



RIGHT TO EDUCATION OF DIFFERENTLY ABLED CHILDREN: A COMPARATIVE ANALYSIS BETWEEN SRI LANKA AND UNITED STATES

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INTRODUCTION

Center for Disease Control and Prevention define the word 'Disability' as "any condition of the body or mind that performs lack of abilities to do certain activities and interact with the society around them. Further, it excluded illness of temporary loss of ability to see, hear, speak or move". In United States people with disabilities have demanded and created changes in civil rights movements and the disability rights movement since 1900s. During this period, Education for All Handicapped Children Act was established for ensures children with differently-abled are provided with free public education and later in 1990 it was known as Individual with Disabilities Education Act. While, Sri Lanka established the Protection of the Rights of Persons with Disabilities Act in 1996 for the promotion, advancement and protection of rights of persons with disabilities. Though it does not mention about educational rights of differently-abled children directly, Dr. C.W.W. Kannangara made education free for all the children in 1945. However, there is limited availability for differently-abled children in Sri Lankan education system. Apart from that, the Covid-19 situation drastically damaged the educational system. Though government took many more decisions to reduce the damage, most differently-abled persons have not been able to access information and communication. For example, government introduce distance learning programmes to all the students to avoid the risk in education system but persons with hearing, visual, intellectual or physical disabilities may be unable to enter into distance learning due to the lack of guidance and facilities.

As a result, in this research intended in exploring whether the existing legal framework in Sri Lanka in protecting the educational rights of differently-abled children and this education system will enough of them to achieve their future goals.

The objectives of this research are as follows.

- I. Analyses the current and other existing legal framework of Sri Lanka and United State on differently-abled children educational rights.
- II. Identify the challenges faced by differently-abled children in educational system in Sri Lanka in comparing to the United States of America.
- III. Suggest recommendations to improve the existing legal framework to ensure the protection of right to education of differently-abled children.

METHODOLOGY

Documentary research method mainly used to investigate the current legal framework in protecting equal educational rights of children with disabilities in Sri Lanka comparing to United States. Mainly this research utilized the qualitative data such as statutes, case reports and international standards on relevant laws. Further, the Protection of the Rights of Persons with Disabilities Act No.28 of 1996, Convention on the Rights of Persons with Disabilities of 2006, Convention on the Rights of the Child of 1990 and Individual with Disabilities Education Act in United States of 1990 referred as primary sources. Also, information gathered by library base by going through Journal articles, Internet articles and other published researches used as secondary



sources. Moreover, this research conducted on Black letter method and International and comparative research method. This study filled the gaps of Protection of the Rights of Persons with Disabilities Act related to violations of equal educational rights of differently-abled children and how to implement the new laws regarding this problem.

RESULTS AND DISCUSSION

Analyses of the existing legal frame work of Sri Lanka and United States on differently-abled children educational rights

As a rule, the Protection of the Rights of Persons with Disabilities Act No.28 of 1996 was established for protection of the rights of persons of disabilities in Sri Lanka in any situation regarding with them. As per the section 12 of the Act discuss the purpose of the encouragement, development and protect the rights of differently-abled people in Sri Lanka and find out the problems relating to them. Beside of the principal function there are some other functions under section 13 and among those functions, to ensure a better living standard, establishing and maintaining institutions to accommodate and providing education and vocational training for differently-abled persons, to guiding, supporting and coordinating their activities and giving right to access the details and communication are most important. Mainly, under section 23 of this Act explain about, when a person is enrolled as an employee or a student to any office or educational institution there should not be any discrimination against differently-abled persons. As well as, under article 12 of the fundamental rights chapter of 1978 Constitution of Sri Lanka says that “All persons are equal before the law and are entitled to the equal protection of the law” and “No citizen shall be discriminated against on the ground of race, religion, language, caste, sex, political opinion, place of birth or any other of such ground.” Even though, right to Education is not exactly embodied in the Constitution of Sri Lanka, it is declared in the chapter six of Directive Principles of State Policy and Fundamental Duties in article 27 subsection (2) (h), said that “State shall complete eradication of illiteracy and the assurance to all persons of the right to universal and equal access to education at all levels.” However, it is questionable that the validity of above laws and regulations how far it is effective when it comes to reality.

