



IRAQ PROGRAM – Positioning PAPER 2024

The Recent Disability Legislation in Kurdistan Region of Iraq (KRI)

Law No. 8 of 2021.

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 and Kurdistan are 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 in federal Iraq 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 including the Kurdistan region. 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 men and 580,342 women have disabilities (this statistic was conducted for 16 governorates only, excluding the governorates under ISIS control)². In Iraq and the Kurdistan region, 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 impairments, 156,959 have hearing impairments, 720,567 have

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>

mobility impairments, 356,283 have cognitive impairments, 115,001 have communication impairments, and 97,962 experience self-care-related barriers. However, these statistics overlook a significant portion of persons with disabilities, as the WGQs Short Set excludes upper body function and hidden disabilities.

B: Women with Disabilities

In Iraq and KRI, 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 limited medical care, limited social services, and some educational and employment opportunities. However, these systems often fall short of full and effective inclusion. While there are several support systems in place for persons with disabilities in the Kurdistan Region of Iraq, they remain fragmented and under-resourced. To improve these systems, there needs to be better coordination, increased funding, stronger enforcement of laws, and greater involvement of people with disabilities and their representative organizations in decision-making processes.

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 in Iraq is 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 and principles.

The Kurdistan Regional Government (KRG) has its own legislative body and has adopted laws and policies related to the rights of persons with disabilities. These laws align with Iraq's national disability law (Law No. 38 of 2013) and the CRPD, which Iraq ratified in 2013. The Kurdistan regional law governing disability rights was Law No.22 of 2011. In 2021, however, a new law was passed (Law No. 8 of 2021) to better align with the rights of persons with disabilities as provided by (CRPD). The new law aims to provide job opportunities and services appropriate to their living conditions, to ensure their rights in the fields of health, social, and education to eliminate discrimination against them, and to address the gaps in the implementation of the legal framework.

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

Law No. 22 of 2011 in the Kurdistan Region of Iraq (KRI) is a landmark piece of legislation aimed at safeguarding the rights and enhancing the inclusion of persons with disabilities. Enacted by the Kurdistan Regional Government, the law came in response to a growing recognition of the need to protect the rights and dignity of persons with disabilities and to align regional policies with international human rights standards, particularly the UN Convention on the Rights of Persons with Disabilities (CRPD), which Iraq has ratified.

While the Kurdish Law defines disability broadly, encompassing physical, mental, intellectual, and sensory impairments that hinder full participation in society, the law itself is based on the medical model of disability, rather than a rights-based approach.

Law No. 22 of 2011 is not in conformity with international standards and gaps were identified between the provisions of the law and what the CRPD aspires to achieve for persons with disabilities in Iraq. Since the passing of the law, efforts began to advocate for amending it and striving to implement its provisions. This continued for over 10 years until the efforts and advocacy of the community of persons with disabilities in the Kurdistan region resulted in the amendment of this law.

Law No. 8 of 2021 was issued, marking the first amendment to the Law on the Rights of Persons with Disabilities and Special Needs, and was published in the Kurdistan Facts (which is an official issue published by the Ministry of Justice) in issue 276 on December 22, 2021. The title changed from “Law on Rights and Privileges of Persons with Disabilities and Special Needs in the Iraqi Kurdistan Region” to “Law on Rights and Privileges of Persons with Disabilities, Special Needs and Persons with Short stature in the Iraqi Kurdistan Region”.

B: Key Changes and Improvements

Law No. 8 of 2021 brought about several improvements compared to the old law, including the following:

1. Establishing special programs for persons with disabilities, persons with special needs, and persons with dwarfism within educational programs.
2. Private project owners are required to employ a certain number of people with disabilities in their projects, in roles suitable to their abilities and skills. To support this, they must provide appropriate training to help them meet the job requirements. The government will cover half their monthly salaries for up to three years.
3. Persons with disabilities, special needs, and persons with dwarfism have the right

to obtain a driver's license following the applicable guidelines.

