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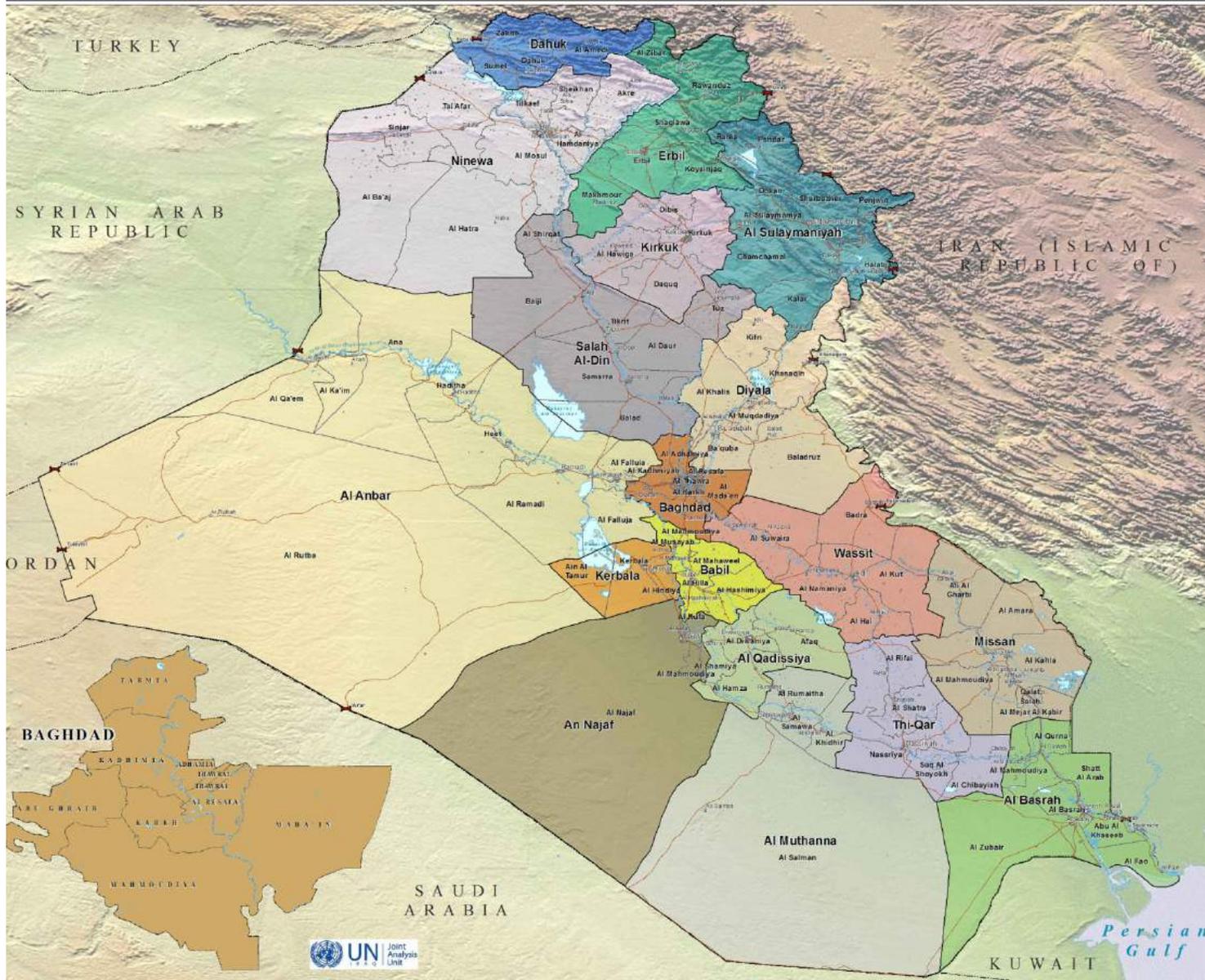


OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Report on the Rights of Persons with Disabilities in Iraq December 2016



IRAQ - District Map
July 2014



Legend

Land Use

- Builtup Area

Transportation

- Primary routes

Demographics

- Capital
- Gov Capital
- Major City

Boundaries

- Border Crossings
- International Boundary
- Governorate Boundary
- District Boundary
- Coastline

Hydrology

- Lakes and reservoirs
- Major rivers
- Land subject to inundation

Disputed Internal Boundaries: **Elevation map:**

Coordination Hubs and AoRs: **Oil and Gas resources:**

Governorate and district boundaries in Iraq vary amongst sources. This map shows names, spellings and administrative boundaries corresponding to the data developed by ICM and OCHA, August 2008.

Map Doc Name: JAU_Iraq_Districts_2014.pdf
Creation Date: 29 Jan. 2014
Projection/Datum: Geographic WGS 1984
Web Resources:
Nominal Scale at A0 paper size: 1:1,150,265

0 38,000 76,000 152,000 Meters
 0 10 20 30 40 50 100 Miles

Scale for inset maps: 0 2 4 8 10 20 Kms

Map data sources: BaseData: IIC 2003; MNF-4 2005; OCHA 2008; UNAMI 2008; IOM 2008; UNHCR 2008; IMAP 2008; Admin Boundaries: ICM/OCHA 2008; Imagery: NGA

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Key recommendations:

- The Government of Iraq must implement a range of measures to shift the widespread charity-based perception of disability in Iraq to a rights-based approach to disability, in line with the State's obligations under the Convention on the Rights of Persons with Disabilities (CRPD). In this context, Law 38 (2013) on the Care of Persons with Disabilities and Special Needs should be revised to be fully compliant with the Convention.
- The legal framework for the promotion and protection of the rights of persons with disabilities should be strengthened to dismantle the attitudinal and physical barriers that prevent their active participation in society on an equal basis with everyone else. To this end the Government of Iraq should:
 - Ratify the Optional Protocol to CRPD;
 - Follow up on the implementation of disability-related recommendations by the United Nations Treaty Bodies and the March 2015 Universal Periodic Review (UPR);
 - Extend an invitation to the Special Rapporteur on the rights of persons with disabilities to visit Iraq.
- Administrative procedures for claiming State benefits and accessing other services should be simplified and better publicized. In the case of women with disabilities, who face additional challenges and limitations to their access to basic services due to societal stereotypes, the Government of Iraq should consider specific provisions to ensure their equal access to all State benefits and services.
- Information about the situation of persons with disabilities should be improved substantially for policy and programmatic purposes and to monitor the implementation of Iraq's obligations under CRPD. To that end, a system should be put in place for quantitative and qualitative data collection and analysis, disaggregated by age and sex, and respectful of privacy and confidentiality standards, based on, where appropriate, internationally agreed indicators. Persons with disabilities should be actively and meaningfully involved in the design and delivery of all policies and programmes aimed at benefiting them or affecting them.
- In parallel, a robust, public education campaign should be developed and implemented by the Government of Iraq, in partnership with persons with disabilities, focusing on raising awareness about the rights of persons with disabilities, combatting discrimination against them, and aimed at strengthening and enhancing their participation in public life, in line with CRPD and the 2030 Agenda for Sustainable Development. All forms of media (public and private), and in particular social media, have an important role to play in this context.
- Practical interventions are needed to eliminate the physical and attitudinal obstacles that create, promote or sustain disability. The Government of Iraq should design and implement such interventions with the full and active participation of persons with disabilities, and with the aim of ensuring systematic accessibility. In parallel, practical measures need to be developed to improve specialized health care, including psychosocial support, for persons with disabilities, where mainstream services are not appropriate.
- In the context of humanitarian emergency and reconstruction, in keeping with CRPD and the Charter on Inclusion of Persons with Disabilities in Humanitarian Action, the Government of

Iraq should design and implement initiatives, with the full and active participation of persons with disabilities, to build a more inclusive society.

- The Government of Iraq should, in the development and implementation of all legislation, policies, programmes and other initiatives, pay special attention to the situation of women and girls with disabilities due to their specific vulnerabilities, particularly in a context of conflict and humanitarian emergency.
- The Government of Iraq should undertake a mapping of the specific needs of children with disabilities, and appropriate levels of intervention should be identified, particularly for children with disabilities who have been displaced, and to ensure that they have full and equal access to all educational opportunities.
- In developing and implementing legislation, policies, programmes and other initiatives that aim at enhancing the respect and protection of the rights of persons with disabilities, the Government should consult proactively with persons with disabilities and ensure that they are directly involved and represented in all decision-making processes affecting their lives, with a view to creating a conducive environment for their full and equal participation in society as dynamic, creative and effective agents of change.

