

**IHCHR's View, in the Light of the LOIs Submitted by the Committee on the Rights of Persons with Disabilities to the Iraqi Government, Which Includes an Assessment of the PWDs' Status and the Extent of Iraq's Compliance with the Implementation of the Provisions of the Convention on the Rights of Persons with Disabilities**



**Iraqi High Commission for Human Rights  
(IHCHR)  
Baghdad-2019**

**Introduction:**

The Iraqi High Commission for Human Rights (IHCHR) is an independent national institution with a legal personality and financial and administrative independence. It was formed in accordance with Article (102) of the Iraqi Constitution. The Commission aims to ensure, protect, and promote respect for human rights and protect the rights and freedoms stipulated in the Constitution and international conventions, as well as to consolidate and develop the values and culture of human rights under its law No. (53) of 2008. Since its establishment, the Commission has devoted a special file to the rights of persons with disabilities.

The IHCHR presents its view and assessment of the situation of persons with disabilities and special needs in the light of the list of issues submitted by your esteemed committee to the Iraqi government, including an overall and comprehensive assessment of the legislation, mechanisms and official procedures for the rights of persons with disabilities in Iraq, their compatibility with the principles and provisions of the Convention, and the most important observations and recommendations on the implementation of the CRPD provisions.

**Iraqi High Commission for Human Rights**

**Iraq – Baghdad 2019**

### **First: Purpose and general obligations (arts. 1–4)**

Although the Iraqi Constitution of 2005\ Art. (32) refers to the protection of the rights of persons with disabilities, Iraq's accession to the Convention on the Rights of Persons with Disabilities on 20 March 2013, the Ottawa Convention\Art. (6) "Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs", as well as the Oslo Convention on Cluster Munitions\ Article 5 which states "each State Party with respect to cluster munitions' victims under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion", the enactment of the Law on the Welfare of Persons with Disabilities and Special Needs No. (38) for the year 2013, and the formation of an independent body for disability affairs includes representatives of (persons with disabilities, relevant ministries, the IHCHR, the Kurdistan Region and experts specialized in the PWDs' affairs), the law abovementioned set the functions and tasks of this body, which, in our view, is a breakthrough in terms of legislative measures. The legislative authority defines "disability" under the provisions of Article (1) of the aforementioned law in a manner inconsistent with its definition in accordance with the Convention. The above article focused on the care aspect, giving the definition a caring and medical perspective to define disability and persons with disabilities as (cases of incapability or limited capacity) in the field of education, work or rehabilitation without paying attention to the environmental and behavioral barriers, a concept that is not consistent with what came from the concept by the Convention to ensure the rights and dignity of persons with disabilities.

With regard to no. (1) of the list of issues, the IHCHR has not noted any progress made regarding Iraq's accession to the Optional Protocol to the International Convention on the Rights of Persons with Disabilities.

For no. (2) of the list of issues, we state the following:

Although the Iraqi constitution contains some provisions that affirm the prohibition of discrimination on different grounds, as in Article (14) of it that stipulates "Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status", Many national laws includes forms of discrimination against persons with disabilities, especially those mentioned in article (104) of the Civil Code No. 40 of 1951, which states: "in the case of a deaf and dumb, blind and deaf or blind and dumb person who by reason of his infirmity is unable to express his intention the court may appoint for him and fix the dispositions of a selected guardian" and apply this article to all persons with hearing impairments unconditionally. The IHCHR believes that this legal text reflects the reality that prevailed at the stage of legislation where there are no smart devices that provide this group the possibility of exercising their rights by themselves and conduct actions without the need for a guardian. As well as what is stated in Article (495) of the Iraqi Penal Code (111) of 1969 amended "person is punishable by a period of detention not exceeding 1 month or by a fine not exceeding 20 dinars if he allows a person of unsound mind or predatory animal or animal that is harmful in any

way to escape to a public highway", there is a clear discriminatory image that degrades the PWDs' dignity in this text when the legislative authority holds the harming animal that may kill people and the person with the psychological disability called (mad) on equal footing. The Personal Status Law No. (188) of 1959 and the Notary Public Law No. (33) of 1998 include discriminatory provisions and texts against persons with mental, psychological and hearing disabilities that equate them with the status of the bud boy who has not reached the age of seven years with regard to the legal and administrative actions, thus the guardian who manage their matters is the only procedure guaranteed by law.

Regarding no. (3) of the list of issues, we state the following:

The Iraqi constitution of 2005 does not refer to the legal value of the texts contained in the international conventions to which Iraq acceded, it does not rank them above national laws or consider as a national law unless the Iraqi Council of Representatives enacts special laws or amend the provisions of the laws in force to make them applicable national texts, so It is not enough for the House of Representatives to pass the law of ratification of the Convention to prosecute before the courts by its texts and materials, and does not address this issue and leave it to judicial jurisprudence. As stated above our commission noted that the Iraqi courts has not abided by the provisions of the Convention in the cases to which submitted.

With regard to no. (4) of the list of issues, we state the following:

Although the law on the care of persons with disabilities no. (38) of 2013 devotes Articles (2-3) for the objectives and means of facilitation that are consistent with the provisions of the International Convention, the Commission noted that the PWDs' issues are not a priority of the Government in its strategies, plans and program and just restricted in the scope of medical and preventive measures or pastoral service that cannot achieve integration and effective participation in the broad sense adopted by the Convention in its general principles and other detailed provisions, and the law on the care of persons with disabilities and special needs No. (38) for 2013 just came harmonious and consistent with provisions of Article (32) of the permanent Iraqi Constitution with no expressions of the promotion of rights but rather a pastoral formula that does not conform to the provisions of the Convention and does not meet the aspirations of persons with disabilities. The Practical practices and what people with disabilities face of direct and indirect discrimination and exclusion while exercising their rights and attempting to access public services available to all cannot be overcome unless the approach adopted by the Iraqi legislator is changed and brought into line with the provisions of the International Convention. Despite the participation of civil society organizations concerned with the rights of persons with disabilities in public discussions relating their rights, they remain ineffective in a way that makes a clear and remarkable change in the reality of disability in Iraq due to the political and social influences on the Iraqi legislator who has not achieved a real move in the understanding and adoption of international legal standards.

With regard to no. (5) of the list of issues; our commission cooperated with the Ministry of Labor and Social Affairs, the PWD organizations and competent bodies to

draft an amendment bill to Law No. (38) of 2013 to clearly affirm the prohibition of discrimination and promote the participation of persons with disabilities in decision-making, policy-making, increased representation of persons with disabilities in the Commission of Caring PWDs, the development of a definition consistent with the Convention, changing the concept of care to the concept of protection and promotion of the rights of persons with disabilities.

