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**ACCESSIBLE EDUCATION FOR PERSONS WITH DISABILITY:  
A Critical Appraisal in Light of the New Education Policy, 2020**

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# ACCESS TO EDUCATION FOR PEOPLE WITH DISABILITIES: A Critical Appraisal of New Education Policy

*Sachin Sharma\* & Saheb Chowdhury\*\**

[Abstract: Accessible education for individuals with disabilities is a basic right and an essential component of inclusivity. It enables individuals to lead autonomous and dignified lives. For this reason, accessible education is prioritised under the Sustainable Development Goals. The New Education Policy aims to ensure universal access to quality education, thereby fostering a just and equitable society. However, when contextualised in relation to accessible education for individuals with disabilities, it lacks a constructive framework aligned with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the Rights of Persons with Disabilities Act (RPWD). The NEP's proposition of home-based education for individuals with cognitive disabilities violates the principle of inclusion and risks promoting segregation. There is an urgent need to adopt a participatory model of discourse, taking inspiration from the Finnish model of accessible education. Such an approach is essential for advancing and celebrating inclusion and diversity in education.]

Keywords: Access to education, autonomy, capability, inclusion, & universal design etc.

## I

### Introduction

The right to access is a fundamental right that is crucial for enabling individuals to lead autonomous and dignified lives. Accessibility becomes even more significant when addressing the needs of persons with disabilities. Without ensuring and implementing the right to access, all other rights would hold diminished or limited meaning for them. Access is the cornerstone of equality, serving as the foundation for a society free from discrimination and ensuring that every individual has an equal opportunity to participate fully and independently. The right to access is

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essential as it guarantees inestimable dignity, autonomy, self-determination and inherent equality, all of which are necessary for an individual to be at the center of their decision-making.<sup>1</sup> In other words accessibility ensures legal capacity and independent decision-making.<sup>2</sup> Thus, accessibility is a fundamental prerequisite for people with disabilities to live independently and equally within society. Without access to physical infrastructure, communication, and information—including education—people with disabilities are deprived of equal opportunities.<sup>3</sup> This is not the first instance where the United Nations Convention on the Rights of Persons with Disabilities (hereinafter UNCRPD) has emphasised the principles of accessibility. Historically, the disability rights movement has consistently advocated for accessibility in the physical environment, including transportation, as a prerequisite for the freedom of movement guaranteed under article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights.<sup>4</sup> Similarly, access to information and communication, including education, is regarded as a prerequisite for the freedom of opinion and expression, as guaranteed under article 19 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights.<sup>5</sup> Furthermore, when addressing access to education for children with disabilities, General Comment No. 9 (2006) on the rights of children with disabilities by the “Committee on the Rights of the Child” emphasized that physical inaccessibility—including transportation, educational institutions, buildings, and other infrastructure—is a significant factor contributing to the marginalization and exclusion of children with disabilities. This inaccessibility has severely compromised their access to essential services, including health and education. The Committee, in its General Comment No. 17, further reiterated the critical importance of ensuring accessibility.<sup>6</sup> Here it can be argued that the evolution of accessibility as a basic right has been recognized and shaped by progressive international legal narratives. This recognition marks a paradigm shift from a charity-based model to a rights-based model,<sup>7</sup> which is crucial for addressing and

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<sup>1</sup> Amita Dhanda, *Legal Capacity in Disability Rights Convention: Strongholds of the Past or Lodestar for the Future?* 34 SYRACUSE JOURNAL OF INTERNATIONAL AND COMMERCE 429 (2007).

<sup>2</sup> Articles 5, 10, 12, 19, and 23, UNCRPD.

<sup>3</sup> CDS, NALSAR, *Finding Sizes for All: A Report on the Status of the Right to Accessibility in India* (2024).

<sup>4</sup> General Comment No. 1 on Right to Accessibility, Article 9, UNCRPD.

<sup>5</sup> Art. 18 & 19, ICCPR, 1966.

<sup>6</sup> General Comment No. 17, Committee on Right of Child, 2013.

<sup>7</sup> Para 14 of *Rajive Raturi v. Union of India*, Writ Petition (c) No. 243 of 2005, decided on 8th November 2024.

dismantling the historical marginalization and “othering” of people with disabilities.<sup>8</sup>

However, when we examine the ground realities, a disheartening picture emerges. For instance, the “World Report on Disability” emphasizes that the built environment, transportation systems, and information and communication infrastructure remain largely inadequate and inaccessible for people with disabilities.<sup>9</sup> The situation has not improved significantly even after all these years, rendering the existing rights inaccessible and reducing them to little more than items on a menu, unattainable without the means to access them.<sup>10</sup> In the context of access to education, the data presents a grim reality: only 9% of students with disabilities complete their secondary education, while 45% of individuals with disabilities aged between three and thirty-five are illiterate. Students with cerebral palsy, autism, psychosocial disabilities, and particularly girls with disabilities, are among the most marginalized. With such stark disparities and a persistently inaccessible environment,<sup>11</sup> the country remains unprepared to equitably accommodate people with disabilities.<sup>12</sup>

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<sup>8</sup> Pieter Verstraete, *Towards a Disabled Past: Some Preliminary Thoughts about the History of Disability, Governmentality and Experiences*, 10 EDUCATIONAL PHILOSOPHY AND THEORY 56-63 (2007).

<sup>9</sup> World Health Organization and the World Bank, *World Report on Disability* 10 (2011).

<sup>10</sup> The rights enshrined under different laws including constitutional law are like menu cards of the restaurant unless not accessible. The expression is borrowed from Henry Shue’s conception of basic rights, where he argues for subsistence and security rights. For details, *See* Henry Shue, BASIC RIGHTS 13-20 (1980).

<sup>11</sup> Justice AK Sikri, Justice Abdul Nazeer made strong remarks on non-compliance of directions of Hon’ble Supreme Court on accessibility. They stated, “more than a year has passed since the judgment was delivered. The indifferent attitude of the states and union territories shows that they are not serious in complying with the directions contained in this judgment”. *See also Rajive Raturi v. Union of India*, Writ Petition (C) 243 of 2005, decided on 15<sup>th</sup> December 2017.

<sup>12</sup> For instance, less than 40% of schools in India have ramps, 17% of schools have accessible toilets. The situation is also substantiated through the various field visits of authors to local government schools of Himachal Pradesh and Assam through organizing outreach programs at various schools. Thus, New Education Policy has long way to go to achieve its own outcomes as outlined in PARAKH Rashtriya Sarvekshan, 2024.

