Thailand’s move from a pity to a rights-based understanding of disability*

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Abstract

More often than not disability - as most other minority-related topics - is perceived as of neglect able interest in policy design. Recent developments show an increased reference towards persons with disabilities and the enablement of their equal and independent lives in Thai legislative. There are several questions that arise from this observation: 1) What led to this development? 2) To which extent is it related to the signature of international agreements (such as the United Nations Convention on the Rights of Persons with Disabilities, UNCRPD in 2008), developments in other (ASEAN) countries, a change in public awareness or the pressure of social movements or personal initiative respectively? And last but not least: 3) In what way does it impact each person with disabilities’ life and his/her unrestricted access to education?

By looking at the role disability has played in Thailand’s recent educational policy development and how this affects children with disabilities in elementary school settings, conditions for changes in legislature, general perception and social attitudes will be elaborated on. The investigation of 1) whether there is an actual (intention to) move from a pity- based understanding towards a rights-based one in educational policy, 2) where the urge, motivation or support for such a striking change stems from, 3) how it will be (further) realized and 4) which challenges are to arise from its implication will be of central interest. Reflecting the Odyssey through (G) local Agreements and National Legislation, we can see whether an ASEAN perspective on disabilities makes sense or not.

Keywords: disability, educational policy, inclusion, rights-based approach, Thailand

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**Introduction**

In the course of field research activities on the educational realms of children with disabilities living in and around Bangkok, the author of this paper kept asking herself how the – at least in the Western hemisphere – heavily discussed implementation of the United Nations Convention on the Rights of Persons with Disabilities – UNCRPD (UN 2006) affects individuals’ lives, especially in the field of education.

During field research between 2010 and 2013 for the comparative research project CLASDISA, primary school-aged children, their parents, teachers and other stakeholders in disability and education were interviewed. The interviewees were invited to share their perspectives on barriers and facilitators (World Health Organization 2007) they experience in terms of education. More than 20 educational institutions (different types of schools, NGOs, GOs etc.) participated in data collection. Due to the high level of involvement and cooperation almost 200 interviews were collected.

It was especially interesting to hear from parents how they had learned about the fact that their children had rights, the rights that were to ensure their full participation in every aspect of life such as the right to “appropriate” education. It was initially enacted in 1975 (Individuals with Disabilities Education Act), followed by the Disability Act in 1991, the National Education Act 1999 and the Education Provision for People with Disabilities Act in 2008 (Cheausuwantavee and Cheausuwantavee 2012, 70; Vorapanya and Dunlap 2012, 2; Carter 2006, 32; Namsiripongpun n.d., 6). Parents explained that they had learned about their child’s right to access every school either in the course of being rejected by a number of (so called inclusive) schools (claiming a lack of resources and (wo)menpower), through neighbors/friends/relatives (who know someone who is) having a child with disability or via TV. That they themselves had the right to complain or urge authorities to change something was not of interest to them. Most of the interviewees came from very low or low socio-economic backgrounds. In their opinion other issues presented more pressing problems in their lives.

None of the interviewees, apart from a representative of the Ministry of Education and some academics, had ever heard about the UNCRPD. Accordingly, none of the parents or teachers raised the topic or could comment on whether they thought that the implementation could improve the situation of persons with disabilities. Most of them perceived the present legal framework as close to perfect. Things that prevented its implementation were to be searched for elsewhere. Low levels of involvement of the parents, low levels of quality of teacher education are just to mention a few. So the initially raised question manifested further:

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1. Further information on the project funded through means of the Austrian Science Fund, project number P22178, can be obtained here: [http://classifications-of-disabilities.univie.ac.at/](http://classifications-of-disabilities.univie.ac.at/).
2. Whatever that means.
Does the ratification of the UNCRPD actually have an impact on policies in Thailand (and elsewhere)?

If so, how does this affect, at its best, improve, the situation of persons with disabilities in everyday life?

Which role does individual engagement/disability movements play in that regard?

The paper at hand elaborates on these and further questions from a wide variety of perspectives. It starts with a reference to the (irrational) claim to describe and understand disability globally. Thereafter moving gradually among various geographic spheres to illustrate the complexity of grasping the dynamics of disability related policy making and implementation. Along the way more questions will be accumulated and a final statement will conclude this paper with some thoughts on further research.

