

POLICIES ON PERSONS WITH SPECIAL NEEDS AND EDUCATION: AN INTERNATIONAL PERSPECTIVE AND COUNTRY INITIATIVES

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A review was made on official documents by the United Nations and some governments regarding their policies, programmes, and initiatives for fulfilling and advancing the quality of services and facilities for special needs people. The purpose of the review was to establish the general and specific directions, benchmarks, and best practices that have taken place and that are going to take place in the future. The review revealed that equality of rights, quality of provisions, and policy implementation were the major issues in the special needs arena.

Keywords: Policy, persons with special needs, quality of services

INTRODUCTION

As cautionary note, I assert that this is not an academic paper, rather it is a compilation of notes extracted from various website sources for the benefit of policy implementers especially and the lay public in general, either in Malaysia or other countries, in making policies and social programmes pertaining to the special needs populace. I assume the ethical responsibility for that, i.e. for extracting, organizing, and rephrasing the extracts, accordingly with good intention and indicating the website sources. As a President of a social association, I want to give a condensed guide and reference to all special needs caregivers and agencies. The compilation begins with a description on the institutionalization of the stipulations by the International Convention on the Rights of Persons with Disabilities and Optional Protocol (United Nations, 2008). The aspects of the Articles enumerated in the Convention have indeed laid down the benchmarks and best practices for all countries in the United Nations to follow and implement. The second part of the compilation then gives some brief case-examples of several countries in enacting and implementing their policies concerning special needs persons. This is to give an indication of the extent and progress made by certain governments in assuring inclusivity and in providing quality services and facilities to special needs persons in various age groups.

PART I: THE INTERNATIONAL CONVENTION – SETTING THE BENCHMARKS

The Convention on the Rights of Persons with Disabilities (United Nations, 2008) is an international human rights treaty of the United Nations intended to protect the rights and dignity of persons with disabilities. State parties (country representatives) to the Convention are required to promote, protect, and ensure the full enjoyment of human rights by persons with disabilities and ensure that persons with disabilities enjoy full equality under the law.

The Convention serves as a major catalyst in the global disability rights movement enabling a shift from viewing persons with disabilities as objects of charity, medical treatment and social protection toward viewing them as full and equal members of society, with human rights. The Convention was the first U.N. human rights treaty of the twenty-first century.

The Convention has 50 Articles or propositions which should be adhered to by the State Parties. Here, I take the ethical responsibility of propagating the essential contents of the Convention by highlighting some Articles of major importance for the relevant agencies and non-governmental bodies in Malaysia and other countries to take serious consideration and actions (United Nations, 2008).

Purpose of the Convention (Article 1)

The purpose of the said Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

The Underlying Foundation of the Convention

The States Parties (country representatives) to the present Convention acknowledges the following list of points:

- (a) Recalling the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world;
- (b) Recognising that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind;

- (c) Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination;
- (d) Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (e) Recognising that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others;
- (f) Recognising the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities;
- (g) Emphasising the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development;
- (h) Recognising also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person;
- (i) Recognising further the diversity of persons with disabilities;
- (j) Recognising the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support;
- (k) Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world;

- (l) Recognising the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries;
- (m) Recognising the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty;
- (n) Recognising the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices;
- (o) Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them;
- (p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status;
- (q) Recognising that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation;
- (r) Recognising that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child;
- (s) Emphasising the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities;
- (t) Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognising the critical need to address the negative impact of poverty on persons with disabilities;
- (u) Bearing in mind that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation;

- (v) Recognising the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms;
- (w) Realising that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights;
- (x) Convinced that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities; and
- (y) Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries.

General principles (Article 3)

The principles of the present Convention shall be: (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) Non-discrimination; (c) Full and effective participation and inclusion in society; (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) Equality of opportunity; (f) Accessibility; (g) Equality between men and women; (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

General obligations of Countries in the UN Convention

1. States Parties undertake to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
 - (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention;

- (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
 - (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
 - (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
 - (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprise;
 - (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
 - (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
 - (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
 - (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognised in the present Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realisation of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.
4. Nothing in the present Convention shall affect any provisions which are more conducive to the realisation of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognised or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognise such rights or freedoms or that it recognises them to a lesser extent.
5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

Accessibility (Article 9)

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - (b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures:
 - (a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - (b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

- (c) To provide training for stakeholders on accessibility issues facing persons with disabilities; (d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- (e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- (h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Freedom from exploitation, violence and abuse (Article 16)

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognise and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.
3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.
4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Freedom of expression and opinion, and access to information (Article 21)

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognising and promoting the use of sign languages.