**Recommendations:**

Prompt the government and parliament to:

1. Amend the Law on the Care of Persons with Disabilities and Special Needs No. (38) for the year 2013 in line with the provisions of the Convention, in order to achieve the change from a pastoral medical approach to PWD protection-based approach, promote the rights of persons with disabilities and abolish any provisions that enshrine any form of discrimination on the basis of disability.
2. Issue instructions needed to facilitate the implementation of the Care of Persons with Disabilities and Special Needs Law No. (38) of 2013.
3. Build the capacities of civil society organizations concerned with persons with disabilities to assume their leading role in demanding rights, accommodation arrangements and various forms of adaptation in all sectors, and to enhance participation in decision-making processes, policy-making and follow-up.
4. Expedite accession and adoption of the Optional Protocol to the Convention on Persons with Disabilities.
5. Include the concept of reasonable accommodation arrangements in all strategies and plans of State institutions to promote the rights of persons with disabilities.

**Second: Equality and non-discrimination (art. 5)**

With regard to no. (7) of the list of issues, we state the following:

Although the permanent Iraqi Constitution of 2005 states in Article (14) that " Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status", The Law on the Care of Persons with Disabilities and Special Needs No. (38) of 2013 in Article (1) defines discrimination as: (a) any distinction, exclusion or restriction due to disability or special needs which may impair or nullify the recognition or enjoyment of any of the rights prescribed by legislation; Exercise on an equal footing with others). However, our commission noted the continued violations against persons with disabilities in the exercise of their right to work, education and health. The government has not taken practical measures for environmental arrangements and reasonable accommodation. The Commission has not indicated any measure taken by the government and parliament regarding the compatibility of civil law in particular with regard to the legal capacity of persons with mental and psychological disabilities in articles (94,95, 107, 108) with the provisions of the Convention.

**Recommendations:**

To prompt the government and the parliament to amend the civil law over the provisions on the legal capacity of persons with mental and psychological disabilities in conformity with the provisions of the Convention, to promote their rights without any discrimination and to make use of the scientific and technological development in terms of smart devices and modern means of communication enabling disabled people to exercise their rights and direct their legal actions by themselves without a guardian.

**Third: Women with disabilities (art. 6):**

With regard to no. (9-10) of the list of issues, we state the following:

Women are classified as the most priority care group in the field of human rights and often face a higher risk of violence, injury, abuse, neglect, ill-treatment, or exploitation by the family or society. This leads to multiple discrimination against them, once on the basis of gender then on the basis of disability, which in turn can lead to exploitation, as well as the imposition of social norms and traditions that prevent them from exercising their rights.

IHCHR noted that disabled woman continues suffering in the midst of a male society oppresses her rights as a woman and in the event of being disabled she will suffer both her sex and disability. The Commission also observed that patterns and social norms violate the rights of women with disabilities and confiscate their freedom of decision-making and deprive them of marriage, claiming that they are unable to support themselves, how to form and maintain a family, which led to a high ratio of spinsterhood in the segment of women with disabilities significantly. As well as the Commission noted unequal opportunities for women with disabilities to access education or employment because of societal and environmental barriers. Article (15 \ First) of Law No. (38) of 2013 regulates the provisions of disabled women within the functions of the Ministry of Health through medical care and rehabilitation, and has not expanded to guarantee their rights in a manner consistent with the provisions of Article (6) of the International Convention on the Rights of Persons with disabilities. The IHCHR further notes that the national policies and plans adopted by the government relating to women in general do not adopt the issues and rights of women with disabilities as a priority such as the National Strategy to Combat Violence against Women, the National Strategy for the Advancement of Women, the National Plan and the Emergency Plan of Resolution (1325), and have not contributed to changing the societal perception of women with disabilities and the multifaceted discrimination they face in all areas of life. The Commission still observes the continuing suffering of women with disabilities in rural areas governed by tribal customs and traditions that limit their rights, and the suffering of displaced, refugee and migrant women with disabilities, especially in IDP camps as their special needs are not met in these camps to enable them to lead normal lives.

The Commission also noted a decline in the level of institutions concerned with women's affairs after the abolition of the Ministry of State for Women's Affairs and replacing it with a department within the structure of the General Secretariat of the Council of Ministers as well as the abolition of family investigation courts. As for the legislative aspect, the Council of Representatives has not succeed in legislating the law against domestic violence in light of the absence of laws that protect women from all forms of violence as well as the lack of specialized government centers to provide adequate protection for women.

**Recommendations:**

Prompt the government and parliament to:

1. Amend the Law No. (38) for the year 2013 to provide provisions consistent with the International Convention on the Rights of Persons with Disabilities, especially with Article (6) of the Convention. Expedite the enactment of the Law on the Protection against Domestic Violence and to include penal articles for acts and crimes that are multiple discrimination against women and girls with disabilities.
2. Set up an accessible hotline for women with disabilities, including sign language, text messages and other forms of reasonable arrangements for reporting any incident of violence, exploitation or abuse based on disability. Designate developmental programs for women with disabilities and their human rights organizations, and for their communication with relevant authorities to file a complaint, in addition to mechanisms to resort to the judicial authority in case of any kind of violence, exclusion or discrimination.
3. Include national strategies and plans for the empowerment and protection of women within sectors of health, education, employment, and rehabilitation. Take the necessary measures in terms of raising awareness to realize a change in society's perception towards the disabled in general and women with disabilities in particular.
4. Develop government plans to provide humanitarian support to women with disabilities in IDP camps, meet their requirements and facilitate their voluntary return.

**Fourth: Children with disabilities (art.7):**

As for no. (11) of the list of issues, we state the following:

Despite the adoption of the Iraqi Constitution in Article (30) of the child's rights by stipulating that "The State shall guarantee to the individual and the family - especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing", the guarantee of child's rights within the law No. (38) of 2013, Iraq's accession to the Convention on the Rights of the Child in 1994 and the additional Protocols thereto and the international conventions stipulating that the child must have a suitable environment for living and education.

The IHCHR continues to point out the suffering of children with disabilities because they are deprived of inclusive education and have to work hard to meet the needs of their families, the great neglect, violence and loss of educational opportunities they are subjected to in IDPs camps, lack of appropriate adaptations by state institutions so that children with disabilities can enjoy their rights on an equal footing with others, and lack of rehabilitation programs and health requirements, whether immunization against diseases in infancy, appropriate nutrition, and therapy of diseases and injuries in the stage of childhood, in addition to the access to information and services during adolescence to adulthood.

The Commission also noted that the Child Protection Act was not passed yet despite the fact that the Ministry of Labor and Social Affairs had submitted a Draft Child Protection Act since 2015, however, the State Council returned the draft submitted by the Ministry of Labor to reformulate it; whereas the IHCHR noted that the draft law was made with no mention to the full integration of children with disabilities into society, whether in terms of providing services, comprehensive and inclusive education, and supporting families with children with disabilities and protecting them from violence, abuse and neglect.