The methodology used on this qualitative research paper is literature and document studies, as well as in-depth interviews with experts and individuals with disability.

International Perspectives on Disabilities

The complex interrelation between disability and culture has been thoroughly discussed in interdisciplinary literature (Riddell and Watson 2003). The aim can be summarized as identifying possible explanatory patterns at the boarders of disability and anthropology, cultural studies, educational studies etc. Disability means something distinct in every culture. It depends on a variety of culture- and society – bound factors whether a person with disability is involved in everyday life of a certain cultural space or not. It has been widely approved that it is not the disability that causes restrictions in participation but that the societal attitudes and the environment play a much more important, the major, role. This concept can be summarized under the bio-psycho-social model/understanding of disability. Among a number of other sources the following document (claims to) utilize this model: The World Health Organization’s (WHO) International Classification of Functioning, Disability and Health — Children and Youth Version (ICF – CY) that was published in 2007. It claimed to enable its users to create a functional profile of any child or young person. By providing a coding scheme that covers areas such as “body functions” and “environmental factors” it is possible to describe e.g. levels of restrictions in participation. This classification was intended to provide a universally understandable language about disability. It appears only natural that this toplofty enterprise is not solely doomed due to complexity and trouble related to translation (Üstün et al. 2002). Meekosha (2011), among others, elaborates on the common concept of

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3 One has to mention that the ICF – CY is the third version of the classification scheme published after the International Classification of Impairment, Disability and Health (ICIDH) in 1980 and the ICF in 2005 (that is almost identical with the ICF – CY apart from some child and youth – related areas). Compared to the ICIDH much has been improved in the ICF and the ICF – CY. E.g. there has been a clear shift from the sole medical approach to disability to a more bio-psycho-social one. Nevertheless the author claims that its application needs a certain level of infrastructure and understanding of the underlying concepts that will not be available globally.
disabilities that is widely based on a Western understanding. Her postcolonial critique is only one that can be held against the ICF – CY”s claim to enable profiling by providing a set of codes and classifiers.

Arising from this short elaboration on the limitations an international perspective on disability might produce, is the following:

- Can a global document on the rights of persons with disabilities actually comprise all the culture - specific characteristics (of non – Western societies) that lead to exclusion?
- Would this equal to the fact that international claims to ensure disability rights are a futile intent?

Moving from the global to a more regional setting, the following section will focus on agreements about disability-related rights within the Asian and Pacific sphere. This detour along the way to reflecting the local conditions in Thailand more in detail is to emphasize the above mentioned complexity of thinking disabilities globally.

Asian and Pacific Perspective(s) on Disabilities

Disability is a world - wide phenomenon. After what has been said some readers might question the author’s decision to look at disabilities under a regional lens. This critique is comprehensible. Nevertheless, taking a closer look at the region of Asia and the Pacific region in terms of disabilities, in which Thailand region acts as important member, makes sense due to the following reasons (ESCAP 2013, 2):

- Despite some periods of minor drawbacks, the region is characterized by economic growth
- and stability. This alludes to the intersection of disability and poverty (Elwan 1999) and offers a prospect to successfully work to overcome the vicious circle induced by it.
- The region is inhabited by around two thirds of the world’s population.
- Like no other place in the world, the region is affected by natural disasters. Adding to a constant increase in the number of persons with disabilities and the need for adapted (rehabilitative) measures.

An initial internet and online journal – focused research on the terms “Asia” and “disability” – conducted after the pair “Thailand” and “disability” seemed somewhat saturated and the pair “ASEAN” and “disability” brought up rather few matches - lead to the identification of a number of protocols on meetings, press releases on more signatories to the UNCRPD as well as agreements etc. Reading through these one gets the impression of a highly harmonic and collective strive towards equal rights for persons with disabilities. It comes unsurprisingly that a high number refer to work and education.

