

JANNET

Japan NGO Network on Disabilities

Newsletter 2007

**The Convention on the Rights of Persons
with Disabilities**

Foreword

JANNET (Japan NGO Network on Disabilities) is a network of Japanese NGOs working for disability fields mainly in Asia and Pacific. Its main activity is to exchange information and experiences. As of August 31, 2007, it consists of 37 NGOs and 26 individuals.

JANNET publishes its NEWS LETTER (CD) in English annually. This year we feature the Convention on the Rights of Persons with Disabilities for your easy understanding, which was adopted in December, 2006 and opened for signature by all States and by regional integration organizations at United Nations Headquarters in New York on 30 March 2007. We would be pleased if this CD is helpful for relevant people/organization in your country.

Contents

1. **The Convention on the Rights of Persons with Disabilities: Brief Introduction (Page1-4)**
2. **Japan's Endeavor toward the Establishment of the Convention on the Rights of Persons with Disabilities and Its Future Task (Page5-9)**
3. **List of signatory and ratifying states (Page 10-15)**
4. **Comparison among BMF, MDGs (Millennium Development Goals) and the Convention on the Rights of Persons with Disabilities (page 16-40)**

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1. The Convention on the Rights of Persons with Disabilities: Brief Introduction

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The General Assembly of the United Nations adopted the Convention on the Rights of Persons with Disabilities on 13 December 2006 at the U.N. Headquarters in New York. This was a historic step forward for the promotion and protection of human rights of persons with disabilities as well as for the global community. It has been almost two decades since the initial international proposal was made for the human rights convention on disability in 1987.

This brief paper introduces you to (a) background and negotiation process of the convention, (b) overview of the convention and the optional protocol, (c) signature and ratification, (d) entry into force and (e) obligations of states parties that have ratified the convention.

BACKGROUND AND NEGOTIATION PROCESS

After two major attempts to propose the human rights convention for persons with disabilities in 1987 and 1989 at the United Nations failed to get consensus, the convention remained as a major goal for the global disability movement through 1990's. It was the government of Mexico under President Vicente Fox which took initiative for the convention again at the U.N. General Assembly in 2001. Member States of the U.N. agreed to set up an Ad Hoc Committee to consider proposals for the human rights convention for persons with disabilities. The Ad Hoc Committee, established under the General Assembly and open-ended to all member states of U.N., met 8 sessions (mostly two weeks each time) from 2002 to 2006 at U.N. Headquarters in New York. On 13 December 2006, the General Assembly adopted by consensus the Convention on the Rights of Persons with Disabilities and Optional Protocol¹.

It should be noted the participation of “stakeholders”, namely people with disabilities and their allies through their representative organizations was outstanding.

¹ <http://www.un.org/esa/socdev/enable/conventioninfo.htm>

This was symbolized by “nothing about us without us”.

OVERVIEW OF THE CONVENTION AND ITS OPTIONAL PROTOCOL

The convention consists of preamble and fifty articles. It starts with the statement of the purpose of the convention, which is to ensure human rights of persons with disabilities, followed by general principles of the convention, including (a) respect for inherent dignity and individual autonomy of persons with disabilities, (b) non-discrimination, and (c) full and effective participation and inclusion in society.

Substantive articles are from article 10 to article 30 and covers right to life; situations of risk and humanitarian emergencies; equal recognition before the law; access to justice; liberty and security of person; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from exploitation, violence and abuse; protecting the integrity of the persons; liberty of movement and nationality; living independently and being included in the community; personal mobility; freedom of expression and opinion, and access to information; respect for privacy; respect for home and the family, education; health; habilitation and rehabilitation; work and employment; adequate standard of living and social protection; participation in political and public life; and participation in cultural life, recreation, leisure and sport.

Implementing measures include article 31 to article 40. Article 32 on international cooperation is a unique one. No other human rights convention has an independent article devoted to international cooperation. Article 32 refers to (a) international development programmes and (b) exchange and sharing of information and experiences. Article 41 to article 50 are final clauses and technical in nature.

The Optional Protocol is a supplementary and optional instrument. States can sign and ratify both the Convention and the Optional Protocol or just sign and ratify the convention. That is why it is named as “optional”. Optional Protocol to the Convention on the Rights of Persons with Disabilities includes individual communication and inquiry.

SIGNATURE AND RATIFICATION

On 31 March 2007, the Convention and the Optional Protocol were opened for signature and ratification and the official signature ceremony was held at the U.N. Headquarters in New York.

Signature means support for the principles of the convention and the intention of

the government to ratify it. Normally this initiative is taken by the executive branch of the government. When a state ratifies the convention, the convention becomes legally binding for that state. Ratification means an official acceptance of the convention and is normally based on the approval by the legislature.

At the signature ceremony, 81 states and European Community signed the Convention. 44 states signed the Optional Protocol. One country, Jamaica, ratified the Convention and the Optional Protocol at the ceremony. These unusually high numbers of signatures indicate a very high political support to the Convention and the Optional Protocol.

ENTRY INTO FORCE

The Convention will enter into force, meaning it will take effect, 30 days after the twenty states have ratified it. In another words, when there are less than 20 countries that have ratified the convention, the convention is not yet “alive”.

For example, Convention on the Rights of the Child was opened for signature in January 1990 and took effect in September 1990, taking eight months. Convention on the Elimination of All Forms of Discrimination Against Women was opened for signature in March 1980 and took effect in September 1981, taking eighteen months.

Perhaps in case of the Convention on the Rights of Persons with Disabilities, it might take less than one year to take effect, as in the case of the Convention on the Rights of the Child.

GENERAL OBLIGATIONS OF STATES PARTIES

Those countries that have ratified the Convention have the obligations to ensure and promote all human rights and fundamental freedoms for all persons with disabilities. According to article 4, for this purpose, States Parties (countries that have ratified the Convention) agree to modify or abolish existing laws, regulations and practices that discriminate against persons with disabilities, and in the development and implementation of the disability legislation and policies, to closely consult with and actively involve persons with disabilities through their representative organizations.

IMPLEMENTATION AND MONITORING

The Convention in its article 33 provides for the designation of one or more focal

points within government for the national implementation of this Convention. It also calls for States Parties to maintain or establish a framework, including independent mechanisms, to monitor implementation of the Convention, taking into account principles regarding national human rights institutions.

As for the international monitoring, when the Convention takes effect, a committee on the rights of persons with disabilities will be established with twelve experts. It is expected that majority of experts are experts who are with disabilities. This committee will monitor the implementation of the Convention. Each country that has ratified the Convention must submit a periodical comprehensive report on the obligations under this Convention.

NOTHING ABOUT US WITHOUT US

Throughout the convention process culminating at the adoption of the Convention, the participation of people with disabilities and their allies, through representative organizations, was essential. Now that the Convention is adopted, our challenge is in fact greater in the sense that each one of us needs to put these ideas and philosophy enshrined in the Convention into practice and reality in each country and community. There is a long way to go. But now the direction is clear. Let us work harder together to meet this great challenge.