**Recommendations:**

Prompt the government and the parliament to expedite the enactment of the Child Protection Law and to include provisions that guarantee the full integration of children with disabilities into society, whether in terms of providing services, comprehensive and inclusive education, and supporting families with children with disabilities and protecting them from violence, abuse and neglect in line with the International Convention on the Rights of Persons with Disabilities.

**Fifth: Awareness-Raising (art. 8):**

With regard to no. (12) of the list of issues, we state the following:

Despite the fact that the Iraqi legislator refers in the objectives of the Law on the Care of Persons with Disabilities and Special Needs No. (38) of 2013 to respect disability and accept disability as part of human diversity and human nature. The IHCHR notes the lack of adoption of educational programs in the government media as well as in the curricula to raise awareness of the rights of persons with disabilities and special needs in Iraq, just some of the individual initiatives of some non-governmental media that adopt professionalism and stress the necessary to accept the full integration of persons with disabilities into society, while others have committed violations of the rights of persons with disabilities and placed them in ridicule and diminution of dignity in weekly or daily programs with no deterrent laws or Acts including the Law no. (38) of 2013 that prevent or punish them. The government media is still considering the issue of disability in the form of informational events and media, and there are no strategies for people with disabilities in their programs. The Commission also noted the lack of use of television channels and satellite channels, especially official ones, interpreters (sign language) in presenting news and other programs.



As for the awareness-raising campaigns, the Commission noted that there are programs implemented by some NGOs to this end, in addition to capacity-building, training and development projects for persons with disabilities and their organizations in Iraq funded and implemented by the international organizations.

### **Recommendations:**

Prompt the government and parliament to:

1. Include the PWDs' issues in the media policies of the different parties in a perspective that reflects the human rights approach, supports the prevailing stereotypes about disability, adopts the ideology of that persons with disabilities are part of human diversity, and establishes a culture of diversity and acceptance of the other through the full effective engagement and involvement of persons with disabilities and their organizations.
2. Establish controls for the work of the media in such a way that prevent violations of the rights of persons with disabilities or to put them in a position of ridicule and impose sanctions on the media devoted to it.
3. Direct the media to use television channels and satellite channels, official and non-official ones to interpreters (sign language) in presenting news and other programs.
4. Involve persons with disabilities in the assessment, design, implementation and monitoring of awareness programs offered by different media.
5. Adopt educational programs, media and educational curricula to raise awareness of the rights of persons with disabilities and sectors of society to the Convention and the rights contained therein.

### **Sixth: Accessibility (art. 9):**

With regard to no. (13-14-15) of the list of issues, we state the following:

Article (40) of the Iraqi Constitution provides that "The freedom of communication and correspondence, postal, telegraphic, electronic, and telephonic, shall be guaranteed and may not be monitored, wiretapped, or disclosed except for legal and security necessity and by a judicial decision.

The General Secretariat of the Iraqi Council of Ministers issued a circulation ref. (38832) on (1\11\2011), which includes taking into consideration the requirements of persons with disabilities in designing buildings or the implementation of projects such as wheelchair channels, appropriate reception places, special elevators for PWDs and designate an officer as receptionist to facilitate the PWD's task. The circulation ref. (7306) on (23\2\2012) on the requirements of identifying places for persons with disabilities in the government departments' reception rooms through the following:

1. Put labels bearing the slogan of international disability on the allocated seats and not allowed to be used by the other persons.
2. Provide mobility and access aids to the PWDs.
3. Provide the necessary stationery and copying machines requirements during coming to follow up their transactions.
4. Provide reception site with the means of communication with the sections of the concerned departments or call the competent staff to complete the requirements of the transactions and add some customizations for persons with disabilities to facilitate the use.

In addition to the decision of the Council of Ministers ref. (10) for the year 2012 on allowing persons with disabilities to import cars with specifications appropriate for their status and exempting from customs and taxes. As well as issuing instructions including the necessary safety conditions and comfort for the elderly and disabled people in all state institutions.

Although the Commission considers what is mentioned above as a progress made on the level of administrative measures carried out by the Iraqi government, it has noted the following:

The lack of infrastructure in Iraq to access facilities for persons with disabilities in public life. The Commission has received many complaints from civil society organizations for persons with disabilities during its monitoring of the protests they organize, including the lack of facilitating infrastructure in accordance with their needs and physical nature, in spite of there is a direction from the General Secretariat of the Council of Ministers to the government departments to amend the infrastructure to be easy to access and use by persons with disabilities, but implementation is still below the level of ambition and does not exceed the existence of some ramps which are not subject to world health standards in all state institutions such as schools, places of worship, entertainment and sports centers, including the private sector and investment projects such as Basmayah project, which lacks to accessibility facilities for people with disabilities. Concrete barriers imposed by security conditions, including the cutting of pedestrian bridges, are also a major problem for people with disabilities and for the traffic patterns. The Commission noted the lack of commitment by the authorities concerned to the laws and regulations for the importation of cars for persons with disabilities. Currently, persons with disabilities are exploited by expeditors, agents and dealers when importing cars in return for giving small amounts to beneficiaries of persons with disabilities. Most of the cars imported do not meet the specifications of persons with disabilities, but are adapted to be suitable for them, which violates the law. The Commission also noted that the means of communication, technology, information systems and modern audiovisual devices, including the sites of the university, Public libraries and government institutions lack of international access standards, and people with intellectual and hearing disabilities face great difficulties to benefit from modern communications technology, including websites.

As for the integration of accessibility standards into the general designs of post-conflict reconstruction, our commission observed that the government has lifted the rubble and dismantled the mines and explosives left by Daesh terrorist gangs, but it has not initiated the reconstruction or rehabilitation of liberated cities, particularly health and educational institutions and others service utilities, such as the electricity, water, communications, roads and bridges sectors. The IHCHR also noted the spread of diseases and epidemics and high rates of poverty and unemployment as a result of the destruction of factories, workshops and commercial shops in those cities, and there is no change in the accessibility of persons with disabilities only lifting some barriers and security check points from the main and sub-roads.

### **Recommendations:**

Prompt the government and parliament to:

1. Activate the control on the construction work and prevent granting construction or investment permissions only after taking into consideration the relevant standards regarding the rights of persons with disabilities and facilitating the infrastructure in accordance with their needs and physical nature.
2. Follow-up and facilitate the procedures for receiving transactions related to the importation of cars and their distribution on persons with disabilities by the Ministry of Trade. Activate the decision of the General Secretariat of the Council of Ministers ref. (10) for the year 2012 and establish deterrent penalties for all those who try to exploit persons with disabilities.
3. Take measures and procedures to facilitate the access of persons with disabilities to the means of communication, information technology systems and modern audiovisual utilities, especially those with visual, hearing, mental, psychological, physical and motor disabilities.
4. Accelerate the reconstruction of the liberated cities and rehabilitate the different sectors and take into consideration the design of the buildings in accordance with the standards set by the Convention for persons with disabilities.