4 As has been thoroughly described elsewhere the intersection between disability and poverty is manifold. A small example might illustrate this: A person who does not have access to proper nutrition over a long period of time might develop an illness, acquire a disability or/die. As this person might be unable to access medical facilities due to lack of money or infrastructure, the condition might deteriorate and also affect other family members as this person might no longer contribute to the household income etc.
The UN’s Economic and Social Commission for Asia and the Pacific (ESCAP) has meanwhile agreed to a third decade for enforcing the rights of persons with disabilities. After the UN Decade of Disabled Persons between 1983 and 1992 they introduced the following (ESCAP 2007, 1):

- 1993 to 2002: Asian and Pacific Decade of Disabled Persons
- 2003 to 2012: The Biwako Millenium Framework for Action Towards an Inclusive, Barrier – Free and Rights – Based Society for Persons with Disabilities in Asia and the Pacific
- 2013 to 2022: Asian and Pacific Decade of Persons with Disabilities (ESCAP 2013, 3)

The explanation for prolonging the first decade with another one appears logical as “much progress was achieved during the [first, M.P.] Decade, [still, M.P.] the challenges were overwhelming.” (ESCAP 2007, 1) The second decade was focusing on the change from a pity-based approach to a rights-based one towards disability. The second prolongation might be interpreted as culture of postponing or suspension. At least the third decade has a nice motto: “Make the Right Real!” (ESCAP 2013, 2)

Reading through the midterm report (ESCAP 2007) that was published during Decade two or a report published by ESCAP in 2012 one gets the impression of a lot of movement. Paragraph after paragraph is filled with lists of countries or governments that have implemented this or that law or held another meeting. Detailed developments can be read about in these publications. What is interesting in the context of this paper are references to the Millenium Development Goals (MDGs) and development issues as such (ESCAP 2007, 3). We will encounter these again at a later stage of this paper. They are of special relevance when looking at the important role the Asian and Pacific region could play in refer tackling the miserable socio-economic situation of most persons with disabilities (see above).

Among others one question that remains is: Does all this impact national legislations and in the end individuals with disabilities?

Thai Perspective on Disabilities

Moving from the regional focus to a national one, one might perceive that the understanding of disability and disability-related policy making becomes easier. Due to the fact that all persons with disabilities are individual, the author doubts this approach.

Before looking at the impact of international agreements and cooperations on Thai disability – policy it makes sense to look into the Thai perception (if there is anything like this at all) of disability. As stated before disability is something tightly related to local cultures, in

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5 Reasons for focusing on Thailand in this paper can be summarized as follows:
- The author’s research activities.
- Thailand’s important role in terms of disability-related issues (foremostly trainings held in neighboring countries such as Cambodia and Myanmar) in the South-East Asian and Asian-Pacific region.
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the case of Thailand one of the main influential factors in this regard is Buddhism and closely related to that: pity (songsarn) (Naemriratch and Manderson 2009). A person with one or more disabilities is likely to be perceived as someone one has to take care of. Interestingly, this is even mirrored in some passages of the law: “Some statutes appear to work in favor of persons with disabilities, but actually have resulted in adverse effects on their rights.” (Namsiripongpun n.d., 6). Exemption from the law to have to attend school and obligatory carrying of an ID are just two of the examples given by Namsiripongpun in his review of Thai legislature in accordance with applying the UNCRPD. If for example a person with disabilities is not able to protrude an ID when asked to do so by authorities, he or she will not be punished. A person without a disability on the other hand would receive a punishment on the same account.

Thailand signed the UNCRPD in 2007 and ratified it in 2008 (UN enable n.d.). Looking at the development of disability-related developments in Thailand it is interesting to contrast it with international developments happening around that time. The following column makes no claim to completeness. It aims at giving an overview and to pave the way to identify possible overlaps and influences:

<table>
<thead>
<tr>
<th>Thailand</th>
<th>International</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999: National Education Act (Vorapanya and Dunlap 2012, 2)</td>
<td>2001 Launch of ICF. Move away from medical approach to disability (WHO 2007)</td>
</tr>
<tr>
<td>2003 – 2012: Second Asia and Pacific Decade (ESCAP 2007, 1)</td>
<td></td>
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</tbody>
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6 Many of the persons interviewed in the CLASDISA project said that the situation had improved and that people with disabilities were treated differently. Still most of them are under the impression that the foremost perception was “pity”.

