

Human Rights approach to Disability CRPD obligations in Iraq

Presentation by UNAMI HRO
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Promoting a Strategic Approach to Victim Assistance
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بعثة الأمم المتحدة لمساعدة العراق



OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
مكتب المفوضية السامية لحقوق الإنسان

UNAMI mandate

- ▶ The promotion and protection of the human rights of all Iraqi people without discrimination and in particular the rights of vulnerable groups such as – minorities, women, children, detainees, persons with disabilities
- ▶ **On the Rights of PWDs**, UNAMI HRO conducts:
 - Monitoring and reporting on PWD situation in Iraq;
 - Advocacy with Government of Iraq (GOI), CSOs and others
 - Provision of technical advice and assistance to the GOI and its representatives in relation to implementing its obligations related CRPD.
 - Capacity building of Government and civil society

CRPD and the Optional Protocol

- ▶ Adopted by the United Nations General Assembly on **13 December 2006** and entered into force in **May 2008**
- ▶ Iraq acceded to the CRPD in **March 2013** and in the same year enacted the **Care of Persons with Disabilities and Special Needs Act no 38 (2013)**
- ▶ **The Optional Protocol** is an additional side-agreement to the CRPD, adopted on **13 December 2006**, and **entered into force** at the same time as its parent Convention **on 3 May 2008**.
- ▶ Iraq has not yet ratified the Optional Protocol to the CRPD.

General Principles

- ▶ Respect for inherent dignity, individual autonomy, freedom to make one's own choices, and independence
 - ▶ Non-discrimination
 - ▶ Full and effective participation and inclusion in society
 - ▶ Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
 - ▶ Equality of opportunity
 - ▶ Accessibility
 - ▶ Equality between men and women
 - ▶ Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities
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Participation and inclusion

- ▶ Participation is important to correctly identify specific needs, and to empower the individual
- ▶ Full and effective participation and inclusion in society is recognized in the Convention as:
 - General principle (article 3)
 - General obligation (article 4)
 - Right (articles 29 and 30)

UNAMI's Observations

- ▶ Gender dimension: “women and girls with disabilities are subjected to multiple discrimination” at the same time, shame and embarrassment linked to disability seem to affect men/ boys more than women because of war and insecurity.
 - ▶ Law no 38 presents provisions and definitions that “care based” and not in line with the CRPD which is “rights based.”
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Non-discrimination

- ▶ Fundamental principle of International Human Rights Law
- ▶ Includes direct and indirect discrimination
- ▶ ***reasonable accommodation*** for PWDs

‘necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms’

UNAMI's Observations

- ▶ While perceptions of PWDs have changed due to awareness-raising and advocacy, knowledge of the CRPD remains limited where:
 - PWDs are regarded as “an embarrassing weakness”
 - PWDs need “sympathy” and are “objects of charity”

Accessibility

- ▶ **Important as a means to empowerment and inclusion**
- ▶ **Both a general principle and a stand-alone article (article 9)**
- ▶ **Access must be ensured to:**
 - Justice (article 13)
 - Living independently and included in the community (article 19)
 - Information and communication services (article 21)
 - Education (article 24)
 - Health (article 25)
 - Habilitation and rehabilitation (article 26)
 - Work and employment (article 27) - HR policies and practices
 - Adequate standard of living and social protection (article 28)
 - Participation in political and social life (article 29)
 - Participation in cultural life, recreation, leisure & sport (article 30)

UNAMI's Observations

- ▶ Children with disabilities living in rural areas have very limited access to specialized facilities and educational opportunities.
- ▶ Overstretched healthcare system lacking capacity, infrastructure and equipment with many of these in urban areas catering for persons with physical disability who receive prosthetics, wheelchairs, crutches, physical therapy and hearing aids.
- ▶ Integration into society may be hindered by the family dependent on its culture and level of education, with some hiding family members who are disabled.
- ▶ The role of CSOs, since 2003 mostly composed of PWDs who focus advocacy on the rights of PWDs rather on their care.
- ▶ Access to employment is limited to PWDs, with many offered training or opportunities to simple projects because these are perceived not to be productive
- ▶ Access to justice is limited by the infrastructural impediments in the courts of law as well as lack of procedural accommodations available to PWDs with sensory, psychosocial and/ or intellectual disabilities during court proceedings

How the CRPD complements victim assistance

- ▶ UNAMI notes that victim assistance is basically a human right, with many of its principles resonating those found within the CRPD.
 - ▶ Notably – the focus on the family; the principles of non-discrimination, participation and inclusion, accessibility and inclusion; weak capacity to address and mainstream disability has impacted on sustainability and development; and international cooperation.
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UNAMI's recommendations

- ▶ These relate to both the CRPD and victim assistance
- The widespread charity-based perception of disability in Iraq should give way to a rights-based approach to disability, in line with the State's obligations under CRPD. In this context, Law 38 (2013) should be revised to ensure full compliance with the Convention.
- The legal framework for the promotion and the protection of the rights of persons with disabilities should be strengthened to dismantle the mental and physical barriers that prevent their active participation in society, on an equal basis with everyone else.
- UNAMI recommends that Iraq ratify the Optional Protocol.