

# **The Rights of Persons with Disabilities**

## **Progress Paper on the Role of NHRIs**

**FEBRUARY 2004**

### **ASIA PACIFIC HUMAN RIGHTS NETWORK**

Secretariat: South Asia Human Rights Documentation Centre  
B-6/6, Safdarjung Enclave Extension, New Delhi - 110029, India

Tel/Fax: +91-11-2619 2717, 2619 2706, 2619 1120

Email: [secretariat@aphrn.org](mailto:secretariat@aphrn.org)

Home Page: <http://www.aphrn.org>

**ASIA PACIFIC HUMAN RIGHTS NETWORK**  
Secretariat: South Asia Human Rights Documentation Centre  
**B-6/6, Safdarjung Enclave Extension, New Delhi - 110029, India**  
Tel/Fax: +91-11-2619 2717, 2619 2706, 2619 1120  
Email: [secretariat@aphrn.org](mailto:secretariat@aphrn.org)  
Home Page: <http://www.aphrn.org>

## **DISABILITY**

### **Progress Paper on the Role of NHRIs**

The year 2004 will be a crucial year for the rights of people with disabilities. The international community is currently considering proposals for a Convention on Promotion and Protection of the Rights and Dignity of Persons with Disabilities.<sup>1</sup> The near future will see nations, national human rights institutions and non-government organisations reflecting more intensively on the future of rights for people with disabilities and the best ways to protect and promote their rights. This is an issue that is particularly important for the Asia Pacific; roughly two-thirds of the world's people with disabilities live in the region and many of the strongest advocates for a new convention are Asia Pacific governments.<sup>2</sup>

And so while the governments of the Asia Pacific stand proudly in support of a convention, it is timely to examine the records of some of these governments, and of some of the region's national human rights institutions, with respect to their treatment of people with disabilities. Simply put, the promotion and protection of the rights of people with disabilities in the Asia Pacific has a long way to go. Discrimination remains thoroughly entrenched throughout much of the region; rights of employment, education and accessibility are routinely denied. No doubt a convention may have the potential to be a watershed for the rights of people with disabilities, but the governments advocating such a convention will need to take concrete steps to translate the words of any convention into real rights.

#### **Australia**

In Australia, the most significant piece of legislation for people with disabilities is the Disability Discrimination Act 1992 (the DDA). The Human Rights and Equal Opportunities Commission (HREOC) is responsible for administering the DDA, and for processing complaints received from people with disabilities who have been discriminated against. Under the DDA, HREOC may sanction organisations, businesses or government agencies that treat a person with a disability less favourably than a person

---

<sup>1</sup> For details on the current situation with respect to the proposed Convention, the Ad Hoc Committee's website is accessible at <http://www.un.org/esa/socdev/enable/rights/adhoccom.htm>

<sup>2</sup> South Asia Human Rights Documentation Centre, "Rights of the disabled: toward a new UN convention", *Human Rights Features*, 29 May 2003, accessible at <http://www.hrhc.net/sahrdc/hrfeatures/HRF77.htm>

without a disability in similar circumstances.<sup>3</sup> This extends to discrimination in all facets of life, including education, employment, housing and general commercial activity.<sup>4</sup> The Government also appears to have instigated a number of specific programs aimed at facilitating greater accessibility for persons with disability, enhancing educational opportunities and raising public awareness.<sup>5</sup>

It must be acknowledged that Australia's record on disability rights, and the record of HREOC, is one of the stronger records in the region. However, there are several areas of serious concern. Over recent years, the Federal Government has cut funding to disability services organisations, or made the funding subject to burdensome conditions.<sup>6</sup> The Federal Government continues to encourage disability services and advocacy groups to seek private sector funding and to engage more volunteer staff as it transfers funding from disabilities to defence.<sup>7</sup> These steps will almost inevitably weaken those organisations that provide disability services and advocacy, and are already posing difficulties for HREOC.