7 Probably this could be considered as starting point of the Thai disability movement.
As Apichatabutra claims in the findings of her thesis, there seems to be a connection between international developments, the disability movement and policy making in Thailand. (2003: pp. 95). She argues that in the course of time the intensity of impact of social movements diminishes. The intensity of this interrelation between disability movement and policy—making varies and it would be interesting to broaden the table above with more columns on historical, political and economic events as well as the development of the disability movement in Thailand. This would enable a more comprehensible picture. At least for a column on the disability movement no useful sources could be identified so far. This leads to the fact that the role of the disability movement in the implementation process remains unclear. Apparently, some members of the Association for the Deaf and the Council of Disabled People were able to influence politics as far as leading to the full recognition of all persons with disabilities as voters in the 1991 Constitution (Namsirigpong pun n.d., 5).

What should not be forgotten when putting the Thai and the international developments next to each other is the fact that regional and local specific characteristics have to be considered. Questions such as the following might be of interest in that regard:

- Is the UNCRPD accommodating the Thai approach towards inclusion of persons with disabilities?
- Is Thailand’s stated urge to move from a pity-based to a rights-based understanding (MFA, n.d., n.p.) really the “right” decision?
- Would it probably need much more time to find appropriate ways to “translate” it?*
- Moving back to the table above once more, another analytical threat can be followed. Especially, the lowest lines on the side of Thailand are filled law enforcements. This takes us back to the initial point of interest:
- Does/Did the implementation of the UNCRPD have an impact on policy implementation in Thailand?

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*This is definitely not to indicate that the author is against equal rights for persons with disabilities all over the world. The total opposite is true. There might be ways to accelerate inclusion by learning from each other’s specific approach towards equality.
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- If yes, does this or will this ever have an impact on individuals with disabilities?

Especially, the last question seems to be far from answerable. Conditions people with disabilities are living in are very different. So even if the implementation of the UNCRPD would trigger a shift in the Thai law to enable a theoretically more equal situation for persons with disabilities, this would still not guarantee same levels of inclusion. A very striking point is that of living in urban or rural areas. A few kilometres might mean inaccessibility for a person using a wheelchair but enable another one with a visual disability to having access by a newly installed bus that is only accessible via steps.

An undated report by the MFA sums up the latest developments after Thailand’s implementation of the UNCRPD. It focuses itself clearly towards the following three goals in relation to the Millenium Development Goals (Ministry of Foreign Affairs n.d.):

- End poverty and hunger including poverty alleviation, social security, sustainable livelihoods, employment etc.
- Universal Education including training programs for persons with disabilities
- Gender Equality

Further points in relation to the UNCRPD mentioned deal with accessibility of public transport, accessible media, and involvement of NGOs etc.

Despite these important references within the Thai (planned) activities, doubts about the activities to realize or guaranteeing the sustainability of these points remain. Elaborating on this here are some points of discussion in relation to the implementation of the UNCRPD in Thailand:

- Next to the UNCRPD consisting of 50 articles there is an Optional Protocol consisting of 18 articles. Thailand has neither signed nor ratified it (UN enable n.d.)
- One of the main corner posts is the involvement and support of the disability movement, not only but also, in the monitoring process (UN 2006, 24) of the implementation. Namsiripongpun (n.d., 25) concludes that the involvement of persons with disabilities/ their agencies is of high relevance in ensuring a proper monitoring as well as implementation process. It is not clear who wrote the report that can be found on the MFA’s website. It claims that services and organizations of persons with disabilities are to be involved and supported. In order to guarantee the implementation of article 33, Disabled People’s Organizations should be transparently involved in such processes.

Insights from the Field

In 2010 the author of this paper got the opportunity to interview a famous advocate for rights of persons with disabilities in Thailand. Talking about which role the movement played in changing the lives of persons with disabilities. He said:

*A second interview before the ICIRD in 2013 is to shed more light on some of the open questions.*
“We’ve been fighting for all of this. It’s not granted to us.” (Personal Communication 2010)

“You have to fight. So collectivism, you know, collective power bargaining, fighting is really needed.” (Personal Communication 2010)

It would be of high interest to go deeper into the meaning, importance and impact of global disability movements. Villeval applies Amartya Sen’s approach to freedom and the importance of empowerment the US gay – rights movement and the international disability movement (Villeval 2008, 256). The question is whether there is anything like an international disability (rights) movement at all (Villeval does not thoroughly define it in his article) and if so how it manifests or influences activities in Thailand.

Moving even closer to the micro – level one might consider looking at individuals with disabilities. As elaborated in the beginning, the author had the opportunity to interview a broad range of stakeholders in the field of education. She collected 23 cases consisting of at least three persons (child, legal guardian and teacher) who were interviewed up to three times.