REFERENCES

“Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities”, <http://www.un.org/esa/socdev/enable/convinfaq.htm>, visited on 22 August 2007

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2. Japan's Endeavor toward the Establishment of the Convention on the Rights of Persons with Disabilities and Its Future Task

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INTERNATIONAL TREND

The human rights movement and welfare of persons with disabilities (PWDs) rose rapidly since the International Year of Disabled Persons in 1981. These movements prompted the Expert Group Meeting, held midway in the UN Decade of Disabled Persons which began in 1983, to affirm the necessity of a Convention on the Elimination of All Forms of Discrimination. This resulted in the proposal by Italy and Sweden for actualizing the convention. However, at this stage, the convention was not actualized, but only guidelines called the Standard Rules on the Equalization of Opportunities for Persons with Disabilities was established in 1993.

Nevertheless, this Rule brought about an Expert Panel, an international monitoring body, in which organizations of PWDs participate. With this, the importance of collaboration between international organizations of PWDs and the United Nations, and of cooperation among organizations of PWDs, came to be recognized. Along this trend, the International Disability Alliance (IDA) was born in 1999, and in the following year 2000, DPI, WFD, WBU, II, and RI held the World NGO Summit on Disability in Beijing and finalized the "Beijing Declaration on the Rights of People with Disabilities in the New Century". Such cooperation among international organizations of PWDs became stronger, and thus came to demonstrate a big influence.

CONCURRENCE OF DISABILITY MOVEMENTS IN JAPAN AND THE FORMATION OF THE JAPAN DISABILITY FORUM (JDF)

In such an international trend, in Japan, three major conferences were scheduled to be held in succession in 2002: the 6th DPI World Assembly; the International Forum on Disabilities to Mark the End Year of the Asian and Pacific Decade of Disabled Persons

organized by the Regional NGO Network for the Promotion of the Asian and Pacific Decade of Disabled Persons (RNN); and the High-level Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons by ESCAP. For these conferences to take place and for their resultant plans of action, closer cooperation among domestic disability-related organizations was called for. Moreover, in December 2001, Mexico proposed a Convention on the Rights of PWDs in the 56th United Nations General Assembly, which resolved that the issue be deliberated in the Ad Hoc Committee. This gave the organizations of PWDs in Japan a significant role in responding to this move as NGOs. In the face of all these, the time was ripe to make a new framework to aim at closer cooperation and collaboration among disability-related NGOs in Japan.

The representatives of major disability-related organizations in Japan participated in the 1st U.N. Ad Hoc Committee which was held in 2002, but still only as a gallery. In October 2003, in the wake of three major conferences in 2002, the Japan Disability Forum (JDF) Establishment Preparation Committee was formed as a coordinating organization to jointly work on four major pillars: the promotion of the Convention on Rights; the promotion of the 2nd Asian and Pacific Decade of Disabled Persons; the promotion of policies concerning PWDs; and the promotion of domestic laws concerning discrimination prohibition and rights. In 2004, the JDF, which comprise nine nationwide disability-related organizations in Japan and two observer organizations, officially began.

NOTHING ABOUT US WITHOUT US!

The 56th United Nations General Assembly and the 1st Ad Hoc Committee approved the participation and inputs of disability-related NGOs, passed a resolution to encourage the government delegations of the participating countries to include PWDs, encouraging the participation of PWDs in government delegations. The usual role of PWDs who participated in government delegations were to explain the current state of PWDs, to convince why their human rights have to be secured, to work on eliminating negative forces, and to convey the message of domestic NGOs to create new positive proposals.

Each participating NGO carried out its own lobbying activities. For negotiations on the convention, the NGOs formed a group named the International Disability Caucus (IDC) in advance, and they made efforts to unify their voices, during and outside the

sessions, by consolidating the opinions not only of the major international disability-related organizations joining the International Disability Alliance (IDA) but also of a huge number of opinions coming from other groups and individuals by e-mail.

At first, the voice of the NGOs was largely ignored, but the significance of their presence gradually came to be recognized, and as the sessions approached the end, each government even came to quote IDC's views as grounds for justifying their opinions. The unified slogan of the NGOs was "Nothing about Us Without Us", and most organizations used it as an ending remark to their statements. After all, it is not an exaggeration to say that there is no article that was approved without the influence of the NGOs.

JDF'S CONTRIBUTION TO THE ADOPTION OF THE CONVENTION ON PWD'S RIGHTS

Although the JDF Establishment Preparation Committee had not yet begun by June 2003 when the 2nd Ad Hoc Committee was held, major organizations negotiated with the Japanese Government and sent the PWDs they recommended as the members of the government delegation to the Ad Hoc Committee. Every time the Ad Hoc Committee was convened, the JDF, after its establishment, has served as the core of the NGOs, and has been active in negotiating with the Japanese Government; dispatching NGO members to the U.N. Ad Hoc Committees; negotiating with the government delegation in the United Nations; lobbying; participating in the conferences of the IDC which carried out coordination among the NGOs in the Ad Hoc Committee; and holding side events.

As the first international contribution of disability-related NGOs in Japan, we can recognize its significant influence on the Bangkok Recommendations and the Bangkok Draft at the ESCAP conferences, which were held in succession, with the 2nd Ad Hoc Committee convened in between. The Bangkok Draft was a tremendously influential draft in the sense that it assumed the foundation of the Working Group and became the framework of the Working Group Draft whenever a proposal by a nation or an international organization was given. The disability-related NGOs in Japan that participated in the drafting conference put out a position paper beforehand, and presented constructive inputs. They particularly endeavored to include sign language as being a form of language; independent living; the rights of persons with mental disabilities; and access to justice in the draft.

In the U.N. Ad Hoc Committee, they accomplished many contributions. To name a few: appealing to the Japanese Government to make a proposal regarding access to justice which was not included in the Working Group Draft, which triggered the creation of an independent article; maintaining the definition of sign language as a language, convincing that languages included spoken languages, sign languages, and other forms of non-spoken languages. These contributions were done in cooperation with NGOs in other countries as a member of the IDC.

ADOPTION OF THE CONVENTION ON PWD RIGHTS - PROCESS OF ARGUMENT AND COLLABORATION

This Convention managed to arrive at a compromise in the face of strong opposition between NGOs and the governments, and among governments themselves. It is never an agreement on human rights issues at the highest level. It is a convention on PWD rights at the minimum level, which serves to bridge gaps in international human rights and to raise those standards. There was a scene where NGOs felt indignation at the deletion of provisions they demanded because of intergovernmental politics.

However, it is necessary to highly evaluate the process of finalizing this convention as a result of opposition and collaboration between the NGOs and the governments, as seen in the articles regarding access to justice, which had not previously existed in the Working Group Draft, which came about as a result of the close collaboration between Japanese NGOs and the government delegation.

Such a process is expected to demonstrate a huge influence in future domestic implementation and in the various processes of international monitoring.

JAPAN'S MISSION

The Convention on PWD Rights is not merely an embellishment. It is not clear as to when the Japanese Government would sign and ratify it. However, any present legislation, any operational system, and any policy which does not conform to the Convention on PWD Rights will have to be amended or abolished promptly before its ratification. In particular, a drastic amendment is necessary for the provision on segregated education.