The Australian Government has expressed the opinion that any convention or protocol on the rights of people with disabilities should not duplicate or overlap with protections afforded by other international documents, noting that “[i]t may be the case that, rather than a free-standing new convention, a protocol or annex to one of the existing core human rights treaties would provide more effective protection.”<sup>8</sup>

## **Fiji**

Under the Fijian Bill of Rights, discrimination on the ground of disability is prohibited.<sup>9</sup> Further statutory protection is provided by the Fiji National Council for Disabled Persons Act 1994, the Fiji Human Rights Commission Act 1999 and the Social Justice Act 2001.<sup>10</sup> Notwithstanding the efforts of the Human Rights Commission and the legislative framework, “people with disability in Fiji are still among the most disadvantaged due to their lack of access to a wide range of basic services. Direct and indirect discrimination [ ] persist as manifest in the social, attitudinal and physical barriers [that people with

---

<sup>3</sup> “Complaints under the Disability Discrimination Act”, HREOC Information Sheet, accessible at [http://www.hreoc.gov.au/complaints\\_information/guides/info\\_sheet\\_dda.html](http://www.hreoc.gov.au/complaints_information/guides/info_sheet_dda.html)

<sup>4</sup> “Complaints under the Disability Discrimination Act”, HREOC Information Sheet, accessible at [http://www.hreoc.gov.au/complaints\\_information/guides/info\\_sheet\\_dda.html](http://www.hreoc.gov.au/complaints_information/guides/info_sheet_dda.html)

<sup>5</sup> Bryan Woodford, “Participation of Persons with Disabilities in Australia”, accessible at [http://www.dinf.ne.jp/doc/english/intl/02rnn/australia\\_e.html](http://www.dinf.ne.jp/doc/english/intl/02rnn/australia_e.html)

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Australian Delegation's Submission to the Second Session of the Ad Hoc Committee, 17 June 2003, accessible at <http://www.un.org/esa/socdev/enable/rights/contrib-australia.htm>. See also “Australia's Approach to a Draft Convention on the Rights of People with Disabilities,” December 2003, accessible at <http://www.un.org/esa/socdev/enable/rights/wgcontrib-australia.htm>

<sup>9</sup> Section 38, Fiji Bill of Rights, accessible at [http://www.humanrights.org.fj/about\\_us/bill\\_of\\_rights/section38.html](http://www.humanrights.org.fj/about_us/bill_of_rights/section38.html)

<sup>10</sup> Statement of HE Isikia Savua, Fiji's Permanent Representative to the UN to the Second Session of the Ad Hoc Committee, 19 June 2003, <http://www.un.org/esa/socdev/enable/rights/contrib-fiji.htm>

disability] face daily.”<sup>11</sup> Moreover, as is the case in many countries, in Fiji “[w]omen, children and the aged with disabilities are doubly disadvantaged and deserve to be recognised as a particularly vulnerable group.”<sup>12</sup> The US State Department reports that the legislative safeguards detailed above are rarely enforced, and notes that there are no laws mandating accessibility requirements.<sup>13</sup> Further, people with disability are often segregated from mainstream society.<sup>14</sup> In their expressed support for a convention or protocol on the rights of people with disabilities, Fiji has stated that any such convention should “provide a platform for international assistance to developing countries to implement binding obligations.”<sup>15</sup>

## **India**

In India, the rights of persons with disabilities are protected by the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. The Indian National Human Rights Commission has responsibilities in terms of protecting the rights of persons with disabilities; the Commission has stated that it is time “to view questions relating to disability through the perspective of human rights.”<sup>16</sup> The Commission has made various efforts aimed at protecting the rights of people with disability, ranging from hosting conferences to conducting a variety of investigations.<sup>17</sup> In addition to the National Human Rights Commission, the Indian Government has recently announced the creation of a National Commission for Persons with Disabilities.<sup>18</sup> While it is yet to begin any substantive operations, the new Commission’s role will be to provide the Government with recommendations as to ways to better promote and protect the rights of people with disabilities.<sup>19</sup>

While there are substantial theoretical protections available for Indians with disabilities, the reality and application of this protection remains somewhat different. Indeed, the US State Department notes that the legislative regime is weakened by a clause stating that “the implementation of programs [is] dependent on the ‘economic capacity’ of the Government.”<sup>20</sup> The empirical data detailing the failure of affirmative action programs

---

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> “Country Reports on Human Rights Practices 2002: Fiji”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18244.htm>

<sup>14</sup> Ibid.

