

The Right to Social Protection for Persons with Disabilities in the Middle East and North Africa

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Acronyms

| | |
|---------------|--|
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| ESCWA | United Nations Economic and Social Commission for Western Asia |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| MENA | Middle East and North Africa |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| UDHR | Universal Declaration of Human Rights |
| UNICEF | United Nations Children's Fund |
| WGSS | Washington Group Short Set on Functioning |
| WHO | World Health Organization |

Executive Summary

The study provides an analytical overview of the existing legal and regulatory frameworks promoting persons with disabilities' rights to social protection across 12 MENA countries (Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Morocco, Palestine, Qatar, Saudi Arabia, Syria, Tunisia). The study compares social protection policy frameworks with the standard established under international law to identify legal and policy barriers that are hindering the transformation of social protection systems in MENA from becoming disability inclusive.

The study concludes that while states in MENA have shown commitment to improving the situation of persons with disabilities, most countries have shown limited progress towards transitioning to social and human rights models of disability. Thus, legal systems across the region continue to marginalise and discriminate against persons with disabilities. In particular, the mapping process identified the following fundamental challenges:

1. The ongoing predominance of the medical model rather than social model of disability in social protection systems across the region, in spite of being signatories of the CRPD
2. Systematic discrimination, including the use of derogatory language to refer to persons with disabilities in the law itself and a lack of legal protection against discrimination
3. The systematic legal failure to guarantee the right to equal recognition before the law under article 12 of the CRPD, also known as the right to legal capacity

Furthermore, this marginalization is intensified for those who experience intersecting forms of discrimination due to their age, gender, class, or refugee status. This inequity is also worsened by poor economic conditions as the region has the highest unemployment and inequality rates.

The study concludes with a series of recommendations aimed at states and civil society organizations.

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1 Introduction

In its opening issue of February 2009, a now defunct civil society-led initiative, *The Disability Monitor Initiative Middle East*, highlighted how “often the missing links between socially innovative practices and upgraded legislation is the development of sound public policies.” In particular, the initiative set to monitor the “development, enforcement of public policies, and allocation of resources.”¹

Over a decade later, despite legislative improvements, persons with disabilities in the Arab region remain one of the most marginalized and excluded population groups: they are often not visible in public life, as the social and physical environments remain inaccessible, and they are disproportionately affected by crises and disasters (ESCWA, 2017). This marginalization is intensified for those who experience intersecting forms of discrimination due to their age, gender, class, or refugee status. Furthermore, this inequity is worsened by the lack of accurate data providing prevalence of disabilities in Arab countries with poor economic conditions, as the region has the highest unemployment and inequality rates.

Socio-economic Background

Persons with disabilities in MENA do not live in vacuum, neither are they solely identified by their disability. Along with disability, age, gender, and legal status are interrelated identity layers that mark their lives. Hence, the MENA region’s demographic and socioeconomic conditions present challenges to the development of inclusive social protection in the region. These challenges are further exacerbated by the exclusion of non-citizens from social protection systems in the region.

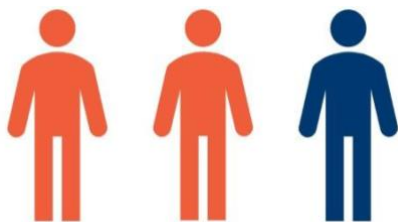
Population

The population in MENA includes a large number of individuals living outside of their countries of nationality. This includes many refugees and asylum seekers, migrant workers, and stateless people. In total, there are around 40 million migrants and refugees in Arab countries (ESCWA et al., 2020). Depending on their personal circumstances and countries of origin, some migrant workers may also meet the criteria for refugee status, however if they are not registered with the UNHCR, this will not show in statistics. In many states in

¹The Disability Monitor Initiative. Middle East Journal. Issue 1. February 2009. Available at <https://www.makingitwork-crpd.org/sites/default/files/2017-03/DMI%20journal%20%28en%29.pdf>

the region, non-citizens represent a sizeable percentage of the population. This demographic makeup is significant as many social protection measures for persons with disabilities in the region focus primarily on citizens, thereby excluding refugees, stateless persons, and migrant workers with disabilities (See Annex 1 for more detail). Another significant challenge and opportunity for the region is the age demographics, with two-thirds of the MENA population under 35 years of age ([Bjerde, 2020](#)).

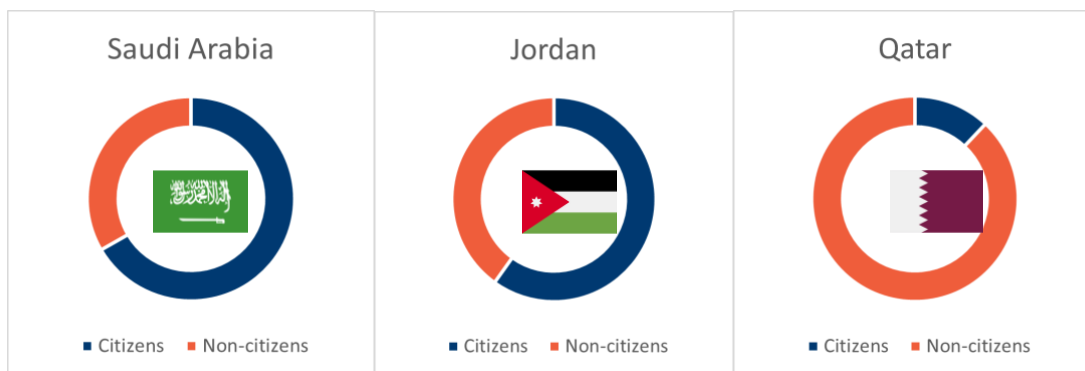
Two-thirds of the MENA population are under 35 years of age (Bjerde, 2020)



Two in five workers in the Middle East were migrants in 2017 (ESCWA et al., 2020)



More than one-third of people in some MENA countries are non-citizens



Sources: Saudi Arabia: One-third are non-citizens (Alston, 2017); Jordan only 6.6 million out of 11.02 million are citizens (Department of Statistics, 2021; Ghazal, 2016); in Qatar, approximately 88% of the population are non-citizens (Crépeau, 2014).

Poverty

Poverty is widespread in the MENA region. According to a 2017 ESCWA study in ten countries in the region, 40 percent of the population are poor or severely poor, and an additional quarter of the population are vulnerable to poverty. That is, “nearly two thirds of the Arab population are either poor or vulnerable to poverty” ([Abu-Ismaïl et al., 2017](#)).

Across the world, persons with disabilities experience higher rates of poverty than persons without disabilities ([WHO, 2020](#)). This is partly related to the impact of disability-related costs which increase the living costs and therefore lower the living standards for persons with disabilities ([Kidd et al., 2019](#)). However, “[d]iscrimination and stigma, unequal opportunities, and physical and attitudinal barriers are also causes for the social exclusion and poverty of persons with disabilities” ([Devandas-Aguilar, 2015](#)). In addition, as pointed out by the Special Rapporteur on the rights of persons with disabilities, persons with disabilities who have higher educational attainments have higher employment and income rates which suggests that exclusion from education is another key factor contributing to poverty amongst persons with disabilities ([Devandas-Aguilar, 2015](#)).

Unemployment

High rates of unemployment are another significant challenge to livelihoods in the MENA region, especially for persons with disabilities. The region has the world’s highest youth unemployment rate (29 percent in North Africa and 25 percent in the rest of the region) ([UNICEF, 2019](#)). A study by ESCWA found that persons with disabilities have low levels of engagement in economic activity in the region, especially women with disabilities ([Economic and Social Commission for Western Asia, 2018](#)). Refugee populations are often denied the right to work in the region, which creates significant barriers to achieving basic living standards. As such, the situation for persons with disabilities in the MENA region is complicated by their age, gender, and legal status.

Disability Prevalence Rates in MENA

The collection of data on disability is essential for any disability-related programming ([Guterres, 2021](#)), and is essential for monitoring progress towards the realisation of a wide

range of human rights of persons with disabilities, including the right to health, education, work, and an adequate standard of living.

Every MENA country covered in this study has ratified the Convention on the Rights of Persons with Disabilities (CRPD), and therefore have accepted the obligation under article 3 of the CPRD to “undertake to collect appropriate information, including statistical and research data, to enable [them] to formulate and implement policies to give effect to the [CRPD]”. Yet, as explained below, data regarding prevalence of disabilities in MENA is far from being accurate.

Lack of reliable data on disability presents a significant challenge to the development of comprehensive social protection systems for persons with disabilities in MENA. This lack of data is illustrated by examining the discrepancy between the estimated global rate of disability and the official rates of disability for the MENA states studied.

According to the WHO, the estimated global prevalence rate of disability is 15.6%, with higher rates of disability estimated for lower income countries compared to higher income countries ([WHO, 2020](#)). Despite this, the MENA states studied all reported far lower prevalence rates of disability. For example, Qatar, based on results of the Qatar Census 2010, reported that only 0.4% of its population had disabilities ([Bjork et al., 2017](#)). Although war and military occupation would be expected to increase the rate of disability in a country, Palestine reported only 5.1% prevalence rate of disability in the West Bank and 6.8% in Gaza ([Palestinian Central Bureau of Statistics, 2020](#)). The vast differences in prevalence rates between the global average and the MENA region suggest a serious problem regarding data collection on disability in MENA. Some of the factors that help explain it, are outlined below.

Data Collection Methodology

To ensure that accurate and comprehensive data is collected, diverse types of disabilities must be able to be identified through census questions and, to compare data across countries, a framework for describing and organising information on functioning and disability should be adopted. The Washington Group on Disability developed the Washington Group Short Set of questions on functioning (WGSS) to assist with the collection of data on disability. The WGSS questions enquire about the level of difficulty respondents face in performing the following basic daily activities: seeing, hearing, mobility, cognition, self-care (such as washing or dressing) and communication (understanding and being understood). Respondents are asked to assess the difficulty in

completing these activities on a scale from “a lot of difficulty” to “cannot do at all” ([Ngo et al., 2018](#)). The WGSS has been criticised for being less effective at identifying developmental and learning disabilities compared to other types of disabilities ([Kidd et al., 2019](#)). This is a major flaw in the context of MENA, where mental health, developmental and learning disabilities are faced with even higher stigma.

Some countries in the MENA region have adopted this methodology for recent household surveys and censuses ([Ngo et al., 2018](#)). Jordan and Morocco used the WGSS method as intended, while other countries such as Egypt, Iraq, Palestine, Qatar, Saudi Arabia and Tunisia have used a variation of the WGSS ([Ngo et al., 2018](#)). Syria and Bahrain have used another method other than WGSS, which may cause some limitations related to the data collection methodology, due to the differences and proper application of the Washington Group approach ([Ngo et al., 2018](#)).

The Stigma of Mental Health, Developmental and Learning Disabilities

Adding to issues of data collection methodology, an important factor influencing the quality of data collection on disability prevalence relates to the stigma regarding certain types of disabilities, which might lead to under-reporting. Related to this, are the diverse ways that *neurodivergence* is understood regionally. Mental health, developmental and learning disabilities may not be identified as being related to disability. Certain symptoms, in particular, such as psychotic episodes, socially embarrassing outbursts, delusions and hallucinations may all be attributed to spirits (*jinn*), therefore representing a spiritual issue rather than something that exists in the mind of the individual themselves ([El-Islam, 2008](#); [Lim et al., 2018](#)). The Jordanian Higher Council for the Rights of Persons with Disabilities has emphasised the marginalisation of persons with developmental and learning disabilities, noting that even health professionals in the country are “not convinced” about the inclusion of such cases in the category of “disability” ([Higher Council for the Rights of Persons with Disabilities, 2019](#)). The likelihood of under-reporting of non-physical disabilities is reflected in the fact that the most prevalent type of disability in the region, according to official data, is mobility-related disability ([Economic and Social Commission for Western Asia, 2018, p. 22](#)). This contrasts with the WHO’s *World Disability Report 2020*, which states that persons with mental health difficulties make up most disability benefit claimants globally ([WHO, 2020, p. 248](#)).

Among the cultural reasons explaining this strong stigma, it could be argued that the “affliction paradigm, in which disability was viewed as a punishment or test imposed by

God” in the early 1900s,² still prevails among population at large. This is coupled by a late development of psychiatry and mental health as fields of work.

On the other hand, behaviour which may not be considered as necessarily related to mental health by international actors, may be considered a mental health issue in the MENA region. For example, in a number of countries in the MENA region, the extravagant squandering of money and/or property (prodigality) is categorised with mental disabilities for the purposes of denying of legal capacity (see, for example, Moroccan Family Code No. 70-03 of 2004, *Moudawana*, articles 213, 215 and 219; Tunisian Personal Status Code of 1956, articles 164-166; Bahraini Civil Code No. 19 of 2001, articles 77 and 79). Therefore, there is a need to strengthen the reliability of data collection on disability in the MENA in order for social protection mechanisms.

An important Gap: Refugees, Internally Displaced populations, and Migrants


MENA countries are host to many refugee populations, with some “12 million internally displaced persons (IDPs) and over 3 million refugees and asylum seekers, in addition to some 365,000 stateless persons.” (Grandi, 2021) Disability prevalence is significant among displaced people as generally, refugees have higher rates of disability compared to non-displaced populations (Crock et al., 2017). A recent study done by the UN found that “nearly a third (30%) of Syrians aged 12 and up have disabilities [...]. Further, over a third (37%) of [Syrian] Internally Displaced Persons (IDPs) aged 12 and up [...] have disabilities.” (Inclusion of Persons with Disabilities in the Syrian Humanitarian Response, 2022).

However, data regarding disability prevalence among refugee populations in MENA is limited and fragmentary, hindering “data driven planning related to persons with disabilities, and as a consequence, implementation, monitoring, and disaggregated reporting.” (Klein, 2019, p.3)

The data is also very unevenly collected, with Syrian refugees receiving most attention as opposed to refugees from other nationalities, such as Sudanese, Yemeni, Libyan.

Further to this, migrant workers in MENA also often work in unsafe conditions, leading to illness and injuries brought on by poor conditions to be common. In fact, “30% of migrants experienced health-related problems, of which about one in five had serious work-related injuries.” (Abella, 2016) Evidently, working and living in this sort of environment causes

² Seto, Theodore and Buhai, Sande. 2006. “Tax and Disability: Ability to Pay and the Taxation of Difference,” in *University of Pennsylvania Law Review* (Vol. 154)

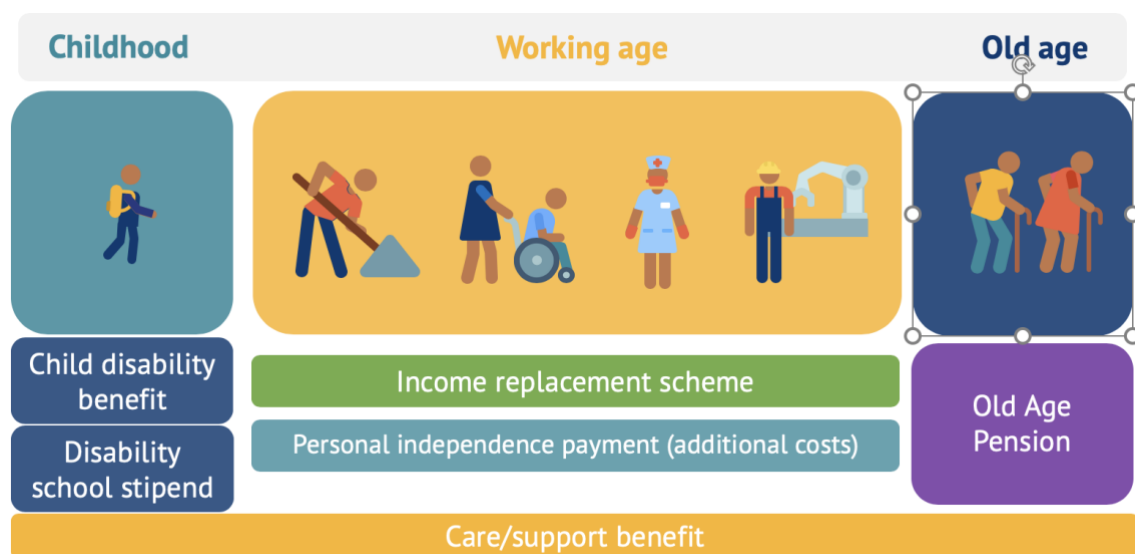


severe health issues and therefore increases the likelihood of migrants acquiring disabilities. Due to discriminatory migration policies, there is an incentive to conceal the rates of disability amongst migrant workers, which limits the ability to obtain reliable data.