## II

### Accessible Education and Capability: Its Impacts on Individuality

As discussed earlier, it is a well-established fact that the right to access is a fundamental right. The term “access” is generally understood in a broader sense, encompassing (but not limited to) access to knowledge, information, spaces, communication, transportation, and other infrastructures, including virtual platforms. Within this framework, access to education emerges as a fundamental right. In the modern era of globalization and technological advancement, education empowers individuals by enabling them to stay informed about developments across political, social, and economic spheres. It provides a platform for individuals to voice their concerns—concerns that might otherwise remain unheard or suppressed. In this sense, education acts as an enabler, equipping individuals with the tools to make informed decisions. This perspective is further reinforced by Martha Nussbaum’s capability approach, which identifies critical indicators that allow an individual to lead a complete, autonomous, and dignified life. Access to education, therefore, plays a pivotal role in realizing these capabilities and fostering meaningful participation in society.<sup>13</sup> It emphasises an individual’s free choice and freedom, enabling one to make decisions independently, without undue influence or fear. The threshold of autonomy is grounded in the availability of freedom, choices, and opportunities. Therefore, the absence or failure of such opportunities results in the denial of capabilities, ultimately leading to inequality and discrimination.<sup>14</sup> In this context, access to education enables an individual to exercise their freedom of speech and expression in a rational and autonomous manner, thereby empowering them to act as a moral agent, as articulated by Immanuel Kant.<sup>15</sup> At the same time, education facilitates the right to information in a meaningful way, empowering individuals to critically evaluate the information they receive and deconstruct its “normalization”.<sup>16</sup> Thus, the significance of

<sup>13</sup> Nussbaum in her work describes central capabilities, which are essential for living an autonomous and dignified life. These include, life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; relation with other species; play and control over one’s environment. See Martha C. Nussbaum, *CREATING CAPABILITIES, THE HUMAN DEVELOPMENT APPROACH* 17-35 (2011).

<sup>14</sup> Shija Kuhumba, *Amartya Sen’s Capability Approach as Theoretical Foundation of Human Development*, 1(1) *JOURNAL OF SOCIOLOGY AND DEVELOPMENT* 127-145 (2021). See also Amartya Sen, *DEVELOPMENT AS FREEDOM* 13-34 (2000).

<sup>15</sup> Jean P. Rumsey, *Agency, Human Nature and Character in Kantian Theory*, 24 *THE JOURNAL OF VALUE INQUIRY* 109-121 (1990). See also Lara Denis (ed.), *KANT: METAPHYSICS OF MORALS* (2017).

<sup>16</sup> The expression ‘normalization’ is used in the Foucauldian sense, where he argues that how power (knowledge) normalises the masses. Leonard Lawlor, John Nale (ed.), *THE*

education becomes futile if it is confined solely to materialistic understanding and superficial dissemination of information. In other words, if education is manipulated to propagate biased or misleading information aimed at hegemonizing societal perspectives, it ceases to be a boon and instead becomes a bane.<sup>17</sup> This is because it begins to control the choices, thoughts, decisions, and emotions of individuals, including those with disabilities, thereby undermining their autonomy and perpetuating systemic inequalities.<sup>18</sup> This approach to education is often referred to as the “therapy model”, where the system undermines an individual’s rational capabilities and suppresses their voices under the dominance of third-person narratives. Sherry Arnstein, in her seminal work “Ladder of Citizen Participation”, highlights a similar phenomenon: under the guise of discursive knowledge, individuals are subjected to a form of “therapeutic treatment” that denies them genuine participation and agency.<sup>19</sup> In this way, education may distort the individual’s “Self”, i.e., “Beingness” of human beings.<sup>20</sup> Thus, education often creates a curated set of information and knowledge that is disseminated with the intent of serving specific purposes or achieving particular goals.<sup>21</sup> In doing so, it undermines the autonomy and dignity of individuals—the very principles that access to education seeks to uphold. Therefore, it is important to critically examine whether access to education for people with disabilities is confined to a materialistic understanding or genuinely fosters capacity building and empowerment. In the following section of this paper, we will analyse the New Education Policy (NEP) and its applicability to people with disabilities.

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CAMBRIDGE FOUCAULT LEXICON, Chapter 54 (2014). *See also* Michel Foucault, POWER/KNOWLEDGE: SELECTED INTERVIEWS AND OTHER WRITINGS (Colin Gordon ed., 1980).

<sup>17</sup> Shelley Theman (ed.), FOUCAULT AND THE GOVERNMENT OF DISABILITY 1-20 (2008).

<sup>18</sup> Antonio Gramsci, PRISON NOTEBOOKS, Vol. I (1992).

<sup>19</sup> Sherry R. Arnstein, *A Ladder of Citizen Participation*, JOURNAL OF AMERICAN INSTITUTE OF PHYSICS 216-226 (1969).

<sup>20</sup> Martin Heidegger, BEING AND TIME (1967). Heidegger argues in modern times we have distorted the self of the individual in a sense that we gave material meaning and expressions to everything and ignored the inner aspect of humanity, as he calls it the Beingness of human beings. According to him, modernity gave the material meanings to every living and non-living thing.

<sup>21</sup> The gain includes monetary profit or capitalist promotion. *See* Noam Chomsky & Edward Herman, MANUFACTURING CONSENT: THE POLITICAL ECONOMY OF MASS MEDIA 13-28 (1988).



### III

#### **New Education Policy and People with Disabilities: A Critical Analysis**

The National Education Policy, 2020 (hereinafter NEP) was introduced with the aim of ensuring universal access to quality education and thereby creating a just and equitable society.<sup>22</sup> It intends to give effect to SDG-4 of the 2030 Agenda for Sustainable Development, which has been adopted by India, that seeks to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” by 2030.<sup>23</sup> In order to achieve that it has the goal of revamping India’s education system to make education accessible to all and foster learning. The policy specifically states:

“The new education policy must provide to all students, irrespective of their place of residence, a quality education system, with particular focus on historically marginalised, disadvantaged, and underrepresented groups. Education is a great leveller and is the best tool for achieving economic and social mobility, inclusion, and equality. Initiatives must be in place to ensure that all students from such groups, despite inherent obstacles, are provided various targeted opportunities to enter and excel in the educational system”.<sup>24</sup>

It is clear that, among others, it aims to make the education system more inclusive, flexible, and accessible for all learners, including traditionally marginalised groups which certainly includes persons with disabilities (PWDs). As can be further noted, it also focuses on enhancing access by proposing barrier-free environments, requiring the use of assistive devices and technology based tools, using language appropriate teaching learning materials, and providing specialised support through trained educators, including special educators to support the rehabilitation and educational needs of learners with severe or multiple disabilities.<sup>25</sup> It can, therefore, be preliminarily noted that alignment with the Rights of Persons with Disabilities (RPWD) Act, 2016 is an aim of this policy to ensure that the needs of PWDs are met.