<sup>15</sup> Statement of HE Isikia Savua, Fiji’s Permanent Representative to the UN to the Second Session of the Ad Hoc Committee, 19 June 2003, <http://www.un.org/esa/socdev/enable/rights/contrib-fiji.htm>

<sup>16</sup> *National Human Rights Commission Annual Report 2001-2002*, National Human Rights Commission of India, p89.

<sup>17</sup> Statement of Virendra Dayal, Member of the National Human Rights Commission, to the Second Session of the Ad Hoc Committee, 18 June 2003, accessible at [http://nhrc.nic.in/disability\\_vd.htm](http://nhrc.nic.in/disability_vd.htm); also *National Human Rights Commission Annual Report 2001-2002*, National Human Rights Commission of India, pp89-92.

<sup>18</sup> Press Information Bureau of India, “Government Appoints Commission for Persons with Disabilities Under Former Governor Shri Sunder Singh Bhandari”, Press Release, 4 February 2004, accessible at [http://www.pib.nic.in/release/rel\\_print\\_page.asp?relid=932](http://www.pib.nic.in/release/rel_print_page.asp?relid=932)

<sup>19</sup> Ibid.

<sup>20</sup> “Country Reports on Human Rights Practices 2002: India”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18311.htm>

established under the Act, also points to the limited progress achieved through the legislation.<sup>21</sup> This lack of progress is also reflected in the fact that most state governments have not yet introduced effective programs aimed at promoting and protecting the rights of people with disabilities.<sup>22</sup> Specific concerns over the treatment of people with mental disabilities, particularly those in the care of the state have also been raised.<sup>23</sup> The Indian Government has committed itself to supporting a convention specifically aimed at promoting and protecting the rights of people with disabilities.<sup>24</sup>

## **Malaysia**

Unlike many other nations, Malaysia lacks a comprehensive legislative framework designed to promote and protect the rights of people with disabilities. Indeed, people with disabilities have no constitutional or legislative protection from discrimination.<sup>25</sup> Even so, the Malaysian Government and the Malaysian National Human Rights Commission (Suhakam) have initiated a number of programs aimed at enhancing the educational, employment and accessibility rights of people with disabilities.<sup>26</sup> Suhakam has also encouraged further protection for the rights of people with disabilities.<sup>27</sup> It is unclear, however, whether these programs have resulted in any significant and tangible improvements. It appears that some programs have yet to be implemented; suggesting there is still significant room for improvement.<sup>28</sup>

In terms of the creation of a convention on the rights of people with disabilities, Suhakam has expressed a desire to be involved – either directly or indirectly – in the drafting process.<sup>29</sup>

---

<sup>21</sup> “Country Reports on Human Rights Practices 2002: India”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18311.htm>

<sup>22</sup> “NHRC Chairperson calls for integration of the disability dimension in all basic structures of society”, NHRC Statement, 18 March 2003, accessible at <http://nhrc.nic.in/disabled.htm>

<sup>23</sup> “Country Reports on Human Rights Practices 2002: India”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18311.htm>

<sup>24</sup> Statement of Virendra Dayal, Member of the National Human Rights Commission, to the Second Session of the Ad Hoc Committee, 18 June 2003, accessible at [http://nhrc.nic.in/disability\\_vd.htm](http://nhrc.nic.in/disability_vd.htm)

<sup>25</sup> “Country Reports on Human Rights Practices 2002: Malaysia”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18252.htm>

<sup>26</sup> *Suhakam Annual Report 2002*, pp46, 60, accessible at [http://www.suhakam.org.my/annual\\_report/pdf/anreport02.pdf](http://www.suhakam.org.my/annual_report/pdf/anreport02.pdf) and see also “Suhakam: Activities 2003” accessible at <http://www.suhakam.org.my/activities.htm>. See also “Country Reports on Human Rights Practices 2002: Malaysia”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18252.htm>

