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

(Item 5 of the provisional agenda)

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

SUMMARY

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

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

At the regional level, the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (BMF), adopted in 2002, sets out detailed guidelines and recommendations for Governments to ensure that the rights of persons with disabilities are protected and promoted and that development activities are inclusive of persons with disabilities. It brings together the human rights concept delineated in the Convention on the Rights of Persons with Disabilities and the development targets set out in the Millennium Development Goals.

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INTRODUCTION

1. The purpose of this paper is to review the significance of the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (BMF) in promoting a rights-based approach to development for persons with disabilities in the region and to show its linkage to the Millennium Development Goals (MDGs) and the Convention on the Rights of Persons with Disabilities, the two global initiatives.

I. RIGHTS-BASED APPROACH TO DEVELOPMENT

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

2. Human rights and development both aim to promote well-being and freedom, based on the inherent dignity and equality of all people.¹ A decent standard of living, adequate health care, gender equality, and basic education are some of the features of human development. Human development aims at creating an enabling environment in which people's capacities can be enhanced and their range of choices expanded. Human rights are universal legal guarantees protecting individuals and groups from actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Within a development framework, human rights are moral and legal claims on the behaviour of individual and collective agents, and on the design of social arrangements, such as institutions, laws and enabling environments. The existence of human rights establishes an obligation to implement policies that put these conditions into place.²

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

4. A rights-based approach to development integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international treaties and declarations. The principles include equality and equity, accountability, empowerment and participation. A rights-based

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

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

³ Ibid.

approach to development thus includes an express linkage to these principles and attention to vulnerable groups.⁴

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

6. Mere charity is not enough from a human rights perspective. A rights-based approach therefore, gives preference to strategies for empowerment over charitable responses. It focuses on beneficiaries as the owners of rights and the directors of development, and emphasizes the person as the centre of the development process. It aims at giving people the power, capacities, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies.

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

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

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

⁴ The content of this para and the following paras under this section have been derived from, Office of the United Nations High Commissioner for Human Rights, Geneva, Switzerland, Rights-Based Approaches, *What is a rights-based approach to development?*, available at <<http://www.unhcr.ch/development/approaches-04.html>>.

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

10. The links between human rights and development have figured prominently in United Nations deliberations for more than half a century. The right to development can be traced to the provisions of the Charter of the United Nations,⁵ the Universal Declaration on Human Rights,⁶ and the two International Human Rights Covenants, the International Covenant on Economic, Social and Cultural Rights⁷ and the International Covenant on Civil and Political Rights.⁸

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

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

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

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

15. The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993 reaffirmed by consensus the right to development as a universal and

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

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

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

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

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

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

inalienable right and an integral part of fundamental human rights.¹¹ In 1995, the Copenhagen Declaration adopted at the World Summit for Social Development, reaffirmed the link between human rights and development by establishing a new consensus that places people at the centre of concerns for sustainable development, and by pledging to eradicate poverty, to promote full and productive employment, and to foster social integration to achieve stable, safe and just societies for all.¹²

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

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

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

19. This global commitment was reaffirmed thereafter at the International Conference on Financing for Development in Monterrey, Mexico, in 2002,¹⁵ and again at the Johannesburg World Summit on Sustainable Development in 2002.¹⁶ At the World Summit in 2005 in New York,¹⁷

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

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

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

¹⁴ The eight Millennium Development Goals are as follows, Goal 1- Eradicate extreme poverty and hunger; Goal 2- Achieve universal primary education; Goal 3-Promote gender equality and empower women; Goal 4-Reduce child mortality; Goal 5-Improve maternal health; Goal 6-Combat HIV/AIDS, malaria and other diseases; Goal 7- Ensure environmental sustainability; Goal 8-Develop a global partnership for development. A full list of goals, targets and indicators, is available at, <<http://www.undp.org/mdg/goallist.shtml>>.

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

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

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

Governments again reaffirmed their strong and explicit commitment to achieve the Millennium Development Goals by 2015.