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<sup>22</sup> Takeshi Sekiya & Keiichi Ogawa, *et. al. (eds.)*, TOWARDS ENSURING INCLUSIVE AND EQUITABLE QUALITY EDUCATION FOR ALL: ANALYSING SCHOOL ENROLMENT PATTERNS (2024). See also New Education Policy, available at:

[https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf) (last visited Sept. 21, 2024).

<sup>23</sup> Available at:

[https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf) Introduction (last visited Sept. 21, 2024).

<sup>24</sup> *Id.*

<sup>25</sup> Para 6.11 & 6.12 of NEP.

However, while the NEP 2020 lays out an ambitious vision, there is certainly scope for many improvements. We can begin by noting the absence of a detailed actionable plan that explains how the inclusive measures will be effectively implemented. Since equitable access is its aim, as stated above, it must also explicitly state what measures will be taken in rural, distant and underserved areas for making schools more accessible to people with disabilities.<sup>26</sup> Furthermore, the policy generally speaks of creating accessible schools including integration of assistive devices, and technology-based tools such as Braille and large print textbooks etc. While this is commendable, it must also address the issue of resource constraints faced by a country like India and, at least, propose a funding mechanism or budgetary target that is required to meet these goals. As mentioned above, if we are to transform schools to make them more accessible, particularly in rural areas, we need a clear-cut target in terms of financial allocation, a mechanism to generate additional governmental revenue as may be required, and also a mechanism for coordination among different governments on such issues, to make these goals of the NEP truly achievable.

Moreover, while the provision for home-based education for children with severe disabilities, well-intentioned, extreme precautions have to be taken to ensure that there is no segregation based on disabilities. There is a need for extreme precaution to ensure that students with disabilities are not isolated from their peers. According to disability jurisprudence, exclusionary practices run against the idea of equity and go against the social model of disability, which emphasises that it is the environment that creates barriers and has nothing to do with the disability of an individual.<sup>27</sup> Social model advocates for full inclusion in mainstream settings including educational settings. While the home-based education may be an alternative in certain limited cases, the focus should instead be on strengthening mainstream schools to accommodate students with diverse needs. This can ensure that everyone, particularly persons with disabilities, are equally part of the broader learning community.

Teacher training is another area that is worth focusing on. The NEP, at para 5.21 and 6.12 mentions the recruitment of special educators and the need for inclusive pedagogy. However, it does not go far enough in requiring that mainstream

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<sup>26</sup> As we know, infrastructural accessibility is a major concern in rural areas and work as a disadvantage for people with disabilities. Though there are guidelines for accessibility standards for rural areas, the implementation of these guidelines is a major concern. The problem of accessibility is also highlighted under the official documentary of the Accessible India Campaign. The guidelines are *available at*: [https://rural.gov.in/sites/default/files/AIC%20Guideline-2023\\_09012023.pdf](https://rural.gov.in/sites/default/files/AIC%20Guideline-2023_09012023.pdf) (last visited Sept. 21, 2024).

<sup>27</sup> Tom Shakespeare, *THE DISABILITY STUDIES READER: THE SOCIAL MODEL OF DISABILITY* 266-273 (Lennard J. Davis *ed.*, 2010).

teachers also receive the comprehensive training necessary to engage diverse classrooms. While special educators are necessary, there is an even greater need of equipping all teachers with the tools, training and capacities to support students with disabilities. True inclusion requires mainstreaming everyone. For instance, pre-service teacher education programs could incorporate specific training on disability inclusion and sensitisation, while in-service training could focus on strategies to accommodate students with different types of disabilities. This will not only ensure reduced dependency on specialised staff, but also make everyone feel more included into the mainstream education system. Therefore, every effort should be made to ensure that a universalistic approach is taken in ensuring access to education of persons with disabilities. While we discuss this in greater details below, it is worth pointing out that Finland ensures that all teachers are trained to work with students of all abilities.<sup>28 29</sup> There is a lot for India to learn from the best practices around the world. However, it is also worth noting that, while an argument is advanced for training of mainstream teachers, it should not be meant to understand that specialists are not required. In this regard, the NEP 2020 could have also, in order to promote inclusion, required employment of support staff, including psychologists, speech therapists, occupational therapists, and mobility instructors, in schools, who have a major role to play. These specialists cannot only address the wide range of disabilities that students might experience, but in fact enhance participation of disabled students in mainstream education. However, it must also be kept in mind that such specialists might be less available in rural, distant and underserved areas. Therefore, the policy that has equity as a main aim should mandate the employment of such experts in these areas. In this regard, in order to enhance availability of such specialists, the NEP 2020 could also mandate the promotion of special education by requiring promotion of specialised training programs or using other incentives for teachers who are motivated to educate PWDs. When it comes to best practices, the policy could also have specifically emphasised on curriculum design to make education universally accessible. For instance, it could have emphasised on integrating Universal Design for Learning (UDL), “a teaching approach that works to accommodate the needs and abilities of all learners and eliminates unnecessary hurdles in the learning process”.<sup>30</sup>

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<sup>28</sup> Available at: <https://blogs.worldbank.org/en/education/teachers-and-trust-cornerstones-finnish-education-system> (last visited Sept. 21, 2024).

<sup>29</sup> Available at: <https://www.weforum.org/agenda/2018/09/10-reasons-why-finlands-education-system-is-the-best-in-the-world/> (last visited Sept. 21, 2024).

<sup>30</sup> International Disability Alliance, *Universal Design for Learning and its Role in Ensuring Access to Inclusive Education for All* available at: [https://www.internationaldisabilityalliance.org/sites/default/files/universal\\_design\\_for\\_learning\\_final\\_8.09.2021.pdf](https://www.internationaldisabilityalliance.org/sites/default/files/universal_design_for_learning_final_8.09.2021.pdf) Also see: <https://teaching.cornell.edu/teaching-resources/designing-your-course/universal->

Application of UDL principles in developing and designing the curriculum could ensure that all students have equal opportunities to learn by ensuring flexibility in presentation of information, in engagement of students with content and in how students demonstrate their learning. Such an approach would enhance the inclusive learning environment. The idea is also supported by UNCRPD, 2006, where it advocated for universal design for accessibility.<sup>31</sup>

With respect to Higher Education, the NEP 2020 mandates that all higher education institutions (HEIs) be wheelchair-accessible and disabled-friendly. It is also notable that it promotes bridge courses for students from disadvantaged educational backgrounds and emphasises on the inclusion of disabled students in curricula and campus life. However, apart from formal education, the policy places little emphasis on vocational training and employment opportunities for PWDs. While vocational training is encouraged in general, it would have been much more inclusive if focus was also put on how PWDs can have equal chances at being employed. While inclusive education is a primary concern, it is equally important that we focus on education leading to social and financial empowerment, if we are to aim for long-term inclusion in society.