Moreover, a comprehensive, concrete anti-discrimination law does not exist in Japan.

With this situation, it is not an exaggeration to say that it is impossible to execute the Convention. Therefore, we have to begin working on the establishment of an anti-discrimination law immediately, just as the South Korean Government did this year. Otherwise, Japan will remain as an underdeveloped country as far as human rights are concerned. Now that the ball has been passed from the United Nations to other countries, JDF should fulfill its responsibility by making the contents of the Convention widely known to PWDs, concerned parties, and the general public, by promoting awareness of human rights, and by lobbying to the Diet and the administration, learning from the promotion of the Anti-Discrimination Law in South Korea.

3. List of Convention & Optional Protocol Signatories & Ratification

October 26, 2007

from the website of United Nations as of (URL: <http://www.un.org/disabilities/countries>)

Total number of ratifications of the Convention: 7 (Croatia, Cuba, Gabon, Hungary,

Croatia

Cuba

Gabon

Hungary

India

Jamaica

Panama

Total number of ratifications of the Protocol: 3

Croatia

Hungary

Panama

Total number of signatories to the Convention: 118

Total number of signatories to the Optional Protocol: 67

* Denotes Signature of both Convention and Optional Protocol

Afghanistan

Albania

Algeria*

Andorra*

Angola

Antigua y Barbuda*

Argentina*

Armenia*

Australia

Austria*

Azerbaijan

Bahamas

Bahrain
Bangladesh
Barbados
Belarus
Belgium*
Belize
Benin
Bhutan
Bolivia*
Bosnia and Herzegovina
Botswana
Brazil*
Brunei Darussalam
Bulgaria
Burkina Faso*
Burundi*
Cambodia*
Cameroon
Canada
Cape Verde
Central African Republic*
Chad
Chile*
China
Colombia
Comoros
Congo (Republic of Congo)*
Costa Rica*
Côte d'Ivoire*
Croatia*
Cuba*
Cyprus*
Czech Republic*
Democratic People's Republic of Korea
Democratic Republic of the Congo
Denmark

Djibouti
Dominica
Dominican Republic*
Ecuador*
Egypt
El Salvador*
Equatorial Guinea
Eritrea
Estonia
Ethiopia
Fiji
Finland*
France
Gabon*
Gambia
Georgia
Germany*
Ghana*
Greece
Grenada
Guatemala*
Guinea*
Guinea-Bissau
Guyana
Haiti
Honduras*
Hungary*
Iceland*
India*
Indonesia
Iran
Iraq
Ireland
Israel
Italy*
Jamaica*

Japan
Jordan*
Kazakhstan
Kenya
Kiribati
Kuwait
Kyrgyzstan
Lao's People's Democratic Republic
Latvia
Lebanon*
Lesotho
Liberia*
Libyan Arab Jamahiriya
Liechtenstein
Lithuania*
Luxembourg*
Macedonia (FYORM)
Madagascar*
Malawi
Malaysia
Maldives*
Mali*
Malta*
Marshall Islands
Mauritania
Mauritius*
Mexico*
Micronesia (Federated States of)
Moldova
Monaco
Mongolia
Montenegro*
Morocco
Mozambique
Myanmar
Namibia*

Nauru
Nepal
Netherlands
New Zealand
Nicaragua
Niger*
Nigeria*
Norway
Oman
Pakistan
Palau
Panama*
Papua New Guinea
Paraguay*
Peru*
Philippines
Poland
Portugal*
Qatar*
Republic of Korea
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino*
Sao Tome and Principe
Saudi Arabia
Senegal*
Serbia
Seychelles*
Sierra Leone*
Singapore
Slovakia*

Slovenia*
Solomon Islands
Somalia
South Africa*
Spain*
Sri Lanka
Sudan
Suriname
Swaziland*
Sweden*
Switzerland
Syrian Arab Republic
Tajikistan
Thailand
Timor-Leste
Togo
Tonga
Trinidad and Tobago
Tunisia*
Turkey
Turkmenistan
Tuvalu
Uganda*
Ukraine
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Uzbekistan
Vanuatu
Venezuela (Bolivarian Republic of)
Viet Nam
Yemen*
Zambia
Zimbabwe

4. Comparison to BMF, MDGs(Millennium Development Goals) and the Convention on the Rights of Persons with Disabilities

The following resource document is produced by the UNESCAP (United Nations Economics and Social Commission for Asia and the Pacific) as part of the reference materials for the High-level Intergovernmental Meeting on the Midpoint Review of the Asian and Pacific Decade of Disabled Persons, 2003-2012 from September 19 –21, 2007. (URL: <http://www.worldenable.net/bmf5/apddp3.htm>)

UNITED NATIONS ECONOMICS AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

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RIGHTS- BASED DEVELOPMENT FOR ALL: THE BIWAKO MILLENNIUM FRAMEWORK FOR ACTION AND ITS CONVERGENCE WITH THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILTIES AND THE MILLENNIUM DEVELOPMENT GOALS

(Item 5 of the provisional agenda)

RIGHTS- BASED APPROACH TO DEVELOPMENT FOR PERSONS WITH DISABILITIES IN ASIA AND THE PACIFIC: BIWAKO MILLENIUM FRAMEWORK FOR ACTION AND ITS LINKAGE TO THE MILLENIUM DEVELOPMENT GOALS AND THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILTIES

Summary

A rights-based approach to development integrates the principles of the international human rights system into the plans, policies and processes of development. The Millennium Development Goals, adopted in 2000, synthesize many of the important commitments Governments have made in the past international fora, recognizing the interdependence between growth, poverty reduction and sustainable development and acknowledging that development initiatives must respect the human rights of all persons, especially the most marginalized.

Since persons with disabilities are among the most vulnerable and marginalized groups in a society, and are often caught in a vicious cycle of poverty and disability, there has been an increasing recognition that their concerns should be addressed in both human rights and development approaches. In the last two decades, various initiatives have taken place both at the global and regional levels to ensure that a rights-based approach to development is inclusive of persons with disabilities. The most recent and a landmark initiative at the global level is the adoption of the Convention on the Rights of Persons with Disabilities on 13 December 2006. The Convention is a unique human rights treaty which lays a clear emphasis on inclusive development for persons with disabilities.

At the regional level, 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), adopted in 2002, sets out detailed guidelines and recommendations for Governments to ensure that the rights of persons with disabilities are protected and promoted and that development activities are inclusive of persons with disabilities. It brings together the human rights concept delineated in the Convention on the Rights of Persons with Disabilities and the development targets set out in the Millennium Development Goals.