II. DISABILITY AND RIGHTS-BASED APPROACH TO DEVELOPMENT

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

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

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

23. The rights of persons with disabilities started to gain visibility in the 1970s when the General Assembly adopted two resolutions: the Declaration on the Rights of Mentally Retarded Persons, 1971²¹ and the Declaration on the Rights of Disabled Persons, 1975.²² Both the Declarations were based on the principle that persons with disabilities have the same human rights as all other human beings. The proclamation by the United Nations General Assembly of the year 1981 as the International Year of the Disabled under the slogan, Full Participation and Equality, marked an

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

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

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

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

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

irreversible shift to the recognition of the rights of persons with disabilities. A major outcome of the International Year of Disabled Persons was the formulation of the World Programme of Action concerning Disabled Persons, adopted by the General Assembly in December 1982.²³ The World Programme of Action established a direct link between the United Nations human rights instruments and the disability agenda (para 164).

24. In order to provide a time frame during which Governments and organizations could implement the activities recommended in the World Programme of Action, the General Assembly proclaimed the period, 1983 to 1992, as the United Nations Decade of Disabled Persons.²⁴ During this period, various studies were conducted and guidelines adopted. Among the major outcomes of the Decade of Disabled Persons was the adoption by the General Assembly of the Tallinn Guidelines for Action on Human Resources Development in the Field of Disability in 1990,²⁵ Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care in 1991,²⁶ and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in 1993.²⁷ The Standard Rules provided that a Special Rapporteur with relevant and extensive experience in disability issues and international organizations be appointed to monitor the implementation of the Rules.²⁸ The first Special Rapporteur on Disability of the Commission for Social Development was appointed in 1994.²⁹

25. During this period, the rights of persons with disabilities also gained recognition among the general human rights and development instruments. Among the general human rights instruments, the Committee on Economic, Social and Cultural Rights, the monitoring body of the International Covenant on Economic, Social and Cultural Rights adopted the General Comment No. 5 on persons with disabilities in 1994.³⁰ According to General Comment No. 5, disability falls under the heading "other status" and is thus treated by the Committee as a ground in respect of which discrimination is prohibited.³¹ In 1989, the Convention on the Rights of the Child was adopted which explicitly referred to disability as one of the grounds for discrimination. It also has a separate article (article 23) on children with disabilities, which recognizes the special needs of a disabled child, with regard to

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

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

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

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

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

²⁸ *Ibid*, IV Monitoring Mechanism

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

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

³¹ *Ibid*, para 5.

education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities. The Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in 1993 also mentioned persons with disabilities (paras 63 and 64), affirming that persons with disabilities are entitled to all the human rights enjoyed by others.³²

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

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

28. In 2000, the Commission on Human Rights invited the United Nations High Commissioner for Human Rights to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities, in cooperation with the Special Rapporteur on disability of the

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

³³ *World Summit for Social Development*, A/CONF.166/9 of 19 April 1995, para 16(h), for more details see <<http://www.un.org/documents/ga/conf166/aconf166-9.htm>>.

³⁴ *Ibid*, para 39(e).

³⁵ *Ibid*, Chapter III, Expansion of productive employment and reduction of unemployment, para 62(a) to (c).

³⁶ *Ibid*, para 62(c).

³⁷ Osamu N., *The First Meeting of Ad Hoc Committee on a Convention of Rights of Persons with Disabilities Decides to Continue its Work*, International Movement against all Forms of Discrimination and Racism, available at <<http://imadr.org/old/tokyo/DisabilityConvention.html>>.

Commission for Social Development.³⁸ The first outcome of the project was the publication of *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*.³⁹ The study suggested options for the future, both to improve the use of existing human rights norms and mechanisms in relation to disability, and to consider the adoption of a thematic treaty on persons with disabilities.