Education (Article 24)

1. States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to: (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; (c) Enabling persons with disabilities to participate effectively in a free society.
2. In realising this right, States Parties shall ensure that: (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the

basis of disability; (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live; (c) Reasonable accommodation of the individual's requirements is provided; (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education; (e) Effective individualised support measures are provided in environments that maximise academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including: (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring; (b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community; (c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development.
4. In order to help ensure the realisation of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Habilitation and rehabilitation (Article 26)

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes: (a) Begin at the earliest possible stage,

and are based on the multidisciplinary assessment of individual needs and strengths; (b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.
3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Work and employment (Article 27)

1. States Parties recognise the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realisation of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:
 - (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
 - (b) Protect the rights of persons with disabilities, on an equal basis with others, to 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;
 - (c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
 - (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
 - (e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

- (f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
 - (g) Employ persons with disabilities in the public sector;
 - (h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
 - (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
 - (j) Promote the acquisition by persons with disabilities of work experience in the open labour market;
 - (k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

National implementation and monitoring (Article 33)

1. States Parties, in accordance with their system of organisation, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.
2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.
3. Civil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in the monitoring process.

Committee on the Rights of Persons with Disabilities (Article 34)

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as "the Committee"), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.
3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognised competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.

PART II: COUNTRY INITIATIVES

In this part, I give policy initiatives made by four countries as examples, namely Malaysia, Australia, USA, and Finland. I have explored the websites of the relevant government agencies on the issue of policies regarding special needs persons, and extracted essential experiences and efforts taken by some advanced and developing countries to see how far we, as global citizens, have progressed in caring for the well-being of special needs persons.

Malaysia

- The Salamanca Convention (UNESCO, 1994) resolutions have been the cornerstone and beacon in raising the awareness among the Malaysian public and government agencies on the necessity to provide appropriate services and facilities for special needs children and youth, based on the principles of justice and equality for all.
- Inclusive education and integrated programmes were implemented by the Ministry of Education, and many NGOs established special schools dedicated for specific types of disabilities. Much needs to be done, however, for the development and well-being of the 3% of the disadvantaged population. UNICEF estimates that there are around 440,000 persons (0-14 years old) with disabilities in Malaysia (UNICEF Malaysia, 2020).
- Malaysia legislated the Persons with Disabilities Act 2008 to legally enact the provision of services and facilities by all Ministries and government agencies, particularly the Ministry of Education. Article 28 of the Act affirms that special needs children are to be given the necessary support to facilitate their full and equal participation in education. UNICEF Malaysia, however, argues that “a key gap within the Persons with Disabilities Act is that it makes no specific provisions for children or young people with disabilities beyond ensuring their right to access education (Art. 28) and their right to access recreation, leisure and sport (Art. 32). In addition, there is also no

reference to the impact of age or gender on disability. Another significant gap within the Act is the lack of a monitoring and redress mechanism in place, should any party or the government violate the rights of persons with disabilities.” (UNICEF Malaysia, 2020).

- Based on international best practices and current national policy, the Malaysian Ministry of Education is committed to moving more students with special needs toward the inclusive education programme and raising the overall quality of the provision. The Malaysia Education Blueprint 2013-2025 outlines the action plan for inclusive education in “Improving Access in Preschool Education: Inclusive Education Programme (IEP) Initiative”.

The Education Ministry has registered a total 87,574 special education needs (SEN) students in Malaysia as of June 30, 2019. Of the total, about 2,492 SEN students are currently under Special Education School (SES) and 68,874 SEN students in the Special Education Integrated Programme (SEIP); (967 students in preschool, 38,710 in primary schools and 29,197 SEN students in secondary schools). Altogether there were 162,018 SEN students in the Inclusive Education Programme (IEP) which consists of 247 students in preschool, 8,221 primary, and 7,740 in secondary schools. (*New Straits Times*, June 2019).