### **Seventh: Situations of risk and humanitarian emergencies (art. 11)**

With regard to no. (16-17) of the list of issues, we state the following:

Despite the fact that the Iraqi legislator has guaranteed the right of civilians to safety, health and protection against risks and threats, including disasters and crises, the issuance of Law for the Compensation of Persons Affected by War Operations, Military Mistakes and Terrorist Acts No. (20) of 2009 and the Law for the Compensation of Victims Who Lost Parts of Their Bodies No. (59) for the year 2009, the Commission continues to note that the failure of procedures and practices for dealing with persons with disabilities regarding the facilitative arrangements of their rescue or treatment, which makes them more vulnerable in case of a disaster or an emergency, especially Iraq has witnessed large waves of displacement since the control of Daesh gangs in

June 2014 on large parts of the provinces of (Ninewa, Salahddin, Diyala, Anbar and Kirkuk). The Commission has not observed any procedures and practices that take into consideration the health, educational and physical conditions of PWDs in the displacement camps that have not even taken into account their needs and facilitation of their movement within the camps, whether through wheelchairs or supporting tools. No service facilities for people with disabilities and special needs were created. Even the few educational schools established in the camps do not have the standard requirements for PWDs, i.e the use of sign language, the Easy Read method, Braille, audio description and tactile contact, thus many of them have lost their right to education, especially children and women who have not been offered any psychological rehabilitation programs. The IHCHR also noted the use of displaced children and women to beg before camps due to the lack of humanitarian programs and assistances and the difficult economic situation in the camps. Hence the government's failure to respond to the needs of persons with disabilities in emergency, disaster, rescue and IDP camps is considered a clear decline in operational procedures to deal with crises.

### **Recommendations:**

Prompt the government and parliament to:

1. Amend the Law on the Care of Persons with Disabilities and Special Needs no. (38) of (2013) to include provisions referring to the responsibilities of official authorities in dealing with the needs of people with disabilities in emergency, disaster and rescue and the necessary means of adaptation in this area.
2. Develop urgent government programs to meet the needs of persons with disabilities in the camps, especially in the humanitarian, health, educational and psychological aspects, prohibit the exploitation of children and women in begging near the camps and ensure the requirements of their voluntary return.
3. Develop and implement systematic training programs for persons with disabilities, including children and families, on first aid and rescue methods and how to deal with emergencies and disasters.

### **Eighth: Equal recognition before the law (art. 12)**

As for no. (18) of the list of issues, we state the following:

Although Article (14) of the Iraqi Constitution refers to the principle of equality and non-discrimination among all Iraqis in the rights and duties before the law, including the care of persons with disabilities and special needs and their integration into society, Iraq's ratification of the International Convention and non-reservation to any article in particular Article (12\Second) on legal capacity, the IHCHR noted that a number of national legislations enshrines serious forms of discrimination against the right of persons with disabilities to enjoy full legal capacity and practices on a basis of equality with others. Articles (46 \Second), Article (94) and Article (108) of the Civil Code No. (40) of 1951 and Article (7) of the Personal Status Law No. (188) for the year 1959 (amended) do not recognize the legal capacity of persons with mental and

psychological disabilities which is considered a discrimination and an exclusion for them. The definitions; enacted by the legislator in the Civil Code on the concept of mad, insane and mentally retarded person, and other impediments of legal capacity; are not based on the comprehensive concept of disability as an interplay between personal factors and environmental, behavioral and social barriers in which the lack of reasonable accommodation arrangements plays a fundamental role in the emergence and enshrinement of the disability, which is a clear violation of the terms of the Convention, especially Article (12) thereof. The Commission also noted the absence of governmental and legislative efforts to amend the provisions of the Civil Code that discriminate against the rights of persons with disabilities and to harmonize them to the provisions of Article (12) above.

#### **Recommendations:**

Prompt the government and Parliament to amend the aforementioned provisions on legal capacity to achieve full recognition of persons with disabilities before the law on the basis of equality with others without discrimination due to disability, as well as to amend the tutorship and guardianship provisions to achieve individual autonomy and privacy for persons with disabilities so as to ensure their empowerment on decision-making by providing the necessary reasonable accommodation arrangements to them.

#### **Ninth: Access to justice (art. 13)**

With regard to no. (19) of the list of issues, we state the following:

The Iraqi Constitution (Article 19\ Third) stipulates that "the right to seek legal remedy shall be safeguarded and guaranteed to all". The Article (15 \ Sixth\ A\ B) of the Law No. (38) of 2013 states "Consider the health conditions of the persons with disabilities and special needs in the facilities of detention and prisons if the nature of case and its circumstances require such measures" and "Provide the technologies for the persons with disabilities and special needs, including the translation of the sign language and any other techniques that assist them in defending on their rights or enjoying equal status with the other party in the proceedings". The Article (11) of the Criminal Procedure Code No. (23) of 1971 states " If the person who has suffered damage from the offense is not competent to conduct a lawsuit under civil law then someone must be appointed to represent him legally, and if someone cannot be found then the investigative judge or the court must appoint someone to take on the civil case in his place", and (not competent to conduct a lawsuit) is for the children or who are mentally impaired.

Regarding Article (94) of the Civil Code that considers persons with mental and psychological disabilities as the minors who are capable or incapable of discernment according to the physicians' and court's decisions. Thus the criminal legislator takes this approach with greater narrowness that any mental impairment is a reason to justify the unacceptance of the victim's complaint, regardless of the degree of disability and its nature, delegating that to the guardian or custodian in another legislative form, which enshrines some form of discrimination rejected and ignores the effect of reasonable facilitative arrangements and support for decision-making.

The Commission noted the inaccessibility of persons with disabilities to the courts, the absence of reasonable accommodation arrangements, and the lack of awareness programs targeting judges, lawyers, court officials and law enforcement personnel on the rights of persons with disabilities to access to justice, with the exception of some initiatives by the international and local organizations on raising awareness of judges, judicial investigators and police departments on the rights of persons with disabilities as stipulated in the Convention because of the absence of the role of government authorities in this regard.

**Recommendations:**

Prompt the government and parliament to:

1. Ensure the right of legal recourse for persons with disabilities, facilitate procedures, achieve equality in the exercise of access to justice for persons with disabilities, including children with disabilities, without discrimination, and to establish reasonable environmental arrangements in the institutions of the judiciary, welfare homes and rehabilitation centers.
2. Enhance and develop the capacities and skills of judges, lawyers, court officials and law enforcement personnel by familiarizing them with the rights of persons with disabilities in accordance with the Convention to ensure access to justice. As well as promote the right of persons with disabilities to exercise their full legal capacity and to provide, where applicable, legal and judicial assistance; Without any form of restriction or derogation from the individual's freedom, privacy and individual autonomy, and respect his or her free will in decisions.