4. Companies implementing housing projects, in coordination with the Investment Commission in the Kurdistan Region of Iraq (KRI), are required to allocate a certain number of housing units for persons with disabilities, persons with special needs, and those of short stature, free of charge, provided that these units are appropriate for their living and physical conditions.

C: Gaps and Concerns

Having two separate laws for persons with disabilities, one at the national level and another specific to the Kurdistan Region of Iraq (KRI) has resulted in confusion and conflict for persons with disabilities living in the KRI. While national law No. 38 of 2013 and its first Amendment No. 11 for 2024, and regional law No. 22 of 2011, both aim to protect and promote the rights of persons with disabilities, they differ in terms of scope, benefits, and implementation mechanisms. This dual legal framework has led to several issues for persons with disabilities in the region. For example, although the national law (Law No. 38 of 2013 and its First Amendment No. 22 for 2024) contains several gaps and shortcomings, it offers certain benefits that are not fully addressed in the KRI law. The national law, for instance, provides a broader range of social protection benefits, such as higher financial allowances, subsidies, and exemptions for certain services, which are not always matched by the KRI law.

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." Even the term disability in Kurdish has a very wrong and misleading definition as it means “a person who lost one part of their body” (because there is not a suitable word for a person with

disability yet in the Kurdish Language) which resulted in using a person with special needs for all type of disability in the communities.

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

4. Additional challenges and Barriers

Certain legal texts not related to Law No. 8 of 2021 nor the National law and its First Amendment No. 11 of 2024 perpetuate unacceptable and negative forms of discrimination that play a fundamental role in excluding persons with disabilities and systematically violating their rights.

A: Legal Barriers

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.

B: Implementation Challenges

The implementation of disability laws is hindered by the absence of detailed regulations and procedural rules. Governmental awareness and capacity to adopt a rights-based approach remain limited. Some legal protections for persons with disabilities may be weak or not fully implemented. This can affect their ability to seek justice and ensure their rights are upheld.

Despite the existence of laws mandating government financial and employment support for persons with disabilities since 2013, economic challenges have resulted in no actual financial support being provided.

Additionally, new individuals with disabilities cannot even be registered for financial assistance.

Moreover, negative social attitudes and inaccessible environments further marginalize persons with disabilities, limiting their participation in various aspects of life.

5. Why inclusion in Kurdish law matters

Opponents of strengthening the implementation of the Iraqi Disability Law and KRI may argue that Iraq faces more pressing challenges, such as political instability, economic crises, and security concerns. However, addressing the rights and needs of persons with disabilities is not a secondary issue, it is an integral part of building a more inclusive and just society.

Furthermore, investing in the rights of persons with disabilities can contribute to economic growth by enabling their full participation in the Labor market. Research

shows that economic losses related to the exclusion of persons with disabilities are large and measurable, ranging from between 3 and 7 percent of GDP³.

The KRI has a degree of autonomy and may prefer to establish its legal framework to address local needs and contexts more effectively. This autonomy allows the KRI to tailor disability laws and policies to its specific socio-cultural and economic conditions. Furthermore, The KRI might seek to assert its political and administrative independence by maintaining separate regulations that reflect its governance priorities and regional identity. The KRI government might face challenges in implementing the national law's provisions due to differences in infrastructure, administrative capacity, or local conditions. The regional law may be seen as more practical or feasible given these circumstances.

³ International Labour Organization (2010) The price of exclusion: Executive Summary of the economic consequences of excluding people with disabilities from the world of work;

<https://www.ilo.org/publications/price-exclusion-executive-summary-economic-consequences-excluding-people>

Conclusions and Recommendations

Recommendations for the Iraqi and Kurdistan Regional Governments

Considering the ratification of the CRPD and the persistent gaps in the national legal framework, we call upon the Iraqi and Kurdistan Regional 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. 8 of 2021 marks a significant advancement in aligning KRI's disability legislation with international standards. However, challenges persist, such as outdated language and gaps in implementation. To address these issues, a coordinated effort from all sectors of society is needed. By adopting a rights-based approach and implementing comprehensive reforms, the Kurdistan Region of Iraq could either adapt the national law or amend its legislation to ensure it meets the same standards as the national law.

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