When it comes to higher education institutions (HEIs) the NEP 2020 could incentivise such institutions to establish dedicated research centres on disability studies and promote research for inclusivity. Cost is a big impediment in providing assistive technologies to all. However, with adequate funding for research, such centres could be encouraged to work on developing innovative teaching methods and assistive technologies in a cost-effective manner to enhance greater deployment of such measures. Institutional research centres could also be encouraged to research on policy frameworks for greater inclusion in the educational system for persons with disabilities. Furthermore, it would also be really encouraging if the policy required the government to provide funding and support to students with disabilities who are pursuing higher education by making higher education completely free, while diluting the standardization bar, for instance, percentage of marks etc.<sup>32</sup>

Digital learning is another aspect that is worth focusing on. Although the policy advocates for online education and digital learning, there is a need for ensuring the accessibility of these platforms for PWDs, especially students with visual, auditory,

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[designlearning#:~:text=Universal%20design%20for%20learning%20\(UDL,hurdles%20in%20the%20learning%20process](#) (last visited Sept. 21, 2024).

<sup>31</sup> Kristin S. Fuglerud & Wolfgang V. Leister, *et. al.*, (eds.), UNIVERSAL DESIGN 2024: SHAPING A SUSTAINABLE, EQUITABLE AND RESILIENT FUTURE FOR ALL 158-165 (2024).

<sup>32</sup> Further, there are certain scholarships for higher education, where a student can only avail the benefit if she has passed in all papers of the semester/year. In case, where a student failed in any subject, she is not entitled for the benefit. Thus, there is a need to revise these policies in light of NEP, 2020.

or cognitive disabilities. A focus and emphasis at the policy level can provide the impetus for ensuring that digital content is accessible to all and that learners with disabilities also equally benefit from advancements in technologies. If classes of the future are going to be digital classes, every effort must be made to ensure that the digital learning platforms are equally accessible to persons with disabilities. In this regard certain specific measures should have been directly referred to by policy document itself, such as requiring that all educational websites and learning platforms meet global web accessibility standards (WCAG), assistive technologies like screen readers, text-to-speech software, and captioning for video content are made mandatory and also that libraries, labs, sports facilities, and other learning environments are made more accessible for students with physical disabilities. But this can only be possible if there is sensitization among stakeholders.<sup>33</sup> Generally, accessibility in technology or otherwise is an afterthought; the web designers and content creators are ignorant of guidelines. In the words of Rachel Olivero, director of technology at National Federation of the Blind:<sup>34</sup>

“A lot of textbooks and online training programs address accessibility as a side bar, but how many times do you skip over the asides because you are in a hurry? It is not taught as the right way to do it, so only people who know accessibility are those who have to and not just anyone building sites”.

Furthermore, while the policy is drafted in the language of goals and aims, true realisation of inclusivity for persons with disabilities will be possible only if the goals are given the shape of rights and entitlements. A rights-based approach would also ensure that a strong redressal mechanism is put in place for their true realisation. In this regard the policy comes off weak as it does not include any monitoring and accountability mechanisms for ensuring compliance with either the RPWD Act or the standards under the UNCRPD. Moreover, there is also an absence of a clear framework for tracking progress on inclusivity and a mechanism for holding institutions accountable if they fail to provide reasonable accommodation for students with disabilities. Therefore, there is a need for a strong system of monitoring, data collection, and regular audits and a strong rights redressal mechanism to ensure that the goals as laid out in the policy becomes a reality throughout the country.<sup>35</sup>

Apart from the above, it is worth emphasising that disability scholarships’ main motto is “nothing about us without us” as enshrined under UNCPD and it is a global movement to achieve the full participation and equalisation of opportunities for, by

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<sup>33</sup> See generally Peter Blanck, *EQUALITY: THE STRUGGLE FOR WEB ACCESSIBILITY BY PERSONS WITH COGNITIVE DISABILITIES* (2014).

<sup>34</sup> Available at: <https://www.nfb.org/resources/publications-and-media/imagineering-our-future/archive/february-2020> (last visited Sept. 21, 2024).

<sup>35</sup> *Rajive Raturi v. UOI*, Writ Petition (c) No. 243 of 2005, decided on 8th November 2024.

and with persons with disabilities.<sup>36</sup> In that spirit the NEP 2020, could also have emphasised on participation of the disability community in guiding the implementation of the policy and in making recommendations for continuous improvements. In this regard it is advisable that when it comes to implementation of the NEP 2020, a specific supervisory and advisory body is created that includes representatives from the disability community for enhanced realisation of the rights of persons with disabilities in the context of improving access to education. At the same time, at a more grassroots and local level, the policy should encourage greater community involvement in matters relating to education of children with disabilities. For instance, there could be a mandatory requirement for establishing a support group for families with children with disabilities. The expression goes well with the “Habermasian idea of public sphere”, which is based on the inclusiveness and openness of discourse.<sup>37</sup> But at the same time one has to keep in mind that there must be real and actual participation, not as tokenism as mentioned under one of the ladders of citizen participation,<sup>38</sup> so that CRPD’s motto can become a reality.

In summary, while the NEP 2020 is a significant step toward making education more inclusive for persons with disabilities, it needs to be more robust in its implementation strategy, provide more concrete resource allocation, avoid potential segregation through home-based education, and focus on widespread teacher training. By addressing these shortcomings, India can move closer to achieving the inclusive, accessible education system envisioned by the policy. By taking these additional steps, India’s education system can move towards a truly inclusive and equitable environment where all learners, regardless of ability, can succeed.

## IV

### **UNCRPD and New Education Policy: A Compatibility Check**

UNCRPD has successfully established the human rights model of disability whereby it aims at four key themes including equality, autonomy, participation and solidarity. The majority of rights mentioned under Convention relates to one or

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<sup>36</sup> James I. Charlton, *NOTHING ABOUT US WITHOUT US, DISABILITY OPPRESSION AND EMPOWERMENT* 3-19 (2000).