2 Social Protection for Persons with Disabilities in MENA

Social protection is essential for social and economic development ([Devandas-Aguilar, 2015](#)). It is a fundamental right intertwined with all other social and economic rights. These rights apply not only to outcomes but also to processes. States “must comply with the international human rights legal framework when designing, implementing, monitoring and evaluating social protection programmes” ([Magdalena Sepulveda, 2010](#)).

The right to social protection materializes through the enactment of social protection systems that provide for the economic and social inclusion of persons with disabilities, their income security and independent living. The diagram below illustrates a multi-tiered life-cycle approach to inclusive social protection for persons with disabilities.



Source: Development Pathways, 2021

Theoretical Approaches to Disabilities

A state’s theoretical approach to disability will radically influence the characteristics of the social protection system. In disability theory, there are four main models of disability: the medical, charity/welfare, social model, and human rights. In the MENA, and across the globe, the medical and charity models have dominated law and policy.

The *medical model* views disability as a deficiency in the body or mind of an individual and was heavily influenced by the eugenics movement of the late 19th century and early 20th century ([Davis, 2013](#)). This approach, mediated through colonialism, have also contributed to negative attitudes towards disability in the MENA ([Scalenghe, 2019, p. 111](#)). Under the medical model, the “solution” to disability is to eradicate, minimise or “cure” impairments. The medical model overlaps with the charity model of disability, because when “cures” are ineffective, the individual is viewed as inadequate, a burden and in need of ‘care’ or charity ([Watson & Vehmas, 2020, p. 18](#)).

The *social model* developed in response to the medical model of disability. Unlike the medical model, the social model distinguishes between impairments and disability. Whereas impairments are related to variations in human minds and bodies, the social model views disability as the result of “oppression by social structures and practices” ([Kayess & French, 2008, p. 5](#)). For this reason, the CRPD describes disability as resulting 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’ (CRPD, preamble). The consequence of adopting a social model of disability is that laws and policies that aim to empower persons with disabilities will not focus purely on individual interventions but also on dismantling ‘disabling environments, barriers and cultures’ ([Watson & Vehmas, 2020, p. 18](#)). Such disabling barriers includes institutional and societal discrimination ([Degener, 2016](#)). The social model was a revolutionary approach to disability that not only established a framework for critiquing existing approaches to disability, but was also politically and personally liberating for persons with disabilities who finally had a framework for rethinking their relationship with society ([Michael Oliver, 2018](#)). The social model was a key conceptual steppingstone towards the current human rights model of disability.

The Convention on the Rights of Persons with Disabilities (CRPD) adopts the *human rights model* of disability. Whereas the social model mostly describes the experience of people with disabilities by focusing on discrimination and barriers to equality, the human rights model goes a step further by encompassing and intertwining civil and political, and economic, social and cultural rights ([Degener, 2016, p. 4](#)). Therefore, although the CRPD is built on the social model, it goes beyond the model by establishing a comprehensive convention that recognises the indivisibility and interdependence of both civil and political, and economic, social, and cultural rights. Unlike the medical and charitable models of disability - which conceptualised persons with disabilities as objects of pity and disdain -

the human rights model conceptualises persons with disabilities as subjects and rights-holders.

Disability benefits in MENA: A Critique to Existing Medical and Charity Approaches

The disability benefits that exist in the MENA region (through both tax-financed and contributory systems) are founded on a combination of the medical model of understanding disability and charity models of social protection, not a rights-based model of social protection for persons with disabilities. (See Table 8)

As described in the 2017-2019 World Social Protection Report, "non-contributory or social pensions are rare in the region." Furthermore, "due to lack of coordination and effective management information systems, some people may have duplicate coverage and others might lack coverage. In addition, these schemes are usually dependent on government budgets, thus frequently leaving those most" (World Social Protection Report 2017-2019, p. 143)

The pages that follow provide a critical brief overview of some of the most common non-contributory and contributory schemes for disability benefits in MENA countries.

Disability ID cards: Restrictive “Gatekeepers” to Access Services

A common procedural method to facilitate access to disability services in the region is the use of disability cards. These cards are generally based on medical assessments of the “percentage” of a person’s disability. Notably, such assessment mechanisms “have a number of challenges which can result in the mechanisms themselves becoming barriers to access ... For example, even though medical assessments do not take into account the social and environmental context of persons with disabilities, they are, as mentioned above, still used in many countries” (Kidd, et al, 2019).

Every state studied, with the exception of Saudi Arabia and Jordan, utilise disability identity cards which are distributed based on medical assessments of a person’s “percentage” of disability (Government of Bahrain, 2019; Government of Egypt, 2020; (Government of Iraq, 2015; Government of Kuwait, 2017; Morocco Executive Decree No. 2.97.218; Qatari People with Special Needs Law No. 2 of 2004, articles 4-5; Government of Syria, n.d.; Government of Tunisia, 2019; State of Palestine, 2019). For Saudi Arabia and Jordan, the reasons for not using a disability card are not a more progressive approach. Saudi Arabia uses a range of

different cards rather than a single disability card: disability parking cards, priority cards for access to health services, and transport discount cards (Government of Saudi Arabia, n.d.). Jordan is still in the process of introducing a disability identity card (Higher Council for the Rights of Persons with Disabilities, 2020).

Disability cards have been described as the “gatekeepers” to access services.³ While gate keeping is “a system of decision making for efficient targeting,” the limited and reduced system of diagnosis and identification applied in many Middle Eastern countries has led to serious exclusion errors affecting some types of disabilities, specially those related to mental health, and learning disabilities.⁴

Financial transfers

Financial benefits for persons with disabilities in the region also reflect a medical model of disability whereby individuals are rated as having a certain “percentage” of disability and then, depending on the percentage, may be eligible for financial benefits. This is problematic as it fails to recognise the role societal and physical barriers, including discrimination, play in creating disabling environments.

Further, the approach is based on the understanding that a person either ‘can’ or ‘cannot’ work, rather than a rights-based approach which recognises that persons with disabilities have the right to work, which includes the right to reasonable accommodation and protection against discrimination.

Several the states studied have disability benefits based on “inability to work”. This is a concern as “the conflation of disability with incapacity to work is a barrier for those in employment (Kidd, et al, 2019). However, it is worth noting that there is nuance here in that a “degree of disability” or “partial disability” system at least embeds the possibility of work. In Algeria, persons assessed as having a “disability rate” of 100 percent are granted financial assistance amounting to 4,000 Algerian dinars per month, whereas those assessed as having a disability rate of less than 100 percent are eligible for financial assistance of 3,000 Algerian dinars per month (Government of Algeria, 2015). Monthly assistance is

³Muhannad Al Azzeh. 2009. Social Protection and persons with disabilities in the laws: Recognized rights an unframed provisions, in **Social Protection and Persons with Disability in the Middle East: Issues, Challenges and Debates**. The Disability Monitor Initiative – Middle East Journal, issue 1. P. 13-15.

⁴Alexander Cote, 2009. Gate Keeping: Urgent Need for Reform to Ensure Fair and Effective Access to Social Protection Entitlements.

provided to persons with disabilities in Egypt depending on the “form and degree of disability” (Government of Egypt, 2020). In Bahrain, the monthly disability allowance eligibility is based on obtaining a medical report. According to the Government of Bahrain, there were 10,713 beneficiaries of the disability allowance in 2016 (Government of Bahrain, 2019). Similarly, a monthly financial benefit is available to persons with disabilities in Iraq (including the Kurdistan region) “proportional to the disability rating determined by a medical committee” (Government of Iraq, 2015). In Kuwait, once a person is no longer eligible for the child disability benefit they are eligible for a monthly disability allowance only if they are considered “unable” to work (Government of Kuwait, 2017). Similarly, in Qatar, those considered unable to work are eligible for disability payments (Government of Qatar, 2014). In Saudi Arabia, persons with disabilities are eligible for financial payments, the amount of which depends on an assessment of the person’s impairment (mild, moderate, severe or very severe).

Among the good practices in the region, is worth nothing that of the Government of Egypt’s Ministry of Social Solidarity, as it distributes a monthly disability benefit for the families of children with mental disabilities (Government of Egypt, 2020). In Kuwait, people with disabilities under 18 years of age, or those under 26 years if the person continues to study at a university level, are eligible for a monthly financial allowance. In 2017, there were 10,425 beneficiaries of this allowance (Government of Kuwait, 2017). In Saudi Arabia, students with disabilities are eligible for a monthly personal allowance and an annual allowance to cover costs for items such as books and clothes (Government of Saudi Arabia, 2015).

Payments to caregivers were also available in some of the states studied. Women who care for those with “severe” disabilities are eligible for a carer’s allowance in Kuwait (Government of Kuwait, 2017). There is also an allowance for carers in Saudi Arabia (Government of Saudi Arabia, 2015). Another modality of care is found in Qatar where there is an allowance for the cost of domestic help (Government of Qatar, 2014). In Kuwait, those with “moderate or severe” disabilities are also eligible for an additional allowance for domestic assistance and/or drivers (Government of Kuwait, 2017).

Financial and tax-exemptions

Several of the states studied have some form of tax-exemption system for persons with disabilities. In Bahrain, Egypt and Kuwait there are tax exemptions on certain assistive devices for persons with disabilities (Government of Bahrain, 2019; Government of Egypt, 2020; Government of Kuwait, 2017). In Morocco, there is a reduced import tax on private

vehicles equipped for persons with disabilities (Government of Morocco, 2015). Notably, in Algeria, persons with disabilities are exempt from income tax (Finance Act 1992, article 35; Government of Algeria, 2015).

The main critique to the current financial and tax-exemption system lies in the fact that most of the regulations in this regard are not comprehensive (again excluding some types of disabilities) and are enacted by executive regulations, ministerial decrees (lower rank legal frameworks) that turn them into “easy to amend, delete or change by a decree or decision by the successors.”⁵ Furthermore, exemptions are currently not connected to income, and the alleviation of the financial burden when buying assistive devices is not always critical.

Finally, exemptions should only be considered a temporary compensation for lack of accessibility and reasonable accommodation, while looking for ways to allow for equal participation by all, as envisioned, by the human-rights model of disability. Otherwise, exemptions remain a charity-based model of support.

In-kind assistance

Several of the states provide in-kind assistance by distributing assistive devices to persons with disabilities. In Bahrain, those with mobility impairments (fractures and paralysis) are eligible to receive prosthetic devices (Government of Bahrain, 2019). Similarly, in Egypt, persons with disabilities covered by health insurance are eligible for a number of prosthetic devices, such as spinal support devices, wheelchairs and glasses (Government of Egypt, 2020). In Kuwait, assistive devices, such as artificial limbs, prosthetic devices, wheelchairs and hearing aids, are provided to persons with disabilities depending on the “type and degree” of impairment (Government of Kuwait, 2017). In Morocco, assistive devices such as mobility aids, wheelchairs, glasses and hearing aids are provided to persons with disabilities (Government of Morocco, 2015). In Saudi Arabia, persons with disabilities are eligible for a certain number of assistive devices (wheelchairs, special beds, crutches, air mattresses, audio/visual aids, prosthetics) (Government of Saudi Arabia, 2015). In Algerian prisons, the government has distributed assistive devices to prisoners with disabilities (wheelchairs and canes). Algeria also has a National Office for Assistive Devices which is responsible for ‘for importing, distributing, promoting the manufacture, and ensuring the maintenance of equipment, assistive devices and technical aids permitting the functional, social and

⁵Muhannad Al Azzeh, *Ibid*.


vocational rehabilitation and social inclusion of persons with disabilities’ (Government of Algeria, 2015).

Insurance-Based Benefits

Social security laws in the region provide various levels of benefits to workers subscribed to national social security systems. These benefits include various forms of insurance for situations where workers become disabled as the result of work-related accidents or injuries. The key issue with this approach is that social security only benefits those who were previously working formally, while not benefiting persons with disabilities who couldn’t enter the formal labour market in first place as a result of discriminatory barriers to economic participation.

In the countries studied, benefits favour those who are formally employed and those who did not have a disability when they joined the social security scheme. The benefits also reflect a medical approach to disability, rather than a rights-based approach, as the emphasis is on an individual’s own “ability” to work and not the barriers that they face in realising their right to work. For instance, the amount of payments varies depending on the degree of “inability” or “incapacity” to work due to illness, injury or disability (for example, Qatar’s Social Security Act No. 38 of 1995; Government of Qatar, 2020). This degree of incapacity or disability is usually assessed by medical committees. Examples of this approach are seen in Egypt’s Social Security Law No. 137 of 2010, Qatar’s Social Security Law No. 38 of 1995, and Saudi Arabia’s Social Security Regulation promulgated by Royal Decree No. M/45 of 2006. In Egypt, a person’s “capacity to work” must be reduced by 50 percent for a worker to be eligible for the incapacity pension (Social Security Law No. 137 of 2010). In some cases, eligibility is limited based on whether the person may be eligible for other benefits. For example, in Palestine, a worker is only eligible for a pension based on incapacity to work if the worker is under the age of sixty and is not eligible for an aged or early retirement pension (Social Security Decree-Law No. 6 of 2016). In general, the size of the benefits tends to depend on the size of the worker’s salary during their period of employment and the number of years that they had been contributing (for example, see the Palestinian Social Security Decree-Law No. 6 of 2016 and Public Pensions Act No. 7 of 2005).

The amount of the benefits is also related to what “percentage” of disability the person is assessed as having. This “percentage” is determined by medical committees, reflecting a medical model of disability. Likewise, it reflects an approach to disability which considers



the “totally incapacitated” as more deserving of social protection, while having no logical connection with living costs (including disability-related costs) or living standards. In Jordan, the value of the monthly disability pension for workplace injuries depends on whether the injury results in total permanent or partial permanent disability, and with regards to “partial” disability, the size of the benefit depends on whether the disability is assessed as being more or less than 30 percent (Social Security Law No. 1 of 2014). This approach therefore fails to guarantee the right to an adequate standard of living for all persons with disabilities and reflects a charity and medical model of disability rather than a rights-based approach.

Another critical issue resides in linking benefits to a worker’s period of employment disadvantages women and workers with disabilities who may have taken time off from work due to caring responsibilities or illness, and who may also have faced discrimination throughout their lives which limits their access to education and to the labour market.