Contents

INTRODUCTION

1. RIGHTS-BASED APPROACH TO DEVELOPMENT

- A. **Conceptual tenets of a rights-based approach to development**
- B. **Links between human rights and development in the United Nations instruments**

2. DISABILITY AND RIGHTS APPROACH TO DEVELOPMENT

3. PROMOTING RIGHTS-BASED APPROACH TO DEVELOPMENT FOR PERSONS WITH DISABILITIES IN ASIA AND THE PACIFIC

- A. **Biwako Millennium Framework for Action and the Millennium Development Goals**
- B. **Biwako Millennium Framework for Action and the Convention on the Rights of Persons with Disabilities**

4. CONCLUSION

Introduction

The purpose of this paper is to review the significance 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) in promoting a rights-based approach to development for persons with disabilities in the region and to show its linkage to the Millennium Development Goals (MDGs) and the Convention on the Rights of Persons with Disabilities, the two global initiatives.

1. RIGHTS-BASED APPROACH TO DEVELOPMENT

A. Conceptual tenets of a rights-based approach to development

Human rights and development both aim to promote well-being and freedom, based on the inherent dignity and equality of all people.^[1] A decent standard of living,

adequate health care, gender equality, and basic education are some of the features of human development. Human development aims at creating an enabling environment in which people's capacities can be enhanced and their range of choices expanded. Human rights are universal legal guarantees protecting individuals and groups from actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Within a development framework, human rights are moral and legal claims on the behaviour of individual and collective agents, and on the design of social arrangements, such as institutions, laws and enabling environments. The existence of human rights establishes an obligation to implement policies that put these conditions into place.[\[2\]](#)

A rights-based approach to development is essential to recognize that economic growth on its own is not sufficient to bring about equality, sustainable human development and social justice. Under a rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law. This helps to promote the sustainability of development work and to empower people, especially the most marginalized to participate in policy formulation and hold accountable those who have a duty to act.[\[3\]](#)

A rights-based approach to development integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international treaties and declarations. The principles include equality and equity, accountability, empowerment and participation. A rights-based approach to development thus includes an express linkage to these principles and attention to vulnerable groups.[\[4\]](#)

A rights-based approach focuses on raising levels of accountability in the development process by identifying claim-holders (and their entitlements) and corresponding duty-holders (and their obligations). In this regard, it looks both at the positive obligations of duty-holders (to protect, promote and provide) and at their negative obligations (to abstain from violations). It takes into account the duties of the full range of relevant actors, including individuals, States, local organizations and authorities, private companies, aid donors and international institutions.

Mere charity is not enough from a human rights perspective. A rights-based approach therefore, gives preference to strategies for empowerment over charitable

responses. It focuses on beneficiaries as the owners of rights and the directors of development, and emphasizes the person as the centre of the development process. It aims at giving people the power, capacities, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies.

A rights-based approach requires a high degree of participation, including from communities, civil society, minorities, indigenous peoples, women and others. According to the United Nations Declaration on the Right to Development, such participation must be "active, free and meaningful" since mere formal or ceremonial contacts with beneficiaries are not sufficient.

A rights-based approach also gives due attention to issues of accessibility, including access to development processes, institutions, information and redress or complaints mechanisms. This also means situating development project mechanisms in proximity to partners and beneficiaries. Such an approach opts for process-based development methodologies and techniques.

An important aspect of a rights-based approach is that particular attention is given to discrimination, equality and equity of vulnerable groups. These groups include women, minorities, indigenous peoples, persons with disabilities, etc. However, there is no universal consensus of who is most vulnerable in any given context. Rather, a rights-based approach requires that such questions be answered locally: who is vulnerable here and now? Therefore, development data need to be disaggregated, as far as possible, by race, religion, ethnicity, language, sex, disability and other categories of human rights concern. Thus, all development decisions, policies and initiatives, while seeking to empower local participants, are also required to expressly guard against threats to the rights and well-being of vulnerable groups.

B. Links between human rights and development in the United Nations instruments

The links between human rights and development have figured prominently in United Nations deliberations for more than half a century. The right to development can be traced to the provisions of the Charter of the United Nations,^[5] the Universal Declaration on Human Rights,^[6] and the two International Human Rights Covenants, the International Covenant on Economic, Social and Cultural Rights^[7] and the International Covenant on Civil and Political Rights.^[8]

The United Nations Charter promotes "higher standards of living, full employment and conditions of economic and social progress and development" and "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."[\[9\]](#)

The Universal Declaration on Human Rights also attaches importance to the promotion of social progress and better standards of life and recognizes the right to non-discrimination, the right to participate in public affairs and the right to an adequate standard of living. It recognizes that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized.

Both the Covenants recognize the right of all people to freely determine their political status and freely pursue their economic, social and cultural development. The International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to an adequate standard of living for oneself and one's family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. It provides the normative foundation for tackling fundamental development issues, like health, education, housing, etc.

In 1986, the right to development was made explicit in the Declaration on the Right to Development.[\[10\]](#) The Declaration states that the right to development is an inalienable right by virtue of which every human person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.

The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993 reaffirmed by consensus the right to development as a universal and inalienable right and an integral part of fundamental human rights.[\[11\]](#) In 1995, the Copenhagen Declaration adopted at the World Summit for Social Development, reaffirmed the link between human rights and development by establishing a new consensus that places people at the centre of concerns for sustainable development, and by pledging to eradicate poverty, to promote full and productive employment, and to foster social integration to achieve stable, safe and just societies for all.[\[12\]](#)

In September 2000, 189 countries committed themselves to making the right to development a reality for everyone and to freeing the entire human race from want by adopting the United Nations Millennium Declaration at the Millennium Summit.[\[13\]](#) The heads of the countries acknowledged that progress is based on sustainable economic growth, which must focus on the poor, with human rights at the centre. The objective of the Declaration is to promote a comprehensive approach and a coordinated strategy, tackling many problems simultaneously across a broad front.

While the countries renewed commitments to promote and protect human rights, they also agreed on eight quantified and time-bound development goals known as the Millennium Development Goals. The eight Millennium Development Goals break down into **18 quantifiable targets** that are measured by **48 indicators**.[\[14\]](#)

The Millennium Development Goals synthesize, in a single package, many of the most important commitments made separately at the international conferences and summits of the 1990s. They recognize explicitly the interdependence between growth, poverty reduction and sustainable development; acknowledge that development rests on the foundations of democratic governance, the rule of law, respect for human rights and peace and security; and bring together, in the eighth Goal, the responsibilities of developing countries with those of developed countries, founded on a global partnership.

This global commitment was reaffirmed thereafter at the International Conference on Financing for Development in Monterrey, Mexico, in 2002,[\[15\]](#) and again at the Johannesburg World Summit on Sustainable Development in 2002.[\[16\]](#) At the World Summit in 2005 in New York,[\[17\]](#) Governments again reaffirmed their strong and explicit commitment to achieve the Millennium Development Goals by 2015.

2. DISABILITY AND RIGHTS-BASED APPROACH TO DEVELOPMENT

A rights-based approach to development means that particular attention is given to discrimination, equality and equity of vulnerable groups. According to World Health Organization (WHO), persons with disabilities account for 10 percent of the population worldwide.[\[18\]](#) Persons with disabilities are among the most vulnerable and marginalized groups in a society. They are among the poorest of the poor, often caught in a vicious cycle of poverty and disability, each being both a cause and a consequence of the other.[\[19\]](#)

Despite a large segment of the population comprising of persons with disabilities and their vulnerable status in society, the concerns of persons with disabilities have not been explicitly recognized in general development and human rights instruments to a sufficient extent. For example, disability is not mentioned in any of the eight Millennium Development Goals, the 18 targets set out to achieve these goals, or the 48 indicators for monitoring their progress. Also, the general human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights as well as most of the thematic treaties adopted by the United Nations, except the Convention on the Rights of the Child,[\[20\]](#) do not explicitly mention 'disability' as one of the basis for discrimination. This has resulted in the rights of persons with disabilities being ignored to a large extent.

