation worldwide, and is both a cause and a consequence of disability. Families living in poverty are much more vulnerable to sickness and infection, especially in infancy and early childhood. They are also less likely to receive adequate health care or to be able to pay for basic medicines or school fees. The costs of caring for a child with a disability create further hardship for a family, particularly for mothers who are often prevented from working and contributing to family income. Needed actions the articles of the Convention on the Rights of Persons with Disabilities spell out the specific areas that need to be addressed, as well implementation and monitoring mechanisms. These are complementary to the recommendations issued by the Committee on the Rights of the Child to governments. A major task for international agencies and their national partners is to ensure that persons with disabilities are automatically but explicitly included in the initial objectives, targets and monitoring indicators of all development programmes, including with those framed by the Millennium Agenda.

The importance of Millennium Agenda:

1. Promoting the Rights of Children with Disabilities of all legislation in order to ensure its conformity with these standards, in particular the inclusion of children and adults with disabilities. All relevant legislation and regulations should include a prohibition of discrimination on grounds of disability.
2. Provide for effective remedies in case of violations of the rights of children with disabilities and ensure that these remedies are accessible to all children, families and caregivers.

3. Develop a national plan of action that integrates the relevant provisions of all applicable international instruments. Such plans should specify measurable and time bound targets as well as evaluation indicators, and should be resourced accordingly.

4. Create a focal point for disability in each relevant department, as well as a high-level multi sector Coordinating Committee, with members drawn from relevant ministries and organizations of persons with disabilities. The committee should be empowered to initiate proposals, suggest policies and monitor progress.

5. Develop independent monitoring mechanisms, such as an Ombudsperson or Children's Commissioner, and ensure that children and families are aware of and fully supported in gaining access to such mechanisms.

6. Make concerted efforts to ensure that the necessary resources are allocated to and for children with disabilities and their families. This includes free primary and secondary education in accessible buildings, training of teachers and other professionals, financial support and social security. Each child should be provided with appropriate individual support, including assistive devices, sign language, Braille materials and a differentiated and accessible curriculum.

7. Establish programmes for the deinstitutionalization of children with disabilities, placing them with their families or with foster families who should be assisted with professional and financial support. National standards of care and appropriate training should be in place and rigorously monitored to safeguard the rights of those children that remain in institutions.

8. Conduct awareness-raising and educational campaigns for the public, as well as specific groups of professionals, with the aim of preventing and addressing the de facto discrimination of children with disabilities.

9. Implement a system of community services and support for children with disabilities.

10. Ensure that organizations of persons with disabilities are consulted in relevant planning and policy making, and are duly represented and financially supported in extending their activities.

Employment

Equal Opportunity for Employment. –

No disabled person shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able bodied person. Five percent (5%) of all casual, emergency and contractual positions in the Departments of Social Welfare and Development; Health; Education, Culture and Sports; and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.

Sheltered Employment. –

If suitable employment for disabled persons cannot be found through open employment as provided in the immediately preceding Section, the State shall endeavour to provide it by means of sheltered employment. In the placement of disabled persons in sheltered employment, it shall accord due regard to the individual qualities, vocational goals and inclinations to ensure a good working atmosphere and efficient production.

Apprenticeship. –

Subject to the provisions of the Labour Code as amended, disabled persons shall be eligible as apprentices or learners: Provided, That their handicap is not much as to effectively impede the performance of job operations in the particular occupation for which they are hired: Provided, further, That after the lapse of the period of apprenticeship if found satisfactory in the job performance, they shall be eligible for employment.

Vocational Rehabilitation. –

Consistent with the principle of equal opportunity for disabled workers and workers in general, it shall take appropriate vocational rehabilitation measures that shall serve to develop the skills and potentials of disabled persons and enable them to compete favourably for available productive and remunerative employment opportunities in the labour market.

Vocational Guidance and Counselling. - The Department of Social Welfare and Development shall implement measures providing and evaluating vocational guidance and counselling to enable disabled persons to secure, retain and advance in employment. It shall ensure the availability and training of counsellors and other suitably qualified staff responsible for the vocational guidance and counselling of disabled persons.

Implementing Rules and Regulations. - The Department of Labour and Employment shall in coordination with the Department of Social Welfare and Development (DSWD) and National Council for the Welfare of Disabled Persons (NCWDP) shall promulgate the rules and regulations necessary to implement the provisions.