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

30. On 19 December 2001, an Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities was established.⁴¹ The Ad Hoc Committee considered proposals for a Convention to promote and protect the rights and dignity of persons with disabilities, based on the holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development. At its Second Session, from 16 to 27 June 2003, the Ad Hoc Committee decided to establish a Working Group with the aim of preparing and presenting a draft text of a Convention, which would be the basis for negotiation by Member States. In accordance with General Assembly Resolution 58/246 of 23 December 2003, the Ad Hoc Committee started its negotiation on a draft Convention at its Third Session from 24 May to 4 June 2004, based on the draft text prepared by the Working Group. At its Eighth session from 14 to 25 August 2006, the Ad Hoc Committee adopted the draft text of the Convention including an Optional Protocol.⁴²

³⁸ United Nations High Commissioner for Human Rights, *Human rights of persons with disabilities*, Commission on Human Rights Resolution 2000/51, available at <[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.RES.2000.51.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.RES.2000.51.En?Opendocument)>.

³⁹ Quinn G. and Degener T. (2002), *Study on Human Rights and Disability*, the current use and future potential of United Nations human rights instruments in the context of disability, United Nations, New York and Geneva, available at <<http://www.unhchr.ch/disability/study.htm>>.

⁴⁰ Rapley, Clinton (2003), *Select Review of Background and Issues Associated with Elaboration of an International Convention on the Rights of Persons with Disabilities*, paper presented at the ESCAP Expert Group Meeting and Seminar on an International Convention to Protect and Promote the Rights and Dignity of Persons with Disabilities, Bangkok, Thailand, 2-4 June 2003, available at <<http://www.worldenable.net/bangkok2003/paperrapley.htm>>.

⁴¹ *Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities*, General Assembly Resolution 56/168 of 19 December 2001, for more details see <<http://www.un.org/esa/socdev/enable/rights/adhoccom.htm>>.

⁴² *Ibid.*

31. On 13 December 2006, the General Assembly adopted by consensus the Convention on the Rights of Persons with Disabilities and its Optional Protocol at the United Nations Headquarters in New York, and it was opened for signature on 30 March 2007.⁴³ There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and one ratification of the Convention, the highest number of signatories in history to a United Nations Convention on its opening day. It will need 20 ratifications in order to enter into force.

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

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

33. With the growing concern regarding the needs of persons with disabilities at the global level, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) took the initiative to declare the period, 1993 to 2002, as the Asian and Pacific Decade of Disabled Persons, and adopted the Agenda for Action for the Asian and Pacific Decade of Disabled Persons.⁴⁴ The Asian and Pacific Decade of Disabled Persons was extended for another decade from 2003 to 2012 to give further impetus to the goal of full participation and equality of people with disabilities. The Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific was adopted as its policy guideline.⁴⁵ It has seven priority areas for action, each of which identifies critical issues, and sets out targets and actions required to achieve those targets.

34. The Biwako Millennium Framework for Action incorporates a rights-based approach to development as its guiding principle. It defines a “rights-based” society as a society based on the concept of human rights, including the right to development.⁴⁶ It encourages Governments to actively implement the paradigm shift from a charity-based approach to a rights-based approach to the development of persons with disabilities, recognizing both the human rights perspective and the

⁴³ *Convention on the Rights of Persons with Disabilities and its Optional Protocol*, adopted by General Assembly Resolution 61/106, available at <<http://www.un.org/esa/socdev/enable/>>.

⁴⁴ *Asian and Pacific Decade of Disabled Persons, 1993-2002*, adopted by the United Nations Economic and Social Commission for Asia and the Pacific resolution 48/3 of April 1992, for details see <<http://www.unescap.org/esid/psis/disability/decade/about.asp#decade>>.

⁴⁵ *Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific*, adopted by the United Nations Economic and Social Commission for Asia and the Pacific at its fifty-eighth session by resolution 58/4 of 22 May 2002, available at <<http://www.unescap.org/esid/psis/disability/bmf/bmf.html>>.

⁴⁶ *Ibid*, Preamble, para 11.

perspective of the right to development for persons with disabilities.⁴⁷ It also recognizes that issues relating to persons with disabilities are vital concerns to be addressed in realizing the Millennium Development Goals.⁴⁸

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

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

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

37. Two Goals of the Millennium Development Goals have been translated in disability terms in two priority areas of the Biwako Millennium Framework for Action. Goal 1 of the Millennium Development Goals which sets the target of reducing by half the proportion of people living on less than one dollar a day and suffer from hunger has been integrated in priority area G of the Biwako Millennium Framework for Action – poverty alleviation through capacity-building, social security and sustainable livelihood programmes. Target 21 of this priority area requires that Governments should halve, between 1990 and 2015, the proportion of persons with disabilities whose income/consumption is less than one dollar a day. To achieve this target, the Biwako Millennium Framework for Action recommends that Governments include persons with disabilities in their national poverty alleviation programmes and mainstream disability issues into pro-poor development strategies. It also recommends that Governments include disability dimensions into the collection and analysis of millennium development goal baseline data on income poverty, education, health, etc.