Report on the Rights of Persons with Disabilities in Iraq

1. Introduction

The 10th anniversary of the adoption of the Convention on the Rights of Persons with Disabilities (CRPD), in December 2016, provides an opportunity to examine the situation of persons with disabilities in Iraq in view of the Government's obligations as a State Party to CRPD. It can also provide a momentum, ahead of the first review of Iraq by the United Nations Committee on the Rights of Persons with Disabilities, to encourage the Government to develop and implement initiatives to address the gaps and other obstacles that hamper respect and protection of the rights of persons with disabilities, including their equal participation in political, social, economic and cultural life. Such processes should be undertaken in full consultation with persons with disabilities.

The 2030 Agenda for Sustainable Development, adopted in September 2015, under the pledge that 'no one will be left behind', includes several references to persons with disabilities, notably in connection with: education; employment; social, economic and political participation; the building of inclusive, safe and sustainable cities; and accountability, with a focus on improving the availability of disaggregated data to make the situation of persons with disabilities more transparent and apparent to planners and Government decision makers.

In addition, the United Nations Security Council has continued to focus on the particular impact that armed conflicts and situations of violence have on persons with disabilities¹ while the United Nations Human Rights Council has requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on the rights of persons with disabilities in situations of risk and humanitarian emergencies, under article 11 of CRPD.²

The present report aims at highlighting the situation of persons with disabilities in Iraq as well as the obligations of the Government of Iraq towards them under international law. The report addresses recommendations to all relevant stakeholders concerning the development and implementation of legislative, institutional and policy reforms, and other programmes and initiatives that should address the serious gaps and obstacles that hamper the respect and protection of the rights of persons with disabilities and significantly hinder their full and equal participation in the political, social, economic and cultural life of Iraq.

This report on the *Rights of Persons with Disabilities in Iraq* is published by the Human Rights Office of United Nations Assistance Mission for Iraq (UNAMI) in cooperation with OHCHR, under their respective mandates.³

¹ United Nations Security Council resolutions 1894 (2009), 2217 (2015), 2225 (2015)

² A/HRC/31/30

³ In resolution 1770 of 10 August 2006, the United Nations Security Council requested UNAMI to "promote the protection of human rights and judicial and legal reform in order to strengthen the rule of law in Iraq..." (paragraph 2(c)). UNAMI mandate was extended in the same terms for 2016/2017 by Security Council resolution 2299 of 25 July 2016. In accordance with its mandate, the UNAMI Human Rights Office conducts a range of activities aimed at promoting the respect and protection of the human rights of all people in Iraq, including persons with disabilities, and *inter alia* undertakes independent and impartial monitoring of, and reporting on, the situation of the rights of persons with disabilities and fulfilment by Iraq of its obligations to them under international human rights law.

2. Methodology

To collect the information relied on in this report UNAMI/OHCHR conducted face-to-face interviews, group discussions with, and addressed questionnaires to, a range of stakeholders. It also examined various materials, including United Nations reports, publications by non-governmental organizations (NGOs), as well as academic and media articles. The report includes cross-references to relevant United Nations publications, including by OHCHR, UNICEF and the World Health Organization (WHO), when relevant.

Questionnaires were sent in Arabic, English and Kurdish to governmental and non-governmental interlocutors, persons with disabilities, and civil society representatives whose work focus on the rights of persons with disabilities, in Baghdad, central and south Iraq and in the Kurdistan Region of Iraq.

For the purposes of this report, the concepts of ‘disability’ and of ‘persons with disabilities’ are based on CRPD. Accordingly, ‘disability’ results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. ‘Persons with disabilities’ include people who have long-term physical, mental, intellectual or sensory impairments, and who, in interaction with various barriers, may be hindered in their full and effective participation in society on an equal basis with others.

The report presents an overview of the situation of persons with disabilities in Iraq, the societal response to them, including the stigma associated with disabilities, and an assessment of the extent to which their rights are protected, promoted, and respected in keeping with CRPD.

The report is comprised of two main sections: Part I assesses the level of awareness about - and implementation of - a human rights-based approach to disability in Iraq. Part II assesses the inclusion of persons with disabilities in society and their exercise of different rights enshrined in the Convention, such as: accessibility (art. 9); access to justice (art. 13); living independently and being included in the community (art. 19); health (art. 25); work and employment (art. 27); and adequate standard of living and social protection (art. 28), among others. The report also includes an analysis of the gender dimension of disability and how being a girl or a boy, a woman or a man, further impacts on persons with disabilities. The report provides examples that clearly demonstrate how persons with disabilities can contribute meaningfully and productively to their communities and to society as a whole. Finally, the report outlines the relevant legal framework at the national and international level, and concludes with recommendations aimed at addressing the significant gaps and other obstacles that detrimentally impact on persons with disabilities and prevent their full and equal participation in Iraq’s political, social, economic and cultural life, not least in the context of the humanitarian emergency the country has been experiencing.

3. Challenges

The main challenge in the preparation of this report was the lack of reliable statistics, benchmarks and data collection systems, which made it difficult to obtain a clear picture of the community of persons with disabilities in Iraq and their situation, particularly regarding those living in areas directly affected by armed conflict.

Moreover, the prevailing insecurity considerably limited the ability of UNAMI/OHCHR to directly access relevant stakeholders in some areas of the country and to collect first-hand and comprehensive information relating to infrastructures, facilities and services for persons with disabilities. UNAMI/OHCHR attempted to overcome this obstacle by reaching out to a range of sources, including through telephone interviews and by perusing information provided by humanitarian partners, and other sources in locations that were not accessible.

4. Acknowledgements

UNAMI/OHCHR wishes to thank all those who have contributed to this report, first and foremost persons with disabilities who agreed to share their experiences, and the numerous civil society organizations which continue to work in extremely difficult circumstances.

Part I – A Human Rights-Based Approach to Disability in Iraq

5. The situation of Persons with Physical and Mental/Psychosocial Disabilities

Persons with disabilities in Iraq have been disproportionately affected by armed conflict, violence and other emergencies which have affected the country over several decades. Armed conflict, terrorism, and violence which have prevailed since 2003 continue to dramatically impact on civilians, with significant loss of lives, injuries, devastation of property and livelihoods, and destruction or serious disruption of essential services. Persons with disabilities have been differentially and detrimentally impacted by this ongoing violence, facing greater obstacles than others in accessing protection and humanitarian assistance. Persons with disabilities belong to all ethnic and religious communities and are of all ages and genders – yet they face common experiences of often multiple, intersecting and aggravated forms of discrimination which hinder, prevent or impair their full enjoyment of their rights and their full and equal participation in all aspects of society. Moreover, the lack of reliable statistics concerning the number of persons with disabilities in Iraq and of quantifiable information on the problems they face prevents any comprehensive assessment of the gaps and needs and, therefore, the development of appropriate policies.

5.1 Statistics and Data Collection

Article 31 of CRPD requires that

'States parties undertake to collect appropriate information [...] to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall (a) comply with legally established safeguards [...] to ensure confidentiality and respect for the privacy of persons with disabilities; (b) comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics. 2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights. 3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.'

In meetings with civil society organizations, persons with disabilities noted that there are no national statistics on persons with disabilities, while the figures⁴ most frequently cited are provided by WHO which estimated that, as of 2011, some 4 million people in Iraq⁵ were living with disabilities⁶. The

⁴ On the difficulties of quantifying and measuring disability, see WHO, *World Report on Disability*, 2011, p. 21, available online <http://www.who.int/disabilities/world_report/2011/report/en/>

⁵ Out of an estimated total population of 38,146,025 (July 2016 est.) according to the CIA World Factbook

figure of people with disabilities has been constantly increasing, mainly due to ongoing violence, conflict and acts of terrorism.⁷

International researchers mostly refer to the WHO figures. A study by the Electoral Knowledge Network noted that there were no accurate statistics on the number of people defining themselves as 'disabled' in Iraq.⁸ The study quoted estimates from the Iraqi Ministry of Health, based on research from 2009, pointing to a figure of 1 million, which is the figure referred to by the Iraqi Association of Disability Organizations (IADO). However, in that same year, WHO had estimated that there were at least two million persons with disabilities in Iraq.

Another study dated 2014 noted that the Ministry of Health had not kept updated statistics concerning the number of persons with disabilities, the percentage of which it estimated to be at 15 per cent (compared to a global average of 10 per cent) or just over 3 million people.⁹ Statistics produced by the Association of Short Statured People and People with Special Needs in 2014 estimated that about 4 million people were living with disabilities in Iraq.

While figures differ, all sources concur that the situation of people living with disabilities in Iraq is dire and that their number is increasing, *'particularly in battlefield areas where the explosions of mines and hazardous waste [often] cause amputations'*.¹⁰

5.2 Definition and Official Recognition

While there is a system of registration in Iraq that allows persons with disabilities to be officially recognized as such and/or given an official disability certificate, one interlocutor noted that *'the State does not have a clear and unified definition for persons with disabilities, as each Ministry has its own definition'*.¹¹ In 2011, WHO announced it was *'supporting the Ministry of Health to strengthen and improve its registration system, to ensure health systems are more inclusive and responsive to the needs of persons living with disabilities'*.¹² In a 2014 study on disability in Iraq, USAID referred to a registration process with the Ministry of Health based on the criteria provided in the 1980 Social Security Law (see below).