Recognizing the need to include persons with disabilities in human rights and development activities, the global community over the last thirty years has witnessed efforts towards developing disability-specific instruments and incorporating the disability perspective into the existing human rights and development instruments.

The rights of persons with disabilities started to gain visibility in the 1970s when the General Assembly adopted two resolutions: the Declaration on the Rights of Mentally Retarded Persons, 1971[\[21\]](#) and the Declaration on the Rights of Disabled Persons, 1975.[\[22\]](#) Both the Declarations were based on the principle that persons with disabilities have the same human rights as all other human beings. The proclamation by the United Nations General Assembly of the year 1981 as the International Year of the Disabled under the slogan, Full Participation and Equality, marked an irreversible shift to the recognition of the rights of persons with disabilities. A major outcome of the International Year of Disabled Persons was the formulation of the World Programme of Action concerning Disabled Persons, adopted by the General Assembly in December 1982.[\[23\]](#) The World Programme of Action established a direct link between the United Nations human rights instruments and the disability agenda (para 164).

In order to provide a time frame during which Governments and organizations could implement the activities recommended in the World Programme of Action, the General Assembly proclaimed the period, 1983 to 1992, as the United Nations Decade of Disabled Persons.[\[24\]](#) During this period, various studies were conducted and guidelines adopted. Among the major outcomes of the Decade of Disabled Persons was the adoption by the General Assembly of the Tallinn Guidelines for Action on Human

Resources Development in the Field of Disability in 1990,[\[25\]](#) Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care in 1991,[\[26\]](#) and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in 1993.[\[27\]](#) The Standard Rules provided that a Special Rapporteur with relevant and extensive experience in disability issues and international organizations be appointed to monitor the implementation of the Rules.[\[28\]](#) The first Special Rapporteur on Disability of the Commission for Social Development was appointed in 1994.[\[29\]](#)

During this period, the rights of persons with disabilities also gained recognition among the general human rights and development instruments. Among the general human rights instruments, the Committee on Economic, Social and Cultural Rights, the monitoring body of the International Covenant on Economic, Social and Cultural Rights adopted the General Comment No. 5 on persons with disabilities in 1994.[\[30\]](#) According to General Comment No. 5, disability falls under the heading "other status" and is thus treated by the Committee as a ground in respect of which discrimination is prohibited.[\[31\]](#) In 1989, the Convention on the Rights of the Child was adopted which explicitly referred to disability as one of the grounds for discrimination. It also has a separate article (article 23) on children with disabilities, which recognizes the special needs of a disabled child, with regard to education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities. The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993 also mentioned persons with disabilities (paras 63 and 64), affirming that persons with disabilities are entitled to all the human rights enjoyed by others. [\[32\]](#)

Among the development instruments, the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development held in 1995 recognized that persons with disabilities were one of the world's largest minorities.[\[33\]](#) It specifically mentioned the needs and rights of children with disabilities,[\[34\]](#) the need to broaden the range of employment opportunities for persons with disabilities,[\[35\]](#) ending existing discrimination, and taking proactive measures.[\[36\]](#) The Johannesburg World Summit on Sustainable Development held in 2002 considered the situation of persons with disabilities in the context of health and sustainable development and identified persons with disabilities as belonging to a vulnerable group in society, requiring protection from debilitating diseases and special care from causes of ill health, including environmental causes.

Along with these varied efforts at different levels, there was an increasing need for a disability-specific human rights Convention to bring the rights of persons with disabilities under a comprehensive and integral approach. The need for a disability Convention was first emphasized at 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, in 1987. In the same year, the Government of Italy and, in 1988, the Government of Sweden, proposed the idea of a disability Convention to the United Nations General Assembly. On both occasions, however, no consensus was reached as many Government representatives were of the opinion that existing human rights documents guaranteed persons with disabilities the same rights as other persons, and there was, therefore, no need for a special Convention. During the 1990s, disabled peoples' organizations around the world continued to express their support and the urgent need for a Convention.[\[37\]](#)

In 2000, the Commission on Human Rights invited the United Nations High Commissioner for Human Rights to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities, in cooperation with the Special Rapporteur on disability of the Commission for Social Development.[\[38\]](#) The first outcome of the project was the publication of *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*.[\[39\]](#) The study suggested options for the future, both to improve the use of existing human rights norms and mechanisms in relation to disability, and to consider the adoption of a thematic treaty on persons with disabilities.

During the General Debate of the fifty-sixth session of the General Assembly in 2001, the Honourable Vicente Fox Quesada, then President of Mexico, presented the proposal to initiate elaboration of a comprehensive and integral convention on the rights of persons with disabilities, in the context of a call to the international community to combat poverty and social exclusion. He stated that it would be impossible to make the world more just if certain groups are excluded from these processes, and presented a proposal to establish a special committee to study the elaboration of an international convention on promoting and protecting the rights and dignity of persons with disabilities.[\[40\]](#)

On 19 December 2001, an Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities was established.[\[41\]](#) The Ad Hoc Committee considered

proposals for a Convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development. At its Second Session, from 16 to 27 June 2003, the Ad Hoc Committee decided to establish a Working Group with the aim of preparing and presenting a draft text of a Convention, which would be the basis for negotiation by Member States. In accordance with General Assembly Resolution 58/246 of 23 December 2003, the Ad Hoc Committee started its negotiation on a draft Convention at its Third Session from 24 May to 4 June 2004, based on the draft text prepared by the Working Group. At its Eighth session from 14 to 25 August 2006, the Ad Hoc Committee adopted the draft text of the Convention including an Optional Protocol.[\[42\]](#)

On 13 December 2006, the General Assembly adopted by consensus the Convention on the Rights of Persons with Disabilities and its Optional Protocol at the United Nations Headquarters in New York, and it was opened for signature on 30 March 2007.[\[43\]](#) There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and one ratification of the Convention, the highest number of signatories in history to a United Nations Convention on its opening day. It will need 20 ratifications in order to enter into force.

The Convention is a major legal and policy advance from non-binding soft instruments to a hard binding treaty. It gives universal recognition to the dignity of persons with disabilities, and recognizes persons with disabilities as subjects of rights, able to make decisions and defend interests. It is a unique human rights treaty as it emphasizes the importance of international development cooperation, requiring development activities to be inclusive of persons with disabilities, and promotes building of partnerships and knowledge networks.