- Private sector initiatives: Children with special needs in Malaysia are now more fortunate as more and more facilities and resources are available in our country for disabilities such as: cognition and learning difficulties; behavioural, emotional and social difficulties; communication and interaction difficulties; sensory and physical difficulties. The increasing demand has initiated the setting up of specialised centres that offer fully integrated multidisciplinary therapy services to support individuals with developmental delays. Besides these centres, there are those that solely offer therapy. One example is SI World, a well-established group offering sensory integration therapy, occupational therapy, speech therapy and physiotherapy to help those with special needs achieve better physical and psychological development. Conditions that are treated include autism spectrum disorder, Down syndrome, developmental coordination disorder (dyspraxia), language disorder, speech sound disorder, social communication disorder, specific learning disorder (dyslexia, dyscalculia), cerebral palsy, and attention-deficit hyperactivity disorder (ADHD). SI World has 15 centres throughout Malaysia: twelve in Kuala Lumpur and Selangor, one in Sabah, Kedah and Perak respectively. (Kiddy 123, 2020).
- Malaysian CARE is a non-profit Christian NGO established in Malaysia in 1979, committed to serving the poor and needy irrespective of religion and ethnicity. It focuses on empowering communities, aims for long-term sustainable development and sees itself as partners to the local church and the people it is serving. It provides a list of private organisations for persons

with disabilities in Malaysia for the public to seek services and facilities for a specific disability, ranging from autism to all disabilities. (Malaysian Care, 2020).

Australia

- Australian Institute of Health & Welfare (AIHW, 2020) reports that: In 2018, an estimated 7.7% (or around 357,000) children aged 0–14 had some level of disability. These results were similar to those for 2015. Rates of disability varied according to age and gender. The largest difference between males and females was for children aged 5–14 (12% of boys with disability compared with 7.1% of girls) (ABS 2019a).
- In 2018, an estimated 4.5% (or around 211,200) children aged 0–14 had a profound or severe disability. Generally, this was more likely among boys than girls; some 3.3% of boys aged 0–4 had a profound or severe disability compared with 1.5% of girls aged 0–4. Similarly, 7.5% of boys aged 5–14 had a profound or severe disability compared with 3.7% of girls of the same age (ABS 2019a).
- Of children aged 5–14, 219,000 (7.6%) had schooling restrictions. This includes children who have core activity limitations (Australian Institute of Health and Welfare, 2020).
- A matter of serious concern and similar studies should be done in other countries as well: the Guardian (UK, 2019) reports that in Australia a third of all children with disability have been restrained or secluded at school while half have been bullied in the past year, according to a government-funded report. Nearly half (48.2%) of students with disability experienced bullying at school in the past year, including 9.1% who said school staff had been the bullies. Based on survey on 500 special needs teachers and families, it was found that the use of restraints and seclusion was reported by nearly a third of respondents (30%). Most commonly, students were physically restrained, but a small number of families also reported the use of chemical restraints. About one in five children with a disability had been placed in seclusion, such as solitary confinement with and without supervision in a room, classroom or staff office (*The Guardian*, October 2019).
- The earliest schools for children with special needs in Australia were opened in the 1860s. The schools provided an education for children who were deaf or blind. In the 1920s schools for children with other disabilities were opened. In the first half of the 20th century schools for children with specific disabilities were run by charities and voluntary organisations. In the 1970s state governments started to take responsibility for the education provided in special schools. They also established special education units in regular schools (*AngloInfo*, Australia, 2020).

- The Disability Standards for Education 2005 (the Standards) clarify and elaborate the legal obligations of education authorities and providers across the whole of education, including preschool/kindergartens, schools, vocational education and training, and higher education. The Standards seek to ensure that students with disability can access and participate in education on the same basis as other students.
- The Disability Standards for Education 2005 intended to give students with disabilities the same rights as other students. The standards state that all students should be able to enjoy their education and be treated with dignity. The standards aim at overcoming discrimination based on stereotypes of the abilities of students with disabilities (ibid.).
- Special needs education in Australia has an inclusive approach, where a child attends a general school, whenever possible. Education providers are required by law to make reasonable adjustments to allow a student with disabilities to be educated on the same basis as other students.

Special education is delivered in several ways:

- In regular classrooms with a modified curriculum or additional teaching support
- Special small classes within a regular school
- Placement in a special school

Excerpts for the ensuing paragraphs were retrieved from the website of Australian Parliament.

