

# **Legal Regime on Inclusive Education: National and Transnational Legal Mechanism for the Development of Comprehensive Education**

**J. Devakumar, Ph.D.**

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## **Special Needs and Equality**

Any child may experience a special need during the course of educational years. Some children feel 'left-outs' and never enter school or enter only for a few years and, as repeaters, become 'drop-outs' or, more correctly 'pushed-outs', without their needs having been met. These children are a vivid illustration of the failure of schools to teach rather than the pupils' failure to learn. A school system emphasizing Education for All should ensure the right of all children to a meaningful education based on individual needs and abilities. It was recognized by the government that people with disabilities have the same right to education as other citizens but the needs of a nation grappling with a myriad problems, poverty and sheer survival needs of its people made it difficult to sustain focus on the development of services for disabilities.

## **State's Responsibility**

The Constitution of India does not explicitly include children with disabilities in the provisions made for education, but Article 41 does mention people with disabilities and says in part "the State shall within the limits of its economic development make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness, disablement and in other cases of undesired want". It does not mandate the free and compulsory education as a fundamental right and is merely a directive principle to guide state policy but Article 45 does rectify this by stating that free and compulsory education should be provided for ALL children until they complete the age offourteen" The ALL is never specifically explained.

## **The Role of Regular Schools to Provide Special Education**

Language in India [www.languageinindia.com](http://www.languageinindia.com)

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The regular schools will now increasingly play a major role in making provision for children with special educational needs available nation-wide. Making the school system flexible and adopting an inclusive approach may be the amicable solution to empower the neglected children. In this paper an attempt has been made to explain the present condition of the neglected children. There are many number of National and Transnational conventions and laws implemented, it is to analyse whether these constitutional developments brought those children and changed their societal care.

### **Uniqueness of Every Child**

Every child has a fundamental right to education, and must be given the opportunity to achieve and maintain an acceptable level of learning, every child has unique characteristics, interests, abilities and learning needs, education systems should be designed and educational programmes implemented to take into account the wide diversity of these characteristics and needs, those with special educational needs must have access to regular schools which should accommodate them within a child centred pedagogy capable of meeting these needs, regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system.

**Salamanca Statement** (<http://www.csie.org.uk/inclusion/unesco-salamanca.shtml>)

**Salamanca Statement** called upon all governments and urge them to: give the highest policy and budgetary priority to improve their education systems to enable them to include all children regard lessor f individual differences or difficulties, adopt as a matter of law or policy the principle of inclusive education, enrolling all children in regular schools, unless there are compelling reasons for doing otherwise, to develop demonstration projects and encourage exchanges with countries having experience with inclusive schools, it should establish decentralized and participatory mechanisms for planning, monitoring and

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evaluating educational provision for children and adults with special education needs, encourage and facilitate the participation of parents, communities and organization of persons with disabilities in the planning and decision making processes concerning provision for special educational needs, invest greater effort in early identification and intervention strategies, as well as in vocational aspects of inclusive education, ensure that, in the context of a systemic change, teacher education programmes, both pre-service and in-service, address the provision of special needs education in inclusive schools.

### **What Shall be the Nature of Inclusive Education?**

Inclusive education must respond to all pupils as individuals, recognizing individuality as something to be appreciated and respected. Inclusive education responding to special needs will thus have positive returns for all pupils. • All children and young people of the world, with their individual strengths and weaknesses, with their hopes and expectations, have the right to education. It is not our education systems that have a right to a certain type of children. Therefore, it is the school system of a country that must be adjusted to meet the needs of all its children. That is a big and difficult task, but "where there is a will there is a way!"

*“A dominant problem in the disability field is the lack of access to education for both children and adults with disabilities. As education is a fundamental right for all, enshrined in the Universal Declaration of Human Rights, and protected through various international conventions, this is a very serious problem. In a majority of countries, there is a dramatic difference in the educational opportunities provided for disabled children and those provided for non-disabled children. It will simply not be possible to realize the goal of Education for All if we do not achieve a complete change in the situation.”-----*

Dr. Bengt Lindquist, the United Nations Special Rapporteur on Human Rights and Disability. UNICEF

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