**Tenth: Freedom & Security of the person**

Article (14) of the International Convention on Persons with Disabilities With regard to paragraph (20) of the list of issues, IHCHR would like to state the following:

The Article (37) of the Iraqi constitution states “liberty and dignity of man shall be protected and no person may be kept in custody or investigated except according to a judicial decision”. Article (421) of the Iraqi Penal Code of 1969 (amended) states that “ Any persons who seize ,detains or deprives a person of his liberty in any way without an order from a competent authority in circumstances other than those described in the laws and regulations to that effect is punishable by detention”

Despite the fact that the national system recognizes positive discrimination for PWDs consistent with their situations and the nature of the physical or mental harm suffered by members of this segment, which the prison administrations and detention facilities should take into consideration the activating of this positive discrimination approved by the law for this category to ensure and reflect a positive methodology performed

by prisons departments to secure the needs and supplies of this segment inside prisons and detention facilities at the level of their buildings or equipment.

However, IHCHR teams and through its monitoring visits still indicate the incompatibility of the detention centers for detained and sentenced PWDs, and the reality of practical application in prisons and detention facilities has a clear deficiencies in the preparation of rooms , halls for PWDs or provide them with equipment and lack of full time attendants for people with motor disabilities. As well as lack of providing a sign language expert for people with hearing disabilities or Braille language translation for people with visual impairments referred to in the International Convention on the Right of Persons with Disabilities. The Commission noted the absence of official statistics from the authorities responsible for the management of prisons, detention centers and juveniles houses on the number of persons with disabilities who are deprived of their liberty, which indicates that it is not considered within their priorities.

The Iraqi Penal Code No. (111) of 1969 amended considers that persons with mental disabilities are dangerous to public safety in accordance with the provisions of Article (495 / fourth) that states "Person is punishable by a period of detention not exceeding (1) month or a fine not exceeding (20) dinars who allows a person of unsound mind or predatory animal or animal that is harmful in any way to escape; to a public highway" The article (105) of the above-mentioned law states that " The convicted person shall be confined in a therapy unit of a hospital or sanatorium or any other place set aside for that purpose by the government for care and treatment in accordance with the conditions stipulated by law for a period of not less than 6 months". IHCHR teams monitored that detention places in hospitals or clinics contain rooms similar to prisons where they include iron doors, handcuffs and shackles used for persons classified as dangerous.

In the same context concerning forced placement in specialized hospitals, the Mental Health Act no. (1) of 2005 in article (7\ Second) states that "If the patient's psychological condition is considered to be a danger to himself or to others, psychiatrist may decide to place him in a closed treatment unit for 72 hours, provided that during this period the patient shall be subjected to a specialized medical committee to assess his condition". The article (8 /first) of this law states "If the specialized medical committee finds that the patient poses a danger to himself or to others, the committee may recommend to place him in a closed medical treatment unit for a maximum period of (30) days, provided that the recommendation shall be submitted to the competent investigating judge within (72) hours to issue the decision to approve his placement for treatment". While Paragraph (second) of the above Article "allows the Committee to recommend his treatment for a renewable period of (180) days or less provided that the committee shall submit its recommendations to the competent investigating judge within 7 days to issue the decision to approve his placement for treatment".

**Recommendations:**

Prompt the government and parliament to:

1. Develop legal, administrative and awareness-raising measures aimed at prohibiting all forms of forced placement for the purpose of treatment, education or care referred to in Articles (7 and 8) of the Mental Health Act No. (1) of 2005, and amend Article (495/fourth) of the Penal code that mentioned previously, which equals the person with mental illness (crazy) and predatory animal and this is an approach that intersects and contrary to international legal standards related to human rights in general and the rights of PWDs in particular.
2. Task prison administrations and detention facilities to take into account the needs and requirements of PWDs in prisons, detention facilities and juveniles' houses, both at the level of their buildings or equipment, in order to achieve the concept of creating environment and reasonable arrangements.
3. Require the Ministry of Planning and institutions responsible for prison administration, detention facilities and juveniles' houses to provide an official statistics on the number of persons with disabilities who are deprived of their liberty and legal status, as well as indicate the type of disability.

**Eleventh: Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment**

Article (15) of the International Convention on Persons with Disabilities With regard to paragraph (21) of the list of issues, IHCHR would like to state the following:

Although article (37\ C) of the Iraqi Constitution of 2005 that prohibits all forms of psychological and physical torture and inhuman treatment, as well as Article (127 ) of the Criminal Procedure Code No. 23 of 1971, which stipulates that " The use of any illegal method to influence the accused and extract an admission is not permitted. Mistreatment, threats, injury, enticement, promises, psychological influence or use of drugs or intoxicants are considered illegal methods", and article (333) of the Iraqi Penal Code No. (111) of 1969, stipulates "Any public official or agent who tortures or orders the torture of an accused, witness or informant in order to compel him to confess to the commission of an offence or to make a statement or provide information about such offence or to withhold information or to give a particular opinion in respect of it is punishable by imprisonment or by penal servitude. Torture shall include the use of force or menaces". IHCHR teams received complaints including allegations of torture and mistreatment practiced against some persons with disabilities and special needs placed in prisons, detention facilities and of juveniles' houses.

**Recommendations:**

Prompt the Government and the Parliament to include a provision, that increases the penalty for the crime of torture against persons with disabilities and special needs, in



the draft law of Anti Torture and other cruel, inhuman or degrading treatment or punishment

**Twelfth: Freedom from Exploitation, Violence and Abuse.**

Article (16) of the International Convention on Persons with Disabilities With regard to paragraphs (23, 22) of the list of issues, IHCHR would like to state the following:

Although the Iraqi Constitution in force in 2005 in articles (30, 29, 15, 14) referred to the prevention of all forms of violence, abuse and discrimination, and the article (6 / second) of the Anti-Human Trafficking Act No. (28) of 2012 states “ person shall be punished with life imprisonment and a fine of not less than fifteen million dinars and not more than twenty five million dinars for the person who committed the crime of human trafficking if the victim is female or with persons with disabilities”, and the Ministry of Interior created a directorate of protecting child and family from domestic violence, which deals with issues of domestic violence, namely, physical, sexual, psychological, intellectual assaults that committed or threatens to be committed by any member of the family against the other and is either (misdemeanor, felony or violation) in accordance with the law

IHCHR continues to point out the non-approval of Domestic Violence Protection Law, and it also pointed out neglecting their needs in educational and health institutions, which are still old and do not have modern means of electronic communication, not to mention the lack of experience of their staff in dealing with the issues of people with disabilities and special needs. As well as the existence of cases of violence , exploitation and repeated attacks targeting persons with disabilities, as noted by the Commission that abused women, whether with disabilities or others cannot come to the directorates of domestic violence because of its location inside police stations buildings which constitutes an obstacle due to the social stigma on one hand and lack of interpreters (sign language) or any other techniques useful in conveying the information of the complaint .