Education

Access to Quality Education. – The State shall ensure that disabled persons are provided with adequate access to quality education and ample opportunities to develop their skills. It shall take appropriate steps to make such education accessible to all disabled persons. It shall be unlawful for any learning institution to deny a disabled person admission to any course it offers by reason of handicap or disability. The State shall take into consideration the special requirements of disabled persons in the formulation of educational policies and programs. It shall encourage learning institutions to take into account the special needs of disabled persons with respect to the use of school facilities, class schedules, physical education requirements, and other pertinent consideration. The State shall also promote the provision by learning institutions, especially higher learning institutions, of auxiliary services that will facilitate the learning process for disabled persons.

Assistance to Disabled Students. –

The State shall provide financial assistance to economically marginalized but deserving disabled students pursuing post secondary or tertiary education. Such assistance may be in the form of scholarship grants, student loan programs, subsidies, and other incentives to qualified disabled students in both public and private schools.

Special Education. – The State shall establish, maintain and support a complete, adequate and integrated system of special education for the visually impaired, hearing impaired, mentally retarded persons and other types of exceptional children in all regions of the country. Toward this end, the Department of Education, Culture and Sports shall establish special education classes in public schools in cities, or municipalities.

Vocational or Technical and Other Training Programs. The State shall provide disabled persons with training in civics, vocational efficiency, sports and physical fitness, and other skills. The Department of Education, Culture and Sports shall establish in at least one government-owned vocational and technical school in every province a special vocational and technical training program for disabled persons. It shall develop and implement sports and physical fitness programs specifically designed for disabled persons taking into consideration the nature of their handicap.

Non-Formal Education. – The State shall develop non-formal education programs intended for the total human development of disabled persons. It shall provide adequate resources for non-formal education programs and projects that cater to the special needs of disabled persons.

State Universities and Colleges. – If viable and needed, the State University or State College in each region or province shall be responsible for

- (a) the development of material appliances and technical aids for disabled persons;
- (b) the development of training materials for vocational rehabilitation and special education instructions
- (c) the research on special problems, particularly of the visually-impaired, hearing-impaired, speech-impaired, and orthopedically-impaired students, mentally retarded, and multi-handicapped and others, and the elimination of social barriers and discrimination against disabled persons; and
- (d) inclusion of the Special Education for Disabled (SPED) course in the curriculum.

Health

National Health Programme. – The Department of Health in coordination with the National Council for the Welfare of Disabled Persons, shall institute a national health program which shall aim to attain the following:

- a. prevention of disability, whether occurring pre natally or post-natally;
- b. recognition and early diagnosis of disability; and
- c. Early rehabilitation of the disabled.

Rehabilitation Centre. - The Department of Health shall establish medical rehabilitation centres in government provincial hospitals, and shall include in its annual appropriation the necessary funds for the operation of such centres. The Department of Health shall formulate and implement a program to enable marginalized disabled persons to avail of free rehabilitation services in government hospitals.

Health Services. – The State shall protect and promote the right to health of disabled persons and shall adopt an integrated and comprehensive approach to their health development which shall make essential health services available to them at affordable cost. The National Government shall provide an integrated health service for disabled persons which shall include, but not limited to, the following:

- a. prevention of disability through immunization, nutrition, environmental protection and preservation, and genetic counselling; and early detection of disability and timely intervention to arrest disabling condition; and
- b. Medical treatment and rehabilitation.

The Department of Health shall field medical personnel specializing in the treatment and rehabilitation of disabled persons to provincial hospitals and, when viable, to municipal health centres. It shall also train its field health personnel in the provision of medical attention to disabled persons. It shall further ensure that its field health units have the necessary capabilities to fit prosthetic and orthotic appliances on disabled persons.

CONCLUSION

In countries the world over children with disabilities and their families continue to face discrimination and are not yet fully able to enjoy their basic human rights. The inclusion of children with disabilities is a matter of social justice and an essential investment in the future of society. It is not based on charity or goodwill but is an integral element of the expression and realization of universal human rights. The last two decades have witnessed a gathering global momentum for change. Many countries have already begun to reform their laws and structures and to remove barriers to the participation of persons with disabilities as full members of their communities. The Convention on the Rights of Persons with Disabilities, building upon the existing provisions of the Convention on the Rights of the Child, opens a new era in securing the rights of children with disabilities and their families. Together with the Millennium Agenda and other international initiatives, these international standards lay the foundation for each country and community to undertake a fundamental review of the situation of children and adults with disabilities and to take specific steps to promote their inclusion in society.