3 Legal Frameworks and the Right to Social Protection

States in the MENA have shown commitment to improving the situation of persons with disabilities and have shown some, albeit limited, progress towards transitioning to a human rights model of disability. This is shown by the fact that all of the states covered in this paper have ratified or acceded to the Convention on the Rights of Persons with Disabilities (CRPD). Despite this, legal systems across the region continue to marginalise and discriminate against persons with disabilities.

The pages that follow illustrate how legal marginalisation and discrimination are significant barriers to inclusive social protection in the region. As it will be examined, despite much progress, legal frameworks are still routinely denying persons with disabilities their social, economic, and political rights.

Compliance with International Legal Frameworks

The right to social protection was first proclaimed with international consensus in the *Universal Declaration of Human Rights* (UDHR) of 1948. The UDHR is not legally enforceable under international law, as it is a declaration and not a treaty, however, the UDHR represents the universal recognition of certain basic principles of human rights, including the right to social security (articles 22, 23 and 25).

The International Covenant on Social, Economic and Cultural Rights (ICESCR), adopted in 1966, is a legally binding international human rights treaty which builds on the principles of the UDHR. The ICESCR includes a number of the rights that were outlined in the UDHR. Article 9 of the ICESCR enshrines “the right of everyone to social security, including social insurance” and article 11 provides for the right to an adequate standard of living. States obligations with respect to social security can be divided into three types: the obligation to respect the right (i.e. not to interfere with it), the obligation to protect (i.e. to stop third parties from interfering with the right), and the obligation to fulfil (i.e. an obligation to take positive measures, such as implementing a social security system) ([Committee on Economic, Social and Cultural Rights, 2008](#)).

Unlike civil and political rights under the ICCPR, the realisation of the rights under the ICESCR is to be “progressive” in light of a state’s available resources (article 2). The ICESCR Committee emphasises that, although the *realisation* of the right to security might be

progressive, states have an *immediate* obligation to take steps towards that realisation ([Committee on Economic, Social and Cultural Rights, 2008](#)). States have an obligation “to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant” which, in the context of social security, requires that states “ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.” ([Committee on Economic, Social and Cultural Rights, 2008](#)).

All the MENA states covered in this paper have ratified the ICESCR, except for Saudi Arabia. None of the states studied have ratified the ICESCR Optional Protocol. Kuwait is the only state covered in this study which made a declaration or reservation regarding social security, which was to specifically declare that the right to social security under article 9 only applies to Kuwaitis. Therefore, all the states covered, with the exception of Saudi Arabia, have accepted the obligations outlined above, albeit with the significant limitation in Kuwait and all of the states covered have the obligation of providing a minimum level of social security benefits for *all* people in their jurisdictions (See Annex 2).

Further, since the adoption of the ICCPR and the ICESCR, international human rights law has generally moved towards group-specific human rights treaties ([De Beco, 2020](#)). The first group-specific treaty was the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) adopted in 1979, followed by the Convention on the Rights of the Child (CRC), adopted in 1989, the International Convention on the Protection of the Rights of All Migrant Workers (ICRMW), adopted in 1990 and, most recently, the Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006. The 1951 Convention Relating to the Status of Refugees and its 1967 Optional Protocol (Refugee Convention) also include a number of rights. All of these treaties include the right to social security. A table listing articles related to social protection from each of these treaties is included in Annex 3.

The below table outlines the ratification status of these treaties and therefore the extent to which the MENA states studied have accepted the obligation to provide social security to different groups. Notably, the low level of ratification of the Refugee Convention and the ICRMW reflects the general exclusion of migrant workers and refugees from the right to social protection in the region.

Table 1: ICESCR, CEDAW, CRC, Refugee Convention and ICRMW Ratifications

| Country | ICESCR | CEDAW | CRC | CRPD | Refugee Convention | ICRMW |
|--------------|--------|-------|-----|------|--------------------|-------|
| Algeria | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Bahrain | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Egypt | ✓ | ✓ | ✓ | ✓ | ✓ | ✗ |
| Iraq | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Jordan | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Kuwait | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Morocco | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Qatar | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Saudi Arabia | ✗ | ✓ | ✓ | ✓ | ✗ | ✗ |
| Syria | ✓ | ✓ | ✓ | ✓ | ✗ | ✓ |
| Tunisia | ✓ | ✓ | ✓ | ✓ | ✓ | ✗ |
| Palestine | ✓ | ✓ | ✓ | ✓ | ✗ | ✗ |

Convention on the Rights of Persons with Disabilities

Given that the CRPD is the most extensive international recognition of the rights of persons with disabilities ([WHO, 2020](#)) and is “a major step towards disability-inclusive social protection” ([Devandas-Aguilar, 2015](#)), this paper approaches the right to social protection for persons with disabilities through the lens of the CRPD.

The adoption of the CRPD reflects a critical paradigm shift from the welfare model of disability, in which persons with disabilities are the “objects” of welfare, to a rights-based model of disability, in which persons with disabilities are rights-holders and active members of society ([Kayess & French, 2008](#)). A key aspect of a human rights approach to any issue is to adopt the rights standards and principles from international human rights instruments to guide behaviour, actions, policies and programmes ([Committee on the Rights of the Child, 2017](#)). Article 3 of the CRPD establishes these general principles on

which a human rights approach to the social protection of persons with disabilities must be grounded:

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

Further, article 28 of the CRPD addresses the right to an adequate standard of living and to social protection. Notably, this article chose the term “social protection” to emphasize coverage to all persons with disabilities rather than workers alone ([Bantekas et al., 2018, p. 812](#)). This reflects the reality that persons with disabilities face structural, attitudinal, and environmental barriers to obtaining employment which hinders the likelihood that they will benefit from work-related insurance systems.

All the MENA states studied have signed and/or ratified or acceded to the CRPD. Of these states, just under half have also ratified the Optional Protocol and three have signed but not ratified the Optional Protocol. Notably, every state has made a formal declaration regarding its interpretation of article 12 of the CRPD, with the exception of Jordan⁶. The detail around this article is discussed later in the paper.

⁶ Jordan has indicated in its reporting to the CRPD Committee that it adopted the same interpretation of article 12 as other MENA states.

Table 2: CRPD and Optional Protocol Ratifications, Reservations and Declarations

| Country | Date of Signature | Date of Ratification / Accession ⁷ | Optional Protocol Ratified / Acceded ⁸ | Reservations R Declarations D Joint declaration JD ⁹ |
|---------|-------------------|---|---|--|
| Algeria | 30 Mar 2007 | 4 Dec 2009 | 30 Mar 2007 (signed only) | JD Art 12 |
| Bahrain | 25 Jun 2007 | 22 Sep 2011 | No | JD Art 12 |
| Egypt | 4 Apr 2007 | 14 Apr 2008 | No | JD Art 12 JD Art 12 |
| Iraq | N/A | 20 Mar 2013 | No | JD Art 12 |
| Jordan | 30 Mar 2007 | 31 Mar 2008 | 30 Mar 2007 (signed only) | R Art 23(2) Nil declaration. ¹⁰ |
| Kuwait | N/A | 22 Aug 2013 | No | R Art 19(1)(a), Art 23(2) D Art 12, Art 19(a), Art 25(a) JD Art 12 |
| Morocco | 30 Mar 2007 | 8 Apr 2009 | 8 Apr 2009 | JD Art 12 |
| Qatar | 9 Jul 2007 | 13 May 2008 | 9 Jul 2007 (signed only) | JD Art 12 |

⁷ For list of ratifications and accessions, see UN Treaty Collection, "Convention on the Rights of Persons with Disabilities". Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&clang=en

⁸ For list of ratifications and accessions, see UN Treaty Collection, "Optional Protocol to the Convention on the Rights of Persons with Disabilities". Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15-a&chapter=4&clang=en

⁹ Members of the Arab Group wrote a letter stating that they were joining the CRPD "based on the understanding that legal capacity, mentioned in paragraph 2 of article 12 of the Convention, entitled "Equal recognition before the law", means the capacity of rights and not the capacity to act for those who are unable to practice the capacity to act, in accordance with the national laws and legislation of these States." The states that joined the letter were: Algeria, Bahrain, the Comoros, Djibouti, Egypt, Iraq, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen. See: Al Bayati, H. (2006). Letter dated 5 December 2006 from the Permanent Representative of Iraq to the United Nations addressed to the Chairman of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities [A/AC.265/2006/5].

¹⁰ However, Jordan has indicated that it has adopted the same interpretation as the other states in the Arab Group. See, for example, the Government of Jordan. (2015). Initial reports of States parties in Jordan under the Convention on the Rights of Persons with Disabilities.pdf [UN Doc CRPD/C/JOR/1], para [81].

| | | | | |
|--------------|-------------|--------------|-------------|-----------------------|
| Saudi Arabia | N/A | 24 Jun 2008 | 24 Jun 2008 | JD Art 12 |
| Syria | 30 Mar 2007 | 10 Jul 2009 | 10 Jul 2009 | D Art 12 JD Art 12 |
| Tunisia | 30 Mar 2007 | 2 Apr 2008 | 2 Apr 2008 | JD Art 12 |
| Palestine | N/A | 1 April 2014 | 10 Apr 2019 | JD Art 12 |

Domestic Legal Frameworks

Under international human right law, states have an obligation to respect, protect and fulfil the rights under the treaties that they have ratified or acceded to ([Committee on Economic, Social and Cultural Rights, 2008](#)). This includes an obligation to “adopt all appropriate measures such as legislation, strategies, policies and programmes to ensure that the specific obligations with regard to the right to social security will be implemented” ([Committee on Economic, Social and Cultural Rights, 2008](#)). In relation to this, states have an obligation to ensure that domestic legal frameworks comply with international obligations ([Devandas Aguilar, 2017](#)). As such, to ensure the rights of persons with disabilities to social protection, states must include these rights in domestic legal frameworks ([Devandas-Aguilar, 2015](#)).

State reform of legislation should take place as part of a “comprehensive harmonization process, where national legislation, policies, customs and practices are measured against the principles, rights and obligations of the [CRPD]” ([Devandas-Aguilar, 2015](#)). The Special Rapporteur on the rights of persons with disabilities has specifically directed that the review of legal frameworks ([Devandas Aguilar, 2017](#)):

[S]hould be comprehensive and take into account the interdependence and indivisibility of all human rights. It should also be all-encompassing and exhaustive, going beyond the traditional areas of law related to legal capacity (civil, family, and mental health law), to include legislation on political participation, privacy, health, employment, social protection, immigration, criminal law and access to justice, among other things.

Constitutional Protection of the Right to Social Protection

The first of these domestic legal frameworks are constitutions. Constitutions form the basic structure of any government; and guarantees some rights and provision for any group of people on behalf of which they can ensure their well-being and dignity. Nevertheless, the

majority of people with disabilities in Arab countries face a different reality. Out of twelve countries in the MENA region, only six countries have protected the rights to social security for persons with disabilities in their constitutions.

Table 3: Disability and Social Security in MENA Constitutions

| Country | <i>References to Disability and Social Security</i> |
|--------------|---|
| Algeria | N/A |
| Bahrain | Article 5/c: “The State guarantees the requisite social security for its citizens in old age, sickness, disability, orphanhood, widowhood or unemployment, and also provides them with social insurance and health care services. It strives to safeguard them against ignorance, fear and poverty.” |
| Egypt | Article 17: Social security services “All citizens who have no access to the social security system have the right to social security to ensure a decent life, if they are unable to support themselves and their families in the event of incapacity to work, old age or unemployment.” |
| Iraq | Article 30: Second “The State shall guarantee social and health security to Iraqis in cases of old age, sickness, incapacity to work, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law.” |
| Jordan | N/A |
| Kuwait | N/A |
| Morocco | N/A |
| Qatar | N/A |
| Saudi Arabia | Article 27: “The State shall guarantee the rights of its citizens and their families in an emergency or in case of disease, disability and old age. Likewise, it shall support the social security system and encourage individuals and institutions to contribute to charitable pursuits.” |
| Syria | Article 22: “1. The state shall guarantee every citizen and his family in cases of emergency, sickness, disability, orphan-hood and old age;” |
| Tunisia | N/A |

| | |
|-----------|---|
| Palestine | Article 22: “1. Social, health, disability and retirement insurance shall be regulated by law. 2. Maintaining the welfare of families of martyrs, prisoners of war, the injured and the disabled is a duty that shall be regulated by law. The National Authority shall guarantee these persons education, health and social insurance.” |
|-----------|---|

One positive example from the region, in terms of constitutional recognition of the rights of persons with disabilities, is the Constitution of Egypt 2014, which includes several specific references to the rights of persons with disabilities. The Egyptian Constitution refers to these rights directly and indirectly, protecting their rights throughout the lifecycle to equal health care, employment, education, political participation, social inclusion, and social security. (See table below)

A concerning example of constitutional provisions related to disability is Jordan. In addition to the fact that the Constitution of Jordan does not guarantee the right to health, it furthermore, in article 75, prohibits persons with mental disabilities from voting or running for elections.

In other cases, there is even a failure to reference disability at all. While MENA countries make generalisations about human dignity for all, a failure to directly mention disability reflects the invisibility of the issue in the region. Further, references to equality and discrimination are often qualified by reference to citizens only, and not *all* people.

For example, Kuwait does not explicitly mention the rights of persons with disabilities in its constitution, although references to “all citizens” includes citizens with disabilities. Similarly, Iraq does not mention persons with disabilities in its constitution with regards to social protection. Only article 30 guarantees social and health security to those citizens in cases of incapacity to work, which might protect the rights of only certain groups of persons with disabilities. This protection only applies to those experiencing “incapacity to work,” thereby failing to recognise the role of external factors such as discrimination on a person’s “ability” to work. This provision would also only apply to certain types of disabilities, creating a form of hierarchy or discrimination on the basis of disability.