<sup>37</sup> Douglas Kellner, *HABERMAS, THE PUBLIC SPHERE, AND DEMOCRACY: A CRITICAL INTERVENTION* (2000).

<sup>38</sup> John Gaber, *Building Ladder of Citizen Participation: Sherry Arinstine, Ladder of Citizen Participation and Model Cities*, 85(3) *JOURNAL OF AMERICAN PLANNING ASSOCIATION* 188-201 (2019).

other of these themes.<sup>39</sup> While deliberating upon the human rights and disability relation, Professor Quinn stated that:

“A human rights perspective on disability is inspired by the values that underpin human rights: the inestimable dignity of each and every human being, the concept of autonomy or self-determination that demands that the person be placed at the centre of all decisions affecting him/her, the inherent equality of all regardless of difference, and the ethic of solidarity that requires society to sustain the freedom of the person with appropriate social support”.<sup>40</sup>

Thus, the Convention emphasised a right-based approach while arguing for social solidarity. The same approach is also adopted in India under Rights of Persons with Disability Act, 2016. The solidarity here means the acknowledgment that mutual ties and obligations exist between people by virtue of their shared membership of a political community. This is important for freedom, as freedom does not exist in vacuum and it must be made tangible work on social, political and economic support systems.<sup>41</sup> Therefore, in order to make NEP a success, it needs to be in consonance with the spirit of CRPD and RPWD. In the following part, we are going to discuss the compatibility of NEP with CRPD. As we have already discussed how NEP 2020 can ensure equitable access of healthcare for persons with disabilities, it is necessary to further comment on how it can be fully in compliance with the United Nations Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD). This, as we will notice, would require India to take several additional steps. The UNCRPD emphasises the right of persons with disabilities (PWDs) to have inclusive, quality, and free education at all levels. Article 24 of the Convention requires, “States Parties recognize the right of persons with disabilities to education.<sup>42</sup> With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning...”. Let us discuss some steps that must be taken to better align NEP 2020 with UNCRPD.

While the NEP claims itself to be a step towards inclusivity, there is a need for explicit and clear adoption of a rights-based approach in the spirit of UNCRPD. This would require that the policy declares education as a fundamental right of PWDs, rather than as a matter of benevolence, charity or special provisions on the part of

<sup>39</sup> For instance, Autonomy (Art. 12, 18, 19, 17, 22); Equality (Art. 5, 10, 11, 15, 14, 16); Participation (Art. 9, 13, 27, 20, 26, 21); Solidarity (Art. 8, 23, 28, 30). For details, See UNCRPD, available at: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (last visited Sept. 21, 2024).

<sup>40</sup> G. Quinn and Degener, *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*, UN COMMISSIONER FOR HUMAN RIGHTS (2002).

<sup>41</sup> *Id.*

<sup>42</sup> Section 16, Rights of Persons with Disability Act, 2016.

the state. While the policy talks about equitable access, there must be a clear reflection of the rights approach in the policy that enables the right to equitable participation in mainstream education for all PWDs. In the same spirit, the policy could require that India align all laws affecting education explicitly in light of UNCRPD to make education universally and equitably accessible. For instance, amendments should be made to the Right of Children to Free and Compulsory Education Act, 2009, to ensure that it is harmonised with the principles of the UNCRPD and RPWD by explicitly providing for the requirement of providing universal access to education for PWDs. Article 24 (2) (a) of the UNCRPD requires that “persons with disabilities are not excluded from the general education system on the basis of disability”. Article 24 (2) (a) requires that:

“Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live.” Moreover, article 24 (2) (d) requires that “Persons with disabilities receive the support required, within the general education system, to facilitate their effective education”.

In light of these requirements under the UNCRPD, the NEP 2020 should move beyond home-based education options for students with severe disabilities. It must ensure that all students with disabilities are included in mainstream education. In the absence of more clarity about measures to be taken, the home-based education provision in the NEP might end up encouraging isolation and exclusion of PWDs. Therefore, the thrust of the policy should, in alignment with the spirit of the UNCRPD, be towards providing need-based education within the general education system. However, at the same time, the policy must also require providing reasonable accommodation to students with disabilities, including individualised support within mainstream education settings, modifications to curricula, teaching strategies, assessment methods, and learning environments. Furthermore, the NEP must explicitly require that all educational facilities, physical and digital, comply with accessibility standards as set by article 9 of the UNCRPD, including equal access to physical environment, to transportation, to information and communications (information and communications technologies and systems) and to other facilities and services open or provided to all students in both urban and rural educational settings.<sup>43</sup> Additionally, article 5 of the UNCRPD states that all persons are equal before and under the law and are entitled to equal protection and benefit of law without discrimination. In order to ensure compliance with this principle the NEP must ensure and require that school systems are not segregated systems. It implies that no child should be denied access to mainstream schools due to disability. NEP must require adoption of measures to prohibit any form of exclusion or refusal to admit students to educational institutions, private or public, based on disability.

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<sup>43</sup> See also Section 40 & Section 12, Rights of Persons with Disability Act, 2016.



Article 8 of the UNCRPD requires the raising awareness in the society regarding persons with disabilities, combat stereotypes, prejudices and harmful practices relating to persons with disabilities.<sup>44</sup> In that spirit the NEP should require integration of awareness-raising campaigns and sensitization programs within the education system to combat stigma and entrenched discrimination against PWDs, be it at the family, institutional or societal level. Such an integrated awareness raising campaign will have the impact of highlighting and normalising the importance of the value of diversity, inclusion and acceptance, and thereby promote an environment that respects the rights and dignity of PWDs. Furthermore; Disability awareness should also be part of the general curriculum. This can ensure that all students, including those without disabilities, understand the importance of inclusion, accessibility, acceptance and empathy towards PWDs.<sup>45</sup>

Article 24(5) of the UNCRPD, requires state parties to ensure that persons with disabilities have equal access to general tertiary education, vocational training, adult education and lifelong learning without any discrimination. The NEP should therefore, explicitly focus on the need for lifelong learning and education opportunities for PWDs by providing access to continuing education and skill development apart from traditional education. This will enable PWDs to participate fully in society and live a fulfilling life of the kind one may want.