**Recommendations:**

Prompt the government and parliament to:

1. Accelerate the legislation of Domestic Violence Protection Act.
2. Transfer the headquarters of the protection directorates of domestic violence from police stations and provide them with interpreters (sign language) or modern devices and advanced methods through which the disabled can communicate the information related to the complaint to the staff of the above directorates.
3. Rehabilitate all care houses and provide them with modern devices and advanced methods to deal with the needs of people with disabilities.

**Thirteenth: Living independently and being included in the Community.**

Article (19) of the International Convention on Persons with Disabilities With regard to paragraphs (26, 25, and 24) of the list of issues, IHCHR would like to state the following:

Although the Iraqi constitution in Article (2) and the law no. (38) of 2013 in Article (1/fifth), Article (2/second), Article (3/forth), Article (15/forth), referred to the creation of the requirements for the integration of PWDs and special needs into society and living independently ,and the progress made in Law (38) of (2013) through the provisions of Article (19) on measures and provisions related to full-time attendant for persons with disabilities, and Article (15/ First) paragraph (F) "Provide the Community rehabilitation for PWDs through the individual and joint projects in line with their health situation and provide the technical advice to the concerned authorities to prepare and provide housing for them, which confirmed the principle of community integration and living , and the adoption of minister council the resolution No. (198) of 2019, the policy of integrating people with disabilities and the special needs into society to ensure a decent life for them.

The Commission noted the delay in approving this policy, where six years have passed since Iraq acceded to the Convention and its legislation to Law No. (38) of 2013. IHCHR sees that the government agencies have to comply with this policy and implement it within a specified time, during which the policy will be reviewed and what implemented from it or modified or changed, as well as evaluate the performance of the competent authorities in order to ensure its success to achieve its objectives. IHCHR would like to refer again to what indicated by its teams mentioned where the lack of environmental arrangements and the absence of reasonable accommodation arrangements and general design, which are the most prominent obstacles that prevent independent living for persons with disabilities, whether in the family or at the level of the local community, school, university or at work and even street. In addition to the lack of rights and duties of persons with disabilities among decision-makers.

**Recommendations:**

Prompt the government to:

1. Promote family guidance and support programs, and provide reasonable accommodation arrangements to achieve independent living and integration into society.
2. Work to consolidate the issue of persons with disabilities in all state officials and raise their awareness in the rights of this category and work on the integration of persons with disabilities in the family and community.

**Fourteenth: Freedom of expression and opinion and access to information.**

Article (21) of the International Convention on Persons with Disabilities With regard to paragraph (27) of the list of issues, IHCHR would like to refer to the following:

Although the Iraqi constitution guaranteed the freedom of opinion, expression and access to information, and law no. (38) of 2013 assigned the Ministry of Justice and the Supreme Judicial Council the task of providing techniques that assisted persons with disabilities and special needs, including the translation of sign language, and any other techniques to help them defend their rights.

IHCHR noted that law mentioned above lack of provision that deals with the right to information and does not facilitate access to technologies and services for persons with disabilities, which affects their interaction, access to information, make their voices heard, communicate with other members of society, Such as the use of speaking computers and traffic signals. In addition, there are large percentages of them who did not complete their first education because of the conditions that are not suitable for them, which is a major obstacle to their interaction with modern technology and there are no training programs and rehabilitation by state institutions to enable them to use. IHCHR also noted that there are no web sites designed according to the Internet Accessibility Initiative standards for People with Disabilities.

#### **Recommendations:**

Prompt the government and parliament to:

1. Provide assistive technologies for PWDs and special needs, including the adoption of the sign language and translation by expert experts in all courts and transactions and any other techniques that help them to defend their rights. As well as oblige the various bodies whether they are government or private to create reasonable accommodation arrangements in their publications, to provide persons with disabilities with equal access to various information, data and statistics.
2. Establish web sites designed for PWDs, in accordance with Internet Accessibility Initiative standards, to facilitate their access to various information, data and statistics, and to provide support devices and other forms of reasonable arrangements that contribute to the removal of environmental and behavioral barriers.

#### **Fifteenth: Education.**

Article (24) of the International Convention on Persons with Disabilities With regard to paragraph (28) of the list of issues, IHCHR would like to state the following:

The Iraqi Constitution guarantees the right to education for all under the provisions of Article (34) of it. As well as the Law of Persons with Disabilities No. (38) of 2013 in Article ( 15 / second and third) also obligates the Ministry of Education and Ministry of Higher Education & Scientific Research to secure primary and secondary education ,special education programs, comprehensive educational integration and parallel education for PWDs and special needs according to their abilities, and prepare the educational curricula that are suitable for them, and allocate one seat in each specialization for admission to the postgraduate studies for PWDs and special needs.

IHCHR noted, despite the need of the education sector to great efforts to build model schools and rehabilitate schools that falling down, as many schools in the Iraqi provinces are not eligible to receive students because of dilapidated buildings, and the urgent need to keep pace with scientific development , the introduction of explanatory means and other facilitation arrangements , care of students healthily and Socially, but the budget of 2019, which allocated (1.4%) to the education sector is not good for the advancement of education reality for PWDs in Iraq.

### **Recommendations:**

Prompt the government and parliament to:

1. Adopt a national policy that seeks to achieve inclusive education for students with disabilities by allocating a budget for the establishment or modification of schools, provide support to students with disabilities in public educational institutions and provide reasonable accommodation arrangements that contribute to the removal of environmental and behavioral obstacles to exercise their right according to the Convention of PWDs.
2. Accelerate the environmental arrangements in schools and universities, harmonize curricula, develop sign language and Braille, and train teaching staff to use them effectively to enable students with disabilities to have equal access to education and wide options, including the freedom and possibility of studying scientific disciplines (both theoretical and practical). As well as review and amend the Law of the Ministry of Education no. (22) of 2011 and the Law on the Welfare of Persons with Disabilities and Special Needs No. (38) of 2013, and include them clear measures and provisions to ensure equality and equal opportunity in the exercise of the right to education in all stages and according to International convention.

### **Sixteenth: Health.**

Article (25) of the International Convention on Persons with Disabilities With regard to paragraph (29) of the list of issues, IHCHR would like to state the following:

Although the Iraqi constitution in force for 2005 guarantees the right to health for all in accordance with Article (31) of it. The Law of Persons with Disabilities No. (38) of 2013 in Article (15/1) binds the Ministry of Health to provide health services, including various laboratory analysis and tests for early detection of diseases and take the necessary vaccinations, implement the preventive programs and health education, provide medical and psychological rehabilitation services and primary health care for disabled women during and after pregnancy and childbirth, in addition to grant health insurance freely for PWDs and other health rights.