Besides, in United States legal framework related to differently able children is varying from Sri Lankan legal framework. In Individual with Disabilities Education Act of 1990 United States provide valuable opportunities for differently-able children in their education system and to achieve their dreams too. Therefore, under the section 1463 of this Act says that “Funds that they received shall be used to support activities to improve services including the practices of professional and other involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through,

- (1) Implementing effective strategies for addressing inappropriate behaviour of differently-able student in schools, establish strategies to prevent children with emotional and behavioral problem from developing emotional disturbance that require the provision of special education and related services,
- (2) Improving compatibility and development of valid and reliable assessment and alternate assessments for assessing student academic achievement,
- (3) Provide training for both regular education teachers and special education teachers to address the needs of students with different learning style,
- (4) Identifying positive academic and social learning opportunities.” - (Subchapter IV (part D), Part B, Section 1463 (b))

As per section 1474 of the Individual with Disabilities Education Act “Conducting research on and prompting the demonstration and use of innovative, emerging and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice, explain the use of system to provide parents and teachers with information and training concerning early diagnosis of intervention and effective teaching



strategies for young children with reading disabilities and supporting the use of internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.”

The Protection of the Rights of Persons with Disabilities Act of 1996 shows that Sri Lankan legal framework should implement and develop some laws according to current situations and the Individual with Disabilities Education Act of 1990 in United States shows how they protect the Right to Education of differently-abled children without any discrimination.

Challenges faced by differently-abled children in the educational system in Sri Lanka in comparison to the United States

As per Article 2 of Convention on the Rights of the Child, provided that all students and students with disabilities should have equal facilities to enter into a government school within their jurisdiction as they wish. However, in reality most of the differently-abled children are not willing to attend school and some of them were not entered in to a school as a student. According to the government of Sri Lanka Census, there are nearly 46,000 school age children who are disabled and among them most of children drop out from the education system due to many reasons (Government of Sri Lanka Census, 2001 cited in Hill Country Disabled Group). Such as relating to lack of support and attention, lack of transport to differently-abled children, lack of facilities such as equipment and training in school or institution and parents negative thinking cause them to witness the benefit of education to their disable children.

Apart from these reasons, there are 27 special schools and 704 special education units in Sri Lanka for disable children and around 11% of differently-able student in ordinary level standards and among them a very low number of students attempted the Advance level examination as per the Department of Census and Statistics (2001) and UNICEF Learning Disabilities in Sri Lanka’s report (2016) in Sri Lanka. As a result of that, a minimum percentage of disable persons entered into higher education and achieve their goals in life. For example, a boy who named Kasun suffered from cerebral palsy. He entered Kaluthara Maha Vidayala for his primary and secondary education. Due to discrimination he moved into Gurulugomi Maha Vidayala for Advance Level examination with the support of International Committee of the Red Cross and passed with the excellent results he looked forward to entering into university life but unfortunately, he could not join due to the limited allocation for different-able persons. Therefore, he entered private university and gained an LLB with a second class. He was the Deputy Minister of International Affairs and the Representative for persons living with disabilities at the Youth Parliament of Sri Lanka during the 2016 to 2017-time period. Once he said, ***“I do not expect much from people, but my only wish is to always look for ways in which I can contribute to society.”*** After that, joined to United Nation Volunteer Force and now he is engaged with United Nations Development Programme in Sri Lanka (United Nations Volunteers, 2018). According to the UNICEF Learning Disabilities in Sri Lanka’s report (2016) the main reason for this type of issue is insufficiency of teachers who are professionals in teaching or their teaching techniques are less effective to special needs students. In Sri Lanka the education system is mainly based on books, theories, and very limited time is allocated for group activities, activities engage with environment and connected with social activities. Indeed, it brings a huge disadvantage to a differently-abled child in their learning programme. A girl or a boy born with disabilities, firstly they should expose to the environment before they enter to the school education. Whether he is blind but he can hear the things around him and feel that. As well, it goes around other way too like deaf and dumb person but can see very well, though she cannot describe what she feels she is trying to describe as the way she can. Comparing to United States method of teaching by Anne Sullivan proved nature based educational system of more value when it comes to children with disabilities and this method of teaching which was contained in Helen Adams Biography (Arthur, The Miracle Worker, 1962). However, the Government of Sri Lanka also running an



Autism centre in Maharagama. Giving education to them, parent or teacher must understand the talents of each differently-able child and their understanding levels. Further, differently-abled students must encourage by providing facilities and equipment that the needs to study and should sponsored for their higher studies and well-being. For these children school must be the most lovable, attractive, and friendly place to learn freely.