A rights-based approach as envisioned by the UNCRPD would also require that the NEP provides for legal mechanisms through which children with disabilities and their families can seek legal redress if their right to inclusive education is violated. Easily accessible accountability mechanism in cases of non-compliance would make the right meaningful. Apart from redressal, accountability is also ensured through direct participation in decision-making. Article 4(4) of the UNCRPD requires that persons with disabilities and their representative organisations be consulted and actively involved in the development and implementation of laws and policies. In fulfilment of this obligation, the NEP should establish mechanisms for regular consultation with organizations representing persons with disabilities and parents of children with disabilities to ensure that formulation and implementation of the policy aligns and addresses with actual realities, needs and lived experiences of PWDs. Furthermore, the policy must allow and encourage the participation of students with disabilities in their own education. The education system can become more inclusive if regular feedback on their learning experiences is taken seriously into consideration in further development of the education system. All these require giving equal chances of participation to PWDs in light of the aforementioned motto of “Nothing about us without us”. Lastly, article 31 of the UNCRPD states parties to collect appropriate information, including statistical and research data, which

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<sup>44</sup> Section 39, Rights of Persons with Disability Act, 2016.

<sup>45</sup> See generally Eilionoir Flynn, FROM RHETORIC TO ACTION, IMPLEMENTING UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (2011).

shall be of help in formulating and implementing policies. Improvements and effectiveness of rights realisation cannot be ensured in the absence of a robust mechanism for collecting such vital statistics. In the light of this requirement, the NEP must emphasise on the collection of relevant data, track data on enrolment, retention, and achievement of students with disabilities at all educational levels. Article 31(2) of the convention further requires such data to be disaggregated and accordingly, the NEP should require disaggregated data collection in terms of disability type, gender, region etc. This can enable targeted interventions making the policy more effective in promotion of equal and equitable access to healthcare. Because rights would hold little or no meaning for disabled people if there is no monitoring of their implementation. It is the only way to ensure equitable equality.<sup>46</sup> Overall it can be observed that much is required to be done for the NEP 2020 to fully comply with the UNCRPD. In that pursuit, there is a need for a comprehensive, rights-based, and inclusive education system in India at all levels that completely eliminates segregation and provides a conducive environment, where PWDs can learn and grow without fear of discrimination on an equal basis to others.

## V

### **Finnish Education System and New Education Policy: A Comparison**

Finland is known to have the best educational system in the world and therefore provides the best case for comparison to learn from.<sup>47</sup> Finland enacted Basic Education Act, 1998, which intends to ensure that all children, including those with disabilities, have the right to free basic education. Sec 31 (1) of the Act specifically provides the right of a disabled child or a child with special educational needs to have right, in addition to free education, to get the interpretation and assistance services that he or she may need to participate in education. Finland requires necessary accommodation of students with diverse needs within the mainstream education system by providing a highly inclusive environment for all children, including ones with disabilities and special needs. This long-standing Finnish tradition of integrating students with disabilities into the mainstream classrooms provides a great model for India to learn from and implement by making it explicitly a part of the NEP and other laws to give it practical effect. Finland greatly

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<sup>46</sup> *Id.*

<sup>47</sup> Available at: <https://www.weforum.org/agenda/2018/09/10-reasons-why-finlands-education-system-is-the-best-in-the-world/> (last visited Sept. 21, 2024).

emphasises on special needs education tailored to meet individual requirements.<sup>48</sup> Each child with a disability receives individual teaching arrangements. While India's NEP 2020 intends to take steps in the direction of greater inclusion, it is not very clear and emphatic in terms of how it is going to achieve that. For instance, as discussed above, a home-based education could inadvertently end up segregating children with disabilities, a practice relatively unacceptable.<sup>49</sup>

Finland ensures that all teachers are trained to impart inclusive classrooms.<sup>50</sup> While not completely inclusive, teacher education programs include training on special needs education, and teachers are equipped with strategies and tools to accommodate a wide range of learning needs.<sup>51</sup> Finland has a three tiered learning and schooling support system that started in 2011 that consists of "General Support" (Tier 1) that includes actions taken by regular classroom teachers in terms of differentiation and also to meet diversity of students, "Intensified support" (Tier 2) that remedial support by the class teacher, co-teaching with the special educator and "Special support" (Tier 3) that includes providing special support to students with disabilities who are first formally identified and then individual education plan is developed and then provided access to a series of special education services and

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<sup>48</sup> Sections 16, 16a, 17 of Basic Education Act, 1998 available at:

<https://www.finlex.fi/en/laki/kaannokset/1998/en19980628.pdf> (last visited Sept. 21, 2024); R. Ahtiainen & J. Pulkkinen, et. al., *The 21st Century Reforms (Re) Shaping the Education Policy of Inclusive and Special Education in Finland*, 11(11) *Journal of Education Sciences* 750 (2021) available at: <https://www.mdpi.com/2227-7102/11/11/750> (last visited Sept. 21, 2024); Jonna Pulkkinen, Markku Jahnukainen, *Finnish Reform of the Funding and Provision of Special Education: The View of Principals and Municipal Education Administrators* available at: <https://www.tandfonline.com/doi/abs/10.1080/00131911.2015.1060586> (last visited Sept. 20, 2024).

<sup>49</sup> European Commission, *Education Support and Guidance* available at:

<https://eurydice.eacea.ec.europa.eu/national-education-systems/finland/special-education-needs-provision-within-mainstreameducation#:~:text=Finnish%20educational%20legislation%20does%20not%20categorise%20learners%20according%20to%20disabilities%20or%20difficulties> (last visited Sept. 19, 2024).

<sup>50</sup> Henu Savolainen, *Responding to Diversity and Striving for Excellence: The Case of Finland*, 39 *Comparative Journal of Curriculum, Learning and Assessment* 281-292 (2009); Finland's Approach to Special Needs and Inclusion, June 2022 available at:

<https://www.heischools.com/blog/finlands-approach-to-special-needs-inclusion#:~:text=Finnish%20ECE%20teachers%20are%20highly,to%20children%20with%20different%20needs> (last visited Sept. 21, 2024); Akie Yada, *Inclusive Education in Finland*, CHILD RESEARCH NET, 2024, available at: [https://www.childresearch.net/projects/special/2024\\_07.html](https://www.childresearch.net/projects/special/2024_07.html) (last visited Sept. 19, 2024).

<sup>51</sup> J Gagnon, J Honkasilta, M Jahnukainen, *Teacher Education in Finland: Progress on preparing Teachers for Inclusion of Students with Learning and Behaviour Difficulties*, UNESCO 197-221 (2023.)

placements.<sup>52</sup> Finnish teachers also undergo continuous professional development, and there is an emphasis on collaboration with special education professionals and support staff to ensure that all students' needs are met.<sup>53 54</sup> Of course, Finland faces its own challenges in imparting collaborative teaching and learning.<sup>55</sup> In contrast to this teacher training in India seems only at a nascent stage.<sup>56 57</sup> While NEP 2020 emphasises on the need for inclusive education and professional development for the said purpose, there is great lack of clarity as to how it intends to achieve it. Moreover, the very approach taken under the NEP may have the unintended effect of exclusion. For instance, NEP provides for the need for special educators, but does not sufficiently emphasise on the need for training of mainstream teachers to prepare them to handle diverse classroom settings as we have noted in the Finnish education system. Current state of affairs in this regard in India is that the teachers often lack the requisite skills and resources to provide reasonable accommodation for students with disabilities.<sup>58</sup> Therefore, for the educational system to be truly inclusive, the NEP must push for greater inclusion through proper training of mainstream teachers, apart from also focusing on the need for special educators.