Table 4: Disability in MENA Constitutions

| Country | References to disability |
|---------|---|
| Algeria | Article 76: “The State shall guarantee that the elderly and underprivileged groups with <i>special needs</i> enjoy all the recognized rights of citizens and shall integrate them into social life.” |
| Bahrain | N/A |

| | |
|---------|--|
| Egypt | <p>Article 81: Rights of the disabled “<i>The state shall guarantee the health, economic, social, cultural, entertainment, sporting, and education rights of people with short stature and people with disabilities. The state shall provide work opportunities for such individuals, and allocate a percentage of these opportunities to them, in addition to equipping public utilities and their surrounding environment. The state guarantees their right to exercise political rights, and their integration with other citizens in order to achieve the principles of equality, justice and equal opportunities.</i>”</p> <p>Article 53: “<i>Equality in public rights and duties Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason.</i>”</p> <p>Article 54: Personal freedom (third paragraph “<i>Questioning of the person may only begin once his lawyer is present. If he has no lawyer, a lawyer will be appointed for him. Those with disabilities shall be provided all necessary aid, according to procedures stipulated in the law.</i>”</p> <p>Article 55: Due process “<i>The state shall provide means of access for those with disabilities.</i>”</p> <p>Article 80: Rights of the child “<i>The state guarantees the rights of children who have disabilities and ensures their rehabilitation and incorporation into society.</i>”</p> <p>Article 180: Election of local councils “<i>Every local unit elects a local council by direct, secret ballot for a term of four years. A candidate must be no younger than 21 years old. The law regulates other conditions for candidacy and procedures of election, provided that one quarter of the seats are allocated to youth under 35 years old, one quarter is allocated for women, workers and farmers are represented by no less than 50 percent of the total number of seats, and these percentages include a proper representation of Christians and people with disability.</i>”</p> <p>Article 244: Representation for youth, Christians, disabled persons, etc “<i>The state grants youth, Christians, persons with disability and expatriate Egyptians appropriate representation in the first House of Representatives to be elected after this Constitution is adopted, in the manner specified by law.</i>”</p> |
| Iraq | <p>Article 29: Second “<i>Children have the right to upbringing, care and education from their parents. Parents have the right to respect and care for their children, especially in times of need, disability, and old age.</i>”</p> <p>Article 30 Second: “<i>The State shall guarantee social and health security to Iraqis in cases of old age, sickness, employment disability, homelessness, orphanhood, or unemployment, shall work to protect them from ignorance, fear and poverty, and shall provide them housing and special programs of care and rehabilitation, and this shall be regulated by law.</i>”</p> |
| Jordan | <p>Article 75 (i): “<i>No person shall become a Senator or Deputy: (g) Who is insane or an imbecile.</i>”</p> |
| Kuwait | N/A |
| Morocco | Constitution Preamble: “ <i>To ban and combat all discrimination whenever it encounters it, for reason of sex, or colour, of beliefs, of culture, of social or</i> |

| | |
|--------------|--|
| | regional origin, of language, of handicap or whatever personal circumstance that may be” Article 34 second paragraph: “to rehabilitate and integrate into social and civil life the physically sensory-motor [sensorimoteurs] and mentally handicapped and to facilitate their enjoyment of the rights and freedoms recognized to all.” |
| Qatar | Article 101: “Membership in the Advisory Council is terminated by one of the following reasons: 1. Death or total disability .” |
| Saudi Arabia | N/A |
| Syria | N/A |
| Tunisia | Article 54: “The state shall protect persons with disabilities from all forms of discrimination and shall take all necessary measures to ensure their full integration into society.” |
| Palestine | Article 9: “Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views or disability.” |

Domestic Laws on Disability

All 12 of the MENA countries covered in this study have introduced specific laws related to persons with disabilities (See Table 5). Laws which were passed at the end of the 1990s and early 2000s tend to use language such as “care” and “protection” in their titles, whereas more recent laws tend to refer to “rights”. Some of the key issues and features of these laws relate to definitions of disability, legal protection against discrimination, legal provisions related to accessibility and the right to legal capacity. These are outlined in the following section relating to the legal challenges to disability-inclusive social protection.

Table 5: Domestic Laws on Disabilities

| Country | Year | Law |
|-----------------------|------|---|
| Algeria | 2002 | Protection and Promotion of the Rights of Persons with Disabilities Law |
| Bahrain | 2006 | Care, Rehabilitation and Employment of the Disabled Law No. 74 |
| Egypt | 2018 | Rights of Persons with Disabilities Law No. 10 |
| Iraq-Federal | 2013 | Care of Persons with Disabilities and Special Needs Act No.38 |
| Iraq-Kurdistan Region | 2011 | Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq Law No. 22 |
| Jordan | 2017 | Rights of Persons with Disabilities Law No. 20 |
| Kuwait | 2010 | Rights of Persons with Disabilities Law No. 8 |
| Morocco | 2016 | Protection and Promotion of the Rights of Persons with Disabilities Law No. 97-13 |
| Qatar | 2004 | People with Special Needs Law No. 2 |
| Saudi Arabia | 2000 | Disability Care Act |

| | | |
|-----------|------|--|
| Syria | 2004 | Persons with Disabilities Law No. 34 |
| Tunisia | 2005 | Empowerment and Protection of Disabled People Law No. 83 |
| Palestine | 1999 | Rights of Persons with Disabilities Law No. 4 |

Policy Frameworks

Specialised bodies

It is important to have an independent specialised body to represent persons with disabilities through, identifying the needs of persons with disability, participating in decisions that may affect them, advocating for change, monitor and evaluate provided services, and raising public awareness. Under article 33 of the CRPD, states are required to establish national mechanisms for the monitoring and implementation of the Convention, including through the establishment of a “focal point” for these activities. The meaning of “focal point” is largely left to state discretion, although the CRPD Committee has noted its concern that focal points are not always given a high position in government, lack clarity regarding its work, some are insufficiently resourced, some have limited capacities and some lacked coordination capacities ([Bantekas et al., 2018](#)). The OHCHR recommends that states “adopt a two-pronged approach and appoint focal points at the level of each or most governmental departments/ministries as well as designate one overall focal point within government responsible for the implementation of the Convention” ([Human Rights Council, 2009](#)).

Out of the MENA states covered in this study, six have specialised independent bodies devoted to persons with disabilities, while the other countries rely on different ministries to apply and monitor the rights of persons with disabilities, as outlined in the below table. In terms of the two-pronged approach, Jordan is a positive example. In Jordan, the Higher Council for the Rights of Persons with Disabilities is the specialised body for disability issues, but domestic disability legislation also imposes a number of obligations on different ministries with regard to disability (Rights of Persons with Disabilities Law No. 20 of 2017).

Table 6: Governance Bodies

| Country | Ministries | Specialised Body |
|---------|--|------------------|
| Algeria | Ministère de la Solidarité nationale, de la Famille et de la Condition de la femme Ministry of National Solidarity, Family and Women's Issues | |

| | | |
|---------|--|---|
| Bahrain | Ministry of Labour & and Social Development | |
| Egypt | | The National council for persons with Disabilities (The National council for persons with Disabilities was established by Presidential Decree No. 11 / 2019 to replace the National Council for Disability Affairs issued by Prime Ministerial Decree No. 410 / 2012, to which all his rights and responsibilities are assumed.) |
| Iraq | | The Council for the Care of People with Disabilities and Special Needs. (Established by Care of Persons with Disabilities and Special Needs Act No. 38 of 2013, Article 4) |
| Jordan | | Higher Council for the Rights of Persons with Disabilities (Established by virtue of the Law on the Rights of Persons with Disabilities No. (31) for the year 2007 as the Higher Council for the Affairs of Persons with Disabilities.) |
| Kuwait | | Public Authority of the Disabled under which is the Supreme Council for Disability Affairs (CHAPTER EIGHT The Public Authority For Disability Affairs, in accordance with ARTICLE 47: “An authority concerned with the affairs of people with disabilities, and of nominal personality called (The General Authority for People with Disabilities) shall be established, and will be subject to the supervision of the first deputy for the prime minister.”) |
| Morocco | There is no government body specialised only in disability affairs. The Ministry of Solidarity, Women, Family and Social Development is responsible for implementation of the | |

| | | |
|--------------|---|---|
| | CRPD, as required by article 33 of the CRPD. However, it is the independent National Human Rights Council that is in charge of monitoring, inspecting and following up issues related to the rights of persons with disabilities in the Kingdom. | |
| Qatar | The Higher Council for Family Affairs | |
| Saudi Arabia | | Higher Council for Disability Affairs (Disability Care Act 2000, Article 8) |
| Syria | Central Council for Disabled Affairs, which is part of the Ministry of Social Affairs and Labour (MOSL). (ESCWA, 2018) Under the law, there should also be a sub-council established in each governorate. (Persons with Disabilities Law No. 34 of 2004, article 6) | |
| Tunisia | Ministry of Social Affairs | |
| Palestine | | Higher Council for Persons with Disabilities (Established by Decree No. 3 of 2004 and amended by Decree No. 1 of 2012.) |

National Strategies

In addition to legal frameworks, states should adopt national strategies and plans of action in order to ensure a comprehensive social protection system ([Devandas-Aguilar, 2015](#)). The strategies must not only pursue the goals of the CRPD but must also comply with the CRPD throughout the design, implementation and monitoring process ([Devandas-Aguilar, 2015](#)). The Committee on Economic, Social and Cultural Rights has provided guidance on the requirement to establish national strategies with regard to the right to social security under the ICESCR. It has emphasised that although the *realisation* of economic, social and cultural rights is to be progressive, the obligation to adopt a national strategy on social security is an immediate obligation under the Covenant, and these strategies must be accompanied

with the allocation of adequate resources or, if there are limited resources, then the state should seek international cooperation and assistance ([Committee on Economic, Social and Cultural Rights, 2008](#)). Such strategies must also be based on human rights law and principles, including the principles of accountability and transparency ([Committee on Economic, Social and Cultural Rights, 2008](#)).

Several countries in the MENA showed commitment to the principles of the rights of persons with disabilities through their national strategies. Bahrain developed a national strategy for persons with disabilities for the period from 2012 until 2016. It included guidelines and plans covering the government sector, civil society institutions, companies, private institutions, the teaching and legal professions, and society as a whole ([Government of Bahrain, n.d.](#)). Unfortunately, such a national strategy has not been updated. Egypt on the other hand is aiming to increase society's awareness of the rights of all persons with disabilities, develop a unified and up-to-date database on persons with disabilities, promote more effective plans to guarantee their rights, improve their situation through the development of integrated services and facilitate the participation of persons with disabilities in cultural, media and sports activities ([Government of Egypt, 2021](#)). Qatar is trying to make preventable measures for all populations by providing appropriate health services, special programmes, and social services necessary for high quality of life, while focusing not only on the needs of individuals but also supporting their families and caregivers, as disabilities may affect people at any stage of their lives, even from birth. Also, in Qatar's National Health Strategy, Qatar is aiming by 2022, 20% of persons with disabilities will be able to have access to health services that meet their needs ([Government of Qatar, 2018](#)). On the other hand, Palestine adopted its last National Strategic Plan for the Disability Sector in 2012 which contained strategic goals related to persons with disabilities ([ESCWA, 2018](#)) & ([State of Palestine, 2019](#)). Despite it has not renewed, the Social Development Sector Strategy 2017-2022 includes references to disability ([State of Palestine, Ministry of Social Development, 2017](#)).

Yet, some MENA countries did not specifically have a separate national strategy for persons with disabilities. For example, Iraq does not have a national strategy specifically addressing disability ([Committee on the Rights of Persons with Disabilities, 2019d](#)). The National Development Plan for 2018-2022 makes brief references to disability and includes the goal of "reducing the percentage of people with disabilities and special needs", improving the level of services for the empowerment of persons with disabilities and raising awareness and community participation in the education of persons with disabilities in primary and secondary schools ([Government of Iraq, n.d.-b](#)). Similarly, Saudi Arabia does not have a

coherent and comprehensive disability strategy ([Committee on the Rights of Persons with Disabilities, 2019a](#)). However, in January 2019, Saudi Arabia reported that it was in the process of developing a national strategy for persons with disabilities and a national strategy for social protection ([Government of Saudi Arabia, 2019](#)). The National Social Protection Strategy 2019-2025 in Jordan also has established a section for persons with disabilities titled; “Promotion and protection of the rights of persons with disabilities” which aims to ensure full equality and equal opportunities for all persons, strengthen the legal protection of persons with disabilities and take necessary legislative and executive measures to provide accessible access to justice. The Special Rapporteur on the rights of persons with disabilities, after her state visit to Kuwait, noted “the absence of an overall national strategy for persons with disabilities in Kuwait and that not all public policies, including disability-specific ones, include a human rights-based approach to disability.” ([Devandas-Aguilar, 2019](#)).

In Morocco, in the Strategic Directions document that has been published by the National Human Rights council, they have not specifically mentioned any plans or protective measures for persons with disabilities, however, they consider them in their first priority for being vulnerable such as children and women ([National Human Rights Council, 2019](#)). But the Moroccan Ministry of Solidarity and Social Integration is ensuring access to rights and achieving social participation for people with disabilities, by the implementation of Morocco's international obligations and the requirements of the Constitution as it was mentioned in the Integrated Public Policy to Advance the Rights of Persons with Disabilities.¹¹

¹¹ <https://social.gov.ma/>

4 Legal Challenges to Disability-Inclusive Social Protection in MENA

Social protection systems and schemes do not exist within a vacuum. Social protection schemes “are more likely to be disability inclusive if there is a broader national disability sensitive environment ([Kidd et al., 2019, p. vi](#)) . However, many social protection systems in low- and middle-income countries operate within environments that are unfavourable to persons with disabilities and characterised by low levels of awareness and understanding, discrimination and weak institutions”. ([Kidd et al., 2019, p. vi](#)) Therefore, issues within the broader environment must be addressed in order to promote an inclusive social protection system ([Kidd et al., 2019](#)).

In mapping the legal frameworks of MENA states, it became apparent that there are significant legal barriers to developing a human rights-based approach to inclusive social protection for persons with disabilities in the region which undermine attempts to implement a human rights approach to social protection. In particular, the mapping process identified the following fundamental barriers:

1. Systematic discrimination, including the use of derogatory language to refer to persons with disabilities in the law itself and a lack of legal protection against discrimination
2. The ongoing predominance of the medical model rather than social model of disability in social protection systems across the region, in spite of being signatories of the CRPD
3. The systematic legal failure to guarantee the right to equal recognition before the law under article 12 of the CRPD, also known as the right to legal capacity

Discrimination

Discrimination on the basis of disability

The principles of equality and non-discrimination are “among the most fundamental principles and rights of international human rights law ... they are interconnected with human dignity, they are the cornerstones of all human rights” ([Committee on the Rights of Persons with Disabilities, 2018](#)). Inclusive social protection systems for persons with disabilities therefore depend on the existence of a broader disability sensitive environment,

which includes protection against discrimination on the basis of disability ([Kidd et al., 2019](#)),

The CRPD defines discrimination on the basis of disability as “any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (CRPD, article 2). States are required to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities ... [and] To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise” (CRPD, article 4). This includes an obligation “to enact specific and comprehensive anti-discrimination legislation” but also to provide “appropriate and effective legal remedies and sanctions in relation to intersectional discrimination” ([Committee on the Rights of Persons with Disabilities, 2018](#)).

Negative attitudes against persons with disabilities still exist in some communities in the MENA region, which lead to the exclusion and discrimination against persons with disabilities. Intersectional discrimination also exists, for example women and refugees are more vulnerable among persons with disabilities and most discriminated against in terms of services and social protection ([Thompson, 2018](#)). Despite some progress in the region, persons with disabilities continue to face stigmatisation and marginalisation. ([Bloom, n.d.](#))

The concept of reasonable accommodation is central to the application of non-discrimination to the experience of persons with disabilities. Under the CRPD, the denial of reasonable accommodation is considered a form of discrimination on the basis of disability (CRPD, article 2). Reasonable accommodation refers to the “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms” (CRPD, article 2). Reasonable accommodation, as a principle, recognises that persons with disabilities “face not only attitudinal barriers when engaging in society but also physical, environmental, administrative, and legal ones, as well as technical and language- related barriers that circumscribe their access to information and opportunities to communicate with others” and that, therefore, removing these barriers requires action and resources ([Bantekas et al., 2018](#)).

Discriminatory language against persons with disability

Appropriate terminology

Persons with disabilities are systematically stigmatized across the region through the use of discriminatory language. This language reinforces societal discrimination and excludes persons with disabilities from full participation and involvement in society. Language is important as it reflects underlying attitudes and assumptions and perpetuates stigma.

In understanding the correct terminology in Arabic to refer to persons with disabilities, it is helpful to first note the approaches to terminology in English. There are two main acceptable approaches to language on disability: person-first (“people with disability”) and identity-first language (“disabled people”), and individuals themselves may have a strong particular preference for either of the two approaches ([People With Disability Australia, n.d.](#)). The reason that the person-first approach refers to “disability” rather than “disabilities” in the plural is because, according to the social model of disability, disability is the result of interaction between bodily impairments and societal or environmental barriers. A person does not therefore have multiple *disabilities* so much as multiple *impairments* which interact with barriers to create *disability*. Unfortunately, the CRPD itself convoluted the matter by using the plural ‘disabilities’ rather than ‘disability’ ([Kayess & French, 2008](#)).¹² Given that international agencies, and the CRPD itself, adopts a person-first approach with the plural “disabilities” this paper has also chosen to adopt the same terminology in English.