<sup>27</sup> *Suhakam Annual Report 2002*, pp46, 60, accessible at [http://www.suhakam.org.my/annual\\_report/pdf/anreport02.pdf](http://www.suhakam.org.my/annual_report/pdf/anreport02.pdf) and see also “Suhakam: Activities 2003” accessible at <http://www.suhakam.org.my/activities.htm>. See also “Country Reports on Human Rights Practices 2002: Malaysia”, US State Department, 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18252.htm>

<sup>28</sup> US State Department, “Country Reports on Human Rights Practices 2002: Malaysia,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18252.htm>

<sup>29</sup> *Suhakam Annual Report 2002*, p70, accessible at [http://www.suhakam.org.my/annual\\_report/pdf/anreport02.pdf](http://www.suhakam.org.my/annual_report/pdf/anreport02.pdf)

## **Mongolia**

In Mongolia, the rights of people with disabilities are protected by a number of pieces of legislation, including the Law on Social Protection of the Disabled (1995), the Labour Law (1999) and the Law on Social Security (1998).<sup>30</sup> However, the Mongolian National Human Rights Commission reports that the legal protections afforded by these laws are more aspirational than real. In some situations, the laws are simply not enforced or complied with; in other situations the benefits provided to the people with disabilities are so small as to be inconsequential.<sup>31</sup> In particular, the Commission raises concerns over access to education (especially in rural areas), access to employment (notwithstanding the theoretical existence of an affirmative action scheme), and access to health and social security benefits.<sup>32</sup> Notwithstanding these concerns, some limited progress does appear to have taken place in Mongolia.<sup>33</sup> The Mongolian Government has expressed support for a new treaty dealing specifically with disability issues.<sup>34</sup>

## **Nepal**

In Nepal, the rights of people with disability are ostensibly protected by the Disabled Persons (Protection and Welfare) Act 1982. The Act outlines a number of rights and freedoms that apply to people with disabilities, ranging from affirmative action provisions to tax exemptions to educational rights.<sup>35</sup> However, while the laws are technically operative, the Nepalese National Human Rights Commission has stated that the Government “has not been perceived to be actively pursuing their enforcement.”<sup>36</sup> In fact, the Commission states that people with disabilities “are of the opinion that by granting such rights, the government merely hopes to pacify them, rather than making their lives more self-reliant and meaningful.”<sup>37</sup> The Commission notes research suggesting that the Nepalese Government “is struggling to provide even basic education and means of livelihood to persons with disability and is unable to enforce the provisions of the [Act].”<sup>38</sup> In part, it appears that budgetary considerations act as a constraint on policies for the promotion and protection of the rights of people with disabilities. But it

---

<sup>30</sup> Mongolian National Human Rights Commission, *Annual Status Report 2003*, p13. Accessible at <http://www.nhrc-mn.org/docs/Annual%202003%20Status%20Report.pdf>

<sup>31</sup> Mongolian National Human Rights Commission, *Annual Status Report 2003*, pp14-17. Accessible at <http://www.nhrc-mn.org/docs/Annual%202003%20Status%20Report.pdf>

<sup>32</sup> Mongolian National Human Rights Commission, *Annual Status Report 2003*, pp14-17. Accessible at <http://www.nhrc-mn.org/docs/Annual%202003%20Status%20Report.pdf>

<sup>33</sup> US State Department, “Country Reports on Human Rights Practices 2002: Mongolia,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18255.htm>

<sup>34</sup> M. Baljmaa, “Country Paper: Mongolia” delivered to the Regional Workshop towards a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, Bangkok, October 2003, accessible at <http://www.worldenable.net/bangkok2003a/papermongolia.htm>

<sup>35</sup> National Human Rights Commission of Nepal, *Human Rights in Nepal: A Status Report 2003*, 2003, pp116-117.