Law 38 (2013) on the Care of Persons with Disabilities and Special Needs, article 15 (IX) stipulates that the Ministry of Planning should *'provide a database of persons with disability and special needs in Iraq according to age and type of disability, through family surveys and through the related care centres'*. However, at the time of writing, the Ministry had yet to establish such a database. The Commission on the Care of Persons with Disabilities and Special Needs - which had been established by Law 38 (2013) to oversee the implementation of Government policies related to improving the

⁶ See WHO, *World Report on Disability*, 2011, p. 273, available online <http://www.who.int/disabilities/world_report/2011/report/en/>. The statistic provided by WHO in this report estimated that 0.9 per cent of Iraq's population was affected by impairment, based on a limited statistical category provided in 1977. According to the WHO website, "Many persons with disabilities have limited or no access to health care and rehabilitation, education, skills training, and employment opportunities. In Iraq, the years of war, and all the man-made disasters throughout, have further increased the number of disability, to approximately reach two-million people." available online <<http://www.emro.who.int/irq/programmes/rehabilitation-disabilities.html>> accessed 24 September 2016.

⁷ UNAMI/OHCHR interview, Baghdad 13 May 2016.

⁸ ACE-Electoral Knowledge Network case study on Iraq 'Increasing Engagement of the Election Commission with Persons with disabilities'.

⁹ USAID Iraq, Iraq Access to Justice Program, Values of Access to Justice and Persons with Disabilities in Iraq, March 2014.

¹⁰ *'Iraq's disabled lack basic help'*, by Wassim Bassem, posted in Al-Monitor on 11 August 2015.

¹¹ Government of Iraq questionnaire, Kirkuk. Of note, there are several ministries who deal with disability-related issues, with the Ministry of Labour and Social Affairs being the main responsible. Other relevant ministries include health, education, and transport.

¹² WHO Press release 'Ministry of Health in Iraq/WHO launch Global report on Disability', 21 June 2011

rights of persons living with disabilities in Iraq - advised that it was planning to collect statistics and establish its own database, commensurate with available resources.

In interviews with civil society organizations, persons with disabilities complained that registration was slow. In addition, their ability to access services, privileges and exemptions that the national law granted them was negatively impacted by the fact that Ministry of Health staff used inconsistent criteria across the country.¹³

5.3 Congenital and Acquired Impairments

It has long been claimed that prolonged armed conflict and violence have resulted in the release of heavy metals and other toxic and hazardous substances into the air, water and soil, which, combined with environmental neglect, have contributed to high levels of toxicity that may have contributed to an increase in congenital diseases and detrimental health conditions at birth. In some cases, these factors have been exacerbated by low-nutrition and malnutrition, which have hampered children's cognitive development and contributed to learning difficulties. Some NGOs expressed concern at the increase in congenital impairments due to lack of preventive care over decades.¹⁴

Armed conflict, terrorism, landmines and explosive remnants of war continue to have a devastating impact on many people in Iraq, particularly children, due to serious injuries that result in permanent impairments.

In meetings with civil society organizations, one participant, a former soldier who had acquired his impairment as a result of an improvised explosive device (IED), noted that there was greater engagement by people, particularly soldiers, who had sustained impairments due to conflict-related incidents. In particular, he noted more active use of social media, webpages and Viber groups aimed at connecting former soldiers with disabilities. He also listed various activities within the military, including sport for recreational purposes, hobbies, and assistance to get injured soldiers '*out of their deteriorated psychological status*'. He noted that all these activities aimed at changing perception and behaviour vis-à-vis persons with disabilities within the army. He noted that the Ministry of Defence had a dedicated budget which allowed for injured soldiers to be treated abroad, although it was not clear if that included treatment for post-traumatic stress disorder (PTSD).

The Ministry of Defence also had some statistics of the numbers of soldiers who had sustained impairments as a result of conflict or terrorism, reporting that between 2003 and 2016, some 35,000 soldiers had suffered injuries that had resulted in disabilities. There were no figures available prior to 2003.¹⁵

5.4 Mental/Psychosocial Disability¹⁶

In 2007, WHO and the Government of Iraq published the first ever survey on mental health in Iraq and the impact of violence and trauma exposure on mental health conditions. The study presented important data disaggregated by gender, age and location, as well as education and employment status, amongst other information. It also explored the association between trauma and mental

¹³ UNAMI/HRO interview, Baghdad, 13 May 2016.

¹⁴ UNAMI/OHCHR questionnaire to NGOs, response no. 7. It is worth noting that primary prevention, not necessarily disability-related, falls under article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and article 25 of CRPD refers to further impairments which are disability-related.

¹⁵ UNAMI/HRO interview, Baghdad, 13 May 2016. The number of soldiers who acquired impairments as a result of Iraq's wars from the 1970s to 2003 remains unknown.

¹⁶ UNAMI/OHCHR has not been able to assess the situation in mental health facilities but notes that relevant CRPD standards should be upheld in mental health strategies to prevent forced treatment and forced institutionalization, and to ensure free and informed consent of the person concerned in all mental health-related treatments, including in situations where an individual's legal capacity is being denied against international law.

health conditions, including rates of suicidal thoughts and substance abuse, and noted high lifetime exposure to trauma (56.02 per cent) and low access to treatment for mental health conditions (6.12 per cent). The study concluded that about one-third of the population faced ‘psychological distress’ and one in nine had a diagnosable mental health condition; which was identified as the fourth leading cause of ill health for Iraqis over five years of age.

The study highlighted some change since the fall of Saddam Hussein’s regime, notably the establishment of a National Mental Health Council, and the strengthening of services and human resources development in the area of mental health. In 2004, the National Mental Health Council had developed a strategy and action plan and undertaken initiatives, including the rebuilding of old community-based psychiatric facilities and the establishment of a new one, the training and strengthening of human resources, and the development of an awareness-raising campaign on mental health. As a result, almost all governorates had at the time at least one psychiatric treatment facility. However, WHO also noted that the federal Ministry of Health had the least numbers of psychiatrists in the world, and that hospital wards for people suffering from mental health issues were neglected, overcrowded and inhumane.¹⁷

The Country Cooperation Strategy for WHO and Iraq 2012-2017 noted that *‘Based on various surveys, it is estimated that the prevalence of mental disorders [sic] among the population is 35.5 per cent, while the treatment gap for management of mental disorders [sic] is estimated at 94 per cent.’*¹⁸

Persons with disabilities expressed concern at the situation of persons with psycho-social disabilities in view of the lack of specialized services and assistance available to them.¹⁹ While several disability organizations interviewed by UNAMI/OHCHR noted that some rehabilitation centres were providing psychological assistance, they considered this remained inadequate and was not necessarily of good quality or up to standards.²⁰

All persons with psycho-social disabilities are at risk of being victimized and exploited, particularly in a context of conflict and violence (e.g. organ trafficking²¹, being used as suicide bombers²²). Women with psycho-social disabilities are at particular risk of sexual harassment, exploitation and abuse²³.

5.5 Equality and Non-Discrimination

Article 5 of the CRPD provides that: *‘1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law. 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds. [...]’*

In meetings with persons with disabilities, many noted that public perceptions about persons with disabilities had changed to some extent as a result of increased advocacy and awareness-raising. Some NGOs felt that awareness about CRPD was still limited and that *‘our society has limited*

¹⁷ WHO, Iraq Mental Health Survey 2006/7.

¹⁸ Country Cooperation Strategy (CCS) for WHO and Iraq 2012-2017.

¹⁹ UNAMI/HRO interview, Baghdad 13 May 2016.

²⁰ NGO questionnaire, Baghdad.

²¹ USAID Iraq, Iraq Access to Justice Program, Values of Access to Justice and Persons with Disabilities in Iraq, March 2014.

²² *‘Iraq’s disabled lack basic help’*, by Wassim Bassem, posted in Al-Monitor on 11 August 2015

²³ USAID Iraq, Iraq Access to Justice Program, Values of Access to Justice and Persons with Disabilities in Iraq, March 2014; A Gendered Perspective – Safety, Dignity and Privacy of Camp and Camp-like Settings in Iraq, IOM Iraq, February 2016; and also Women and Girls with Disabilities Need Empowerment, Not Pity, UN Experts tell States, News Release, OHCHR August 30, 2016.