Finland also puts great emphasis on the mental health of pupils and learners. Mental health support system has been integrated into the Finnish education system.<sup>59</sup> In

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<sup>52</sup> *Id.*

<sup>53</sup> M Kokko, M. Takaa, P. Pihlaja, *Finnish Teachers' View of Co-Teaching*, 48(1) BRITISH JOURNAL OF SPECIAL EDUCATION 113-132 (2021).

<sup>54</sup> Ninnu Kotilainen, Marjatta Takala, *So much Invisible Work, The Role of Special Education Teachers in Finnish Lower Secondary Schools*, SCANDINAVIAN JOURNAL OF EDUCATIONAL RESEARCH (2024).

<sup>55</sup> Available at: <https://www oulu fi/en/news/need-for-special-education-growing-collaboration-required-three-tiered-support-model-not-working> (last visited Sept. 21, 2024).

<sup>56</sup> Shruti Taneja, Nidhi Singal, Meera Samson, *Education of Children with Disabilities in Rural Indian Government Schools: A Long Road to Inclusion*, 70(5) INTERNATIONAL JOURNAL OF DISABILITY, DEVELOPMENT AND EDUCATION 735-750 (2023).

<sup>57</sup> *Academic Spaces and Students with Disabilities: The Structural and Functional Challenges*, NATIONAL INSTITUTE FOR URBAN AFFAIRS available at: <https://niua.in/forums/academic-spaces-and-student-disabilities-structural-and-functional-challenges> (last visited Sept. 20, 2024).

<sup>58</sup> Ajay Das & Ahmed Kuyini, *et. al. (eds.), Inclusive Education in India: Are the Teachers Prepared?* 29(1) INTERNATIONAL JOURNAL OF SPECIAL EDUCATION 27-36 (2013).

<sup>59</sup> O Savolainen, M Sormunen, *et. al. (eds.), Finnish Professionals' view of the current Mental health Services and Multi-professional Collaboration in Children's Mental Health Promotion*, 50(3) INTERNATIONAL JOURNAL OF MENTAL HEALTH 195-217 (2021); *The Finnish Education System's Holistic Approach to Nurturing Mental Health*, FINLAND EDUCATION HUB, 2023 available at: <https://medium.com/@finlandeducationhub/the-finnish-education-systems-holistic-approach-to-nurturing-mental-health-57419394dc39> (last visited Sept. 21, 2024);

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Finland student development is the task of a team of stakeholders that include class teachers, school psychologists, education counsellors, and school principals.<sup>60</sup> Moreover, extra teacher's time is used in Finland to provide support to students in need of special attention and thereby ensure that no one is left behind.<sup>61</sup> Furthermore, Finland also puts in great efforts in providing mental health services from early childhood through to higher education, placing strong emphasis on preventative services and well-being education.<sup>62</sup>

However, the availability of mental health professionals in Indian schools is limited, and mental health literacy among students and teachers is still low.<sup>63 64 65 66 67</sup> While the NEP 2020 intends to promote mental health awareness, it does not provide detailed guidelines on how mental health services should be integrated into schools. This is in stark contrast to the practices in Finland. In the light of the Finnish experience, it can be proposed that the policy must mandate a much more comprehensive and integrated approach handling mental health in educational institutions. In this regard, we can learn from Finland in terms of the importance they have put on mental health support as a key aspect of education.

Finland is known for its highly developed early intervention system in education. Finland has what is called the Early Childhood Education and Care (ECEC) System that intends to "promote children's holistic growth, development and learning in

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Cassandra Coburn, *Mental Health in Finnish Schools: So Close to Perfection*, 3(12) THE LANCET, CHILD & ADOLESCENT HEALTH 848-849 (2019).

<sup>60</sup> Available at:

<https://download.garuda.kemdikbud.go.id/article.php?article=2510515&val=23933&title=Finland%20Education%20System> (last visited Sept. 21, 2024).

<sup>61</sup> *Id.*

<sup>62</sup> R. Valimaa, L. Kannas & E. Lahtinen, *Innovative Health Education Curriculum and other Investments for Promoting Mental Health and Social Cohesion among Children and Young People*, WHO/HBSC FORUM 91-103 (2008). Anne I Konu & TP Lintonen, *School Well-Being in Grades 4-12*, 21(5) HEALTH EDUCATION RESEARCH 633-642 (2006).

<sup>63</sup> Meenu Anand, *Promoting Mental Health of School Children: Indian Reflections*, 9(2) INDIAN JOURNAL OF HEALTH AND WELL BEING 292-295 (2018).

<sup>64</sup> Devvarta Kumar, *School Mental Health Program in India: Need to Shift from a Piecemeal Approach to a long-term comprehensive Approach with Strong intersectional Coordination*, 63(1) INDIAN JOURNAL OF PSYCHIATRY 91-96 (2021).

<sup>65</sup> Pooja Patnaik & Naresh Nebhinani, *School Mental Health Program: Scenario in India*, 16(1) JOURNAL OF INDIAN ASSOCIATION FOR CHILD AND ADOLESCENT MENTAL HEALTH (2020).

<sup>66</sup> Shivani Mathur & Greeshma Ann, *et. al.*, *Enhancing Mental Health Literacy in India to reduce Stigma: The Fountainhead to Improve Help-Seeking Behaviour*, 13(3) JOURNAL OF PUBLIC MENTAL HEALTH (2014).