The above two approaches - person-first and identity-first - do not effectively translate to Arabic. The equivalent term for “disabled people” in Arabic is *mu’awqeen*, however, the term is offensive and a more akin to the term “retarded persons.” Notably, this term is pervasive across the MENA region in laws and policies related to disability. For example, the first law

¹² “In spite of its professed adherence to a social model of disability, it will be immediately apparent that the CRPD perpetuates, and perhaps now irrevocably entrenches, the contemporary conceptual confusion between impairment and disability. ... according to the social model, ‘disability’ is the limitation that results from discrimination and social oppression. Impairment is a characteristic, feature or attribute of an individual (for example, blindness, deafness, spinal cord injury). There is no deterministic relationship between persons with an impairment and disability, because a society free from discrimination and oppression can exist, at least theoretically. However, it is only persons with impairments who may be subject to disability.” (Kayess & French, 2008)

related to the rights of persons with disabilities in Jordan used this offensive term in its title (Rights of the Disabled [*Mu'awqeen*] Law No. 31 of 2007). Given that the equivalent of “disabled people” in Arabic is pejorative, the only appropriate term in Arabic is “has disability” (*dhawi al i-'aqa*), which is also the term used in the Arabic translation of the CRPD. In addition to specific terms, the overall discussion and framing of disability should be one which respects the dignity of persons with disabilities and recognises them as rights holders rather than objects of pity.

Discriminatory language in MENA

Discriminatory language is prevalent across the laws and policies of the states covered in this study. These derogatory terms are located not only in domestic laws and policies but also in national constitutions. For example, the Constitution of Jordan in accordance with Article 75(i)(g) uses the words “insane” and “imbecile” to describe persons with intellectual disability. The Constitution of Morocco 2011, Article 54 includes the phrase “suffers from disability”. Using the term ‘suffer’ indicates that they are less powerful than those who do not have disability and are viewed as objects of pity.

In the domestic laws of the states studied, persons with disabilities were regularly referred to using offensive terminology, such as “imbecile,” “insane” and “fool” (see Table 2). Often, no legal definition was located for these terms, or, where definitions existed, they were vague. This is supported by, for example, Moroccan law that defines the “imbecile” as someone who has a mental disability “preventing him from controlling his thoughts or actions” (Family Code 2004, article 216). In Qatar, definitions are provided for some of the derogatory terms, however the definitions are also ambiguous and derogatory. For example, under Qatari guardianship laws, the term “minor,” for the purposes of guardianship laws, is defined as including “the insane, the unconscious, the idiotic, the inattentive, the prodigal”. The term “insane” is defined as “any person who is extremely or intermittently foolish, demented, unwise, irrational or mentally ill”; “the unconscious” is defined as “any person who has no awareness because of illness or old age”; “idiotic” is defined as “any person who is mentally deranged, muddled or perverted”; “imbecile” is defined as “any person who shows mental feebleness or incapacity”; and “prodigal” is defined as “any person who is wastefully or recklessly extravagant with money”. This paper uses the phrase “developmental and learning” to encompass the diverse types of neurodivergence to which the above derogatory terms are likely referring. The below table outlines just some of the examples of derogatory terms used in domestic laws in the region.

Table 7: Discriminatory Terms

| Country | Discriminatory Terms | | Law |
|---------|---------------------------------------|----------------------------|--|
| | Arabic | English | |
| Algeria | Mu'aaqeen (معاقين) | "Disabled, Retarded" | The Rights of People with Disabilities Under the Law 02/09 |
| | 'ahaa (عاهة) | "Infirmity" | Civil Code of Algeria Art. 80. |
| Bahrain | - | "Child with abnormalities" | The Ministry of Education: Disability Guidebook |
| | ehdiyajjat khassa (احتياجات خاصة) | "Special needs" | The Ministry of Education: Disability Guidebook |
| | 'aahat (عاهات) | "Deformities" | The Ministry of Education: Disability Guidebook |
| Egypt | 'attah or jonoun (جنون او عته) | "Insanity" | Egyptian Civil Code Article 45 |
| | Saffeih or Majnoun (مجنون او سفيه) | "Imbecile" | Egyptian Civil Code Article 46 |
| Iraq | ehdiyajjat khassa (احتياجات خاصة) | "Special needs" | Care of Persons with Disabilities and Special Needs Act No. 38 of 2013 (Iraq - Federal) Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq Law No. 22 of 2011 (Iraq - Kurdistan Region) |
| | Mu'aaqeen (معاقين) | "Disabled, Retarded" | Law of Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq No. 22 of 2011. |
| | Mu'awq (معوق) | "Mentally retarded" | Law of Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq No. 22 of 2011. |
| Jordan | - | "Burden" | Nationality Law No. 6 of 1954, Art 4 |
| | - | "Crazy" "Imbecile" | Civil Code Art 127 |
| | Ma'atouh (معتوه) | "Imbecile" | Civil Code Art 128 |

| | | | |
|--------------|--------------------------------------|------------------------|--|
| | Ma'atouh (معتوه) | "Imbecile" | Constitution of Jordan, Article 75 |
| | A'ama (أعمى) | "Blind" | Civil Code Law No. 43 of 1976, Article 132 |
| | Mu'awqeen (معوقين) | "Retard" | Ministry of Education |
| Kuwait | Majnoun (مجنون) | "Insane" | Visit to Kuwait: Report of the Special Rapporteur on the Rights of Persons with Disabilities (Devandas-Aguilar, 2015). |
| | Ghabi (غبى) | "Dumb" | Visit to Kuwait: Report of the Special Rapporteur on the Rights of Persons with Disabilities. |
| | Mu'awq (معوق) | "Mentally retarded" | Visit to Kuwait: Report of the Special Rapporteur on the Rights of Persons with Disabilities. |
| | Ma'atouh (معتوه) | "Imbecile" | Articles 24, 104 and 208: Personal Status Law No. 61 of 1991 |
| Morocco | 'ahaa (عاهة) | "Deformity" | Family Code No. 70-03 of 2004 (Moudawana), article 175 |
| | Ma'atouh (معتوه) | "Handicap Mental" | Family Code No. 70-03 of 2004 (Moudawana), articles 213 and 216 |
| | 'ela (علة) | "Infirmity" | Family Code No. 70-03 of 2004 (Moudawana), article 175. |
| Qatar | - | "Diminished capacity" | Penal Code No. 11 of 2004, Article 305 |
| Saudi Arabia | Mu'awq (معوق) | "Retard" | The Disability Care Act 2000 Health Law 2002, Article 4 |
| | (imtiyazat) (امتيازات) | "Special privileges" | CRPD State Report for Saudi Arabia (Government of Saudi Arabia, 2015) |
| | ehtiyajjat khassa (احتياجات خاصة) | "Special needs" | The Anti-Harassment Crime Law 2018 |
| | 'aaha (عاهة) | "Deformity" | The Anti-Trafficking in Persons Law 2009, article 4 |
| | 'aaha daa-i-maah) (دائمة عاهة) | "Permanent disability" | The Anti-Trafficking in Persons Law 2009, article 4 |

| | | | |
|-----------|-----------------------|----------------------|--|
| Syria | Mu'awqeen (معوقين) | "Retard" | Persons with Disabilities Law No. 34 of 2004 |
| Tunisia | Mu'aaqeen (معاقين) | "Disabled, Retarded" | Empowerment and Protection of Disabled People Law No. 83 of 2005 |
| Palestine | Mu'aaqeen (معاقين) | "Disabled, Retarded" | The Rights of Persons with Disabilities Act No. 4 of 1999 |
| | 'aaha (عاهة) | "Deformity" | Article 24 of the Civil Service Law No. 4 of 1998 |

There has been some move to eliminate the use of the term *mu'aaqeen* in the region, although considerable progress still needs to be made. In Syria, the council in charge of disability affairs recently removed *mu'aaqeen* from its title and replaced the term with "persons with disabilities"¹³. In 2017, Bahrain similarly replaced the term *mu'aaqeen* from its law on disabilities and replaced it with the term "persons with disabilities" (Law No. 35 of 2017 which amended the Care, Rehabilitation and Employment of the Disabled Law No. 74 of 2006). In Jordan, the Higher Council for the Rights of Persons with Disabilities is proactive in addressing this issue. It conducts training on the rights of persons with disabilities - including correct communication - and has issued guidelines for media personnel on how to discuss disability from a rights-based perspective ([Al-Azzeh, 2018](#)). Although Palestine has made similar efforts, it acknowledges that there continues to be a failure to use appropriate language, particularly by the media ([State of Palestine, 2019](#)).

Legal protection against discrimination in MENA

There are limited protections against discrimination based on disability in the states covered and, where there are protections, these do not necessarily comply with the CRPD definition of discrimination. Legal protections against discrimination based on disability were identified in only five states covered in this study: Egypt, Jordan, Tunisia, Morocco and Palestine. However, even where discrimination is prohibited, none of the states studied defined a failure to provide reasonable accommodation as a form of discrimination on the basis of disability. Palestine and Tunisia have indicated that they intend to include the concept of reasonable accommodation in domestic legislation ([Government of Tunisia,](#)

¹³ The website for the Ministry of Social Affairs and Labour does not currently appear to be functioning, however a Facebook post by the ministry in October 2018 referred to the council with the derogatory term in its title (المجلس المركزي لشؤون المعوقين) but a post in December 2018 referred to the council used the correct term (المجلس المركزي لشؤون الأشخاص ذوي الإعاقة), indicating that the council's name has been updated.

[2019; State of Palestine, 2019](#)), however although this does not seem to have taken place.

A list of the relevant domestic laws on discrimination are included in Annex 4.

Table 8: Protections against discrimination under the law

| State | Discrimination on the basis of disability prohibited under the law | Definition of discrimination includes “failure to provide reasonable accommodation” “Failure to provide reasonable accommodation” as a discriminatory reason |
|--------------|---|---|
| Algeria |  |  |
| Bahrain |  |  |
| Egypt |  |  |
| Iraq |  |  |
| Jordan |  |  |
| Kuwait |  |  |
| Morocco |  |  |
| Qatar |  |  |
| Saudi Arabia |  |  |
| Syria |  |  |
| Tunisia |  |  |
| Palestine |  |  |

Further, where discrimination was referenced in domestic laws, it was not always accompanied with strong enforcement provisions. Both Iraq and Jordan refer to non-discrimination as the principle or aim of their respective laws on persons with disabilities (Iraqi Care of Persons with Disabilities and Special Needs Act No. 38 of 2013, articles 1 and 2; Jordanian Rights of Persons with Disabilities Law No. 20 of 2017, article 4). However, Iraqi federal law does not include an actual prohibition on discrimination. On the other hand, Jordanian law does include a prohibition on discrimination on the basis of disability in a number of contexts, including with regard to “access to social development programs, services, and institutions along with nursery homes”. For instance, under the Jordanian law, if a person with a disability is unable to enrol in an education institution because they have

a disability and the institution fails to provide reasonable accommodation, the institution is not forced to provide reasonable accommodation. Instead, the Ministry of Education is required to “find an alternative” (article 17). In addition, there is no overarching right and there is no clear mechanism for how a person can assert his/her this right to not be discriminated on disability basis under domestic law (see Rights of Persons with Disabilities Law No. 20 of 2017). For example, article 25 of the Jordanian law on disabilities prohibits discrimination from employment on the basis of disability and establishes the Equal Opportunities Committee which has the power to receive complaints related to discrimination in the field of work and to “ascertain and settle such complaints with the relevant authorities” (article 14). This is merely a complaints mechanism rather than a non-discrimination right enforcement one.

Limited definitions of Disability

As explained in Section 2, the definition of disability reflects the model of disability adopted by a state and influences the implementation of disability-inclusive social protection systems. The CRPD defines persons with disabilities as “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” The reference to various barriers is in recognition of the social model of disability. To comply with the social model and human rights models of disability, national laws should adopt definitions of disability which recognise the way that external barriers such as discrimination and inaccessible environments disable individuals. In this regard, there is still significant need for reform across the MENA states covered in this study. As shown in the table below, only four of the states studied incorporate the social model into their legislative definitions of discrimination.

Table 9: States’ Approaches to Disability Models

| Medical model <i>Definition of disability does not reference external barriers</i> | Social model <i>Definition of disability refers to the interaction of impairments with barriers to create disability</i> |
|--|--|
| Algeria Iraq Kuwait Qatar Saudi Arabia Syria | Bahrain Egypt Jordan Morocco |









Tunisia
Palestine

Another limitation is the failure to recognise or identify certain types of impairments and experiences as relating to disability, resulting in the exclusion of certain groups from protection against discrimination and other rights, including those related to social protection. The below table outlines the types of impairments which are mentioned as ‘disabilities’ in the domestic laws of the states studied. The first four columns reflect the types of impairments mentioned in the CRPD, and the final column lists any other types of impairments mentioned in the definition of ‘disability’ under national laws. As outlined in the table below, several states did not specifically include intellectual disabilities in their national definitions of disabilities.

Table 10: Types of “impairments” and disabilities

| State | Physical | Mental | Intellectual | Sensory | Other / additional |
|---------------------|----------|--------|--------------|---------|--|
| Algeria | ✘ | ✔ | ✘ | ✔ | Physiological, motor |
| Bahrain | ✔ | ✔ | ✔ | ✔ | -- |
| Egypt | ✔ | ✔ | ✔ | ✔ | -- |
| Iraq | ✔ | ✔ | ✘ | ✔ | Psychological (Kurdistan region of Iraq only) |
| Jordan | ✔ | ✔ | ✔ | ✔ | Psychological; neurological |
| Kuwait | ✔ | ✔ | ✘ | ✔ | -- |
| Morocco | ✔ | ✔ | ✘ | ✔ | Psychiatric |
| Qatar | ✔ | ✔ | ✘ | ✔ | Psychological |
| Saudi Arabia | ✔ | ✔ | ✔ | ✔ | Communication, learning, behavioural, emotional, double/multiple disabilities, autism and other disabilities that require “special care” |
| Syria ¹⁴ | ✔ | ✔ | ✘ | ✘ | -- |

¹⁴ On 19 November 2017, the Ministry of Social Affairs and Labour announced a new definition of

| | | | | | |
|-----------|---|---|---|---|---------------|
| Tunisia |  |  |  |  | -- |
| Palestine |  |  |  |  | Psychological |

Accessibility

One of the principles of the CRPD is accessibility (CRPD, article 3). The term itself is not defined in the CRPD, but the concept is considered fundamental to the realisation of other rights under the CRPD and to “enable persons with disabilities to live independently and participate fully in all aspects of life” (CRPD, article 9). The Special Rapporteur on the rights of persons with disabilities has emphasised the centrality of accessibility in inclusive social protection systems. She states that accessibility “is a precondition for persons with disabilities to benefit from social protection on an equal basis with others. Without access to the physical environment, to transportation, and to information and communication, persons with disabilities are prevented from enjoying their right to social protection” ([Devandas-Aguilar, 2015](#)). Article 9 imposes the following obligations on states with regard to accessibility:

States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

The obligation to ensure accessibility applies to all “goods, products and services are open or provided to the public” ([Committee on the Rights of Persons with Disabilities, 2014b](#)). As part of this, states are required to conduct a comprehensive review of laws related to accessibility in order to identify gaps. This includes ensuring that ICT access is included in the definition of accessibility ([Committee on the Rights of Persons with Disabilities, 2014b](#)).

