



IRAQ PROGRAM – Positioning PAPER 2024

The Recent Disability Legislation in Iraq

The first amendment of law 38 No. 11 of 2024.

Persons with disabilities of all ages continue to face stigmatization and discrimination in every aspect of their daily lives. Despite ratification of the CRPD and progress made through enacting national disability legislation, important gaps remain in the legal framework. These gaps prevent women and men with disabilities of all ages from fully enjoying their rights and being included in society. This paper highlights the current state of disability rights in Iraq, analyzes the existing legal frameworks, and provides clear recommendations for the Iraqi government and stakeholders to improve the rights and inclusion of persons with disabilities.

Background: The rights of persons with disabilities in Iraq have seen gradual recognition and legal reform over the past decade. Despite legislative efforts, significant gaps and challenges remain in fully realizing these rights. This paper serves as a foundation for policy advocacy, media engagement, and stakeholder coordination.

1. CURRENT SITUATION OF PERSONS WITH DISABILITIES IN IRAQ

A: Data and Statistics Iraq is home to a diverse population of persons with disabilities. Exact statistics on the number and types of disabilities are essential for targeted interventions but remain underreported. The Ministry of Health reported in 2022 that an estimated 15% of Iraq's population are persons with disabilities (relying on the same percentage the WHO estimated worldwide at that time; WHO reported in 2023 that 16% of people globally are living with some form of disability)¹. The Ministry of Planning provides two sets of statistics for persons with disabilities in Iraq. One, conducted in 2012, reported that 1,178,811 families have a person with a disability within the family. In 2016, they reported that 776,721 males and 580,342 females have disabilities (this statistic was

conducted for 16 governorates only, excluding the governorates under ISIS control)². In Iraq, disabilities encompass a range of impairments, including physical, sensory, intellectual, and mental. Each type presents unique challenges and requires specific support mechanisms. The only data available on different types of disabilities come from the Washington Group's Short Set of Questions (WGQs) conducted in a 2016 survey, which reveal the following: 251,313 people have visual difficulties, 156,959 have hearing difficulties, 720,567 have mobility difficulties, 356,283 have cognitive difficulties, 115,001 have communication difficulties, and 97,962 experience self-care-related difficulties. However, these statistics overlook a significant portion of persons with

¹ <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>.

² <https://cosit.gov.iq/ar/2018-08-29-07-56-45>

disabilities, as the WGQs Short Set excludes upper body function and hidden disabilities.

B: Women with Disabilities

In Iraq, women with disabilities face multiple and complex challenges that significantly impact their daily lives and basic rights. Despite slow progress in human rights and inclusion, women with disabilities face additional stigmatization and discrimination, due to the intersection of their sex and their disability. Women with disabilities also face additional barriers due to their age, socio-economic status, geographical location, etc. This marginalization translates into difficulties in accessing health services, education, and employment opportunities, in addition to challenges in interacting with the social and legal system.

Local and international laws and regulations play a crucial role in improving the status of women with disabilities, but the actual implementation of these laws is often inadequate. Women with disabilities should have access to support to enable them to fully participate in all aspects of public, political, social, and economic life. This requires accessible infrastructure and providing inclusive and accessible facilities, promoting educational programs for women with disabilities, and providing psychosocial support, to name just a few. This requires not only ensuring that women with disabilities must have access to services that are available to the public, but that proactive measures should be taken to ensure their inclusion.

It is worth noting that the Iraqi legislator did not specifically mention women with disabilities in the amended law except in two specific contexts. The first relates to education, where it included in the tasks of the Ministry of Education a text referring to "girls with disabilities", and the second relates to health, where "women with disabilities" were included in the tasks of the Ministry of Health. This approach reflects the legislator's keenness to include the rights of persons with disabilities in general while maintaining a comprehensive language that

includes all groups regardless of sex. However, it remains necessary to strengthen legal texts and practical practices to ensure that all aspects related to women with disabilities are addressed specifically and directly, which helps improve their conditions and further enhance their rights.

C: Current Support Systems

Currently, support for persons with disabilities includes medical care, limited social services, and some educational and employment opportunities. However, these systems often fall short of full and effective inclusion.