<sup>36</sup> *Ibid.* p118.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

also appears that a change in the attitude of the Nepalese Government is a prerequisite to real improvements for people with disabilities. At present, however, people with disabilities in Nepal face “widespread societal discrimination.”<sup>39</sup>

### **New Zealand**

Through the Human Rights Act 1993, and the subsequent amendments made to that Act, the New Zealand Government has put in place significant measures to facilitate the promotion and protection of rights of people with disabilities. The Act prohibits discrimination on the basis of disability in a wide range of situations ranging from education to employment to access to government and business services.<sup>40</sup> The New Zealand Government’s Office of Disability Issues, a unit within the Ministry of Social Welfare, is another step taken by the Government with the aim of enhancing the lives of people with disabilities. The Office of Disability Issues is responsible for the implementation of the New Zealand Disability Strategy, a plan aimed at “changing New Zealand from a disabling society to an inclusive society.”<sup>41</sup>

The New Zealand Human Rights Commission reports that complaints related to disability issues represent one of the largest single causes of complaints received by the Commission, sometimes amounting to almost a fifth of all complaints received.<sup>42</sup> The Commission’s Annual Reports provide a variety of examples in which these complaints are resolved, generally through either adversarial hearings or through mediation.<sup>43</sup> New Zealand’s record is by no means perfect – the number of complaints received by the Commission is evidence of this – but significant steps are being taken to address the disability discrimination issues that exist.

New Zealand has expressed support for a convention on the rights of people with disabilities. The Human Rights Commission, which sits on the Ad Hoc Committee, has

---

<sup>39</sup> US State Department, “Country Reports on Human Rights Practices 2002: Nepal,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18313.htm>

<sup>40</sup> New Zealand Human Rights Commission, “Disability”, accessible at <http://www.hrc.co.nz/index.php?p=417&format=text> and New Zealand Human Rights Commission, “Unlawful Discrimination”, accessible at <http://www.hrc.co.nz/index.php?p=403&format=text>

<sup>41</sup> Office of Disability Issues, *New Zealand Disability Strategy: “Summary”*, accessible at <http://www.odi.govt.nz/publications/nzds/summary.html>

<sup>42</sup> See New Zealand Human Rights Commission, *Annual Report 2002*, p14, accessible at <http://www.hrc.co.nz/hrc/pdfdocs/Annual%20Report%202002.pdf> and New Zealand Human Rights Commission, *Annual Report 2003*, p11, accessible at <http://www.hrc.co.nz/hrc/worddocs/67928%20Annual%20Report%202003.pdf> and see also Dr Jan Scown of New Zealand’s Statement to the Second Session of the Ad Hoc Committee, 17 June 2003, accessible at <http://www.un.org/esa/socdev/enable/rights/contrib-newzealand.htm>

<sup>43</sup> See New Zealand Human Rights Commission, *Annual Report 2002*, accessible at <http://www.hrc.co.nz/hrc/pdfdocs/Annual%20Report%202002.pdf> and New Zealand Human Rights Commission, *Annual Report 2003*, accessible at <http://www.hrc.co.nz/hrc/worddocs/67928%20Annual%20Report%202003.pdf>

expressed support for a rights based document.<sup>44</sup> The New Zealand Government has expressed a similar preference.<sup>45</sup>

## **Pakistan**

People with disabilities in Pakistan face a struggle greater than that faced by people with disabilities in many other countries. There is no substantial or comprehensive legislation aimed at promoting and protecting the rights of people with disabilities.<sup>46</sup> The legislation that does exist – such as some optional affirmative action measures – seems to be rarely enforced.<sup>47</sup> There is a real lack of Government involvement in addressing issues of disability, especially at the local level,<sup>48</sup> and the “vast majority” of people with disabilities are cared for by their families.<sup>49</sup>

Moreover, discrimination against people with disabilities is prevalent: they “face overwhelming barriers in education, skills development and daily life...[and there is a belief that] persons with disabilities are a social burden and a curse on the family.”<sup>50</sup> While the situation is reasonably dire for people with disabilities in Pakistan, there are a limited number of programs aimed at improving the situation for people with disabilities in areas including education, vocational training, employment, healthcare and other aspects of life.<sup>51</sup> Pakistan’s lack of a national human rights institution may also be hampering efforts to improve the treatment of people with disabilities.