<sup>67</sup> Malvika Sharma & Bratati Banerjee, *et. al.*, *Assessment of Mental Health Literacy in School going Adolescents*, 13(4) JOURNAL OF INDIAN ASSOCIATION FOR CHILD AND ADOLESCENT MENTAL HEALTH 263-283 (2017).

collaboration with their guardians".<sup>68</sup> Under this approach they offer day care arrangements to families and provide a goal-oriented early childhood education for children for a smooth transition to primary education and thereby provide a coherent starting phase for a continued lifelong learning process.<sup>69</sup> Within the context of ECEC, Finland employs an Early Childhood Special Education (ECSE) approach.<sup>70</sup> Under this approach children are monitored for signs of learning difficulties and disabilities very early and accordingly a support system is also provided very early. This allows for a smoother transition into the formal education system where such supports are continually provided. While in India the NEP 2020 refers to Early Childhood Care and Education (ECCE), particularly for children from socioeconomically disadvantaged backgrounds (at Para 1) and also the requirement to identify learning disabilities early and plan specifically for their mitigation (at para 6.13), it does not go beyond such mere mentions to requiring development of a detailed framework for implementing such interventions. Identification of learning disabilities is mentioned specifically only at the school level, unlike in Finland where identification and support system are provided from a pre-school stage. These are some major gaps in early identification of disabilities, which are only worse in rural areas, further lacking any support services that are not sufficiently addressed in the NEP 2020. Moreover, insufficient addressing in policy apart, India also majorly lacks in terms of infrastructure and resources to implement such universal support systems. While there is the Integrated Child Development Scheme (ICDS), there is a very limited access to early childhood education and support system in India.<sup>71</sup> The NEP could have provided the much-needed impetus in this regard.

Therefore, while India's NEP 2020 takes certain important steps towards creating an inclusive and equitable education system, there still are some major concerns regarding how it will be implemented to make these dreams a reality. Lack of accessibility, inadequate teachers' training and inadequate support system, particularly in rural areas and most essentially inadequate allocation of resources are some major challenges that are needed to be overcome. However, the Finnish experience tells us that, with the right mind-set, intention, planning and dedication

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<sup>68</sup> *Early Childhood Education and Care* available at: <https://www.oph.fi/en/education-system/early-childhood-education-and-care-finland> (last visited Sept. 21, 2024).

<sup>69</sup> Jenni Salminen, *Early Childhood Education and Care System in Finland*, 5(2) THE CENTRAL EUROPEAN JOURNAL OF SOCIAL SCIENCES AND HUMANITIES 135-154 (2017); Taguma Miho, Litjens Ineke, *Quality Matters in Early Childhood Education and Care: Finland*, OECD PUBLISHING available at: <https://eric.ed.gov/?id=ED530922> (last visited Sept. 19, 2024).

<sup>70</sup> Paivi Pihlaja, *Early Childhood Special Education in Finland* in SPECIAL EDUCATION IN THE EARLY YEARS 13-30 (2022) available at: [https://link.springer.com/chapter/10.1007/978-3-030-91297-0\\_2m](https://link.springer.com/chapter/10.1007/978-3-030-91297-0_2m) (last visited Sept. 20, 2024).

<sup>71</sup> Saikat Ghosh, *Inequalities in Demand and Access to Early Childhood Education in India*, 51 INTERNATIONAL JOURNAL OF EARLY CHILDHOOD 145-161 (2019).

such challenges can be overcome to make high-quality education more equitably accessible to all, particularly for persons with disabilities.

## VI

### Conclusion

As per the Preamble of UNCRPD, 2006, “Disability is an evolving concept and it results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and active participation in society on an equal basis with others”.<sup>72</sup> This statement from the preamble of the CRPD highlights the systemic injustices that exclude persons with disabilities from meaningful participation in society. This notion is further reinforced by Miranda Fricker’s argument that the capacity of marginalized and powerless social groups to adequately understand and interpret the world is compromised when dominant groups disproportionately shape the interpretive resources available.<sup>73</sup> Such dominance perpetuates systemic oppression, depriving individuals of equal opportunities.<sup>74</sup> This perspective aligns with Dorothy Roberts’ biosocial science model, which posits that every biological element, process, and even human cells are deeply influenced by societal factors.<sup>75</sup> Roberts asserts that biology and society are inseparable, famously noting, “Our brains are plastic, with the ability to be modified by social experiences”.<sup>76</sup> This interdependence highlights the necessity of addressing societal influences to achieve meaningful inclusion. Roberts correctly argues that all of life is at once biological and social. Therefore, it is imperative to ensure the genuine participation of persons with disabilities in shaping the implementation of the New Education Policy (NEP). This aligns with the CRPD’s mandate to combat the “othering” of people with disabilities.<sup>77</sup> No doubt, NEP is aiming at achieving equitable education for all, but this goal can only be realised through the development of constructive, inclusive models tailored to the specific needs of various groups.<sup>78</sup> Central to this effort is giving persons with disabilities a decisive voice in contextualizing and implementing the NEP to ensure equitable and

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<sup>72</sup> Preamble of UNCRPD, 2006.

<sup>73</sup> Miranda Fricker, *EPISTEMIC INJUSTICE: POWER AND THE ETHICS OF KNOWING* 11-18 (2007).

<sup>74</sup> Seth N. Asumah, *DIVERSITY, SOCIAL JUSTICE AND INCLUSIVE EXCELLENCE*, Chapter 1 (2014).

<sup>75</sup> Shelley L. Tremain, *FOUCAULT AND FEMINIST PHILOSOPHY OF DISABILITY* 3-5 (2017).

<sup>76</sup> Shelley Tremain, *Feminist Philosophy of Disability: A Genealogical Intervention*, 57(1) *THE SOUTHERN JOURNAL OF PHILOSOPHY* (2019).

<sup>77</sup> Lisa Isherwood & David Harris (eds.), *RADICAL OTHERNESS: SOCIOLOGICAL AND THEOLOGICAL APPROACHES* (2013).

<sup>78</sup> Avinash Aneraye, Sunil Kumar, *Impact of NEP 2020 on Education for Individuals with Disabilities*, 4(1) *INTERNATIONAL JOURNAL OF RESEARCH IN SPECIAL EDUCATION* 5-9 (2024).

accessible education.<sup>79</sup> This can be achieved by following the “will and preference model” against the “best interest model”.<sup>80</sup> Therefore, it is time to embrace the “right-in-action” approach, upholding the CRPD’s principles of social solidarity and mutual respect for human values.<sup>81</sup> This commitment will not only fulfil international obligations but also pave the way for a more inclusive and just educational system.

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<sup>79</sup> See generally Valentina Della Fina, *THE COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES: LAW AND PRACTICE* (2023).

<sup>80</sup> Terry Carney, Christine Bigby Ukab Wiesel, *Realising ‘will, preference and rights’: Reconciling Differences of Best practice Support for Decision Making?* 28(4) *GRIFFITH LAW REVIEW* 357-379 (2019).

<sup>81</sup> Eilionoir Flynn, *From Rhetoric to Action, IMPLEMENTING UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES* 17-21 (2011).