In MENA, the states studied had various levels of incorporation of the concept of accessibility into domestic laws. For example, there is no reference to accessibility in Iraq’s Care of Persons with Disabilities and Special Needs Law No. 38 of 2013. On the other hand, Egypt, Jordan and Palestine all include provisions related to accessibility in their domestic laws on disability. For example, article 11 of the Palestinian Rights of Persons with Disabilities Law No. 4 of 1999 states that sign language should be made available in all

disability, however it is not clear if legislative amendments have or will be passed to amend the legal definition: <https://www.facebook.com/mosal.syria/posts/271426180045961>

government facilities, although, in practice, this is not always the case ([State of Palestine, 2019](#)). In Article 17 of the Rights of Persons with Disabilities Law No. 4 of 1999, Palestine addresses the adaptation of means of communication to suit the capabilities of persons with disabilities. The law also includes a section on the accessibility of public buildings. Egyptian law includes the right to access information “easily” and states that the government must “Take the necessary measures to ensure that persons with disabilities have possible access and use of the surrounding physical environment, means of transportation, information, communication and technology, enhancing their capacities and skills” (Rights of Persons with Disabilities Law No. 10 of 2018, article 4). The Jordanian disability law references the need to ensure the accessibility of information (Rights of Persons with Disabilities Law No. 20 of 2017, articles 18, 19, 21, 22, etc).

Syria, Morocco and Algeria have also taken steps to incorporate accessibility into the laws governing disability. Article 4 of the Persons with Disabilities Law No. 34 of 2004 in Syria requires that new buildings meet certain specifications in order to meet the needs of persons with disabilities and to allocate seating on public transport for persons with disabilities. Another example in Morocco, under the Article 21 of the Protection and Promotion of the Rights of Persons with Disabilities Law No. 97-13 of 2016, the state is required to take “all necessary measures” to make urban facilities, transport and communication accessible to persons with disabilities. Further, the Convention on the Rights of Persons with Disabilities, Article 9 also requires that the state take “all appropriate measures” to make public spaces and buildings accessible. Furthermore, Algeria has paid particular attention to persons with disabilities, ensuring that they enjoy all the civil and political rights guaranteed by law to all citizens, without discrimination or exclusion. That is when a National Commission on Accessibility was established in 2012 by the Ministry of National Solidarity, the Family and Women, in view of the huge importance that the Government attaches to the question of accessibility for persons with disabilities in the different areas of daily life.

States in the region have also made progress with regard to programs aimed at increasing accessibility. The Higher Council in Saudi Arabia provides guidelines on the making accommodations for individuals with different disabilities, including Down Syndrome, Autism, visual impairments, hearing impairments, depression, and others.¹⁵ Jordan and Palestine had similar accessibilities programs for persons with disabilities, specifically persons with hearing impairment. It was a great initiative from the Jordan Deaf community

¹⁵ Higher Council for Disability Affairs, “Resources”, <https://apd.gov.sa/en/sources/>

to provide sign-language emergency calls for those with smartphones but it was limited for those who own Samsung smart phones and a sim card with the company Zain ([Jordanian Deaf Community, 2016](#)).

Although this study does not focus on the implementation of the laws and policies in the region, it is worth noting that it has regularly been found that there are low levels of accessibility across the MENA region. According to the US Department of State, in the Kurdistan Region of Iraq, “more than 98 percent of public buildings, parks, and transportation” lack adequate facilities for persons with disabilities ([US Department of State, 2021](#)). However, in Kuwait measures to improve accessibility seem to be focused on physical accessibility. For example, although courts are physically accessible, “there are neither measures to provide access to information and documentation in accessible formats, nor any procedural accommodations in place” ([Devandas-Aguilar, 2019](#)).

Equal Recognition Before the Law (Legal Capacity)

Social protection and legal capacity

The protection of the right to legal capacity is fundamental to a human rights approach to the social protection of persons with disabilities. The denial of the right to legal capacity undermines a number of the key principles of an inclusive social protection system, including equality, non-discrimination, respect for the dignity and autonomy of individuals and accountability. Social protection systems which fail to respect the right to legal capacity for all persons with disabilities will perpetuate a welfare model of disability rather than an inclusive, human rights model. States must therefore ensure that “the implementation of social protection schemes does not hinder the rights of persons with disabilities or oblige them to renounce their legal capacity.” ([Kidd et al., 2019, p. 132](#)). Article 12 of the CRPD and the right to legal capacity is “at the heart” of the CRPD’s paradigm shift to a human rights model of disability ([Ghaly, 2019a](#)). It was also one of the most contentious articles during the drafting of the CRPD ([Devandas Aguilar, 2017](#)).

The right to legal capacity under international law is elaborated in further detail below, followed by an outline of the current failure of the MENA states studied to secure the right for persons with disabilities.

Legal capacity under international law

The right to legal capacity is also referred to as “the right to have rights” because it is strongly connected with the enjoyment of all other rights ([Devandas Aguilar, 2017](#)).

Article 12(1) of the CRPD states that “State Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.” States are required, under article 12(3), to “take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity”. In relation to this, article 12(5) emphasises the equal right of persons with disabilities with regards to property and financial rights. Under this right, guardianship schemes are prohibited because they cause the person with disability to “lose their capacity to exercise all or almost all of their rights and have no control over decisions related to their lives, from entering into contracts to choosing where and with whom to live” ([Devandas Aguilar, 2017](#)).

The right to legal capacity also interacts with a number of other rights, as noted by the CRPD Committee:

Legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights. It acquires a special significance for persons with disabilities when they have to make fundamental decisions regarding their health, education and work. The denial of legal capacity to persons with disabilities has, in many cases, led to them being deprived of many fundamental rights, including the right to vote, the right to marry and found a family, reproductive rights, parental rights, the right to give consent for intimate relationships and medical treatment, and the right to liberty ([Committee on the Rights of Persons with Disabilities, 2014a](#))

Despite the fundamental importance of legal capacity to the protection of human rights, it has historically been “prejudicially denied to many groups ... including women (particularly upon marriage) and ethnic minorities” ([Committee on the Rights of Persons with Disabilities, 2014a, p. 2](#)). Persons with disabilities “remain the group whose legal capacity is most commonly denied in legal systems worldwide.” ([Committee on the Rights of Persons with Disabilities, 2014a, p. 2](#)). Under the CRPD, states have an immediate obligation to reform their legal frameworks, including family, criminal, mental health and tort and contractual law, in order to guarantee the right to legal capacity for all persons with disabilities ([Devandas Aguilar, 2017](#)). Under article 12, states must repeal all substitute decision-making regimes, such as guardianship schemes ([Devandas Aguilar, 2017](#)).

A particular challenge to inclusive social protection systems for persons with disabilities is the differing interpretation of the term “legal capacity”. During the drafting of the CRPD, a key issue of contention was the interpretation of the term “legal capacity” in Article 12, in particular whether the term encompassed both the capacity to have rights and the capacity to make legal decisions. The CRPD Committee provided guidance on the meaning and

application of the concept of legal capacity in *General Comment No. 1: Article 12 Equal recognition before the law*. The general comments published by the CRPD Committee while not legally binding, they are considered authoritative interpretations of international human rights law ([Langland, 2011](#)). According to the CRPD Committee, “Legal capacity to be a holder of rights entitles a person to full protection of his or her rights by the legal system. Legal capacity to act under the law recognizes that person as an agent with the power to engage in transactions and create, modify or end legal relationships” ([Committee on the Rights of Persons with Disabilities, 2014a](#)). The CRPD Committee has strongly emphasised that “the human rights-based model of disability implies a shift from the substitute decision-making paradigm to one that is based on supported decision-making” ([Committee on the Rights of Persons with Disabilities, 2014a](#)). According to the CRPD Committee, substitute decision-making includes plenary guardianship, judicial interdiction and partial guardianship ([Committee on the Rights of Persons with Disabilities, 2014a](#)).

The interpretation of “legal capacity” in MENA

The MENA states covered in this study adopt an interpretation of legal capacity that differs from that of the CRPD Committee. As shown in Table 1, every state covered in this study raised some form of declaration or official comment regarding its interpretation of “legal capacity” in article 12. Prior to joining the CRPD, Iraq wrote a letter on behalf of the Arab Group,¹⁶ stating that the group were joining the CRPD “based on the understanding that legal capacity, mentioned in paragraph 2 of article 12 of the Convention, entitled “Equal recognition before the law”, means the capacity of rights and not the capacity to act for those who are unable to practice the capacity to act, in accordance with the national laws and legislation of these States” ([Al Boyata, 2006](#)).¹⁷ Notably, the MENA was not alone in this interpretation. Australia and Canada also made declarations that article 12 was interpreted as permitting “substitute decision-making arrangements”. The issue of legal capacity is therefore a contentious issue globally and not just the MENA region.

¹⁶ Algeria, Bahrain, the Comoros, Djibouti, Egypt, Iraq, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen.

¹⁷ The phrase “for those who are unable to practice the capacity to act” was added by corrigendum after the original letter was submitted: United Nations addressed to the Chairman of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. A/AC.265/2006/5; Al Bayati, H. (2006a) Corrigendum: Letter dated 5 December 2006 from the Permanent Representative of Iraq to the United Nations addressed to the Chairman. A/AC.265/2006/5/Corr.1.

The interpretation of legal capacity adopted by the MENA states is based on Islamic jurisprudence which has historically divided the concept of legal capacity into two distinct categories ([Galey, 2019a](#)). The two categories are *ahliyat al-wujub* and *ahliyat al-ada*. Possible translations for these terms are “the capacity to acquire rights and duties (*ahliyat al-wujub*)” and “the capacity to fulfil obligations (*ahliyat al-ada*)” ([State of Palestine, 2019, p. 20](#)). The same two Arabic terms are defined in articles 207 and 208 of the Moroccan family law, known as the *Moudawana* (Family Code No. 70-03 of 2004, *Moudawana*, articles 207 - 208).¹⁸

The concept of *ahliyat al-ada* reflects the view that certain categories of individuals lack “the capacities to be recognized as a full legal person” ([Jabiri, 2016, p. 43](#)). For example, under Palestinian law, “when it comes to the capacity to fulfil obligations (*ahliyat al-ada*), involving the ability to act in accordance with those rights in a manner recognized by the law, the sharia courts hold persons with intellectual disabilities to be incapable of litigation and cognizance” ([State of Palestine, 2019](#)).

Notably, despite the declaration of MENA states regarding the meaning of “legal capacity” in article 12, the Arabic translation of the CRPD actually refers to “legal capacity” in general (*ahliya qanooniya*) and does not use a term that only encompasses a specific type of capacity. That is, the Arabic translation of the CRPD makes no reference to *ahliyat al-wujub* or *ahliyat al-ada*.

In sum, the interpretation of “legal capacity” in the MENA states diverges fundamentally from the authoritative interpretation of the CRPD Committee with ramifications for social protection and human rights of persons with disabilities as outlined in the following section.

Systematic denial of legal capacity in MENA

Across the MENA region, states systematically deny the right to legal capacity to persons with disabilities, particularly, those with developmental and learning disabilities. Without radical reform of the existing system relating to legal capacity in MENA, social protection

¹⁸ Article 207: The “capacity to enjoy” (*la capacité de jouissance*) (*ahliyat al-wujub*) is the ability of a person to acquire rights and obligations under the law. This capacity is attached to the person their whole life and cannot be taken away from him.

Article 208: The “capacity to exercise” (*la capacité d'exercice*) (*ahliyat al-ada*) is the ability of a person to exercise personal and proprietary rights and for these acts to be considered valid. The law sets conditions for the acquisition of the capacity to exercise and the grounds for determining the limitation or loss of this capacity.

measures are likely to perpetuate a charity model of disability with regard to persons with developmental and learning disabilities. As discussed above with regard to discriminatory language, legal provisions in the region tend to use ambiguous and derogatory terms such as “imbecile”, “insane” and “prodigal”. This paper uses the term developmental and learning disabilities to capture the several types of neurodivergence that the laws are likely aiming to cover.

Every MENA state covered in this study has in place legal provisions imposing guardianship on persons with disabilities who are deemed to “lack” legal capacity (*ahliyat al-ada*) on account of developmental and learning impairments. In traditional jurisprudence in the region, there are three grounds for placing someone under guardianship, “minority, insanity, and the state of being female”, and these groups require guardianship as they are perceived as categories of individuals who are in need of care and protection ([Jabiri, 2016, p. 44](#)). In Arabic, there are three terms which refer to guardianship. The common term is *wilaya*, however the term *wissaya* is also used. The difference between the terms is not substantive but procedural. *Wilaya* guardianship is established automatically on the basis of relationship, for example a father with regard to his child, whereas *wissaya* is guardianship established by court order. For this reason, one translation for *wilaya* might be “natural guardianship” and for *wissaya* “legal guardianship” or “court-ordered guardianship”. The Arabic term *qiwama* can also be translated as guardianship, but it is more comparable to a trusteeship as it is a form of guardianship applied only in relation to proprietary or financial interests. Below is a detailed description of the meaning of *wilaya* guardianship:

The definition of *wilaya* in most fiqh [Islamic jurisprudence] literature is “[t]he legal authority vested in a person who is fully qualified and competent to safeguard the interests and rights of another who is incapable of doing so independently.” The word *wilaya* is defined as “the carrying through of a decision affecting a third party whether the latter wishes or not.” In this definition, *wilaya* means complete authority over a person regardless of that person’s opinion. ... *wilaya* notably signifies the power of someone over another without the consent of those who must submit ... The pertinent point here is the capability and incapability of persons, which determines who is the guardian and who should be under guardianship ([Jabiri, 2016, p. 42](#)).

This categorisation is reflected in laws across the region. Kuwaiti personal status laws include a single article which imposes guardianship on women, children and persons with developmental and learning disabilities (referred to as the “insane” and the “imbecile”) (Personal Status Law No. 51 of 1984, article 208). The Moroccan family code, commonly referred to as the *Moudawana*, similarly groups persons with disabilities in the same

category of children when discussing legal capacity (*Moudawana*, articles 206-219). In the same vein, in Algeria, individuals who are deemed to “completely or partially” lacking capacity are subject to legal administration, guardianship or wardship (Civil Code No. 75-58 of 1975, article 44). In Bahrain, the court similarly may determine whether or not a person will retain the right legal capacity ([Government of Bahrain, 2019](#)). Other states also impose comprehensive guardianship systems for persons with disabilities who are deemed to lack legal capacity. A list of the guardianship laws in the region are included in Annex 5.

Whereas Moroccan and Tunisian laws establish processes for persons with disabilities who are under guardianship to have the guardianship lifted (Moroccan Family Code No. 70-03 of 2004, *Moudawana*, article 218; Tunisian Personal Status Code of 1956, article 168), similar provisions were not located for other jurisdictions.

By denying the right to legal capacity, persons with developmental and learning disabilities are infantilised under the law, rendering them as objects of the law rather than rights-holders. Guardianship systems have direct implications for the social protection systems in the MENA region, particularly with regard to the distribution of social protection benefits and whether persons with disabilities actually receive the funds intended for their benefit. For example, in Palestine, trustees manage the funds of persons with disabilities. Any inheritance funds owed to persons with intellectual disabilities are held by the Foundation for the Management and Development of Orphans’ Funds and if the wife and/or children of a man with a disability makes a claim for financial support, the amount will be transferred from his assets by the guardian or trustee ([State of Palestine, 2019](#)).