2. LEGAL AND POLICY FRAMEWORK

A: International Frameworks

Iraq signed the Convention on the Rights of Persons with Disabilities (CRPD) in 2012 and ratified it in 2013, committing to upholding the rights outlined in the convention.

B: National and Regional Laws

The primary national law governing disability rights was Law No. 38 of 2013. This law was recently amended with first amendment No. 11 of 2024, aiming to align more closely with the CRPD's rights principles.

C: Implementation and Enforcement

Despite legal provisions, the implementation and enforcement of disability rights laws face significant challenges, **including a lack of awareness**: One major barrier is the limited awareness of disability rights among governmental bodies and even within institutions responsible for enforcing these laws. This lack of awareness leads to low levels of advocacy and accountability. Individuals and families may not fully understand their rights or available services, which can prevent them from seeking or demanding enforcement of these rights. Furthermore, institutions and service providers might not prioritize or adhere to

inclusive practices due to a lack of knowledge or training in disability rights, which weakens the impact of these laws. **Inadequate regulations:** Even when disability rights laws exist, they require clear and comprehensive regulations to guide their application. Without detailed rules and procedures, the laws can become "empty promises," as there is often no practical framework or action plan to ensure their consistent implementation. This absence of structured guidelines led to inconsistent application across different regions and sectors, leaving some people with disabilities more vulnerable to exclusion or discrimination than others. **Insufficient government commitment:** it is essential for the effective enforcement of any law, particularly for disability rights, which often require dedicated resources, policies, and monitoring. When governments lack the political will to prioritize disability rights, enforcement becomes superficial, and disability inclusion remains not realistic. **And budgeting:** Implementing disability rights requires considerable funding to build accessible infrastructure, ensure reasonable accommodations, and provide essential services, such as healthcare, assistive devices, and inclusive specialized education. When financial resources are limited, government bodies and service providers often struggle to make public facilities, technology, and critical services accessible to persons with disabilities. This lack of funding can delay or limit the availability of accessible public facilities, assistive technologies, and tailored healthcare and educational services, ultimately, hindering the full inclusion and meaningful participation of people with disabilities in society.

3. ANALYSIS OF LAW NO. 11 of 2024

A: Rationale for the New Law

The first law for persons with disabilities in Iraq was issued on October 28, 2013, following its publication in the Iraqi Gazette

on the same date in issue 4295, and was designated as Law No. 38 of 2013. This law was enacted after Iraq signed the Convention on the Rights of Persons with Disabilities in 2012 and ratified it in 2013. The law was based on a medical and care model, which was reflected in its title as the "Law for the Care of Persons with Disabilities and Special Needs," and faced many obstacles in the implementation of its provisions.

From the very first day of its issuance, numerous violations and gaps were identified between the provisions of the law and what the Convention on the Rights of Persons with Disabilities aspires to achieve for persons with disabilities in Iraq. Since that time, efforts began to advocate for amending this law and striving to implement its provisions, extending over 10 years, seven months, and six days. That is, until the community of persons with disabilities in Iraq managed to change this law. As a result of the efforts and advocacy of the disability movement, Law No. 11 of 2024 was issued, marking the first amendment to the Law on the Rights of Persons with Disabilities and Special Needs, No. 38 of 2013, and was published in the Iraqi Gazette in issue 4778 on June 3, 2024.

After ten years of advocacy and direct work with the Iraqi government and the legislative authority, the first amendment of law 38 No. 11 of 2024 was adopted to reflect the rights-based model, making it more aligned with the Convention on the Rights of Persons with Disabilities. This new amendment is entitled "Law on the Rights of Persons with Disabilities and Special Needs".

B: Key Changes and Improvements

The first amendment of Law 38 No. 11 of 2024 brought about several improvements compared to the first law including the following:

- 1.** The First Amendment of Law 38 No. 11 of 2024 emphasizes the rights and full participation of persons with disabilities in society.