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

⁴⁷ Ibid, Preamble, para 9.

⁴⁸ Ibid, Preamble, Para 13.

achieve these targets, the Biwako Millennium Framework for Action lays down actions required towards ensuring that growth strategies are tailored to meet the needs of children with disabilities.

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

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

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

42. The achievement of the targets and implementation of the actions and strategies of the Biwako Millennium Framework for Action would lead to the realization of the Millennium

⁴⁹ *Disability and the Millennium Development Goals*, Learning Publication, Disability Knowledge and Research, for more details see <<http://www.disabilitykar.net/learningpublication/developmentgoals.html>>.

Development Goals for persons with disabilities. It would further ensure that persons with disabilities as a subgroup are included in the development policies and programmes of the countries.

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

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

44. As mentioned earlier, the Convention emphasizes that development approaches are inclusive of persons with disabilities. It recognizes participation and inclusion as a principle, an obligation and a right (Articles 3, 4 and 5). It emphasizes participation to identify correctly specific needs and to empower the individual.⁵¹ It ensures that States must make “reasonable accommodation” for persons with disabilities.

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

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

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

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

⁵⁰ Gonnot, J.P. (2007), *Convention on the Rights of Persons with Disabilities: A Tool for Development*, and Byrnes A. (2007), *The Convention on the Rights of Persons with Disabilities: An Overview*, presentations made at the ESCAP Expert Group Meeting on the Promotion of Social and Economic Participation of Persons with Disabilities towards the Biwako Plus Five, Bangkok, Thailand, 28-29 February 2007; and the Second Session of the Biwako Millennium Framework Stakeholders’ Coordination Meeting (BMF-SCM), Bangkok, Thailand, 1-2 March 2007, for more details see <<http://www.unescap.org/esid/psis/disability/decadenew/newdecade.asp>>.

⁵¹ Ibid.

⁵² Ibid.

Priority area B: Women with disabilities

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

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

Priority area C: Early detection, early intervention and education

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

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

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

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

53. The Convention recognizes equal opportunities to work and employment through Article 27 on work and employment, including equal opportunities to self employment, entrepreneurship, vocational and professional rehabilitation, job retention, general technical and vocational guidance programmes, etc. It requires States Parties to ensure just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances. It also requires measures to be taken to protect the labour and trade union rights of persons with disabilities. Article 26 of the Convention on habilitation and rehabilitation, also ensures access to habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.

Priority area E: Access to built environments and public transport

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

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

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

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

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

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

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

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

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

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

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

61. Though most of the substantive articles of the Convention are covered in the seven priority areas of the Biwako Millennium Framework for Action, some of the rights of persons with disabilities have not been specifically addressed by it. For example, the cultural rights of persons with disabilities are referred to in para 29 of the critical issues of priority area C, which recognizes the “need to provide sport, leisure and recreational activities and facilities for persons with disabilities.” However, it does not have an action required under the same priority area. In contrast, the Convention has a separate article on participation in cultural life, recreation, leisure and sport (Article 30) requiring States Parties to provide access to cultural materials, television programmes, films, theatre and other cultural activities in accessible formats; ensuring access to places for cultural performances or services; and requiring appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential. Furthermore, the Convention also ensures the protection of persons with disabilities in situations of risk and humanitarian emergencies (Article 11), which has been recognized as an important aspect especially after recent natural calamities. This has however not been addressed in the Biwako Millennium Framework for Action.

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

IV. CONCLUSION

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

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

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

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

actions to create an inclusive, barrier-free and rights-based society for persons with disabilities in Asia and the Pacific.

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

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