When social protection benefits go to a third party, “the disabled person does not have autonomy to make choices regarding the distribution and use of that funding” rendering the person more vulnerable ([Arstein-Kerslake, 2019](#)). The Special Rapporteur on the rights of persons with disabilities has emphasised the need for persons with disabilities to be given choice and control over their disability benefits. Transfers should ideally be given to the individual themselves rather than to the household, because “if the disability benefit is provided as part of a household-related benefit, there is no guarantee that it would actually contribute to the social participation and inclusion of the person with a disability. The fact that many individuals may require support in their daily lives, does not mean they should not retain control over their personal budgets and the choice of support received ([Devandas-Aguilar, 2015](#)).

The Special Rapporteur on the rights of persons with disabilities conducted a state visit to Kuwait in 2019 and noted that she “received reports that often, caregivers keep the funds

for themselves and/or discourage their relatives with disabilities from accessing education and employment in order to maintain such benefits. She was also informed of the situation of mothers who, following a divorce, continue to take care of their children with disabilities, while the father becomes the official recipient of the caregiver benefit.” ([Devandas-Aguilar, 2019](#)).

The denial of legal capacity also contributes to a lack of political representation of persons with disabilities, which undermines the social contract. A number of states prohibit persons with disabilities from exercising their right to vote and the right to run for political office. Algerian electoral laws prohibit individuals from voting in or running for elections if they have been deemed as lacking legal capacity (Electoral Act No. 12-01 of 2012, articles 3, 45). The Jordanian constitution similarly prohibits persons with developmental and learning disabilities (described as the “imbecile” and the “insane”) from being members of the Jordanian Senate or the House of Representatives (Constitution of Jordan 1952, article 75). On the other hand, in regards to physical disabilities, some states have measures in place to assist the right to vote, such as Palestine and the Kurdish Region in Iraq, which both have provisions to allow a person who is unable to read and/or write to seek assistance completing voter cards during elections (Law of the National Council of Kurdistan Iraq No. 1 of 1992, article 29(2); Palestinian Local Government Council Election Act No. 10 of 2005). These provisions suggest that there is positive progress with regard to persons with physical disabilities, but they also demonstrate that the same progress has not been achieved with regard to persons with other types of disabilities. Without the protection of the right to legal capacity, inclusion of persons with developmental and learning disabilities in social protection systems will continue to be undermined.

Accountability is another key part of a human rights approach to inclusive social protection, meaning that there must be accountability mechanisms and complaints procedures to challenge decisions and actions that impact the right to social protection ([Kidd et al., 2019](#)). However, as laws in the MENA deny legal capacity to persons with developmental and learning disabilities, their ability to challenge actions which impact them are undermined. Likewise, denying the right to legal capacity affects their access to justice in general ([Devandas Aguilar, 2017](#)). For example, laws in the region prevent persons with disabilities who are the victims of crimes from submitting complaints to the relevant authorities. Instead, their guardians must submit the complaints on their behalf (see, for example, Bahrain Code of Criminal Procedure No. 46 of 2002, article 10). This occurs even where constitutions, in theory, protect the right to litigate for all. For example, the Constitution of Kuwait guarantees the right to litigation for all (Constitution of Kuwait 1962, article 166),

but the Government of Kuwait has specifically stated that this constitutional provision does not apply to persons with mental disabilities who will, instead, have an agent appointed to act on their behalf ([Government of Kuwait, 2017, p. 22](#)).

While the denial of legal capacity is primarily focused on persons with developmental and learning disabilities, some states in the region also deny the right to litigate to persons with visual and/or hearing impairments (Iraqi Civil Code No. 40 of 1951, article 104; Jordanian Civil Code No. 43 of 1976, article 132). The provisions in Iraqi and Jordanian law are identical and likely date back to Ottoman rule, since the codification of personal status laws in the Middle East date back to the Ottoman Law of Family Rights of 1917 ([Welchman, 2007](#)). During the Ottoman era, the testimony of persons with visual and hearing impairments were not accepted in three out of the four main schools of Sunni Islamic law ([Scalenghe, 2014](#)).¹⁹

On the other hand, some of the states studied had legal provisions aimed at facilitating the right to litigation for persons with visual and/or hearing impairments. For example, Qatari law guarantees the right to a sign language interpreter for the questioning of litigants, witnesses, suspects or victims (Qatari Penal Code No. 11 of 2004, article 72). Qatar has also translated copies of the Criminal Code and the Code of Criminal Procedure into Braille ([Government of Qatar, 2014](#)). Bahraini law similarly requires that sign language interpretation is made available for legal proceedings and that documents be provided in Braille to ensure the equal participation of persons with visual and/or hearing impairments in administrative and legal processes ([Government of Bahrain, 2019, p. 9](#)). Jordan has implemented an innovative program to train police officers in sign language, in order to enable persons with hearing impairments to report crimes ([Jordanian Deaf Community, 2016](#)). However, it should be noted that Jordanian laws still state that a legal guardian (*wasi*) should be appointed if a person is “unable to express his will” because the person is “deaf-mute, deaf-blind, or mute-blind” (Jordanian Civil Code Law No. 43 of 1976, article 132).

In the MENA states studied, persons with developmental and learning disabilities are systematically denied the right to freely marry or freely divorce. For example, Iraqi personal status laws provide that persons who are “mentally ill” or not of “sound mind” are not permitted to marry, unless it is proven by a medical report that the marriage does not harm

¹⁹ There are four main Sunni schools of thought (known as *madhhab*) within Islamic jurisprudence (*fiqh*): Shafi'i, Hanafi, Hanbali and Maliki. Of these, only the Maliki school of thought historically permitted the use of writing and/or sign language to enable persons with visual and/or hearing impairments to give evidence (Scalenghe, 2014).

society, that the marriage is in the individual's personal interest and that the other spouse consents to the marriage (Iraqi Personal Status Law No. 188 of 1959, article 7). Further, requests for divorce by persons with developmental and learning disabilities are not considered valid (Iraqi Personal Status Law No. 188 of 1959, article 35). Similar articles exist in the personal status laws of countries across the region (Kuwait Personal Status Law No. 51 of 1984, articles 24 and 102; Moroccan Family Code No. 70-03 of 2004 "*Moudawana*", articles 23 and 65). The right to marry and to divorce is a fundamental part of the right to respect for home and family life (CRPD, article 23) and also clearly impacts upon other rights, such as the right to enjoy the highest attainable standard of health (CRPD, article 25). It is also closely intertwined with economic security. In the MENA, as elsewhere, marriage is "a system for generating social security and standing" ([Sargent, 2019](#)). Therefore, the denial of the right to freely marry has clear economic and social consequences for persons with disabilities and is likely to influence the need for social protection interventions.

The stigmatisation of disability is also connected with laws relating to divorce and alimony. For example, under the Iraqi personal status laws, a woman who is "unable to obey her husband" due to illness is not entitled to alimony payments in the event of divorce (Iraqi Personal Status Law No. 188 of 1959, article 25). These laws presumably included women with disabilities. Thus, access to financial support that women would otherwise enjoy is denied on the basis of disability and/or illness, rendering them more vulnerable and likely in greater need for social protection.

A list of the laws denying the right to freely marry and/or divorce is included in Annex 6.

Last of all, the denial of legal capacity interferes with the right to social protection through the denial of consent to measures designed to "protect" persons with disabilities. In Jordan, the Higher Council for the Rights of Persons with Disabilities has specifically noted its concern that guardians are able to place persons with disabilities in institutions without obtaining consent: "all residents of institutions are placed through their guardians without obtaining consent from the persons with disabilities themselves" ([Higher Council for the Rights of Persons with Disabilities, 2019](#)).

5 Way Forward

This paper has identified key legal and policy issues in relation to the right to social protection for persons with disabilities in the MENA region. As a whole, there needs to be a transition away from medical and charity approaches to disability and social protection towards a rights-based disabilities and social protection paradigm. Moving forward, there must be taken concrete steps to convert the visions presented above into practical recommendations, actively pursuing an inclusive social protection system for all in the MENA region. The following recommendations explore the basic components of social protection to ensure that everyone's rights are fully respected and that the system can be a springboard to full participation.

Practical recommendations towards that paradigm shift include:

Recommendations for states

1. Remove interpretative declarations regarding article 12 of the CRPD and adopt a definition which aligns with the CRPD Committee's interpretation of legal capacity
2. Undertake comprehensive review of domestic laws to ensure compliance with article 12 of the CRPD
3. Remove the use of all discriminatory language from laws and policies
4. Provide training to government officials and other relevant parties about the correct use of terminology
5. Introduce legal protection against discrimination on the basis of disability and ensure that definitions of discrimination include a denial of reasonable accommodation as a form of discrimination
6. When relevant, take steps to include non-citizens with disabilities in social protection mechanisms
7. Ensure participation and representation of persons with disabilities in decision-making processes
8. Ensure that government hiring practises and internal policies comply with a human-rights approach to disability
9. Ensure that national bodies responsible for monitoring the rights of persons with disabilities are adequately resourced and that ministries responsible for social protection effectively coordinate with these bodies
10. Continue to coordinate with civil society and the international community to develop inclusive social protection system.



Recommendations for civil society

1. Undertake research into the lived experiences of persons with disabilities in the MENA region and the barriers they face to accessing social protection. While some exploratory work has been done in the context of the Maghreb, the Mashreq and Gulf region need further focus on this issue.
2. Advocate for social protection reform
3. Ensure and enhance participation and representation of persons with disabilities within organisations.

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Annex 1: Migrants and Refugees in MENA

| Population | Group Description | Source |
|--------------|--|-------------------------------------|
| 23 million | Estimated number of migrant workers in Arab states: <ul style="list-style-type: none"> • 1.6 million of whom are migrant domestic workers | (ILO, n.d., 2017) |
| 16.8 million | “People of concern” in the MENA region, including refugees, asylum seekers, internally displaced people, stateless people, and others of concern <ul style="list-style-type: none"> • 5.6 million Syrian refugees | (UNHCR, 2019) |
| 3.1 million | Palestinians registered with UNRWA in Jordan, Lebanon, and Syria <ul style="list-style-type: none"> • 2.2 million in Jordan • 438,000 in Syria • 479,537 in Lebanon | (UNRWA, 2018, 2021) |

Annex 2: ICESCR Signatures, Ratifications, Reservations and Declarations

| Country | Date of Signature | Date of Ratification / Accession ²⁰ | Reservations R Declarations D |
|--------------|-------------------|--|--|
| Algeria | 10 Dec 1968 | 12 Sep 1989 | D Arts 1, 8, 13(3), 13(4), 14, 22, 23(4) |
| Bahrain | -- | 27 Sep 2007 | D Art 8(1)(d) |
| Egypt | 4 Aug 1967 | 14 Jan 1982 | D General ²¹ |
| Iraq | 18 Feb 1969 | 25 Jan 1971 | D General ²² |
| Jordan | 30 Jun 1972 | 28 May 1975 | Nil |
| Kuwait | -- | 21 May 1996 | D Art 2(2), 2(3), 9 ²³ R Art 8(1) |
| Morocco | 19 Jan 1977 | 3 May 1979 | Nil |
| Qatar | | 21 May 2018 | D Art 8 ²⁴ R Art 3 |
| Saudi Arabia | -- | -- | N/A |
| Syria | -- | 21 Apr 1969 | D General ²⁵ D Art 26(2) ²⁶ |
| Tunisia | 30 Apr 1968 | 18 Mar 1969 | Nil |
| Palestine | -- | 2 Apr 2014 | Nil |

²⁰ For list of ratifications and accessions, see UN Treaty Collection, "Convention on the Rights of Persons with Disabilities". Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&clang=en

²¹ Declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it"

²² Declaration that ratification does not signify recognition of Israel.

²³ Declarations: Article 2(2) and 2(3) only applies within the limits of existing Kuwaiti laws; Article 9: social security provisions only apply to Kuwaiti workers.

²⁴ Interpretation of "trade union" to be in accordance with Qatari law; Reservation as to article 3 because the provisions "contravene the Islamic Sharia with regard to questions of inheritance and birth."

²⁵ Declaration as to non-recognition of Israel.

²⁶ Claims that this paragraph is incompatible with the purposes and objectives of the ICESCR.

Annex 3: The right to social security in international human rights treaties

| Treaty | Articles | Right to social security and adequate standard of living |
|---------------------------|--------------|---|
| ICESCR | Art 9 | The right to social security |
| | Art 11(1) | The right to an adequate standard of living, including adequate food, clothing, and housing, and to the continuous improvement of living conditions |
| CEDAW | Art 11(e) | The right to social security, particularly” in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave |
| | Art 14(c) | The right to social security for rural women |
| | Art 14(h): | Reasonable living conditions to be ensured for rural women, particularly in relation to housing, sanitation, electricity and water supply, transport, and communications |
| CRC | Art 23(3) | “Special care” for children with disabilities, particularly with regard to education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities, social integration |
| | Art 26 | The right to benefit from social security, including social insurance |
| | Art 27 | The right to an adequate standard of living, particularly with regard to nutrition, clothing and housing. |
| ICRMW | Art 27(1) | In relation to social security, migrant workers and their family members are to enjoy “the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties” |
| CRPD | Art 28(2) | The right to social protection |
| | Art 28(1) | The right to an adequate standard of living, including adequate food, clothing, and housing, and to the continuous improvement of living conditions |
| Refugee Convention | Art 20-21 | Access to rations and housing for refugees on a basis no less favourable than nationals |
| | Art 24(1)(b) | The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters: [...] (b) Social security (legal provisions in respect of |

| | | |
|--|--|---|
| | | employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations [...] |
|--|--|---|