The Commonwealth and State and Territory governments have enacted legislation to protect the rights and interests of people with disabilities. The Commonwealth State Disability Agreement (CSDA) was established in 1991. Nowadays as the Commonwealth State Territory Disability Agreement (CSTDA), it provides a framework within which the Commonwealth and jurisdictions aim to protect the interests of people with a disability and is supported by a range of Commonwealth and State and Territory disability legislative provisions. The United Nations Convention on the Rights of the Child (UN Convention) also applies to children and young people with disabilities. Some of these provisions are discussed below.

- Anti-discrimination legislation

Disability anti-discrimination legislation has been in place in most Australian States and Territories since at least 1977, to address discrimination against people with disabilities [497]. In NSW, the Anti-Discrimination Act 1977 (NSW) prohibits among other things, discrimination on the ground of disability in the provision of goods and services (whether for payment or

not). Other States and Territories have similar legislation. The Human Rights and Equal Opportunity Commission (HREOC), administers various pieces of Commonwealth legislation including the Disability Discrimination Act 1992 which contains anti-discrimination provisions [498].

- CSTDA and associated legislation and policies

The Australian, State and Territory governments fund government and non-government provided services for people with a disability. Funding regimes and service delivery regimes vary across jurisdictions. The CSTDA between the Australian, State and Territory governments defines their roles and responsibilities in providing specialist disability services to people with a disability. The CSTDA's purposes include: providing a national framework to underpin specialist disability services across Australia, and outlining a means for measuring and publicising the progress of governments toward achieving this national framework; outlining the respective and collective roles and responsibilities of governments in the planning, policy setting and management of specialist disability services and providing accountability mechanisms regarding government funding for services.

- Under the CSTDA, the Australian Government has responsibility for the planning, policy setting and management of specialised employment services. The State and Territory governments have similar responsibilities for services such as accommodation, respite and other support services. As such, each jurisdiction has entered into bilateral agreements with the Australian Government which identify ways by which both levels of government can work together to address issues of local concern.[500] The Commonwealth provides funding to the States and Territories to assist them with their responsibilities as required under the Agreement [501].
- Prior to the transfer of Commonwealth-funded services to the States which accompanied the introduction of the CSTDA, services for people with a disability were administered by the Commonwealth under the Disability Services Act 1986. Before the Agreement took effect, the Commonwealth required all States and Territories to enact disability services legislation to complement the Commonwealth Disability Services Act. The Disability Services Act 1993 (NSW) represents the complementary legislation in New South Wales; other jurisdictions have similar legislation. As with comparable Acts in other jurisdictions, the NSW Disability Services Act contains objects, principles and applications of principles that people with disabilities have the same basic human rights as other members of the community. Among the Act's objects are principles to assist people with a disability to integrate into the community, achieve increased independence and access employment [502].

- Examples of Commonwealth and State and Territory departments which deal specifically with issues that affect people with disabilities, including children and young people are: the Commonwealth Department of Family and Community Services; Disability Services Queensland; the Western Australian Disability Services Commission; the Department of Ageing, Disability and Home Care, NSW; and the Department of Health and Community Services in the Northern Territory.

United States of America (USA)

The American Disabilities Act (ADA, USA) has its own “ADA National Network” website which updates the public about ADA policies (ADA, 2020). Some of the policies are as follows:

- The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places open to the general public. The purpose of the law is to ensure that people with disabilities have the same rights and opportunities as everyone else. The ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, colour, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodation, employment, transportation, state and local government services, and telecommunications. The ADA is divided into five titles (or sections) that relate to different areas of public life.
- President George W. H. Bush signed the law and admitted that the United States had not always lived up to its founding principles of freedom and equality. “Tragically, for too many Americans, the blessings of liberty have been limited or even denied,” he said. “Today’s legislation brings us closer to that day when no Americans will ever again be deprived of their basic guarantee of life, liberty, and the pursuit of happiness.”

The ADA not only provided comprehensive civil rights protections for people with disabilities for the first time in the nation’s history, but it also marked a sea change in the nation’s attitudes toward disability rights (National Geographic, 2020).

- In 2008, the Americans with Disabilities Act Amendments Act (ADAAA) was signed into law and became effective on January 1, 2009. The ADAAA made a number of significant changes to the definition of “disability.” The changes in the definition of disability in the ADAAA apply to all titles of the ADA, including Title I (employment practices of private employers with 15 or more employees, state and local governments, employment agencies, labour unions, agents of the employer and joint management labour

committees); Title II (programs and activities of state and local government entities); and Title III (private entities that are considered places of public accommodation).