Pakistan has made clear its approach to a new convention: a “new International Human Rights Treaty is necessary to ensure that persons with disabilities enjoy all their human rights.”<sup>52</sup>

---

<sup>44</sup> New Zealand Human Rights Commission, *Annual Report 2003*, p20, accessible at <http://www.hrc.co.nz/hrc/worddocs/67928%20Annual%20Report%202003.pdf>

<sup>45</sup> The Hon Ruth Dyson, Minister for Disability Issues, “Government supports UN disability convention”, Media Statement, 12 June 2003, accessible at

<http://www.hrc.co.nz/hrc/worddocs/un%20convention%20june2003v2.doc> See also Dr Jan Scown of New Zealand’s Statement to the Second Session of the Ad Hoc Committee, 17 June 2003, accessible at <http://www.un.org/esa/socdev/enable/rights/contrib-newzealand.htm>

<sup>46</sup> US State Department, “Country Reports on Human Rights Practices 2002: Pakistan,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18314.htm>

<sup>47</sup> US State Department, “Country Reports on Human Rights Practices 2002: Pakistan,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18314.htm>

<sup>48</sup> Japan International Cooperation Agency, *Country Report: the Islamic Republic of Pakistan*, March 2002, p5, accessible at [http://www.jica.go.jp/english/global/dis/pdf/pak\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/pak_eng.pdf)

<sup>49</sup> US State Department, “Country Reports on Human Rights Practices 2002: Pakistan,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18314.htm>

<sup>50</sup> Japan International Cooperation Agency, *Country Report: the Islamic Republic of Pakistan*, March 2002, p5, accessible at [http://www.jica.go.jp/english/global/dis/pdf/pak\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/pak_eng.pdf)

<sup>51</sup> Japan International Cooperation Agency, *Country Report: the Islamic Republic of Pakistan*, March 2002, pp12-14, accessible at [http://www.jica.go.jp/english/global/dis/pdf/pak\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/pak_eng.pdf). See also Muhammad Majid Qureshi, “Pakistan Country Paper” delivered to Regional Workshop towards a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities, Bangkok, October 2003, accessible at <http://www.worldenable.net/bangkok2003a/paperpakistan.htm>

<sup>52</sup> Muhammad Majid Qureshi, “Pakistan Country Paper” delivered to Regional Workshop towards a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and

## **Philippines**

In terms of legislation, the rights of people with disabilities in the Philippines are promoted and protected primarily by the Magna Carta for Disabled Persons (1992). Legislation provides for the protection of various rights, including rights of accessibility, and rights of employment.<sup>53</sup> Rights of employment are protected through measures including the Bureau of Local Employment maintaining a register of all people with disabilities and their individual skill levels.<sup>54</sup> The National Council for the Welfare of Disabled Persons (NCWDP) also has some responsibility for the rights of people with disabilities. Notwithstanding the legislative safeguards, progress has been slow, at least in terms of accessibility: reports suggest that “implementing regulations are weak, funding was inadequate, and government programs were inadequately focused on integration.”<sup>55</sup> Access to education is also problematic; there are very few adequately equipped schools and adequately trained teachers.<sup>56</sup> Poverty is also endemic among people with disabilities in the Philippines.<sup>57</sup>

The Philippines has expressed support for a convention that “enhance[s] the promotion and protection of the human dignity of persons with disabilities by establishing specific criteria for their inclusion in all state activities relating to their economic, social, cultural as well as civil and political rights.”<sup>58</sup>

## **Sri Lanka**

In Sri Lanka, disability issues are addressed by a number of pieces of legislation, with the Protection of the Rights of Persons With Disabilities Act 1996 being of particular significance.<sup>59</sup> One of the results of this Act was the creation of the National Council for Persons with Disabilities, which has a range of responsibilities relating to promoting and protecting the rights of people with disabilities. The Sri Lankan Government has introduced measures including affirmative action quotas, educational programs and