3. PROMOTING RIGHTS-BASED APPROACH TO DEVELOPMENT FOR PERSONS WITH DISABILITIES IN ASIA AND THE PACIFIC

With the growing concern regarding the needs of persons with disabilities at the global level, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) took the initiative to declare the period, 1993 to 2002, as the Asian and Pacific Decade of Disabled Persons, and adopted the Agenda for Action for the Asian and Pacific Decade of Disabled Persons.[\[44\]](#) The Asian and Pacific Decade of Disabled Persons was extended for

another decade from 2003 to 2012 to give further impetus to the goal of full participation and equality of people with disabilities. The Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific was adopted as its policy guideline. [45] It has seven priority areas for action, each of which identifies critical issues, and sets out targets and actions required to achieve those targets.

The Biwako Millennium Framework for Action incorporates a rights-based approach to development as its guiding principle. It defines a "rights-based" society as a society based on the concept of human rights, including the right to development. [46] It encourages Governments to actively implement the paradigm shift from a charity-based approach to a rights-based approach to the development of persons with disabilities, recognizing both the human rights perspective and the perspective of the right to development for persons with disabilities. [47] It also recognizes that issues relating to persons with disabilities are vital concerns to be addressed in realizing the Millennium Development Goals. [48]

The Biwako Millennium Framework for Action as a regional guideline, acts as a bridge, in that it reflects the international mandates on development and human rights, namely the Millennium Development Goals and the Convention on the Rights of Persons with Disabilities to the specific needs of persons with disabilities in Asia and the Pacific. It incorporates the Millennium Development Goals in its targets in two priority areas in order to ensure that persons with disabilities are included in the development activities. It also addresses many of the rights delineated in the Convention.

The following section provides a comparison of the Biwako Millennium Framework for Action with the Millennium Development Goals and the Convention on the Rights of Persons with Disabilities. This further elaborates the role of the Biwako Millennium Framework for Action towards promoting a rights-based approach to development in the region.

A. Biwako Millennium Framework for Action and the Millennium Development Goals

Two Goals of the Millennium Development Goals have been translated in disability terms in two priority areas of the Biwako Millennium Framework for Action. Goal 1 of the Millennium Development Goals which sets the target of reducing by half the proportion of people living on less than one dollar a day and suffer from hunger has been integrated in priority area G of the Biwako Millennium Framework for Action •poverty alleviation

through capacity-building, social security and sustainable livelihood programmes. Target 21 of this priority area requires that Governments should halve, between 1990 and 2015, the proportion of persons with disabilities whose income/consumption is less than one dollar a day. To achieve this target, the Biwako Millennium Framework for Action recommends that Governments include persons with disabilities in their national poverty alleviation programmes and mainstream disability issues into pro-poor development strategies. It also recommends that Governments include disability dimensions into the collection and analysis of millennium development goal baseline data on income poverty, education, health, etc.

Goal 2 of the Millennium Development Goals, which sets the target of 2015 for achieving universal primary education, has been integrated in priority area C – early detection, early intervention and education – of the Biwako Millennium Framework for Action. Target 6 of the priority area states that children and youth with disabilities will be an integral part of the population targeted by the millennium development goal of ensuring by 2015 all boys and girls will complete a full course of primary schooling. Target 7 further elaborates that at least 75 per cent of children and youth with disabilities of school age will, by 2010, be able to complete a full course of primary schooling. To achieve these targets, the Biwako Millennium Framework for Action lays down actions required towards ensuring that growth strategies are tailored to meet the needs of children with disabilities.

Though Goals 1 and 2 of the Millennium Development Goals have been directly integrated in the Biwako Millennium Framework for Action, the rest of the goals are indirectly incorporated in the priority areas of the Biwako Millennium Framework for Action. Goal 3 of the Millennium Development Goals – promote gender equality and empower women – is also relevant in the context of women with disabilities who are among the most vulnerable sections of the society. In its priority area B – women with disabilities – the Biwako Millennium Framework for Action has detailed strategies on including women with disabilities in self-help organizations and ensuring that they are well represented. It also recommends that Governments implement measures to ensure that women with disabilities have equal access to health services, education, training and employment, and protection from sexual and other forms of abuse and violence. It further recommends leadership training for women with disabilities to raise their awareness of gender issues and to build their capacity to participate in policy and decision-making processes at all levels. Thus, the realization of the priority area C also leads to the achievement of Goal 3 of the Millennium Development Goals.

Goals 4, 5 and 6 of the Millennium Development Goals, on reducing child mortality; improving maternal health; and combating HIV/AIDS, malaria and other diseases can also be linked to the priority area C of the Biwako Millennium Framework for Action – early detection, early intervention and education. In the developing countries, mortality rate for children with disabilities under five can be as high as 80 per 1000 live births. This can also be associated with poor maternal health. Furthermore, children with disabilities are particularly vulnerable to diseases, which can also be a major cause of disability.[\[49\]](#) By providing early detection and early intervention services, the causes of disability can be reduced to a large extent and better health services ensured for children with disabilities, thus leading to the achievement of Goals 4, 5 and 6 of the Millennium Development Goals.

The Biwako Millennium Framework for Action promotes subregional, regional and interregional cooperation and collaboration through strategies 11 to 17 and ensures networking among centres of excellence in focused areas. These strategies are similar to Goal 8 of the Millennium Development Goals, to develop a global partnership for development, which can be achieved in the context of persons with disabilities through implementation of the strategies of the Biwako Millennium Framework for Action.

The achievement of the targets and implementation of the actions and strategies of the Biwako Millennium Framework for Action would lead to the realization of the Millennium Development Goals for persons with disabilities. It would further ensure that persons with disabilities as a subgroup are included in the development policies and programmes of the countries.

B. Biwako Millennium Framework for Action and the Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities recognizes the civil, political, economic, social and cultural rights of persons with disabilities. Each of these rights has been tailored to meet the specific needs of persons with disabilities. The Convention also introduces disability-specific rights, such as right of accessibility (Article 9), right of living independently and being included in the community (Article 19), and right of personal mobility (Article 20), all of which are crucial for persons with disabilities to enjoy all rights and freedoms guaranteed in the Convention.[\[50\]](#)

As mentioned earlier, the Convention emphasizes that development approaches are inclusive of persons with disabilities. It recognizes participation and inclusion as a principle,

an obligation and a right (Articles 3, 4 and 5). It emphasizes participation to identify correctly specific needs and to empower the individual.^[51] It ensures that States must make "reasonable accommodation" for persons with disabilities.

The Biwako Millennium Framework for Action, though legally non-binding, promotes the human rights of persons with disabilities, with a specific focus on economic and social rights, through its seven priority areas for action. The following section compares the seven priority areas for action of the Biwako Millennium Framework with the corresponding articles in the Convention.

Priority area A: Self-help organizations of persons with disabilities and related family and parent associations

Through its first priority area, self-help organizations of persons with disabilities, the Biwako Millennium Framework for Action calls for political representation of persons with disabilities, participation in decision-making processes, as well as formation of self-help organizations for providing support services and enhancing leadership skills of persons with disabilities.