As barriers and facilitators (ICF – CY 2007) in the educational environment were of central interest, topics related to law and politics popped up as well. The high level of acceptance most of the parents displayed towards the treatment of their children prevented them from knowing about or taking legal actions. Most of them mentioned that they were satisfied that they had found a school that accepted their child. This is despite the implementation of the 2008 Educational Provision for People with Disabilities Act that should enable entrance to any (public) school (Vorapanya and Dunlap 2012, 2). Only few parents were well informed, involved and even less thought about taking steps such as changing school or talking to administrators. Some said that they were afraid that this would cause bad treatment of their children. Overall most of the interviewees (mostly mothers or grandmothers) underlined that they were happy with everything provided and that they simply did not have time to get involved as they had to work.

Another interviewee, one of the pioneers of deaf education in Thailand, summarized the parents’ role as follows. She described a recent shift from the passive nodding receiver to a more involved, empowered and informed participant in school life. Having worked as a principal of a school, she was aware of the fact that it was hard work to get parents participate. As the word on disability spreads, thanks to media and more accessible facilities, chances rise that parents can afford to question the educational provision for their children with disabilities. Teachers reported about being overburdened by bureaucracy.

Having tried to shed light on the Thai situation, a final part of this paper will sum up and intends to sort out or at least order open questions.

**Conclusion**

This paper tried to approach the issue by reflecting the odyssey through (G) local Agreements and National Legislation, we can see whether an ASEAN perspective on disabilities
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makes sense or not and in the end we still have open questions to be investigated further.

The undated report by the MFA which has been mentioned before, points out the important role of Thailand in the field of international cooperation on persons with disabilities. Indeed many of the protocols on meetings of ESCAP in regard to disability available online indicate Bangkok as meeting place.

One of the latest ones took place in May and what seems special about it is the fact that it was termed “ASEAN workshop”. Interestingly, almost no (academic) reference to the positioning of ASEAN towards disabilities could be identified by the author so far. It would be interesting to find out why this topic has been neglected so far or at least not been easily accessible for Western-based researchers. Nevertheless, one document of high interest will be summarized hereafter. The outcome of the meeting “Bangkok Recommendations Declaration of ASEAN Workshop On the Rights of Persons with Disabilities And the UN Convention on the Rights Of Persons with Disabilities CRPD” in Bangkok, termed the “Bangkok Recommendations Declaration”, consists of the following nine points (ASEAN workshop 2012, 1):

- Agreement on an ASEAN Decade of Persons with Disabilities between 2011 and 2020
- Recognition of international and national cooperation
- Encouraging the implementation of human rights and disability rights
- Encouraging the implementation of the UNCRPD
- Encouraging linkages with UN organizations and others to implement the UNCRPD
- Encouraging inclusion of disability in national action plans towards realization of MDGs (as these do not explicitly refer to disabilities; ESCAP 2013: 3)
- Inclusion of persons with disabilities at the (political) decision level
- Recognition of ASEAN disability forum as place for exchange
- Ensure realization of disability rights

The author of this paper got confused when reading about another, an ASEAN, Decade of persons with disabilities. Asking herself whether promoting, reporting on and planning all these Decades at the same time might keep Thailand and other countries, who are members of ASEAN and ESCAP, from implementing all these rights promised. Would it not make more sense to merge the efforts? It is hard to understand why international agreements and documents do not refer to each other. The MDGs and the UNCRPD could be a perfect match and their impact multiplied by intersecting.

On the other hand the quoted approach toward taking common decisions is fascinating. The document at hand comprises easily comprehensible and liveable concepts such as cooperation, recognition and insurance. But most of all: It has been summarized in only one page!
Something that could hardly be achieved by an agreement made under the lead of a Western-based organization. Even if documents are changed into “easy to read” versions, they are sometimes hard to understand.

Finally, the following questions can be posed as provoking further thoughts in relation to a culture-sensitive or at least considerate view on universal approaches to disability-legislative:

- Is the document provided by the ASEAN workshop, that seems to summarize many important considerations in terms of disability-related policy, that other international documents include, in such simple terms, the “ASEAN approach” towards the implementation of disability rights?
- Can this open but still comprehensive document ensure an improvement for persons with disabilities” in real life?

References


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