However, the Commission noted that PWDs do not receive support services and health care in accordance with the criteria set out in the International Convention on Disability. The Ministry of Health and Health Institutions do not deal with all disabilities in terms of their conditions and classification according to health standards. IHCHR

also noted the limited number of specialized health centers for PWDs in the governorates, the absence of prosthetic laboratories with international standards covering the actual need, the lack of field health centers, and in the area of reproductive health, PWDs face significant exclusion and discrimination in access to these services ,where the issue of pregnancy among disabled or mentally disabled mothers is an important issue and may cause them much psychological and social suffering. The Ministry of Health plan does not include any measures that would ensure that PWDs, especially women, have access to maternal, child and reproductive health programs. It also noted the absence of government programs to develop the capabilities and skills of medical personnel in line with the type and level of disability

#### **Recommendations:**

Prompt the government and parliament to

1. Develop governmental programs to develop the capacities and skills of medical staff in line with the rights of PWDs.
2. Establish specialized health centers for the rehabilitation and provision of health care for PWDs and make them available to them and meet their needs, especially women, with regard to reproductive health.

#### **Seventeenth: - Work and employment.**

Article (27) of the International Convention on Persons with Disabilities With regard to paragraph (30) of the list of issues, IHCHR would like to state the following:

The Article (22) of the Iraqi Constitution guarantees the right to work for all Iraqis in a way that ensures a dignified life. The Law of Persons with Disabilities and Special Needs No.( 38) of 2013 in article (2/fifth) stated that one of the objectives of the law is to find job for PWDs and special needs in the state departments, the public, mixed and private sector, also Article (16 / first and second) stated the allocation of proportion of jobs in the public and private sectors.

IHCHR noted that these provisions were not applied on the ground in institutions in the public and private sectors because they are not binding because of the lack of instructions to regulate their application.

The Public and private sector institutions had adopted in their system and internal instructions the same discriminatory philosophy ( quota) that had been laid by the national legislator related to employ PWDs ( by type of disability), in particular (16 \ first and second) of the Law mentioned above , which stipulates "Ministries and entities not affiliated with the Ministry and public sector companies shall allocate jobs for PWDs and special needs not less than 5% of their employees" and " the employer in the mixed sector must employ one worker with disabilities and special needs who has the minimum required qualifications, if he/she employs a number of workers not less than (30) and not more than (60) workers and at least 3% of all workers if he/she employs more than 60 workers"

Many state institutions refrain from employing them under the pretext that they do not need their services due to disability. IHCHR noted that the employers in the private and mixed sectors did not receive any financial incentives and support in Law (38) of (2013) to urge them to employ PWDs, where the laws in some countries state to pay half of the monthly salary to PWDs who work in the private and mixed sectors. The above law penalizes the employers if they do not employ PWDs on the basis of Article (20) thereof. To date, we have not found a quota for PWDs in investment projects, despite the existence of legislation as stated in Law No. 38 \ Eighth within tasks of the Ministry of Housing & Construction.

### **Recommendations:**

Prompt the government and parliament to:

1. Issue instructions for the implementation of Law No. (38) of 2013 and include it the ensuring of obtaining PWDs and special needs to suitable employment opportunities in the public and private sectors, and include it with incentives, support and tax exemptions for employers in the private and mixed sectors to encourage them to employ persons with disabilities in accordance with the Convention, and the possibility of the government securing (50%) of the monthly salary of workers in the two sectors mentioned above.
2. Develop strategies that promote the right of persons with disabilities in work, vocational and technical training and provide reasonable forms of arrangements that contribute to the removal of environmental and behavioral obstacles that prevent the achievement of equal opportunity and equality.

### **Eighteenth: - Adequate standard of living and social protection.**

Article (28) of the International Convention on Persons with Disabilities With regard to paragraphs (32.31) of the list of issues, IHCHR would like to state the following:

Despite the fact that the Social Protection Act No. (11) of 2014 included under Article (1 / First / A) all types of disabilities with the salary of the social protection network, and Article (15) Fourth paragraph (e) of Law No. (38) “provide monthly subsidy to PWDs and special needs who are unable to work in accordance with the law”, and according to these provisions the medical reports are considered the basis for the identification of beneficiaries in accordance with the special controls and standards, but the Commission noted that the disabled people suffer from physical destitution where PWDs and special needs received monthly salary of the protection network amounts to (105,000) dinars and this is a small amount covers only 10% of the rising cost of living The disability fund provides only 10% of the increased cost of living.

The Commission of PWDs and Special Needs grants disabled people a monthly salary equal to the minimum wage of the salary scales of the employees in accordance with the provisions of Article (2/19) of the aforementioned Law and allocate (170.000) dinars, but if the full-time attendant is a government employee, he will grant full salary and renews the full-time annually in accordance with the provisions of Article (19/1), and in this context IHCHR monitored that PWDs Commission doesn't adopt suitable

mechanism to follow-up and monitor full-time attendant commitment in performing his duties towards the disabled .

One the problem that IHCHR monitored that the Ministry of Labor and Social Affairs, as well as the PWDs Commission didn't pay the salaries of the disabled in specified times, which adversely affect the possibility of meeting their various living needs, as well as other problems related to equal PWDs and the beneficiaries in poverty line standard , where IHCHR find that is not appropriate, as PWDs cannot be deprived of the salary of social welfare even if they came out of the classifications adopted by the Ministry of Planning for those below the poverty line, which requires taking appropriate action to ensure the solution of the problems mentioned by amending the Law on Social Protection No. (11) of 2014, as well as increased financial allocations to secure payment of salaries deadlines.

### **Recommendations:**

Prompt the government and parliament to:

1. Amend the Social Protection Act no. (11) of 2014 and the Law on the Care of PWDs and Special Needs no. (38) of 2013 to ensure that the disabled are covered by a decent salary that provides them and their family decent life, as well as excluded them from poverty line standards set by the Ministry of Planning.
2. Adopt state institutions based on human rights enshrined in the Convention and include disability issues related to social services in the policies, strategies, annual and five-year plans of all ministries and involve civil society organizations concerned with disability in drawing up these plans according to their needs.
3. Provide loans and facilities to PWDs and help them to open projects, train them and support them to improve their social and living conditions.

### **Ninth: - Participation in political and public life.**

Article (29) of the International Convention on Persons with Disabilities With regard to paragraph (33) of the list of issues, IHCHR would like to state the following:

The constitutional and legal provisions guarantee the right of individuals to participate in political life and to be voters and candidates who exercise their right to engage in political parties and form civil society organizations. Article (20) of the Iraqi constitution stipulates that "Iraqi citizens, men women, shall have the right to participate in public affairs and to enjoy political rights including the Right to vote, elect and run for office".