The Convention in Article 29 "participation in political and public life" addresses the political representation of persons with disabilities including the right to vote, participation in public affairs, and forming and joining organizations of persons with disabilities at the international, national, regional and local level. Participation and inclusion are also recognized as a principle in Article 3 of the Convention, to identify specific needs and to empower the individual.^[52]

Priority area B: Women with disabilities

Both the Biwako Millennium Framework for Action and the Convention on the Rights of Persons with Disabilities give priority to the rights of women with disabilities. While the Convention has an article on women with disabilities (Article 6), the Biwako Millennium Framework for Action has a priority area on women with disabilities (priority area B). Through its priority area, the Biwako Millennium Framework for Action promotes equal participation and inclusion of women with disabilities in self-help organizations as well as national mainstream women's organizations. It also recommends providing improved access to health services, education, training and employment opportunities, and protection from sexual and other forms of abuse and violence. The Convention in Article 6 recognizes that women and girls with disabilities are subject to multiple discrimination and requires States

Parties to take measures to ensure full and equal enjoyment by them of all human rights and fundamental freedoms.

Self-help organizations of persons with disabilities and women with disabilities are considered as agents of change in the Biwako Millennium Framework for Action. They are at the centre of the development process and their empowerment and participation in decision-making processes would lead to effective implementation of its other priority areas. This idea also synchronizes with the principle of participation delineated in the Convention.

Priority area C: Early detection, early intervention and education

Though the Biwako Millennium Framework for Action does not have a separate priority area on children with disabilities, it addresses the health and educational needs of children with disabilities in priority area C - early detection, early intervention and education. It provides detailed guidelines on the ways and means of making education accessible to children with disabilities as well as on providing early intervention services.

51. The Convention has separate articles on children with disabilities (Article 7), education (Article 24), and health (Article 25). It also ensures the family rights of children with disabilities in Article 23 - respect for home and the family.

Priority area D: Training and employment, including self-employment

The fourth priority area of the Biwako Millennium Framework for Action addresses the economic needs of persons with disabilities by recommending access to training and employment, including self-employment. It recommends ratification of International Labour Organization Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159), 1983 and lays down detailed actions to ensure vocational training as well as employment opportunities. It also recommends making available financial schemes and loans for self-employment initiatives to persons with disabilities.

The Convention recognizes equal opportunities to work and employment through Article 27 on work and employment, including equal opportunities to self employment, entrepreneurship, vocational and professional rehabilitation, job retention, general technical and vocational guidance programmes, etc. It requires States Parties to ensure just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances. It also requires measures to be taken to protect

the labour and trade union rights of persons with disabilities. Article 26 of the Convention on habilitation and rehabilitation, also ensures access to habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.

Priority area E: Access to built environments and public transport

Accessibility of environment is one of the key issues which hinders the mobility of persons with disabilities. The Biwako Millennium Framework for Action in priority area E lays down detailed guidelines on providing access to built environments and public transport. These include inclusive design concept, innovative techniques, and appraisal mechanisms on existing codes and standards.

The Convention in Article 9 on accessibility requires States Parties to take appropriate measures for ensuring access to the physical environment, transportation, information and communications, including information and communications technologies and systems, and other facilities and services open or provided to the public, both in urban and rural areas.

The Convention also has a separate article on personal mobility (Article 20) for persons with disabilities. Through this article, it requires providing access to quality mobility aids, devices, assistive technologies and forms of live assistance at affordable cost. Article 19 of the Convention -living independently and being included in the community - further facilitates the equal right of persons with disabilities to live in the community and their full inclusion and participation in the community.

Priority area F: Access to information and communications, including information, communications and assistive technologies

Through its priority area, access to information and communications, including information, communications and assistive technologies (priority area F), the Biwako Millennium Framework for Action recommends that Governments adopt information and communication accessibility guidelines, develop standardised sign language, finger Braille, tactile sign language, and train sign language interpreters, Braille transcribers, finger Braille interpreters, and human readers.

The Convention combines physical access and access to information and communication technologies (ICTs) in Article 9 on accessibility. The Convention in Article 21 also guarantees the right to freedom of expression and opinion, and access to information for

persons with disabilities. The article requires the States Parties to provide for information in accessible formats and technologies, and facilitate the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication. It also encourages the mass media to make their services accessible to persons with disabilities.

Priority area G: Poverty alleviation through capacity-building, social security and sustainable livelihood programmes

The Biwako Millennium Framework for Action in priority area G • poverty alleviation through capacity-building, social security and sustainable livelihood programmes • recommends that the Governments include persons with disabilities in their national poverty alleviation programmes and mainstream disability issues into pro-poor development strategies. It also recommends that Governments include disability dimensions into the collection and analysis of Millennium Development Goal baseline data on income, poverty, education, health, etc., so as to ensure baseline data for poor persons with disabilities.

The Convention also has a similar article •adequate standard of living and social protection (Article 28) •which ensures equal access to clean water services, social protection programmes, poverty reduction programmes, adequate training, counselling, financial assistance and respite care, public housing programmes, and retirement benefits and programmes. Article 26, habilitation and rehabilitation of the Convention also includes provisions for social services for persons with disabilities.

Articles of the Convention not included in the priority areas of the Biwako Millennium Framework for Action

Though most of the substantive articles of the Convention are covered in the seven priority areas of the Biwako Millennium Framework for Action, some of the rights of persons with disabilities have not been specifically addressed by it. For example, the cultural rights of persons with disabilities are referred to in para 29 of the critical issues of priority area C, which recognizes the "need to provide sport, leisure and recreational activities and facilities for persons with disabilities." However, it does not have an action required under the same priority area. In contrast, the Convention has a separate article on participation in cultural life, recreation, leisure and sport (Article 30) requiring States Parties to provide access to cultural materials, television programmes, films, theatre and other cultural activities in accessible formats; ensuring access to places for cultural performances or services; and

requiring appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential. Furthermore, the Convention also ensures the protection of persons with disabilities in situations of risk and humanitarian emergencies (Article 11), which has been recognized as an important aspect especially after recent natural calamities. This has however not been addressed in the Biwako Millennium Framework for Action.

The Biwako Millennium Framework for Action addresses most of the rights delineated in the Convention and further provides detailed actions for Governments to make these rights a reality at the national level. It serves as a bridge for Governments to develop their future strategies and policies in line with the Convention.

4. CONCLUSION

A rights-based approach to development is essential to bring about equality, sustainable human development and social justice. By integrating the norms, standards and principles of the international human rights system into the plans, policies and processes of development, a rights-based approach helps people, particularly the most marginalized to empower themselves, promote their access to entitlements and participation in policy formulation, and hold accountable those who have a duty to act.

A link between human rights and development has been increasingly recognized within the United Nations instruments. The Millennium Development Goals adopted in 2000 synthesize many of the important commitments Governments have made in the past international fora, recognizing the interdependence between growth, poverty reduction and sustainable development, and acknowledging that development initiatives must give respect to human rights of all persons, especially the most marginalized.

While the Millennium Development Goals were adopted, persons with disabilities were not mentioned as a subgroup, even though they are among the poorest of the poor. Disability was also not explicitly mentioned in general human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Therefore, over the last thirty years, various initiatives have taken place at the global and regional level to develop disability-specific instruments and to ensure that a rights-based approach to development was inclusive of persons with disabilities. The most recent and a landmark initiative at the global level is the adoption of the Convention on the Rights of Persons with Disabilities on 13 December 2006.