*understanding and knowledge about assisting persons with disabilities*²⁴ who are often seen as an ‘*embarrassing weakness*’,²⁵ and that persons with disabilities are ‘accepted’ in Iraqi society ‘*as long as there is strong [religious] faith*’²⁶, which suggests that a faith-inspired, charity-based attitude persists in the Iraqi society casting persons with disabilities as in ‘*need sympathy*’ or ‘*charity*’.²⁷ However, other participants felt that persons with disabilities were starting to be perceived no longer as ‘*objects of charity*’ and that they were themselves more aware, better trained and educated (*‘our eyes have been opened’*). Interlocutors also felt increased consideration and attention by people on the social level, in the street, and noted that ‘*when we go out, everybody wants to help*’. However, the picture changed when it came to treatment of persons with disabilities in public offices where Government officials reportedly behaved disrespectfully. While complaints about such mistreatment had been submitted to the requisite Government authorities, it seemed that they were generally not acted upon.²⁸

Other participants noted that ‘*Iraqi society does not offer adequate help for persons with disabilities. Many Iraqis still treat them as a special case requiring isolation and ... pity. Iraqis see such people as unproductive and unable to integrate into society. Such a perception increases their isolation and leads to negative psychological effects*’.²⁹

Others felt that ‘*[Iraqi] society is embarrassed about persons with disabilities*’³⁰, that it fails to ‘*understand disability as part of human diversity*’³¹, that public awareness about the rights of persons with disabilities is still lacking and that they remain the object of mockery, with some TV shows portraying persons with mental/psychosocial or physical disabilities in an offensive, undignified or degrading manner. Others noted that despite the increased role of the media, public awareness-raising was still limited to occasional interviews, mainly of disability activists, by satellite channels or radios. Most interlocutors felt that the media often failed to understand that persons with disabilities are part of human diversity and that they have their own skills which could usefully contribute to society as a whole.³²

Overall, it was deemed that Iraq (cities and rural areas) was not equipped for persons with disabilities, who thus ended up having ‘*no rights*’. In particular, people mentioned lack of sidewalks, suitable vehicles, public transport, lack of ramps and access to buildings, as well as lack of basic services.

One interviewee commented that the treatment of persons with disabilities was ‘*not humane*’ and that there were cases of persons with disabilities exposed to domestic violence. There was general consensus under a stereotyped understanding of normalcy that ‘*normal [sic] persons could defend themselves but persons with disabilities could not and were therefore more vulnerable*’.³³ It was noted that this situation was exacerbated by the fact that many persons with disabilities were still not fully aware of their rights.³⁴

As for persons with psycho-social disabilities, most interlocutors of UNAMI/OHCHR noted generally low perceptions of persons with psycho-social disabilities and highlighted their portrayal in the

²⁴ NGO questionnaire, Baghdad, Karbala, Thi Qar

²⁵ NGO questionnaire, Falluja

²⁶ NGO questionnaire, Diyala

²⁷ NGO questionnaire, Baghdad

²⁸ UNAMI/HRO interview, Baghdad, 13 May 2016

²⁹ ‘*Iraq’s disabled lack basic help*’, by Wassim Bassem, posted in Al-Monitor on 11 August 2015

³⁰ NGO questionnaire, Baghdad

³¹ NGO questionnaire, Baghdad, Karbala, Thi Qar, Falluja

³² NGO questionnaire, Baghdad, response no. 4, 7, 17

³³ UNAMI/HRO interview, Baghdad 13 May 2016

³⁴ NGO questionnaire, Baghdad, response no. 8

media as objects of mockery, ridicule or fear. This was confirmed by WHO noting the ‘*high stigma associated with mental disorders [sic] in the population of Iraq*’.³⁵

5.6 Diverse Abilities

In spite of the stigma that is often attached to impairments, some persons with disabilities have managed to dispel such stereotypes by showing, through their own efforts and abilities, that disability is an element of human diversity and does not necessarily have to hinder a person’s passions and opportunities in life, and that some limitations and the possibility to overcome them ultimately depend on the contextual environment and the extent they can be removed or at least minimized.

Iraqi Kurdish painter, Taib Muatasan Aziz, provides a notable example. Taib has not let his physical impairment prevent him from blossoming into an accomplished and acknowledged artist. By utilizing technological tools, like Photoshop (which he describes as ‘[his] hands’), and with the assistance of a local NGO which assists persons with disabilities overcome the physical obstacles that prevent their participation in society, he has been able to develop his artistic talents. He has organized several exhibitions of his work in Iraq and abroad, and sells his artwork internationally.³⁶

The Iraqi Paralympic team, which participated in the Rio 2016 Paralympic Games, is another illustration of the fact that physical impairments may not necessarily prevent an athlete to perform at a competitive level. Since its debut at the Paralympic Games held in Barcelona in 1992, the team has competed in five Paralympic Games and won eight medals (one gold, three silver and four bronze), in powerlifting and athletics. In an interview given prior to the Beijing Paralympic Games in 2008, a wheelchair fencing coach noted that the Paralympic team had qualified 20 athletes competing in the games, including 12 war veterans.³⁷

Part II - Inclusion of Persons with Disabilities in Society and Their Exercise of the Different Rights under the Convention on the Rights of Persons with Disabilities

6. The gender dimension

Article 6 of CRPD is dedicated to women with disabilities, in recognition of the fact that ‘*women and girls with disabilities are subject to multiple discrimination*’. Accordingly, States Parties must take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms set out in the Convention.

In its General Recommendation No. 18 on Women with Disabilities, the Committee on the Elimination of Discrimination Against Women expressed concern at the situation of women with disabilities and noted that they suffered from a double discrimination linked to their special living condition. The Committee also noted that the Nairobi Forward-looking Strategies for the Advancement of Women had considered women with disabilities as a vulnerable group.

³⁵ WHO, Iraq Mental Health Survey 2006/7

³⁶ Creativity Has No Boundaries – Art and Disability in Kurdistan, Iraq, <https://www.youtube.com/watch?v=EgiCXGEnsBY>

³⁷ Athletes Disabled by Wars Lead Iraqi Team in World Games, By A. E. Kramer, in The New York Times, June 29, 2008, <http://www.nytimes.com/2008/06/29/world/middleeast/29paralympic.html>

In its General Comment No. 3 (2016), the Committee on the Rights of Persons with Disabilities focuses specifically on promoting the empowerment of women with disabilities to enable them to participate in all spheres of life on an equal basis with others, in keeping with art. 6 of the Convention, by suggesting practical steps to that end and ensuring a shift in attitudes towards women with disabilities³⁸.

In Iraq, NGOs interviewed by UNAMI/OHCHR almost unanimously considered that women with disabilities were generally more discriminated against than men with disabilities. For instance, one respondent stated that *'women [are more discriminated against than men] since they are imprisoned by disability and society norms and traditions'*.³⁹ At the same time, studies on this issue have found that, in Iraq, shame and embarrassment linked to disability seem to affect men/boys more than women. One respondent highlighted that *'people sympathize more with the women'*⁴⁰ while another noted that *'women need more care'*;⁴¹ another respondent pointed out that men were more discriminated against *'because of wars and security conditions'*⁴² – all of which appear to be illustrative of a stereotypical view of gender roles in the Iraqi society and, possibly, of an element of sectarianism tainting people's approach to some types of impairments. This was further stressed by another respondent who pointed to an alleged discrimination between persons who sustained impairments in the context of 'foreign wars' as opposed to those who had acquired impairments 'during the current one'.⁴³

Nonetheless, despite this societal perception that greater shame is attached to a man with disability rather than a woman with disability, men with disabilities are still generally more likely to obtain work and educational opportunities compared to women with disabilities. Women with disabilities are also further burdened by lack of freedom of movement resulting from societal and gender expectations, and therefore face more difficulties accessing basic services, completing education, and finding employment. Women with disabilities are also far less likely to know their rights or to claim them. Indeed, a number of studies have shown that girls and women are at a particular disadvantage in relation to their access to education⁴⁴ stemming from the perception that women's education is not valued or considered to be a priority, even more so concerning girls and women with disabilities⁴⁵. In addition, women and girls are also more likely to be subjected to discriminatory treatment and abuse by civil servants (see below re specific challenges faced by women in claiming disability-related benefits).

Disability-related NGOs note that men are more likely to divorce women who acquire an impairment after the marriage, and disabled women are less likely to get married. Moreover, women with disabilities are more likely to be unemployed and thus deprived of financial independence.⁴⁶

³⁸ CRPD/C/GC/3, <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

³⁹ NGO questionnaire, Falluja, response no. 19.

⁴⁰ NGO questionnaire, Baghdad, response no. 15.

⁴¹ NGO questionnaire, Kirkuk.

⁴² NGO questionnaire, Baghdad, response no. 30.

⁴³ NGO questionnaire, Baghdad, response no. 24. In this response, reference was made to a law on military service and retirement (No. 3 of 2010) which provided injured members of the army with certain benefits, depending on the degree of their disability. However, this law has never been implemented.