2. The Ministry of Education's mandate for inclusive education has significantly expanded, increasing from five to fifteen defined responsibilities. These enhanced responsibilities aim to foster a more inclusive and accessible learning environment for students with disabilities.
3. Recognize accessibility under different authorities' responsibilities.
4. Increasing the cash allowance for full-time caregivers from 170,000 Iraqi dinars to 250,000 Iraqi dinars. Additionally, caregivers will be allowed to combine this allowance with any social assistance they receive. Furthermore, the pension for an eligible successor can be combined with the salary of the full-time caregiver. The new law also permits a full-time caregiver to care for more than one person with a disability. For example, a mother caring for two children with disabilities would receive 500,000 IQD.
5. Allocating two study seats for postgraduate studies for each specialization instead of one for persons with disabilities in addition to exempting the age requirement for students with disabilities applying for postgraduate studies.
6. A 50% discount on travel tickets for the full-time caregiver of a person with a disability if the disability rate is 75% or higher.

C: Gaps and Concerns

While the first amendment of law 38 No. 11 of 2024 includes several improvements, it also shows significant gaps that will prevent women and men with disabilities in Iraq from fully enjoying their fundamental rights.

i. The definition of persons with disabilities

After the law's amendment was voted on, the community of persons with disabilities was surprised that the definition in the final version of the law differed from the one that was submitted which fully aligned to CRPD, lacking the component of interaction with various attitudinal and environmental barriers

that hinder the full participation on an equal basis with others, this definition potentially leads to a continued medicalized approach.

The current definition describes persons with disabilities as "a person who suffers from long-term impairments, whether physical, mental, intellectual, or sensory, which hinder their full and effective participation in society on an equal basis with others".

Our concern is that this definition will become the basis for the government to deal with persons with disabilities, and we will face the same strategies that were implemented in the previous decade regarding disability, relying on charity and medical approaches.

ii. The Disability Rights Authority

The absence of the Ministry of Environment from the Disability Rights Authority indicates a lack of understanding of disability issues. The Directorate for Mine Action, which is part of the ministry, deals with landmines and directly interacts with landmine victims, who are among those affected by disabilities. The absence of this ministry from the Disability Rights Authority undermines the coordination of efforts in this field.

One of the demands and clarifications that disability organizations have made to the legislative side is to transform the Disability Rights Authority into a coordinating body rather than an executive one, as is the case under the previous and current laws. This authority should have full independence in coordinating, monitoring, and overseeing the strategic plans for the inclusion of persons with disabilities. However, this has not been achieved in the new law either.

iii. Harmful and ableist language

Although this law is more compatible with the Convention on the Rights of Persons with Disabilities in terms of its rights-based approach, it nevertheless uses non-disability-friendly language in three parts, referring to persons with disabilities as "disabled." This term is inconsistent with the Convention and

implies that disability is the responsibility of the individual rather than the result of the interaction between their impairment and barriers. In addition, the term "Special needs" as stated in the title is considered ableist.

4. Additional challenges and Barriers

Certain legal texts not related to the First Amendment of law 38 No. 11 for 2024 perpetuate unacceptable and negative forms of discrimination that play a fundamental role in excluding persons with disabilities and systematically violating their rights. Article (495) of the Iraqi Penal Code (Law No. 111 of 1969) states: "Anyone who releases person of unsound mind, who might be dangerous, or a wild or harmful animal in a public way, shall be punished with imprisonment for a period not exceeding one month or a fine not exceeding 20 dinars." This provision equates a person with a mental disability or what it calls a "person of unsound mind" with an animal, thereby clearly violating of the human dignity of persons with intellectual and/or psychosocial disabilities and perpetuating harmful negative stereotypes.

The provisions of the Civil Code (Law No. 40 of 1951) and the amended Personal Status Law (Law No. 88 of 1959) also discriminate against persons with mental and intellectual disabilities by limiting their legal capacity. Consequently, they are not entitled to exercise many rights and freedoms or conclude legal transactions that are subject to annulment.

It is also worth noting that individuals with sensory disabilities face obstacles regarding legal capacity, as Article 104, Paragraph 3 of the Iraqi Civil Code (No. 40 of 1951) states: "If a person is deaf, dumb, blind, or both deaf and dumb, and is unable to express his will due to this, the court is authorized to appoint a guardian for him and determine his actions." This provision has become the first decision for every judge dealing with individuals with disabilities, even in cases where it is possible to use sign language interpreters.