The Convention is the first human rights treaty which lays a clear emphasis on inclusive development for persons with disabilities.

At the regional level, the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific was adopted in 2002 as the regional policy guideline for the Asian and Pacific Decade of Disabled Persons, 2003-2012. It incorporates a rights-based approach to development as its guiding principle and encourages Governments to ensure that rights of persons with disabilities are protected and promoted and development activities are inclusive of persons with disabilities. It brings together the human rights delineated in the Convention on the Rights of Persons with Disabilities and the development targets set out in the Millennium Development Goals, further recommending detailed actions to create an inclusive, barrier-free and rights-based society for persons with disabilities in Asia and the Pacific.

The Biwako Plus Five: Further Efforts towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific will be adopted at this High-level Intergovernmental Meeting on the Midpoint Review of the Asian and Pacific Decade of Disabled Persons, 2003-2012, as the supplementary document to the Biwako Millennium Framework for Action. For the remaining five years of the Decade, both the Biwako Millennium Framework for Action and the Biwako Plus Five will continue to serve as regional guidelines to realize the Goals of the Millennium Development Goals from a disability perspective and to implement the Convention on the Rights of Persons with Disabilities in Asia and the Pacific.

[1] Office of the United Nations High Commissioner for Human Rights (2006), *Frequently Asked Questions On A Human Rights Based Approach To Development Cooperation*, (United Nations, New York and Geneva, 2006), available at http://ohchr.org/english/about/publications/docs/FAQ_en.pdf.

[2] Association for Women's Rights in Development, Facts & Issues, Women's Rights and Economic Change, No.1, August 2002, *A Rights-Based Approach to Development*, available at <http://www.awid.org/publications/primers/factsissues1.pdf>.

[3] Ibid.

[4] The content of this para and the following paras under this section have been derived from, Office of the United Nations High Commissioner for Human Rights, Geneva, Switzerland,

Rights-Based Approaches, *What is a rights-based approach to development?*, available at <http://www.unhchr.ch/development/approaches-04.html>.

[5] *Charter of the United Nations*, entered into force on 24 October 1945, available at, <http://www.unhchr.ch/html/menu3/b/ch-cont.htm>.

[6] *The Universal Declaration on Human Rights*, adopted by General Assembly resolution 217A (III) of 10 December 1948, available at, <http://www.un.org/Overview/rights.html>.

[7] *International Covenant on Economic, Social and Cultural Rights*, adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, available at, http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.

[8] *International Covenant on Civil and Political Rights*, adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, available at, http://www.unhchr.ch/html/menu3/b/a_ccpr.htm.

[9] *Charter of the United Nations*, Chapter XI, International economic and social co-operation, article 55.

[10] *Declaration on the Right to Development* adopted by General Assembly resolution 41/128 of 4 December 1986, available at, <http://www.unhchr.ch/html/menu3/b/74.htm>.

[11] *Vienna Declaration and Programme of Action*, adopted by General Assembly A/CONF.157/23 of 12 July 1993, available at, [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)A.CONF.157.23.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)A.CONF.157.23.En?OpenDocument).

[12] *Copenhagen Declaration*, adopted by General Assembly A/CONF.166/9 of 19 April 1995, available at, <http://www.un.org/documents/ga/conf166/aconf166-9.htm>.

[13] *United Nations Millennium Declaration*, adopted by General Assembly resolution 55/2 of 8 September 2000, available at, <http://www.ohchr.org/english/law/millennium.htm>.

[14] The eight Millennium Development Goals are as follows, Goal 1- Eradicate extreme poverty and hunger; Goal 2-Achieve universal primary education; Goal 3-Promote gender equality and empower women; Goal 4-Reduce child mortality; Goal 5-Improve maternal health; Goal 6-Fight HIV/AIDS, malaria and other diseases; Goal 7- Ensure environmental sustainability;

Goal 8-Develop a global partnership for development. A full list of goals, targets and indicators, is available at <<http://www.undp.org/mdg/goallist.shtml>>.

[15] International Conference on Financing for Development, held in Monterrey, Mexico, from 18 to 22 March 2002, for more details see <<http://www.un.org/esa/ffd/Monterrey/Conference/index.html>>.

[16] *World Summit on Sustainable Development, Johannesburg 2002*, for more details see <http://www.un.org/summit/html/basic_info/basicinfo.html>.

[17] *The 2005 World Summit*, for more details see <<http://www.un.org/summit2005/>>.

[18] World Health Organization (WHO) (1976), A29/INF/DOC/3. WHO. Geneva.

[19] *Disability, poverty and development*, Department for International Development, February 2000, available at <<http://www.dfid.gov.uk/pubs/files/disability.pdf>>.

[20] *Convention on the Rights of the Child*, adopted by General Assembly Resolution 44/25 of 20 November 1989, available at <<http://www.unhchr.ch/html/menu3/b/k2crc.htm>>.

[21] *Declaration on the Rights of Mentally Retarded Persons*, proclaimed by General Assembly resolution 2856 (XXVI) of 20 December 1971, available at <http://www.unhchr.ch/html/menu3/b/m_mental.htm>.

[22] *Declaration on the Rights of Disabled Persons*, proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975, available at <<http://www.unhchr.ch/html/menu3/b/72.htm>>.

[23] *World Programme of Action concerning Disabled Persons*, adopted by the United Nations General Assembly at its 37th regular session on 3 December 1982 by its 37/52.1/, available at <<http://www.un.org/esa/socdev/enable/diswpa00.htm>>.

[24] United Nations Decade of Disabled Persons 1983-1992, General Assembly resolution 37/52 of 3 December 1982.

[25] *Tallinn Guidelines for Action on Human Resources Development in the Field of Disability*, adopted by General Assembly resolution 44/70 of 8 December 1989, <<http://www.wwda.org.au/tallinguide1.pdf>>.

[26] *Principles for the protection of persons with mental illness and the improvement of mental health care*, adopted by General Assembly resolution 46/119 of 17 December 1991, <<http://www.unhchr.ch/html/menu3/b/68.htm>>.

[27] *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, adopted by General Assembly resolution 48/96 of 20 December 1993, <<http://www.un.org/esa/socdev/enable/dissre00.htm>>.

[28] *Ibid*, IV Monitoring Mechanism

[29] Mr. Bengt Lindqvist of Sweden served as the first Special Rapporteur on Disability from 1994 to 2002.

[30] Office of the High Commissioner for Human Rights, *Persons with disabilities: 09/12/94*, CESCR General Comment 5, available at <<http://www.unhchr.ch/tbs/doc.nsf/0/4b0c449a9ab4ff72c12563ed0054f17d>>. While general comments are not legally binding, they represent an authoritative interpretation of the Covenant.

[31] *Ibid*, para 5.

[32] *Vienna Declaration and Programme of Action*, paras 63 and 64 of section II.B under the heading "Equality, dignity and tolerance".

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