Currently, with COVID-19 not only Sri Lanka but education systems worldwide changed into virtual leaning platforms or other words distance learning methods as per World Health Organisation guidelines. According to United Nations Children’s Fund (UNICEF, 2013) publishing’s sudden developments made inequality situation to differently-abled students due to the lack of access to internet and technology, limited up-to-date information for their education system and sudden changes in communication. Beside these reasons, when they access to information, always there should be a knowledgeable person to handle the situation and guide the child but, there can be low literacy or economically poor parents who cannot grant education to their children. UNICEF guidance in Risk Communication and Community Engagement plans and strategies (2020) provide life- saving information in appropriate multiple and accessible formats and utilize the communication channels that are used by young people with disabilities in order to engage with children and adults with disabilities for COVID-19 response. Further, differently-abled children may simply become hope-less and depressed due to the COVID-19 and parents and teachers should support these children to filled their minds with positive attitudes which is help to achieved their dreams with the blessing of other people.

Comparatively, United States has faced several challenges. Among them one factor is that when differently-abled children moves from pre-school to school system or when they changing their residence caused several problems according to Aron and Loprest research findings (2012). Further, in US Special education programs are funded by a combination of federal, state, and local government programs. However, State funds was changed based on the number of children enrolled in special education and resources they used in the school and then federal government funds was limited and consider financial level of differently-abled child in United States of America. Above findings were published by the National Research Council in Washington when they evaluated the special education system in the United States. Special education programmes are meant to serve the right student with disabilities. In their findings they identify some children with disabilities had not received the education programmes that they required. For example, many disabled children entered the school system without receiving pre-school education. Chudowsky (2009) has identified that from 2003 to 2004 among nationwide school 36 percent of children with disabilities in United States did not make the required educational assessment progress. However, in Muttiah (2016) work on Special education states that low and middle income countries like Sri Lanka have difficulties when providing services for a large number of individuals with disabilities. This is in spite of- the Ministry of Education of Sri Lanka giving four educational options for differently-abled children, namely, specialised schools, special education units within the regular education schools, inclusive regular educational schools and special resource centres attached to regular education schools. However, the number of schools and the quality of these schools and units are insufficient and according to UNICEF Learning Disabilities in Sri Lanka’s report (2016) it requires more developments and quality improvement in order to give equal education for children with disabilities.

Suggest recommendations to improve the existing legal framework to ensure the protection of rights to education differently-abled children comparison to the United States of America

Sri Lanka ratified the United Nation Convention on Rights of Persons with Disability on 2016 and under that Article 24 (1) (b) says “The development by persons with disabilities of their



personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential” and in same article sub article (3) (c) specify that “Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development”. Relevant authorities should pay extra attention to the above laws and activate them.