- **Title I Equal Employment Opportunity for Individuals with Disabilities**

This title is designed to help people with disabilities access the same employment opportunities and benefits available to people without disabilities. Employers must provide reasonable accommodation to qualified applicants or employees. A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable an applicant or employee with a disability to participate in the application process or to perform essential job functions.

- **Title II (State and Local Government) – Non-discrimination on the Basis of Disability in State and Local Government Services**

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973, as amended, for public transportation systems that receive federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive federal financial assistance. It establishes detailed standards for the operation of public transit systems, including commuter and intercity rail (e.g., AMTRAK).

Title II also outlines the administrative processes to be followed, including requirements for self-evaluation and planning; requirements for making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; architectural barriers to be identified; and the need for effective communication with people with hearing, vision and speech disabilities. This title is regulated and enforced by the U.S. Department of Justice.

- **Title III (Public Accommodation) – Non-discrimination on the Basis of Disability by Public Accommodation and in Commercial Facilities**

This title prohibits private places of public accommodation from discriminating against individuals with disabilities. Examples of public accommodations include privately-owned, leased or operated facilities like hotels, restaurants, retail merchants, doctor's offices, golf courses, private schools, day care centers, health clubs, sports stadiums, movie theatres, and so on. This title sets the minimum standards for accessibility for alterations and new construction of facilities. It also requires public accommodation to

remove barriers in existing buildings where it is easy to do so without much difficulty or expense. This title directs businesses to make “reasonable modifications” to their usual ways of doing things when serving people with disabilities. It also requires that they take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities. This title is regulated and enforced by the U.S. Department of Justice.

- Special Needs Education Policies in the USA

Information in this sub-section was retrieved from Brandman University website:

1. The Education for All Handicapped Children Act (EHA) – frequently referred to as Public Law 94-142 – was passed in 1975. EHA requires that all public schools accepting federal funds must provide equal access to education for children with physical and/or mental disabilities. To receive federal funding for special education today, states must comply with the law. In addition to providing equal access to special needs students, the EHA made it mandatory for public schools to evaluate children with disabilities and create individualized educational plans that would closely emulate the educational experiences of non-disabled students while still accommodating their unique needs. Essentially, the EHA was enacted to meet four key goals:
 - To ensure that special education services are available to children who need them
 - To guarantee that decisions about services to students with disabilities are fair and appropriate
 - To establish specific management and auditing requirements for special education
 - To provide federal funds to help states educate students with disabilities
2. The Handicapped Children’s Protection Act, 1986

While the EHA mandated that all public schools receiving financial support from the federal government provide special-needs students with non-discriminatory access to all educational programs, the Handicapped Children’s Protection Act (HCPA) of 1986 was created to instate provisions not covered by the EHA. For example, the EHA does not directly address legal cost relief available for parents who prevail in lawsuits based on violations of EHA provisions.

The HCPA came to be after the United States Supreme Court’s ruling in the 1984 case *Smith v. Robinson*. It was found that existing enforcement mechanisms of disability rights did not cover how, when and/or where legal costs are to be resolved.

The HCPA amended the EHA to authorize the award of reasonable attorneys' fees, expenses and costs to the parents or guardian of a handicapped child or youth who is the prevailing party in a civil suit to protect the child's right to Free Appropriate Public Education (FAPE).

3. The Individuals with Disabilities Education Act, 1990

What was known as the EHA eventually became the Individuals with Disabilities Education Act (IDEA) in 1990. The following six pillars are what IDEA ensures:

Public schools are required to create an Individualized Education Program (IEP) for each student who is found to be eligible for special education services. IEPs must be designed to meet the unique educational needs of that child in the least restrictive environment appropriate.

To the maximum extent appropriate, IDEA ensures that all students are given the opportunity to learn in the Least Restrictive Environment (LRE) – an inclusive classroom environment in which a special needs student can achieve the most academic success.

Free Appropriate Public Education (FAPE) is an educational right that ensures education and related services are designed to meet handicapped persons' individual needs as adequately as the needs of non-handicapped persons.

IDEA includes a set of procedural safeguards designed to protect the rights of children with disabilities and their families, and to ensure that all special-needs students receive a FAPE. The safeguards include the opportunity for parents to review their child's full educational records, the right of parents to request an independent educational evaluation and more.

IDEA ensures the use of appropriate evaluation processes. This minimizes the number of misidentifications, provides a variety of assessment tools and strategies, prohibits the use of any single evaluation as the sole criterion and provides protections against evaluation measures that are racially or culturally discriminatory.