---

Dignity of Persons with Disabilities, Bangkok, October 2003, accessible at <http://www.worldenable.net/bangkok2003a/paperpakistan.htm>

<sup>53</sup> Japan International Cooperation Agency, *Country Report: the Republic of the Philippines*, March 2002, accessible at [http://www.jica.go.jp/english/global/dis/pdf/phi\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/phi_eng.pdf) and US State Department, “Country Reports on Human Rights Practices 2002: The Philippines,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18261.htm>

<sup>54</sup> US State Department, “Country Reports on Human Rights Practices 2002: The Philippines,” 31 March 2003 accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18261.htm>

<sup>55</sup> Ibid.

<sup>56</sup> Japan International Cooperation Agency, *Country Report: the Republic of the Philippines*, March 2002, accessible at [http://www.jica.go.jp/english/global/dis/pdf/phi\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/phi_eng.pdf)

<sup>57</sup> Ibid.

<sup>58</sup> Catalina Fermin, “Country Paper on the Elaboration of the Proposed International Convention on Disability”, delivered to the Regional Meeting on an International Convention on Disability, Beijing, November 2003, accessible at <http://www.worldenable.net/beijing2003/paperphilippines.htm>

<sup>59</sup> For a full list of relevant legislation, see Japan International Cooperation Agency, *Country Report: the Democratic Socialist Republic of Sri Lanka*, March 2002, p12, accessible at [http://www.jica.go.jp/english/global/dis/pdf/sri\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/sri_eng.pdf)

vocational training ‘income generation schemes’.<sup>60</sup> In general, however, these schemes have been poorly implemented and their accompanying laws have been poorly enforced.<sup>61</sup> Moreover, while there is anti-discrimination legislation in Sri Lanka, there are no reports of cases being filed under the legislation.<sup>62</sup>

Several specific areas have been identified as needing improvement. Education is a real problem: “young people with disabilities feel that they are discouraged from going to school. Those that do attend are often discriminated against by both [teachers] and their peers and as a result do not learn.”<sup>63</sup> Accessibility is also problematic, largely because Sri Lankan law does not mandate accessibility requirements: “almost all public buildings are inaccessible to persons with disabilities.”<sup>64</sup> It should also be noted that Sri Lanka’s ongoing internal conflict may have added to the difficulties facing the Sri Lankan Government with respect to disabilities, both because funds have been spent on the conflict and because the number of people with disabilities is growing as a result of the conflict.<sup>65</sup> Sri Lanka supports a convention on the rights of people with disabilities.<sup>66</sup>

### **Thailand**

The rights of people with disabilities in Thailand are protected under the Constitution and under various other pieces of legislation. The Constitution protects the rights of people with disabilities to education and employment free from discrimination, and also their rights of accessibility to public places.<sup>67</sup> There are also schemes aimed at affirmative action and at compiling a register of people with disabilities.<sup>68</sup>

---

<sup>60</sup> Kamala Association for Women with Disabilities, “NGO Perspectives: Sri Lanka” Paper, accessible at [http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka\\_e.html](http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka_e.html)

<sup>61</sup> Ibid.

<sup>62</sup> US State Department, “Country Reports on Human Rights Practices 2002: Sri Lanka,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18315.htm>

<sup>63</sup> Kamala Association for Women with Disabilities, “NGO Perspectives: Sri Lanka” Paper, accessible at [http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka\\_e.html](http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka_e.html)

<sup>64</sup> Japan International Cooperation Agency, *Country Report: the Democratic Socialist Republic of Sri Lanka*, March 2002, p6, accessible at [http://www.jica.go.jp/english/global/dis/pdf/sri\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/sri_eng.pdf). See also US State Department “Country Reports on Human Rights Practices 2002: Sri Lanka,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18315.htm> and Kamala Association for Women with Disabilities, “NGO Perspectives: Sri Lanka” Paper, accessible at [http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka\\_e.html](http://www.dinf.ne.jp/doc/english/intl/02rnn/srilanka_e.html)