IHCHR noted that the national legislation regulate the participation in political and public life in Iraq is still have many provisions that show discrimination and exclusion towards PWDs, especially article (49 / second) of the Iraqi Constitution of 2005, which stipulates that " Candidate to the Council of Representatives must be fully qualified Iraqi", as well as the article no. (5/second) of elections law to the House of Representatives no. (45) of 2013 stipulates " the voter must be fully qualified", Act on elections *to governorate, provincial and district assemblies* (No. 36 of 2008) , Non-governmental organizations law no. (12) of 2010, and the Law of Parties no. (36) of

2015, included articles confirm the discriminatory aspect and consider the fully qualified is the basis to participate in elections or join the political parties through the medical reports without a comprehensive view that promotes the rights of persons with disabilities according to the Convention. IHCHR also noted the absence of any measures to amend or repeal the provisions contained in the laws, including articles (46/2 and 104) of the Civil Code and the laws relating to elections and political parties that contain discrimination against PWDs

In addition to the difficulties noted by IHCHR with regard to the visually impaired persons in the exercise of their right to vote, the ballot paper is still not understood for them, and free of (Braille) language, which enables them to exercise their right to vote easily, as well as the environment and accessibility are not facilitated, such difficulties are further exacerbated in rural areas. IHCHR noted that the political representation of PWDs is almost non-existent, especially women which is contrary to article (29) of the International Convention on the Rights of Persons with Disabilities that referred to the right of PWDs to participate in Political process. IHCHR also noted the absence of a parliamentary committee on the rights of PWDs in the Iraqi Council of Representatives since its establishment, as well as the failure of the Independent High Electoral Commission to respond to IHCHR demand on opening special polling stations for PWDs contain all forms of reasonable accommodation that contribute to remove the Environmental and behavioral obstacles.

#### **Recommendations:**

Prompt the government and parliament to:

1. Amend or repeal the provisions contained in the above-mentioned laws, including Articles (46/2 and 104) of the Civil Code and the laws relating to elections and political parties which contain clear discrimination against PWDs.
2. Take into account PWDs when designing the electoral paper in order to be understandable to them, especially visually impaired.
3. Provide reasonable forms of facilitative arrangements that contribute to remove the environmental and behavioral barriers in election centers in a manner that facilitates the exercise PWDs to their electoral right.

#### **Twenty:- Participation in cultural life , recreation, Leisure and sport.**

Article (30) of the International Convention on Persons with Disabilities With regard to paragraph (34) of the list of issues, IHCHR would like to state the following:

Although the Iraqi Constitution affirms in article (35) that "the State shall promote cultural activities and institutions in a manner that befits the civilizational and cultural history of Iraq , and it shall seek to support indigenous Iraqi cultural orientations" , in the field of sport, Article 36 of the Constitution stipulates " Participating sports is a right of every Iraqi and the State shall encourage and care for such activities and shall provide for their requirements".

IHCHR noted the continued suffering of PWDs in the cultural field. Braille cultural books are not available for them and the computers specialized for them are not



available at an appropriate financial cost, which leads to their inability to buy them. In the same context, persons with motor disabilities suffer from the lack of environmental facilities in the recreational and cultural places available to the public. The hearing impaired persons suffer from the lack of sign language in cultural and recreational television programs, which is limited to the news bulletin, and the absence of governmental or legislative measures for the ratification of Marrakesh Treaty on facilitating access to published works for persons who are blind, visually impaired, or otherwise print disabled

**Recommendations:**

Prompt the government and parliament to:

1. Take governmental or legislative measures to ratify Marrakesh Treaty to facilitate published works for blind, visually impaired or otherwise print disabled.
2. Amend all provisions relating to cultural rights, creativity and dissemination of heritage and provisions to ensure that the cultural product of all forms is available to PWDs through facilitative arrangements.

**Twenty-one: - International cooperation.**

Article (32) of the International Convention on Persons with Disabilities With regard to paragraph (35) of the list of issues, IHCHR would like to state the following:

Although some positive steps have recently been taken by Commission of PWDs to emphasize the inclusion of PWD issues in the agenda of international cooperation programs during the UN Economic and Social Commission for Western Asia (UNESCWA) meeting in Amman on 4/7/2017. It is important to draw the attention of the governmental bodies responsible for relations and international cooperation to their obligations under the provisions of Article (32) of the Convention on the Rights of PWDs and the goals of sustainable development by 2030. In order to support national efforts to achieve the goals and objectives of sustainable development, the Government must take appropriate and effective measures in this regard by actively engaging PWDs organizations in order to:

1. ensure *that international cooperation be* inclusive and accessible by PWDs , including the international development programs
2. Facilitate and support capacity-building for organizations through the exchange of information, experiences, and training programs.
3. Facilitate cooperation in research and access to scientific and technical knowledge.
4. Provide technical and economic assistance, as appropriate, including by facilitating access to technology.

**Recommendations:**

Prompt the government to include the national strategies and government procedures with measures to enhance international cooperation and take into account support projects submitted to PWDs through coordination and consultation among all state institutions , PWDs Commission , PWDs and their organizations in

submitting project proposals for international support , funding and in implementing projects related to their rights or their issues.

**Twenty-two: - National implementation and monitoring.**

Article (33) of the International Convention on the Rights of Persons with Disabilities With respect to paragraph (36) of the list of issues, IHCHR would like to state the following:

1. Despite the establishment of PWDs & Special Needs Commission under Law No. (38) of 2013 where the law defines its structure, functions and duties, but IHCHR noted that the engagement of the commission to the Ministry of Labor and Social Affairs affects its independence. IHCHR also noted that PWDs Commission has not taken an active role in supervising and securing the requirements of PWDs and special needs in all fields in coordination with the competent authorities.
2. The Iraqi High Commission for Human Rights was established under the Law no. 53 of 2008 in accordance with Paris Principles, as one of the independent bodies referred to in Article (102) of the Iraqi Constitution of 2005. Where the IHCHR takes on the tasks provided for in article (4) of its above mentioned law to achieve its objectives stipulated in Article (3) to guarantee, protect, respect and promote human rights, protect the rights and freedoms provided for in the Constitution and international conventions, as well as consolidate, develop the values of human rights culture in Iraqi society. This report is considered a summary to the monitoring and oversight process, as well as an analysis of national laws, legislation and their compatibility with international legal standards on human rights.
3. IHCHR noted that organizations concerned with the rights of PWDs established alliances that put pressure on decision-makers regarding legislative measures, policies, strategies, plans and programs relating to persons with disabilities and special needs, but they did not play their role in accordance with the Paris Principles to ensure a transparent and independent national monitoring process carried out by monitoring and protection of right mechanism in partnership with persons with disabilities and their organizations, as well as the adoption of a national coordinating mechanism in partnership with the various executive bodies and PWDs and their organizations to ensure following-up the implementation of national laws and strategy within a specified time.

**Recommendations:**

Prompt the Government and the Parliament to amend PWDs Law No. 38 of 2013 to ensure the independence of PWDs Commission from executive bodies, and to involve civil society organizations concerned with the rights of persons with disabilities in the process of monitoring and implementation.