⁴⁴ E/C.12/IRQ/CO/4; see also The Children of Iraq: 'Was the price worth It?' by Bie Kentane, Global Research, February 19, 2013; and Girls' Education in Iraq, UNICEF, 2010, <http://reliefweb.int/report/iraq/girls-education-iraq-2010>

⁴⁵ Girls' Education in Iraq, UNICEF, 2010, <http://reliefweb.int/report/iraq/girls-education-iraq-2010>; see also Inclusive Education Vital For All, Including Persons With Disabilities – UN Experts, OHCHR, September 1, 2016 and relevant General Comment on Art. 24 of the Convention on the Rights of Persons with Disabilities.

⁴⁶ NGO questionnaire, Basra.

7. Children

Article 7 of CRPD states that: *'1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. 2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. 3. States Parties shall ensure that children with disabilities have the right to express their views freely on matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.'*

Virtually all sources consulted by UNAMI/OHCHR pointed to a lack of national statistics related to the number of children with disabilities and dedicated services available to them, mostly due to a lack of investment in this area and to the disappearance of specialized institutions in the 1990s during the sanctions era. Nonetheless, it is unquestionable that Iraq's legacy of trauma, including the ongoing armed conflict, has had a profound and lasting impact on children's physical and mental health and on the erosion of child protection mechanisms.

The situation appears particularly difficult for children with disabilities living in rural areas who have very limited access to specialized services and educational opportunities. In looking at the situation of disabled boys and girls, their access to education and thus their awareness of their rights, the gap is apparent between the legislative framework and the reality.

A UNICEF study from 2013 notes that *'the distance to school, the poor state of the buildings, the absence of basic facilities, unsympathetic teachers, and lack of help understanding lessons [combined with] family protectiveness and the attitudes of society are likely to be insurmountable blocks for girls with disabilities'*⁴⁷. The study points out that *'Some 15 per cent of Iraqi children between 2 and 14 have a disability and an unknown number of these will be girls, who are likely to be doubly disadvantaged in their access to education. If families are not interested in sending their able bodied girls to school, or find it too difficult to enable them to attend it is unlikely that they will be making significant efforts to ensure that their daughters with disabilities are educated.'*⁴⁸

In its 2015 Concluding Observations on Iraq, the Committee on the Rights of the Child expressed concern about the impact of the ongoing conflict on the situation of children with disabilities.⁴⁹ In a medical study on Paediatric Injury During Conflict and Prolonged Insecurity in Iraq from 2003-2014, researchers found that children injured by conflict-related violence in Iraq were 10 times more likely to be disabled than those injured otherwise. Fifteen percent of these incidents were directly conflict-related and two thirds of these children became disabled⁵⁰.

The Committee also expressed concern at the *'continuing societal discrimination and stigma towards children with disabilities'*⁵¹ and stressed the insufficient level of accessibility of school buildings, the lack of targeted learning materials and the shortage of qualified teachers and early development services for children with disabilities.

Similarly, the Committee on Economic, Social and Cultural Rights, in its 2015 Concluding Observations on Iraq's periodic report, expressed concern *'that children with disabilities [...] face particular barriers in access to education'* and specifically recommended that Iraq *'take all measures*

⁴⁷ Girls education in Iraq, UNICEF, 2010, also referred to in The Children of Iraq: 'was the price worth it?', by Bie Kentane, Global Research, 19 February 2013.

⁴⁸ Girls education in Iraq, UNICEF, 2010.

⁴⁹ CRC/C/IRQ/CO/2- 4 May 2015.

⁵⁰ Paediatric Injury During Conflict and Prolonged Insecurity in Iraq from 2003-2014, Surgery Journal, referred to in Reuters – Iraqi Children Face High Rates of Death and Disability, 16 May 2016.

⁵¹ CRC/C/IRQ/CO/2-4, May 2015.

necessary to reintegrate children affected by the armed conflict into the educational system' and 'to ensure that children with disabilities enjoy equal access to education'.⁵²

Law 38 (2013) on the Care of Persons with Disabilities and Special Needs refers to the situation of children in several of its articles, starting from the care of women with disabilities *'during pregnancy, child delivery and afterwards'* (art. 15, l, e), to the registration of new born babies (art. 15, l, f) and their primary, secondary and higher education.

In particular, article 15 (II) of Law 38 states that the Ministry of Education is responsible to *'ensure primary and secondary education for persons with disabilities and special needs in accordance with their educational capacities and programmes, their comprehensive educational integration and equal education for this category'* (a); it should also *'develop educational curricula'* suitable for children with disabilities (c); and *'identify and provide basic requirements and supplies'* to assist children with disabilities in their learning process (d) and *'provide qualified educational and technical teaching staff to deal with students from early ages upwards'* (e). Moreover, article 15 (III) requires the Ministry of Higher Education and Scientific Research to *'provide educational opportunities for persons with disabilities in accordance with their capacities'* (a).

Persons with disabilities interviewed by UNAMI/OHCHR noted that the situation of children with disabilities remained difficult. Some noted that a directorate within the Ministry of Education was responsible for establishing special classes for children with disabilities within public schools which, in the view of some, constituted *'isolation in education'*, rather than inclusion. On the other hand, they noted the lack of specialized schools and the fact that the little specialized education that is available covers only the very basic levels of education, which translates into limited to no opportunities for education available to children with disabilities. This undermines children's self-esteem and their ability to learn about their rights and effectively claim them, thus perpetuating the cycle of discrimination and marginalization of persons with disabilities from an early age. This situation in turn affects the ability of children with disabilities to participate and interact with others, and contribute meaningfully to the future of the Iraqi society.⁵³

8. Living independently and being included in the community

8.1 The National Health Care System

In general, the Iraqi health care system appears overstretched and suffering from lack of infrastructure, equipment and capacity. The psycho-social health sector in particular is perceived to lack specialized and trained staff and is under-resourced. This is the result of increased poverty, due to the conflict, the international sanctions regime during the 1990s, as well as the targeting of medical and paramedical professionals during 2003-2008, which led to a "brain-drain" of specialized health professionals, including in this particular field. It was also noted that lack of security throughout the country continued to impact the accessibility of persons with disabilities to healthcare and support services.

In its 2015 annual report, the Ministry of Health refers to a total of 2,680 Primary Health Care Centres, 1,330 main centres and 1,350 sub centres. These offer basic integrated and comprehensive services in the preventive and therapeutic fields. An additional 128 centres have been established following the implementation of a new family health care system in 2013. As for secondary and tertiary health care, focusing on curative services and rehabilitation, there are a total of 253 governmental hospitals, 119 private hospitals and 2,864,696 specialized centres, with a ratio of 8.5 physicians per 10,000 people.

⁵² E/C.12/IRQ/CO/4, October 2015.

⁵³ UNAMI/HRO interview, Baghdad 13 May 2013

The Country Cooperation Strategy (CCS) for WHO and Iraq 2012-2017 noted that *'Iraq has a substantial number of highly competent and skilled psychiatrists. However, most of these human resources are in urban centers. Mental health services have been integrated into primary healthcare in less than 50 per cent of primary healthcare centers in the country [...] Psychosocial care and support to address post-traumatic stress disorders are grossly inadequate, particularly given the intensity and the frequency of traumas faced by Iraqis since 1980. Six trauma centers have been established: two in Baghdad, one in Mosul, one in Basra, one in Dahuk and one in Diwaniyah.'* However, practitioners noted that the number of centres for the treatment and rehabilitation of persons with disabilities remain insufficient and that they are not technologically advanced. Also, their focus seems to be on providing physical rather than psycho-social assistance.

The federal budget allocated to disability has not kept up with increasing needs. USAID noted that the budget for disabilities in the Ministry of Health had not changed since 2007. In its 2015 annual statistical report, the Ministry of Health and Environment noted that the total Government budget amounted to 105,895,722 trillion Iraqi dinars. Of this, 5,404,272 trillion Iraqi dinars (5.1 per cent) were allocated to the health sector.

Health care centres cover preventive and treatment services, including in the case of persons with psycho-social disabilities and persons with disabilities who require high level of support. Such centres sometimes work simply as safe houses or shelters for persons with disabilities, and they can be administered publicly under the Ministries of Health and Labour and Social Affairs or privately. While reliance on international health aid has been progressively complemented by local assistance (such as the manufacturing of adaptive equipment, prosthetics and artificial limbs), the quality of the latter is still considered poor and unsuitable.

Respondents to the UNAMI/OHCHR questionnaire acknowledged that there were some healthcare services available for persons with disabilities in Iraq, but that they seemed to have decreased over time, and were mostly available in larger urban centres. Typically, they tended to focus on persons with physical disabilities, whom they provided with wheelchairs, prosthetic limbs, crutches, physical therapy and hearing aids, often obtained *'after going through a long routine and losing money on transportation'*.⁵⁴

Very limited psycho-social support services seem to be available, and are mostly offered by private institutes, although at a cost that is prohibitive for many families. For instance, one NGO pointed to private institutions patients with autism and Down syndrome charging up to USD250 monthly for their services.