Sometimes, the laws themselves are not the barrier; rather, it is the instructions and procedures that hinder a person from gaining individual autonomy and independence or accessing services. For example, individuals with visual impairments do not have the right to manage their bank accounts without having a guardian or witness for every financial transaction conducted. In this case, there is no legal requirement for a guardian, yet these procedures have been put in place by the banks.

In the end, the Iraqi legislator did not seriously consider legal capacity in the amendments, particularly for individuals with hearing, visual, Intellectual, and mental impairments. This oversight affects their social and legal status as well as their moral standing in society, especially in matters related to inheritance, financial transactions, and other issues that require informed legal representation by the individuals themselves.

Conclusions and Recommendations

Recommendations for the Iraqi Government

Considering the ratification of the CRPD and the persistent gaps in the national legal framework, we call upon the Iraqi government and other duty-bearers, to take immediate and decisive action to advance the rights and inclusion of persons with disabilities in Iraq. The key areas for action include:

- A. **Advance Inclusive Education:** Urgently adopt and implement a robust inclusive education framework that ensures equal access to quality education for all students with disabilities, including women and girls with disabilities.
- B. **Promote Accessibility and Inclusion:** Launch and support initiatives, such as the Accessible Iraq Campaign, to enforce comprehensive accessibility standards across all sectors, ensuring that environments and services are fully inclusive.
- C. **Foster Public Awareness:** Conduct robust public awareness campaigns to shift societal attitudes towards disability and advocate for greater inclusion in all aspects of life.
- D. **Strengthen Implementation Mechanisms:** Develop and implement detailed regulations and procedural guidelines to ensure that the provisions of Law No. 11 of 2024 are effectively operationalized and that persons with disabilities receive the support and services they have a right to.
- E. **Increase Government Commitment:** Enhance government accountability and commitment to disability rights through dedicated funding, clear policy objectives, and regular monitoring.
- F. **Ratification of the Optional Protocol:** Ratify the Optional Protocol to the CRPD to enhance legal protections for persons with disabilities.
- G. **Amendment of Legal Definitions:** Urgently revise the definition of disability in Law No. 11 of 2024 to incorporate the interaction with attitudinal and environmental barriers. This will align the law with the CRPD's principles and promote a more inclusive approach.
- H. **Reform Discriminatory Provisions:** Review and amend or repeal discriminatory legal texts in the Penal Code, Civil Code, and other relevant laws that perpetuate negative stereotypes and hinder the full participation of persons with disabilities.
- I. **Engage Stakeholders:** Form a coalition of government officials, disability organizations, and community leaders to drive the proposed reforms and ensure broad-based support.
- J. **Monitor and Evaluate:** Establish a framework for monitoring the implementation of disability laws and policies. Regularly review progress, identify challenges, and adjust strategies as needed.

Call to action for civil society

Civil society plays an essential role in promoting the rights of persons with disabilities in law, policy, and practice. To that end, we call on organizations to:

- A. **Join forces:** identify common advocacy priorities and strategies with other civil society organizations, particularly OPDs, build networks and coalitions, and jointly call for the inclusion of persons with disabilities in all areas.
- B. **Raise awareness:** on the rights of persons with disabilities.
- C. **Secure Funding:** Advocate for increased funding for disability rights initiatives and secure resources to support advocacy efforts and the preparation of parallel reports to the CRPD committee.
- D. **Strengthen Advocacy:** Continue advocating for the ratification of the Optional Protocol to the CRPD and engage in ongoing dialogue with international bodies to enhance legal protections for persons with disabilities.
- E. **Promote Collaboration:** Foster collaboration between national and local governments, non-governmental organizations, and international agencies to ensure that efforts are coordinated, and resources are used effectively.

Conclusions and the way forward

- Law No. 11 of 2024 represents a significant step forward in aligning Iraq's disability legislation with UNCRPD. However, challenges remain, including the use of outdated language and gaps in implementation. Addressing these issues requires a concerted effort from all sectors of society. By adopting a rights-based approach and ensuring comprehensive reforms, Iraq can make substantial progress towards the full inclusion and empowerment of persons with disabilities.

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