Cross collaboration is key for a student to receive the education necessary for success. IDEA enables parents, teachers, school psychologists and other relevant parties to work in tandem when developing IEPs, determining the proper LRE and discussing other important considerations for each student.

4. The Assistive Technology Act, 2004

Originally instated in 1998, the Assistive Technology Act was reauthorized in 2004. It provides assistive technology to persons with disabilities so they can more fully participate in education, employment and daily activities on level playing fields with other people in their communities. Because

technology plays an increasingly important role in our lives – from business functions to providing education – it impacts individuals with disabilities no less than the remainder of U.S. citizens.

Under the law, each U.S. state receives a grant to fund Assistive Technology Act Programs (ATAP) that provide services to persons with disabilities for their entire lives. The 56 ATAPs created under the law provide a place where users can go for product demonstrations, low-cost loans for their purchases and information on these products. The Assistive Technology Act of 2004 set forth a core set of program services to increase consistency across the country.

Finland

- The Finnish Disability Policy is based on following main principles 1. The right of people with disabilities to equality. Finland as a Member State of the United Nations and the European Union is committed to promoting a society for all. In Finland, the principle of non-discrimination of people with disabilities is enshrined in the Constitution. 2. The right of people with disabilities to inclusion. The preconditions for realisation of the inclusion of people with disabilities are e.g.: positive attitudes; taking into account their needs; identification of barriers that restrict their inclusion; and the elimination of such barriers. Consequently action is needed to remove such barriers for inclusion. 3. The right of people with disabilities to necessary services and supportive measures. Services and supportive measures are positive targeted measures for ensuring equality. 4. The policy was designed to be in line with the UN Convention on the Rights of Persons with Disabilities (CRPD) (National Institute of Health and Welfare, Finland, 2012).

The ensuing excerpts were taken from the Human Rights Centre of Finland (2015):

In Finnish legislation, disability is defined in different ways in different laws and situations. In the Act on Services and Assistance for the Disabled (Disability Services Act, 380/1987), a disabled person is defined as a person who has long-term specific difficulties with his or her normal life due to a disability or disorder. Municipalities are responsible for providing services for disabled persons according to the Disability Services Act.

- Non-discrimination legislation: The revised Non-Discrimination Act, 2015 is applied to all public and private activities, excluding private life, family life and practice of religion. The protection against discrimination is equal regardless of whether the discrimination is based on ethnic origin, age, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics, with some exceptions. The obligation to promote equality applies to both public authorities and education providers, educational institutes and employers.

- According to the Act, public authorities, education providers and employers must, where necessary, make reasonable accommodation to ensure that employees with disabilities have equal access to goods and services, work or education and training. The disability of a person must be taken into account in provision of services, for example, by arranging accessible passage for those who need it whenever possible. Employers were already under the former legislation obliged to make reasonable accommodation, but for providers of goods and services, such as hotels, restaurants and retailers, this is a new obligation. According to the Act, the denial of reasonable accommodation is a discriminatory practice.
- The new Non-Discrimination Ombudsman has a mandate to supervise compliance with the Act with regard to all grounds of discrimination. The National Discrimination Tribunal and the Equality Board were merged and the new Tribunal covers all discrimination grounds. Compliance with the provisions on equality in working life in individual cases will continue to be supervised by the occupational safety authorities. However, the Non-Discrimination Ombudsman has some powers relating to equality in working life.
- On 4 December 2014, the Government submitted to the Parliament a Government Bill (284/2014) on the ratification of the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention. The Parliament accepted the ratification of the Convention on 3 March 2015.
- Policies promoting and protecting the rights of persons with disabilities: The disability policy of the Finnish Government sees disability as a condition caused by the interaction between environmental barriers and the individual. The principles of Finnish policy concerning people with disabilities are the rights to equality, participation, necessary services and support. According to legislation, municipalities are mainly responsible for disability services. People with disabilities should be provided with a personal service plan on their individual services. Policies aim at supporting the working and functional capacity of people with disabilities and their individual autonomy. Municipally organised services and support should enable people with disabilities to cope with everyday life.
- The National Council on Disability (VANE) functions as a national co-operative body for authorities, disabled people's organisations and organisations for relatives of disabled people. It follows political decision-making, gives statements and promotes implementation of human rights of disabled persons.
- Finland's Disability Policy (VAMPO) for 2010–2015 laid out the basis for the inclusion and equality of disabled persons. Through the policy, the