Organizations working with persons with disabilities indicated a shortage in the numbers of specialized health centres in districts and sub-districts and a need to increase the number of medical centres for osteoarthritis, joint pains and loss of limbs. They also stressed that specialized training was lagging behind demand. NGOs reported that there was only one centre for plastic limbs and medical cushions in Baghdad and one specialized hospital for persons with disabilities with spinal cord injuries. Also, there was only one factory producing prosthetic limbs in al-Anbar, located in Falluja, despite the large numbers of people in need. Limited availability and/or low quality of specialized equipment, particularly in those centres dealing with extreme impairments, was also a concern.⁵⁵

8.2 The Family

According to civil society organizations working on disability, the way disability is perceived within the Iraqi family and the support that the family provides to their member(s) with disabilities depend

⁵⁴ NGO questionnaire, Karbala, response no. 31

⁵⁵ NGO questionnaire, Baghdad, Falluja, responses no. 5, 7, 8 and 19.

on the specific culture and level of education of the family. Some of the NGOs interviewed by UNAMI/OHCHR stressed the lack of community awareness and the limited help families of persons with disabilities receive from the State to support them. One NGO noted that the Iraqi society was *'a male-dominated one, which values strength; so weak people do not receive adequate support to integrate into the community'*.⁵⁶

NGOs also noted that most families would not even admit to having a relative with disabilities, which confirmed the view expressed by some respondents that families were sometimes the first obstacle to the integration into society of their relatives with disabilities. One interlocutor noted that families sometimes believed that their child with disabilities might be a hindrance for other members of the family to get married, because of fears that impairment might be genetic.⁵⁷ Some NGOs stressed the need to increase awareness-raising within the families of persons with disabilities so that they can play an active role towards the integration of their relative(s) into society.⁵⁸

On the other hand, it was generally recognized that families did their best to care for their relatives with disabilities and were eager to fully integrating them into family life.⁵⁹ One respondent noted that family support tended to be *'moral and spiritual'* in nature due to the *'limited economic means of the majority'* of the families.⁶⁰ One NGO pointed out that excessive attention by the family towards a child with disabilities, although well intentioned, might hinder his / her integration among his/her peers.⁶¹

8.3 The Role of Civil Society

Prior to 2003, there were no NGOs working on the rights of persons with disabilities in Iraq. Since 2003, a greater awareness about the rights of persons with disabilities developed, with civil society - mostly persons with disabilities themselves - organizing advocacy on the rights of persons with disabilities – as opposed to their needs – and working on ways to protect and guarantee those rights. Today, there are a plethora of civil society organizations focusing on disability in different governorates of Iraq, including the Kurdistan Region of Iraq⁶². These organizations play a major role in supporting and complementing the State's provision of services, including where there are gaps or limited service provision/accessibility to services.

Increased engagement and advocacy by civil society and persons with disabilities led to the inclusion of a specific article (article 32) in the 2005 Iraqi constitution, to a dedicated law on the Care of Persons with Disabilities and Special Needs (No. 38) in 2013, and to Iraq's ratification of CRPD in the same year. In line with CRPD (article 33(1)), a specific body was established to oversee the implementation of Iraq's obligations under CRPD, the Commission on Persons with Disabilities, which is under the authority of the Ministry of Labour and Social Affairs. The Government has established an NGO department, attached to the Prime Minister's Office, which has a specific section dealing with organizations working with persons with disabilities.

⁵⁶ NGO questionnaire, Baghdad.

⁵⁷ NGO questionnaire, Baghdad.

⁵⁸ NGO questionnaire, Baghdad.

⁵⁹ UNAMI/HRO Interview, Baghdad 13 May 2016.

⁶⁰ NGO questionnaire, Baghdad.

⁶¹ NGO questionnaire, Baghdad.

⁶² In 2016 there were 120 NGOs working specifically on disability who had registered officially with the Ministry of Labour and Social Affairs. Of these, the majority (45) were in Baghdad. As for the other governorates, as far as South/Central Iraq was concerned, there were 13 were in Basra, 6 in Thi Qar, 6 in Najaf, 6 in Missan, 5 in Muthanna, 3 in Qadisiya, 3 in Karbala, 2 in Tameem, 2 in Diyala, 1 in Babil, 1 in Falluja, 1 in Balad, 1 in Wasit. As for the Kurdistan region of Iraq, there were 9 in Dohuk, 7 in Suleimaniya, 5 in Erbil, 2 in Halabja, 1 in Pengween and 1 in Soran.

Representatives of the Commission on Persons with Disabilities have noted that the Government has also financially supported NGOs working on disability, including by facilitating their participation in national and international fora. However, in this regard, most civil society organizations working on disability rights and service provision for people with disabilities, in their responses to the UNAMI/OHCHR questionnaire, stated that they had received limited or no State financial support. Similar comments were received with regard to the level of support received by NGOs working on disability in the Kurdistan Region of Iraq. One common challenge for all NGOs appeared to be the lack of funding, particularly in the context of the ongoing armed conflict and financial crisis.

NGOs have worked actively for the integration of persons with disabilities into society. As an example, one Baghdad-based organization that focuses on people with visual impairment was one of the first to introduce the use of the Internet for persons with visual impairment in Iraq by installing speaking programmes, providing school curricula on CDs, organizing literacy classes, and encouraging the employment of people with visual impairments in the public sector.⁶³

8.4 Access to employment

Article 27 of CRPD provides that: *'1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work [...] by taking appropriate steps, including through legislation, to, inter alia (a) prohibit discrimination on the basis of disability [...], (b) protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work [...], (d) enable persons with disabilities to have effective access to general technical and vocational guidance programs [...], (g) employ persons with disabilities in the public sector [...]'.*

Article 16 (l) of Law 38 (2013) on the Care of Persons with Disabilities and Special Needs states that *'ministries, all institutions not related to a ministry and public sector companies shall allocate no less than 5 per cent of their jobs [... to] persons with disabilities and special needs'*. However, persons with disabilities from civil society organizations commented that this was not the case in practice⁶⁴, noting that *'employers don't give priority to persons with disabilities'*,⁶⁵ *'since they believe they are not productive'*.⁶⁶ As a result, employment opportunities for persons with disabilities tend to be limited to simple projects,⁶⁷ *'very few and mostly humiliating'*.⁶⁸ One respondent noted that the Ministry of Labour offered training and some limited employment opportunities (as carpenters and blacksmiths) to persons with disabilities.

The Commission on Persons with Disabilities noted that there is a lack of statistics on access by persons with disabilities to work opportunities.

9. Situations of Risk and Humanitarian Emergencies: Disability and Displacement

Article 11 of CRPD states: *'States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters'*.

⁶³ NGO questionnaire, Baghdad, response no. 4.

⁶⁴ UNAMI/HRO interview, Baghdad 13 May 2013.

⁶⁵ NGO questionnaire, Baghdad, response no. 18.

⁶⁶ NGO questionnaire, Baghdad, Erbil, response no. 13.

⁶⁷ NGO questionnaire, Baghdad, response no. 30.

⁶⁸ NGO questionnaire, Baghdad, response no. 15.

In its recent study, *A Gendered Perspective – Safety, Dignity and Privacy of Camp and Camp-like Settings in Iraq*, the International Organization for Migration (IOM) stated that ‘adults or children with disabilities are more likely to face violence’⁶⁹. It added that ‘women with disabilities are more likely to suffer intimate partner violence and sexual assault than women without disabilities. And women with disabilities report abuse that lasts longer and is more intense than women without disabilities’,⁷⁰ mostly as a result of the inability of women with disabilities to defend themselves from sexual assault. The study further observes that ‘[displaced] women and girls with disabilities are at higher risk of violence due to misconceptions, negative attitudes and social exclusion’, stressing that ‘Sexual violence against women and girls with mental and intellectual disabilities is often unnoticed until they become pregnant.’⁷¹

In discussions with organizations working on the rights of persons with disabilities, the need for increased attention to persons with disabilities living in displacement was raised. In this context, organizations approached UNAMI to discuss how they could support the delivery of humanitarian assistance to persons with disabilities. Follow on discussions are ongoing with UNHCR to facilitate the participation of organizations working on disability in the humanitarian response.

10. The national legal and institutional framework

10.1 Relevant Legislation

The relevant legal domestic framework includes the 2005 Iraqi Constitution, Law no. 38 on the Care of Persons with Disabilities and Special Needs (Law 38), the 1980 Social Security Law, the 2014 Social Protection Law, and the 2009 Law to Compensate Victims of Military Operations and Terrorist Attacks from 2003 Onwards. For the Kurdistan region, the 2009 Draft Constitution of the Kurdistan Region and Law No. 22 on the Rights and Privileges of Persons with Disabilities and Those with Special Needs contain relevant provisions.