Annex 4: Legal protection against discrimination on the basis of disability

| State | Constitutional protection against discrimination | Domestic law protection against discrimination on the basis of disability |
|---------|---|---|
| Algeria | <p><i>Bases:</i> Birth, race, gender, opinion, or any other personal or social condition or situation</p> <p><i>Limitation:</i> Only applies to citizens</p> <p><i>Source:</i> Constitution of Algeria 2020, Art 37</p> | <p><i>Nil</i></p> <p>National legislation does not recognize the principles of equality and non-discrimination of persons with disabilities (Committee on the Rights of Persons with Disabilities, 2019b)</p> |
| Bahrain | <p><i>Bases:</i> Sex, origin, language, religion, or creed</p> <p><i>Limitation:</i> Only applies to citizens</p> <p><i>Source:</i> Constitution of Bahrain 2002, art 18</p> | <p><i>Protection:</i> Nil</p> <p><i>Source:</i> Care, Rehabilitation and Employment of the Disabled Law No. 74 of 2006</p> |
| Egypt | <p><i>Bases:</i> Religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason</p> <p><i>Source:</i> Constitution of Egypt 2014</p> | <p><i>Protection:</i> Discrimination on the basis of disability is prohibited</p> <p><i>Source:</i> Rights of Persons with Disabilities Law No. 10 of 2018, article 4</p> |
| Iraq | <p><i>Bases:</i> Gender, race, ethnicity, nationality, origin, colour, religion, sect, belief, or opinion, or economic or social status.</p> <p><i>Limitation:</i> Only applies to Iraqis</p> <p><i>Source:</i> Constitution of Iraq 2005, article 14</p> | <p><i>Protection:</i> The Iraqi federal law on disability defines disability and states that the elimination of disability is the aim of the law, but it does not provide actual protection against disability. The Kurdish regional law does not mention disability.</p> <p><i>Source:</i> <i>Care of Persons with Disabilities and Special Needs Act No. 38 of 2013</i> (Iraq - Federal), articles 1 and 2; <i>The Law of Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq No. 22 of 2011</i> (Iraq - Kurdish Region)</p> |

| | | |
|--------------|---|---|
| Jordan | <p><i>Bases:</i> Race, language, or religion</p> <p><i>Limitation:</i> Only applies to Jordanians</p> <p><i>Source:</i> Constitution of Jordan 1952, article 6</p> | <p><i>Protection:</i> Non-discrimination is a principle of the law but there is not a general prohibition against discrimination. Rather, the law prohibits discrimination in a range of specific contexts e.g., access to higher education</p> <p><i>Source:</i> Rights of Persons with Disabilities Law No. 20 of 2017</p> |
| Kuwait | <p><i>Bases:</i> Gender, origin, language, or religion</p> <p><i>Limitation:</i> Nil (applies to “the people”)</p> <p><i>Source:</i> Constitution of Kuwait 1962, article 29</p> | <p><i>Protection:</i> Nil</p> <p><i>Source:</i> Rights of Persons with Disabilities Law No. 8 of 2010</p> |
| Morocco | <p><i>Bases:</i> Sex, or colour, of beliefs, of culture, of social or regional origin, of language, of handicap or whatever personal circumstance that may be</p> <p><i>Limitation:</i> Nil (applies to discrimination whenever the state encounters it)</p> <p><i>Source:</i> Constitution of Morocco 2011, preamble</p> | <p><i>Protection:</i> Discrimination on the basis of disability is criminalized; Public authorities are prohibited from discriminating on the basis of disability</p> <p><i>Sources:</i> Penal Code No. 1-59-413 of 1962, article 431-1 to 431-5; Protection and Promotion of the Rights of Persons with Disabilities Law No. 97-13 of 2016</p> |
| Qatar | <p><i>Bases:</i> Sex, race, language, or religion</p> <p><i>Limitation:</i> Nil (refers to “people”)</p> <p><i>Source:</i> Constitution of Qatar 2003, article 35</p> | <p><i>Protection:</i> Nil</p> <p><i>Source:</i> Persons with Special Needs Law No. 2 of 2004</p> |
| Saudi Arabia | <p><i>Bases:</i> Nil</p> <p><i>Source:</i> Basic Law of Saudi Arabia 1992</p> | <p><i>Protection:</i> Nil</p> <p><i>Source:</i> Disability Care Act 2000</p> |
| Syria | <p><i>Bases:</i> Sex, origin, language, religion, or creed</p> <p><i>Limitation:</i> Only applies to citizens</p> <p><i>Source:</i> Constitution of Syria 2012, article 33</p> | <p><i>Protection:</i> Nil</p> <p><i>Source:</i> Persons with Disabilities Law No. 34 of 2004</p> |
| Tunisia | <p><i>Bases:</i> Gender, disability</p> <p><i>Source:</i> Constitution of Tunisia 2014, articles 21 and 48</p> | <p><i>Protection:</i> Ensure equal opportunities, promotion, and protection of persons with disabilities and other persons against any form of discrimination.</p> <p><i>Source:</i> Directive Law No. 2005-83 dated August 15, 2005, relating to the advancement and protection of persons with disabilities, Article 1</p> |

| | | |
|-----------|--|---|
| Palestine | <p><i>Bases:</i> Race, sex, colour, religion, political views, or disability</p> <p><i>Limitation:</i> Only applies to Palestinians</p> <p><i>Source:</i> Basic Law of Palestine 2002, article 9</p> | <p><i>Protection:</i> Against all kinds of violence, abuse, and discrimination</p> <p><i>Source:</i> Rights of Persons with Disabilities Law No. 4 of 1999, article 9</p> |
|-----------|--|---|

Annex 5: Guardianship laws in the MENA region

| State | Law | Article | Description |
|----------------|---|------------|--|
| Algeria | Civil Code No. 75-58 of 1975 | Art 44 | “Those who are completely or partially incapable shall be subject, as the case may be, to the system of legal administration, guardianship or curatorship under the conditions and in accordance with the rules prescribed by law.” |
| Bahrain | -- | -- | Bahraini laws consider persons with mental disabilities as lacking legal capacity and therefore it subjects them to guardianship (Government of Bahrain, 2019). |
| | Financial Guardianship Legislative Decree No. 7 of 1986 | Arts 10-11 | The Board of Directors of the Funds of Minors supervises the guardians of those “lacking capacity” and, in the absence of such a guardian, the Board will appoint a guardian. |
| Egypt | Civil Code No. 131 of 1948 | Art 47 | “Persons deprived of full or partial legal capacity are governed, as the case may be, by the rules of guardianship (<i>wilaya</i> , <i>wissaya</i> or <i>qiwama</i>) ²⁷ subject to the conditions and in accordance with the rules laid down by law.” |
| Iraq | Civil Code No. 40 of 1951 | Art 46(2) | “The incompetent shall be subject to the provisions of guardianship (<i>wilaya</i> , <i>wissaya</i> or <i>qiwama</i>) in accordance with the conditions and rules established by law.” |
| Jordan | Civil Code Law No. 43 of 1976 | Art 46 | The incompetent “are subject to the provisions of guardianship (<i>wilaya</i> , <i>wissaya</i> or <i>qiwama</i>) of the conditions and in accordance with the rules established in the law.” |

²⁷ The common term used for guardianship in Arabic is *wilaya*, however the term *wissaya* can also be used. The difference between the terms is not substance but procedure. *Wilaya* guardianship is established automatically on the basis of relationship, for example a father with regard to his child, whereas *wissaya* is guardianship established by court order. For this reason, one translation for *wilaya* might be “natural guardianship” and for *wissaya* “legal guardianship” or “court-ordered guardianship.” The Arabic term *qiwama* can also be translated as guardianship, but it is more comparable to a trusteeship as it is a form of guardianship applied only in relation to proprietary or financial interests.

| | | | |
|---------------------|--|---------|---|
| Kuwait | Personal Status Law No. 51 of 1984 | Art 208 | Legal minors, the “insane” and the “imbecile” are subject to legal guardianship (<i>wilaya</i>) |
| Morocco | Family Code No. 70-03 of 2004 “ <i>Moudawana</i> ” | Art 211 | “The incompetent are subject to the provisions of guardianship (<i>wilaya</i>) or guardianship (<i>wissaya</i>) or submission terms and according to the rules established in this Code.” |
| Qatar | Family Law No. 22 of 2006 | Art 190 | “The incompetent, absent, and missing person are subject to the provisions of guardianship (<i>wilaya</i>), trusteeship/wardship (<i>wissaya</i>) and trusteeship (<i>qiwama</i>) stipulated in the Guardianship Law over the funds of minors and the like. |
| Saudi Arabia | Personal status laws (uncodified) | N/A | Saudi personal status laws are not codified, but rather based on religious laws (Aldosari, 2016), which have traditionally imposed guardianship on persons with developmental and learning disabilities (Ghaly, 2019b). |
| Syria | Civil Code Legislative Decree No. 84 of 1949 | Art 49 | “Those who are incompetent are subject to the provisions of guardianship (<i>wilaya</i>), trusteeship/wardship (<i>wissaya</i>) and trusteeship (<i>qiwama</i>) with the conditions in accordance with the rules established by law” |
| Tunisia | -- | -- | Persons with mental disabilities may be declared incompetent by a judge and subject to guardianship (<i>qiwama</i>)(Government of Tunisia, 2019). |
| Palestine | -- | -- | Persons with intellectual disabilities are subject to guardianship (<i>wilaya</i> or <i>wissaya</i>) (State of Palestine, 2019). |

Annex 6: The right to marry and divorce for people with disabilities in MENA

| State | Law | Article | Description |
|----------------|-------------------------------------|-----------|---|
| Algeria | Not located | -- | -- |
| Bahrain | Family Law No. 19 of 2017 | Art 21 | <i>Marriage:</i> A judge may permit the marriage of an insane or mentally ill person, subject to the following: <ul style="list-style-type: none"> a. The acceptance of the other party to marry him after knowing his condition. b. The issuance of permission shall be by a judge upon the request of the guardian. c. There shall arise a benefit from his marriage or perversion of a harm thereto. d. There must be no harm or risk to him, his wife, or offspring, provided that this shall be proven by a certificate issued by a certified medical committee. |
| | | Art 84(b) | <i>Divorce:</i> The divorce by a juvenile, an insane, a mentally ill person, a person under duress or by a person who lacks comprehension because of intoxication, anger or otherwise shall have no effect |
| Egypt | | | |
| Iraq | Personal Status Law No. 188 of 1959 | Art 7(2) | <i>Marriage:</i> The judge may authorize the marriage of one of the mentally ill spouses if it is proven by a medical report that his marriage does not harm society and that it is in his personal interest if the other spouse explicitly accepts the marriage. |
| | | Art 35(1) | <i>Divorce:</i> Divorce of the following persons does not take place: 1) The drunk, the insane, the imbecile, the coerced, and anyone who lacks discernment due to anger, sudden misfortune, old age, or illness. |
| Jordan | Personal Status Law No. 15 of 2019 | Art 12 | <i>Marriage:</i> A judge may authorize the marriage of a person who is insane, demented, or mentally disabled if it is proven by an official medical report that the marriage is in his interest that “what is in him” is not transferable to his offspring, and that it does not constitute a danger to the other party |

| | | | |
|---------------------|---|---------|---|
| | Personal Status Law No. 15 of 2019 | Art 86 | <i>Divorce:</i> The divorce of a drunk and a person of similar status does not take place, nor the dumbfounded, the coerced, the imbecile, the unconscious, or the sleeping. |
| Kuwait | Personal Status Law No. 51 of 1984 | Art 24 | <i>Marriage:</i> The judge may authorise the marriage of an insane or lunatic if it is proven by a medical report that his marriage is beneficial to his recovery, and the other party is satisfied with his condition. |
| | | Art 102 | <i>Divorce:</i> The insane and the lunatic cannot divorce ... because their will is non-existent [...] |
| Morocco | Family Code No. 70-03 of 2004, <i>Moudawana</i> | Art 23 | <i>Marriage:</i> A judge may authorise the marriage of the mentally handicapped, whether male or female, on production of a report drawn up by one or more medical experts on the state of the disability. The judge communicates the report to the other party and reports on it in an oral deposition. The other party must be of legal age and expressly consent by authentic commitment at the conclusion of the marriage certificate with the disabled person. |
| | Family Code No. 70-03 of 2004, <i>Moudawana</i> | Art 90 | <i>Divorce:</i> The request for permission to divorce of a drunk person, the compelled person or the angry person is not accepted. |
| Qatar | | | |
| Saudi Arabia | Personal status laws (uncodified) | N/A | Saudi personal status laws are not codified, but rather based on religious laws (Aldosari, 2016), which have traditionally limited the right to marry or divorce for persons with developmental and learning disabilities (Ghaly, 2019b). |
| Syria | | | |
| | Personal Status Legislative Decree No. 59 of 1953 | Art 89 | 1) The divorce of the drunk, the compulsive, the insane, the imbecile, the one who is dumbfounded, or the one who is mistaken 2) The one who is dumbfounded is the one who has lost his discernment from anger or something else |
| Tunisia | | | |
| Palestine | Jordanian Personal Status Law | Art 8 | <i>Marriage:</i> The judge may authorize the marriage of a person who is insane or demented, if it is proven by a medical report that his marriage is in his interest |

| | | | |
|--|------------------------------|--------|---|
| | No. 61 of 1976 ²⁸ | | |
| | | Art 88 | <i>Divorce:</i> a) The divorce of the drunk, the dumbfounded, the compelled, the imbecile, the unconscious, or the sleeper does not take place b) The dumbfounded person is the one who has lost his distinction of anger, anger, or others, so he does not know what he is saying |

²⁸ Operative in the West Bank only. After the 1967 occupation of the West Bank, Jordanian law continued to be in force in the West Bank (International Commission of Jurists, 1980). Certain provisions of the Jordanian Penal Code have been repealed for the West Bank (Human Rights Watch, 2018).

Annex 7: List of Statutes

Algeria

Constitution of Algeria 2020

Civil Code No. 75-58 of 1975

Electoral Act No. 12-01 of 2012

Finance Act 1992

Protection and Promotion of the Rights of Persons with Disabilities Law 2002

Bahrain

Constitution of Bahrain 2002

Care, Rehabilitation and Employment of the Disabled Law No. 74 of 2006

Civil Code No. 19 of 2001

Code of Criminal Procedure No. 46 of 2002

Financial Guardianship Legislative Decree No. 7 of 1986

Family Law No. 19 of 2017

Egypt

Civil Code No. 131 of 1948

Constitution of Egypt 2014

Rights of Persons with Disabilities Law No. 10 of 2018

Social Insurance Law No. 92 of 1959

Social Security Law No. 137 of 2010

Iraq & Kurdistan Region in Iraq

Constitution of Iraq 2005

Care of Persons with Disabilities and Special Needs Act No. 38 of 2013

Civil Code No. 40 of 1951

Rights and Privileges for Persons with Disabilities and People with Special Needs in the Kurdistan Region-Iraq Law No. 22 of 2011

Law of the National Council of Kurdistan Iraq No. 1 of 1992

Personal Status Law No. 188 of 1959

Pensions and Social Security Act No. 39 of 1971

Jordan

Civil Code No. 43 of 1976

Constitution of Jordan 1952
Rights of Disabled People Law No. 31 of 2007 [repealed]
Rights of Persons with Disabilities Law No. 20 of 2017
Social Security Law No. 1 of 2014

Kuwait

Constitution of Kuwait 1962
Rights of Persons with Disabilities Law No. 8 of 2010
Personal Status Law No. 51 of 1984

Morocco

Constitution of Morocco 2011
Family Code No. 70-03 of 2004 (*Moudawana*)
Protection and Promotion of the Rights of Persons with Disabilities Law No. 97-13 of 2016
Royal Decree No. 1-59-301 of 1959 establishing the National Pension and Insurance Fund
Social Protection of Persons with Disabilities Law No. 07-92 of 1993

Palestine

Basic Law of Palestine 2002
Rights of Persons with Disabilities Law No. 4 of 1999
Civil Service Law No. 4 of 1998
Local Government Council Election Act No. 10 of 2005
Social Security Decree-Law No. 6 of 2016
Public Pensions Act No. 7 of 2005
Jordanian Personal Status Law No. 61 of 1976²⁹

Qatar

Constitution of Qatar 2003
People with Special Needs Law No. 2 of 2004
Penal Code No. 11 of 2004
Social Security Act No. 38 of 1995
Family Law No. 22 of 2006

²⁹ Operative in the West Bank only. After the 1967 occupation of the West Bank, Jordanian law continued to be in force in the West Bank (International Commission of Jurists, 1980). Certain provisions of the Jordanian Penal Code have been repealed for the West Bank (Human Rights Watch, 2018).

Saudi Arabia

Basic Law of Saudi Arabia 1992

Disability Care Act 2000

Health Law 2002

Anti-Harassment Crime Law 2018

Anti-Trafficking in Persons Law 2009

Social Security Regulation promulgated by Royal Decree No. M/45 of 2006

Syria

Constitution of Syria 2012

Persons with Disabilities Law No. 34 of 2004

Social Insurance Law No. 92 of 1959

Civil Code Legislative Decree No. 84 of 1949

Tunisia

Constitution of Tunisia 2014

Personal Status Code of 1956

Empowerment and Protection of Disabled People Law No. 83 of 2005