Government wished to ensure the equal status of persons with disabilities and address shortcomings in the realisation of rights of persons with disabilities by implementing concrete corrective and development measures. The objectives of the policy were the following:

1. The legislative amendments necessitated by the ratification of the UN Convention on the Rights of Persons with Disabilities will be prepared and implemented;
 2. The socioeconomic status of persons with disabilities and combating poverty will be improved;
 3. The availability and high quality of special services and support measures will be ensured across the country;
 4. Accessibility in society will be strengthened and increased; and
 5. Disability research will be reinforced, the information base improved and diversified high-quality methods developed in support of disability policy and monitoring.
- The policy included both short and long-term measures aimed at developing all relevant policy sectors from the perspective of the rights, freedoms and equal opportunities of persons with disabilities. It also recognised the need to make amendments to existing legislation.
 - In addition, implementation of the policy was seen to require education, information, extensive improvements, development of financing and structures, updating of concepts as well as strengthening the knowledge base in support of the implementation and monitoring of disability policy. Some of the measures were considered to require an increase in financial resources for implementation. However, the basic principle of the policy was that the measures should be implemented in line with the Government decision on spending limits and within the budget. According to the policy, the future objectives of disability policy are sustainability, diversified society, preventing discrimination and reinforcing accessibility in Finnish society.

The ensuing excerpts on special needs education in Finland were retrieved from the European Agency for Special Needs and Inclusive Education website:

- From the early 1970s, the principle of normalisation and the philosophy of integration were at the forefront in educating learners who needed special support. The principle of normalisation aimed at making the lives of people with disabilities as normal as possible. Integration was considered the means to implement this normalisation. The objective was social integration; in other words, the opportunity for learners with special needs to participate in mainstream instruction in the school they would attend if they did not have a disability.

- Integration has been promoted in basic education since the 1970s. The Comprehensive Schools Act, passed in 1983, enabled a better starting point to develop the integration process. According to the Act, learners could no longer be exempt from completing compulsory education. The comprehensive school national core curriculum, issued in 1985, raised the issues of differentiation and, where necessary, the provision of special education and the individualisation of education and the syllabus. In terms of promoting integration, it was important that education and the syllabus were individualised to enable special education curricula to be used in conjunction with mainstream education.
- Education for learners with minor intellectual disabilities began in primary schools in the form of special school instruction. In 1985, integrated instruction for learners with moderate and severe intellectual disabilities transferred from social administration to educational administration. From 1 August 1997, comprehensive schools became responsible for the instruction of learners with severe intellectual disabilities, which had previously fallen under social administration. Similarly, comprehensive schools took over the instruction provided by reform schools from 1 August 1998.
- In 1995, a national evaluation was done on the status of special education. The conclusions of the evaluation formed the basis for national measures implemented in subsequent years. The operating culture, organisation of education and joint steering by supporting regional and municipal integration of service systems underwent reform.
- The comprehensive reform of school legislation in 1998 and the resulting Basic Education Act (628/1998) aimed at guaranteeing educational equality and equal educational services for all those in compulsory education. Amendments were made to the Basic Education Act in 2011 aimed at strengthening learners' rights to early, preventive support in learning and growth and special support, if needed. The support intensifies by stages: general support, intensified support and special support. Provisions on the processing and confidentiality of personal data and learner welfare services were also amended and supplemented.
- A learner has the right to receive instruction in accordance with the curriculum and sufficient support in learning and school attendance, as soon as the need arises (amended Section 30). Every learner has the right to support and counselling. The support is a collaborative effort involving teachers, the learners and their parents and, where needed, learner welfare personnel. Special needs education takes into consideration learner interests and facilities for providing education, partly or totally in a special needs classroom or another appropriate facility.

CONCLUSION

In any country, the well-being of special needs persons does not solely lie in the hands of government and private agencies; rather it depends on literacy, awareness, and compassion within the family and local community. The philosophy is simple: if we were in pain, then we knew what and where the pain was, instead of calling others to tell what was wrong with us. Only the ignorant, illiterate, and those lacking compassion will bully, feel ashamed, or and put into seclusion people with special needs. In a highly civilised society, the well-being and welfare of everyone depends on the blending of human compassion, kindness, knowledge, and sharing of resources.

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