Article 32 of the 2005 Iraqi Constitution states that ‘*The State shall care for the handicapped and those with special needs, and shall ensure their rehabilitation in order to reintegrate them into society and this shall be regulated by the law*’.

Law 38 was ratified by the Council of Representatives in 2013, following Iraq’s accession to CRPD (see below).

The 1980 Social Security Law established criteria for any person to be registered as a person with disabilities which it defined as: ‘*Any person who lacks or loses his/her capacity to totally or partially work because of a defect in his/her physical, mental or psychological capacity*’.

Based on the 2009 Law to Compensate Victims of Military Operations and Terrorist Attacks from 2003 Onwards, compensation applies to victims of US/coalition-led military operations, victims of military accidents, and victims of terrorism. It covers death, total or partial impairments, and injuries requiring temporary treatment. Of note, this law does not provide any support in terms of health care, housing, education or pensions.

Article 25 of the 2009 Draft Constitution of the Kurdistan Region provides that the Kurdistan Government must ensure the welfare of those with disabilities and support their reintegration into

⁶⁹ A Gendered Perspective – Safety, Dignity and Privacy of Camp and Camp-like Settings in Iraq, IOM Iraq, February 2016.

⁷⁰ A Gendered Perspective – Safety, Dignity and Privacy of Camp and Camp-like Settings in Iraq, IOM Iraq, February 2016.

⁷¹ A Gendered Perspective – Safety, Dignity and Privacy of Camp and Camp-like Settings in Iraq, IOM Iraq, February 2016.

society. In 2011, the Kurdistan Parliament passed the Law No. 22 on the Rights and Privileges of Persons with Disabilities and Those with Special Needs in the Kurdistan Region.

10.2 Law 38 and the Establishment of a Dedicated Commission

While a Disability and Prevention of Disability Section had been established under the Ministry of Health in 2004; and a Special Health Operation Section had been created to provide mobility equipment to persons with disabilities, it is not until 2013 that a dedicated law on persons with disabilities was adopted.

Law 38 (2013) aims at providing *'care'* for persons with disabilities and special needs and *'eliminate discrimination'*, allow for the *'integration of persons with disabilities and special needs in the community'*, and ensure they have a *'decent life'* including by providing employment opportunities for them in the Government as well as the public and private sector.

The law also aims at raising awareness regarding disability, provide persons with disabilities with treatment, medication, equipment and devices, social services, psychological rehabilitation, vocational rehabilitation and educational opportunities at different levels.

Yet, overall, Law 38 presents definitions and provisions that are not in line with CRPD, starting from the very definition of disability, including in particular the reference to *'special needs'* and *'care'*. This terminology was discarded in the Convention's approach as reflecting a charity-based and/or medical approach. Similarly, the CRPD refers to "inclusion" rather than *'integration'* of persons with disabilities as a broader and more dynamic concept.

Law 38 (2013), in its article 1 (II), defines a person with disabilities as one who is *'unable to participate in full or in part in the community as a result of having a physical, mental or sensual impairment, resulting in malfunctioning of performance'*. It defines persons with special needs as those who *'have a malfunction in performing their role or tasks in education, sport, in the professional environment or in the context of family relations, in comparison with their peers of the same age and socio-economic background'*.

These definitions appear to characterize persons with disabilities and special needs in a passive way, mainly as receivers of care and assistance and, as such, do not appear to be compliant with CRPD. The same applies to article 15, I.f, which refers to the need to *'register new born babies since they are more likely to be infected'* (sic), thus equating disability to a disease.

NGOs have been critical of the adoption of a care-based rather than a rights-based approach in the legislation related to persons with disabilities.⁷²

At the same time, other articles in the law note the need to *'respect and accept the disability as a part of human diversity and human nature'* (article 2 (IV)) and achieve the *'full participation of persons with disabilities and special needs in all life areas without any discrimination'* (article 1 (V)), which are in line with the general principles established in the Convention.

Law 38 provided for the creation of a Commission on the Care of Persons with Disabilities and Special Needs, which became operational in early 2016.

The Commission comprises of seven persons with disabilities, two disability experts, two medical specialists and representatives from different Iraqi ministries and entities⁷³. While *'connected'*⁷⁴ to

⁷² NGO questionnaire, Baghdad.

⁷³ As stipulated in article 6.IV of Law 38 (2013), the Commission's managing council includes representatives from the following ministries and entities, at the director general level: Ministries of Finance, Defense, Trade, Justice, Interior, Labour and Social Affairs, Education, Health, Housing and Reconstruction, Higher Education and Scientific Research, Planning, Youth and Sport as well as the Iraqi Commission of Human Rights and representatives from the Kurdistan Region.

⁷⁴ See article 4.II of Law 38 (2013)

the Ministry of Labour and Social Affairs, the Commission is supposed to enjoy financial and administrative independence. Article 12 of law 38 foresaw that its budget should be covered by allocations from the federal budget as well as ‘grants, gifts and donations’. The Commission's budget for the year 2016 was 50 billion Iraqi Dinars.

Since its establishment, the Commission engaged in several initiatives to support persons with disabilities, including for instance the creation of official ID cards for persons with disabilities to ensure the provision of specific benefits, as stated in Law 38 (art. 3 para 9). This initiative, however, has experienced delays for ‘technical problems’ and because of lack of staff. The Commission also organized the initial distribution of ‘salaries’ for some 1,700 ‘caretakers’ of persons with disabilities in several governorates beyond Baghdad including Najaf, Karbala, Qadisiya and Muthanna⁷⁵. However, some NGOs were critical of the caretakers’ salary initiative, which they saw as an act of charity.

While some organizations working with people with disabilities have recognized the efforts by the Commission to raise awareness on the rights of persons with disabilities,⁷⁶ others have expressed concerns about its independence and the political affiliation of some of its members.⁷⁷ One respondent commented that the Commission was consequently ‘administratively paralyzed’⁷⁸. Besides, some NGOs have criticized the Commission for focusing on issues of limited impact, mostly relevant to Baghdad residents only.⁷⁹

Other measures adopted by the Government with regard to the rights of persons with disabilities include a registration initiative, undertaken in cooperation with WHO, to collect data on the number of persons with disabilities, disaggregated by type of impairment, sex, age and other criteria; the recognition of primary education certificates issued to disabled children by specialized institutes, which has allowed them to participate in the country’s primary education final examination for the academic year 2015-2016; the creation, in Najaf Governorate, of an institute for persons with auditory impairments which provides training on sign language; as well as the designation of an annual celebration of the world day of persons with disabilities, hosted by the Ministries of Health and Labour and Social Affairs.

10.3 The Provision of Financial Benefits under Law 38

Under Law 38, persons with disabilities are eligible to receive some financial benefits (cash transfer benefits for those living below the poverty line), specified services from the Ministry of Labour and Social Affairs, and basic health care and rehabilitative services from the Ministry of Health in Iraq’s central and southern regions. Persons with disabilities living in the Kurdistan Region of Iraq are assisted by the Kurdistan Regional Government (Ministry of Labour and Social Affairs).

Requirements for assistance differ significantly, depending on the degree of disability, in terms of level of impairment eligibility ratio (75 per cent or more in central and southern provinces versus 40 per cent or more in the Kurdistan Region of Iraq); the amount of disability pension received (which is higher in the Kurdistan Region of Iraq than in the rest of Iraq); as well as access to the disability pension for those persons with disabilities who are employed (with no access in central and southern provinces).

Based on the responses received, it appears that, in the context of the social security network, persons with severe impairments, who have been certified by medical committees, can get an

⁷⁵ Communication with the Commission on the Care of Persons with Disabilities and Special Needs, 27 September 2017.

⁷⁶ NGO questionnaire, Baghdad, response no. 5, 11.

⁷⁷ NGO questionnaire, Baghdad, response no. 4.

⁷⁸ NGO questionnaire, Baghdad, response no. 24.

⁷⁹ NGO questionnaire, Falluja, response no. 19.

allocation of USD35 per month. Persons who acquired an impairment as a result of previous and current conflicts are eligible to receive a disability pension ranging from USD250 to USD750 per month, while persons who acquired their disability as a result of terrorist attacks are eligible to receive a lump-sum payment of USD3,500, in addition to a USD350 monthly payment.⁸⁰

However, challenges in claiming such benefits are numerous and include: access to relevant health care, including physical access, but also delays in the provision of assistance in public hospitals and high cost in private institutions for the issuance of the required medical records; issues of physical access to the relevant Government offices; and adequacy of the social security pension as a sole income.

Women seem to be at a particular disadvantage in the whole process due to their limited mobility outside their home, increased risk of sexual harassment, as well as more restricted access to social security if they are married or their father is still alive.