Moreover, Article 4 of Convention on Rights of Persons with Disability of 2006 describe that “In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities” (CRPD, 2006). As per the project of “Developing an Inclusive Education and ECD Strategy” by faculty of medicine, University of Kelaniya (2014) says that there was a shortage of teachers for differently-abled children in Sri Lanka. But example from US, Helen Keller who is a blind and deaf met an amazing teacher named Anne Sullivan and one day she teaches her to spell the letters w-a-t-e-r while pouring the water one hand to another hand. This way she developed a language that could easily understand and finally gifted her reading and speaking skills. She is practicing that method of teaching and saying “***That living world awakened my soul, gave it light, hope, and joy, set it free! There were barriers still, it is true, but barriers that could in time be swept away***” (Biography.com Editors, 2014). According to the research carried out by Furuta and Alwis (2017) found that since 1970’s started to training teachers for special education in Sinhala and later in 2006 National College of Education started training teachers in Sinhala and Tamil. Further, professional development programmes in special needs education for teachers offered by Sri Lanka Open University in 2004 and the National Institute of Education provided short term training programmes for regular class teachers who are teaching differently-abled children. Also, the basic knowledge of special needs education given by the Ministry of Education through a large-scale of Teachers’ Centers in Sri Lanka. In Disability Organizations Joint Front (2017) states that differently-abled children are taught by a different types of educational methods in Sri Lanka and among them Sign Language is the primary method to teach them. Though Sri Lankan legal framework is essential to act as per Article 24 of the Convention on the Rights of Persons with Disabilities, unfortunately due to the lack of access, basic equipment and instruments the main purposes of Article 24 have not been achieved. Therefore, the government should pay attention to necessary legal provisions related to inclusive education and implemented more teaching methods to develop the education programmes of children with disabilities based on school systems. Also relevant authorities should provide learning devices and tools for differently-abled children and must ensure that they have access to physical environmental programs. Apart from that Ministry of Education can provide special scholarships for differently-abled children to encourage and motivated them and their parents to engage in secondary and higher education successfully. Additionally, Sri Lankan government should improve the quality and standard of special training centers and vocational training. For the benefit of special needs children, a unique admission system based on hands on practical skills can be introduced and friendly environment should be established for disabled children in order to produce the maximum advantages from the programmes.

During the COVID-19 Sri Lankan government introduced distance learning programmes for children to continue with their studies but due to the lack of guidance and technologies in education with regard to differently-abled children, the equal right of education was violated. For that Ministry of Education and relevant authorities can provide multiple accessible formats for their education to continue as earlier. According to the UNICEF publications (2020) braille and large print teaching methods could be used for low vision students and also can used oral teaching methods. Children with intellectual disabilities and student with low literacy could be used pictures and diagrams which is easy to understand and also benefited to children who used



of various languages. Further, children with hearing impairment, videos and sign languages will be more benefited to continue their education as previous with joyfully. In this way, the equal right to education of all children with disabilities will be protected.

United States has passed many laws by recognising civil rights and educational rights of differently-abled persons. Above information clearly shows that Sri Lankan educational system and legal framework related to education should be changed according to the differently-abled children needs, this change will be making a fresh start for differently-abled persons in Sri Lanka.

CONCLUSIONS/RECOMMENDATIONS

This research has provided a broad overview of legal frameworks regarding equal educational rights of differently-abled children in Sri Lanka and United States. Further, this work elaborates the challenges faced by children with disabilities in Sri Lanka comparison to the United States. Differently abled children in Sri Lanka face many disadvantages due to the lack of support, technologies and an undeveloped legal framework. Moreover, this shows how the United States protects differently-abled children's equal educational rights and beneficial teaching methods for children with disabilities. However, both countries faced difficulties in educational service and funding system. Finally, this research paper includes development of standards in the various laws and enforcement mechanisms that need to be implemented to ensure that these laws carry weight.

- Use audio and visual presentations in the classroom activities.
- Allocate a time period for nature based education system.
- Always motivate them to have a dream for their life and encourage them to achieve that dream one day.
- Give necessary directions to go through the path that they choose.
- Provide more opportunities to participate social activities guide them and work with them.
- Give priority to children ideas and full attention and love to overcome the hard times and tough situations.
- With the support of non-governmental organisations and United Nations Agencies Sri Lankan government should implement friendly school projects and scholarship programmes.
- Allow time period for outdoor playtime, let them to listen music and stories, paint or draw and dance or sing.
- Grant opportunities to describe freely what they feel and access to information and technology.
- Invite young people with disabilities who achieve their goals and conduct motivational speeches and give a chance to them to communicate with motivational speakers and share their own ideas.
- Implement more laws and regulations from other countries like United States and give equal education and other rights to differently-abled children in Sri Lanka.



There are many people with different types of disabilities spread through the world. Whether they are able or disabled they have some kind of talent and in order to win the future with that talent they need special teaching method and education system which is related to their unique needs. Finally, when it comes to educational rights and future challenges of a differently-abled child, the most important aspect is giving priority and supporting them to achieve their aspirations. For this purpose, differently-abled persons need humanity more than the legal framework which is limited for a piece of paper.

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