<sup>65</sup> Japan International Cooperation Agency, *Country Report: the Democratic Socialist Republic of Sri Lanka*, March 2002, p6, accessible at [http://www.jica.go.jp/english/global/dis/pdf/sri\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/sri_eng.pdf)

<sup>66</sup> Sri Lanka was a signatory of the Beijing Declaration of 7 November 2003, in which the signatories agreed to a number of guiding principles and considerations for the drafting of the convention. The Beijing Declaration is accessible at <http://www.cdpf.org.cn/english/top-1.htm>

<sup>67</sup> US State Department “Country Reports on Human Rights Practices 2002: Thailand,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18265.htm>

<sup>68</sup> Japan International Cooperation Agency, *Country Report: Kingdom of Thailand*, March 2002, p8, accessible at [http://www.jica.go.jp/english/global/dis/pdf/tha\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/tha_eng.pdf) and US State Department, “Country Reports on Human Rights Practices 2002: Thailand,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18265.htm>

As is all too common with such legislation, however, it appears that the Thai legislation is poorly implemented and is often overborne by a culture of discrimination. Thus while a significant number of children with disabilities were able to attend school, inadequate facilities mean the majority cannot.<sup>69</sup> Similarly, affirmative action programs appear to go largely unenforced.<sup>70</sup> The Constitutionally mandated rights of accessibility have not been translated into reality for public buildings or public transport.<sup>71</sup> An extraordinary example of discrimination occurred in 2002 when the Thai Constitutional Court has approved a ban on people with disabilities entering the judiciary. The Court ruled that the ban did not violate constitutional guarantees and that the ban was designed to ensure that judges were people of “optimal potential.”<sup>72</sup>

Thailand has been a strong supporter of a convention on the rights of people with disabilities; the Thai Government has expressed its support for the Bangkok Recommendations on the Elaboration of a Comprehensive and Integral International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities.<sup>73</sup>

### **Conclusion**

The rights of people with disabilities in the Asia Pacific are not being effectively promoted or protected by most governments in the region. National human rights institutions in the Asia Pacific, too, have much room for improvement in this area. As the world’s attention turns to disability rights and the possibility of a convention, attention should also be paid to the realities of life for people with disabilities in this region and throughout the world. Until this occurs, the governments of the Asia Pacific will continue to fail their people.

---

<sup>69</sup> Japan International Cooperation Agency, *Country Report: Kingdom of Thailand*, March 2002, p9, accessible at [http://www.jica.go.jp/english/global/dis/pdf/tha\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/tha_eng.pdf) and US State Department, “Country Reports on Human Rights Practices 2002: Thailand,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18265.htm>

<sup>70</sup> Japan International Cooperation Agency, *Country Report: Kingdom of Thailand*, March 2002, p8, accessible at [http://www.jica.go.jp/english/global/dis/pdf/tha\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/tha_eng.pdf) and US State Department, “Country Reports on Human Rights Practices 2002: Thailand,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18265.htm>

<sup>71</sup> Japan International Cooperation Agency, *Country Report: Kingdom of Thailand*, March 2002, p8, accessible at [http://www.jica.go.jp/english/global/dis/pdf/tha\\_eng.pdf](http://www.jica.go.jp/english/global/dis/pdf/tha_eng.pdf) and US State Department, “Country Reports on Human Rights Practices 2002: Thailand,” 31 March 2003, accessible at <http://www.state.gov/g/drl/rls/hrrpt/2002/18265.htm>

<sup>72</sup> “Thailand Court Upholds Ban on Disable Judges”, Kay Schriener, *Disability World Webzine*, April-May 2002, accessible at [http://www.disabilityworld.org/04-05\\_02/gov/thailand.shtml](http://www.disabilityworld.org/04-05_02/gov/thailand.shtml)

<sup>73</sup> Statement of Pravit Chaimongkol, Thailand’s Deputy Permanent Representative to the UN to the Second Session of the Ad Hoc Committee, 17 June 2003, accessible at <http://www.un.org/esa/socdev/enable/rights/contrib-thailand.htm>