Not all persons with disabilities seem to be aware of the benefits they are entitled to under the law nor about the specific procedure required to claim them. Those who were, however, expressed concern at the fact that financial benefits do not fully cover their basic needs, in addition to the cumbersomeness of the procedures required to claim them under the law. One of the respondents to the questionnaire noted it had taken three years to obtain them.⁸¹ Another one highlighted challenges and delays related to the large number of applicants.⁸² Others felt that financial benefits were only provided arbitrarily, to 'some rich characters',⁸³ while others complained that they should be linked not only to the financial status of the applicant but also to his or her specific needs based on his or her impairment.

10.4 Access to Justice under Law 38

Article 15 (VI) of Law 38 states that the High Judicial Court and the Ministry of Justice are responsible for providing tools/services to assist persons with disabilities and special needs (e.g., sign language interpreter, hearing aids) in order to help them '*defend their rights and have an equal status with others*'. However, it appeared that sign language interpreters may or may not be available, and that Braille translations are typically not available. NGOs noted that courts are often not physically accessible for persons with disabilities⁸⁴ and that the majority of the hearings are conducted on upper floors, in buildings with no elevators. In practice, persons with disabilities have physical access to courts only if they can be assisted by others.⁸⁵ In addition, general lack of facilities, including appropriate restrooms, has been mentioned as an additional obstacle for their ability to access the justice system. NGOs expressed concern that the law is not in line with the understanding of accessibility as defined in the Convention.⁸⁶

⁸⁰ NGO questionnaire, Baghdad.

⁸¹ NGO questionnaire, Diyala, response no. 25.

⁸² GOI questionnaire, Kirkuk.

⁸³ NGO questionnaire, Karbala, response no. 31.

⁸⁴ NGO questionnaire, Baghdad, Falluja, responses no. 7 and 19.

⁸⁵ NGO questionnaire, Kirkuk.

⁸⁶ NGO questionnaire, Baghdad, Kerbala, Thi Qar, response no. 17.

11. The International Context

11.1 Status of Ratification and Reporting Obligations

Iraq acceded to CRPD on 20 March 2013. Its first State Party's report was due on 20 April 2015 and was submitted on 17 August 2015.⁸⁷ The report has yet to be reviewed by the Committee on the Rights of Persons with Disabilities. At the time of writing, a date had not been identified for the consideration of the report.

As the monitoring body of CRPD, the Committee is mandated with assessing implementation of the Convention by State parties and issues specific observations and recommendations to that end, including on relevant legislation and institutions, and financial aspects.

11.2 The work of the Human Rights Office of UNAMI on the Promotion and Protection of the Rights of Persons with Disabilities

The Human Rights Office of UNAMI (UNAMI/HRO) has consistently engaged with the Government of Iraq, the Commission for Persons with Disabilities and Special Needs, as well as disability-focused civil society organizations on the issue of disability. It regularly meets with all relevant counterparts to assess and discuss the situation of persons with disabilities in Iraq, raise issues of concerns, and engage in advocacy to address them.

Throughout 2016, UNAMI/HRO has repeatedly addressed the issue of the independence of the Commission with the Ministry of Labour and Social Affairs with a view to ensuring compliance with international standards and to allowing the Commission to play a meaningful role in the promotion and protection of the rights of persons with disabilities. Despite reassurances by the Ministry about the Commission's independence, UNAMI/HRO considers that it does not yet seem to enjoy a level of independence consistent with the relevant international standards.

UNAMI/HRO has also engaged with the Government with a view to ensuring that issues relating to the infrastructure, staffing and financial needs of the Commission would be addressed effectively.

More generally, UNAMI/HRO has expanded its network of disability-related NGOs with a view to increasing its outreach and the impact of its capacity-building activities. Upon the request of a number of NGOs, UNAMI/HRO, in coordination with OHCHR, which hosts the secretariat of the Committee on the Rights of Persons with Disabilities, is planning to host a training workshop on reporting by NGOs under the Convention on the Rights of Persons with Disabilities in 2017.

UNAMI/HRO is also ready to continue to assist in legislative reform efforts aimed at ensuring compliance of Law 38 with the Convention, as needed.

12. Conclusions

For decades, Iraqis have been living under exceptional circumstances, characterized by conflict, violence, poverty, marginalization and consequent trauma. Such conditions have affected several generations, leading to an extremely complex picture when it comes to disability. Efforts to overcome this painful legacy and establish a new democratic country based on human rights and the rule of law provide a real opportunity to create a more inclusive society which allows for the full realization of human potential by all of its members, including people with disabilities.

This is particularly relevant in the context of the current humanitarian emergency and post-conflict reconstruction. In keeping with the Charter on Inclusion of Persons with Disabilities in Humanitarian

⁸⁷ For the Iraq State report, see online <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fIRQ%2f1&Lang=en>

Action, the government should capitalize on opportunities to rebuild a more inclusive Iraqi society and communities.

In this context, efforts must be made to remove obstacles that stand in the way of persons with disabilities to express their own, so far untapped, potential, in line with Iraq's obligations under international law, and in line with the 2030 Agenda for Sustainable Development.

The Government has made some steps to improve the rights of persons with disabilities, as outlined in the previous sections of this report. In general terms, disability-related organizations acknowledged the Government's efforts to raise awareness on the issue of disability. However, many also stressed the gap between the good intentions expressed in these commitments (which some described as '*just ink on paper*'⁸⁸) and their actual implementation. One of the respondents summarized that '*the Government lives in a valley and persons with disabilities in another one*'⁸⁹, an image that conveys the perceived distance between the two.

NGOs noted that more needed to be done, including in terms of awareness-raising, given the constant increase in the number of persons with disabilities throughout the country, and that initiatives should target the whole country and go beyond Baghdad and major urban centres to reach all persons with disabilities, including those living in rural areas.

13. Recommendations

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) on the Care of Persons with Disabilities and Special Needs 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. To this end the Government should:

- a. Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities;
- b. Implement the recommendations of United Nations Treaty Bodies and UPR related to disability,
- c. Implement the recommendation by the Committee on the Rights of the Child for Iraq to adopt a human rights-based approach to disability; ensure effective inclusive education, undertake awareness-raising programmes to eliminate discrimination against children with disabilities; and ensure their equal access to all social services and financial support⁹⁰;
- d. Invite the Special Rapporteur on the rights of persons with disabilities to visit Iraq, taking into account the standing invitation that the Government of Iraq issued to all Special Procedures mandate holders on 16 February 2010.
- e. For the purpose of developing adequate policies and programmes, establish a system of quantitative and qualitative data collection and analysis, disaggregated by age and sex, and respectful of privacy and confidentiality standards. Also, with a view to bridging the data gap, consideration should be given to the inclusion in the next census of the Short Set of Questions developed by the Washington Group on Disability Statistics.⁹¹

⁸⁸ NGO questionnaire, Baghdad, response no. 29.

⁸⁹ NGO questionnaire, Baghdad, response no. 29.

⁹⁰ CCR/C/IRQ/CO/2-4, May 2015, para 59.

⁹¹ http://www.cdc.gov/nchs/washington_group/wg_questions.htm

- f. In this connection, special attention should be paid to children with disabilities, especially those in situation of displacement, in view of the specific vulnerability they face; the integration of disabled children in mainstream schools where possible to ensure full and inclusive educational opportunities; and the provision of specific training to teachers. Specific guidance on the right to inclusive education was provided by the Committee in its General Comment No. 4 (2016).
 - g. Ensure the widespread dissemination and simplification of the procedures required to claim disability benefits, taking into account the obstacles that most persons with disabilities face in moving, particularly women and girls.
 - h. Initiate a robust public awareness campaign by all actors concerned, and in consultation with persons with disabilities, focusing on the rights of persons with disabilities.
 - i. Practical interventions are needed to eliminate the physical, psychological and attitudinal obstacles that create the disability in the first place. These interventions need to be designed with the active participation of the disabled persons themselves, whose potential remains so far untapped, keeping in mind the universal design with a view to ensuring systematic accessibility.
 - j. Expand and improve specialized health-care/psycho-social support.
 - k. Ensure that programmes supporting persons who acquired impairment as a result of armed conflict are fully in line with the Convention.
 - l. Pay particular attention to the situation of women and girls with disabilities due to their specific vulnerabilities, particularly in a context of conflict and humanitarian emergency, including their exposure to violence, abuse, exploitation and harassment, and possible marginalization when it comes to receiving basic services and humanitarian assistance. Consideration should also be given to the above-mentioned General Comment No. 3 on Women and Girls with Disabilities.
 - m. In addressing all the above-mentioned aspects, include persons with disabilities in decision-making processes affecting their lives, with a view to creating a conducive environment for their meaningful participation in society as dynamic, creative and effective agents of change.
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