

IMPLEMENTING THE INTERNATIONAL CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES IN QATAR: FROM CHARITY TO HUMAN RIGHTS¹

PABLO RODRÍGUEZ DEL POZO²

MARÍA DEL CARMEN BARRANCO AVILÉS³

KHALID AL ALI⁴

RAFAEL DE ASÍS ROIG⁵

Abstract: A historically marginalized and overlooked segment of the general population worldwide, persons with disabilities have long struggled with discrimination, inequality and even maltreatment. They have often been treated as societal outcasts and their disabilities treated as medical conditions that need to be “fixed” in order for the individual to join the rest of society. Throughout the last three decades, this approach has been steadily changing towards an inclusive model whereas persons with disabilities are recognized as a protected group of citizens who are due the same complete human rights as the general population. This change has become particularly evident with the United Nation’s approval of the International Convention on the Rights of Persons with Disabilities (CRPD) in 2006. However, the strides made by the approval of the CRPD are merely philosophical unless the rights recognized by the Convention can be defended by a court of law. This is where the importance of the ratification of the CRPD by member and observer states comes into focus. By ratifying the treaty in 2008, Qatar committed itself to a number of social and legal obligations. However, implementation of the CRPD in Qatar is dependent on a number of factors including political willingness, the abilities of the CRPD’s United Nations Follow-Up Committee, and the capacity to raise awareness among the public in Qatar. This paper looks into the traditional approaches taken towards persons with disabilities, the impact of the CRPD and the challenges faced by Qatar as it looks to implement the CRPD.

Keywords: Disabilities, Qatar, United Nations, Human rights, Non-Discrimination

The history of human rights in the 20th century might best be described as an evolving process moving toward equality, non-discrimination (Peces-Barba 2014), and the elimination of geographic and non-geographic borders (Ansuátegui 2014). This has

¹ This publication was made possible by the NPRP award NPRP-7-380-5-051 from the Qatar National Research Fund (a member of The Qatar Foundation). The statements made herein are solely the responsibility of the authors.

² Weill Cornell Medical College in Qatar (prd2002@qatar-med.cornell.edu).

³ Universidad Carlos III de Madrid, Spain (mcarmen.barranco@uc3m.es).

⁴ Qatar University (kalali@qu.edu.qa).

⁵ Universidad Carlos III de Madrid, Spain (rafael.asis@uc3m.es).

continued to the present day and in all likelihood will endure throughout the 21st century.

Independently of other factors, two main processes have led to the path toward equality and non-discrimination, and continue to have an overarching influence: the process of generalization and the process of specification of human rights (Peces-Barba 2015: 154). Generalization seeks to extend the benefits of human rights to persons or groups who were not recognized as bearers of those rights or who were in practice denied the benefits of those rights. Specification attributes some particular rights to certain persons in order to allow them to fully enjoy the complete set of human rights enjoyed by the general population. These two processes have manifested as two main dimensions: equality as non-discrimination and equality as a demand for differential treatment (sometimes called positive discrimination).

In the process of specification, the notion of formal equality (equality before the law) is combined with the idea of material equality, which consists of the factual enjoyment of rights (Barranco 2011: 22). Material equality often requires a differential treatment for certain persons or groups affected by difficulties that impede or condition the effective exercise of their equal rights. The process of specification, thus, gets reflected as demands for positive differentiation in order to protect the rights of individuals who face special difficulties in exercising their basic rights.

In line with the process of specification, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) introduced a new paradigm for the rights of persons with disabilities. In addition, it introduced for the first time a relationship between diversity, equality, and the foundation of human rights in an international legal text.

The challenges of implementing the CRPD and making the domestic legislation of signatory countries consistent with its mandates are enormous, and the State of Qatar is one of many countries that are exploring revisions to its existing legislation. In this article, we will analyze the basic contents of the CRPD together with a historic account of the notions that inform it. We will analyze the contextual factors that might contribute to Qatar's success in implementing the Convention but which might also present certain challenges. Further, we will suggest a roadmap to better understand if and how the text of domestic legislation and regulations is consistent with the CRPD's mandates. We will finish by suggesting strategies that might help speed up the process of implementation, by pointing out some of the challenges – and opportunities – that lie ahead.

THE INTERNATIONAL CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The International CRPD, approved by the United Nations General Assembly on December 13, 2006, was the culmination of a long process and the fruition of the contributions of many actors ranging from the United Nations member states to

observer states, UN agencies, national organizations concerned with human rights (Palacios 2008; Cabra, Palacios, Bariffi 2009), and organizations for people with disabilities, as well as individuals with disabilities, all of whom played a noteworthy role throughout the crafting of the CRPD⁶.

Historically, the UN considered disability as a matter of social development, and thus kept it outside the scope of the system of international protection of human rights (Quinn and Degener 2002; Lawson 2007, Mègret 2008). However, its approach underwent a steady change over the last three decades. An example of this development is the framing of Standard Rules on the Equalization of Opportunities for Persons with Disabilities, which was adopted by the UN General Assembly, in 1993⁷. Thanks to this document, people with disabilities have come to be understood as a group in need of protection. The UN has also emphasized the particular nature of the rights of persons with disabilities in certain situations and has insisted that member states must adopt special measures to guarantee the enjoyment of human rights by those individuals with disabilities. However, the Standard Rules remains a non-enforceable document; it is useful as a guide or soft law, but it does not strengthen the rights of these vulnerable groups. This was a long-time concern among the experts who maintained that it was necessary to have an international treaty specifically to protect the rights of persons with disabilities (Quinn and Degener 2002: 293–294).

It was not until May 2001 that such an instrument began to be prepared, culminating in what became the first human rights treaty of the 21st century, the CRPD. The Convention was a major leap forward, because it came to universally crystallize the most up-to-date notions of disability, based on its social causation and its understanding as an element of diversity, leaving behind the outdated concept of disability as a medical problem. In the following pages, we will take a historical look at the categorization of disability and will summarize the main traits of the concept of disability as introduced by the CRPD.

From undesired evil to social enrichment: Models of disability and human rights

There are various ways of thinking about disability. A leading disability scholar, Agustina Palacios, from the Universidad Nacional de Mar del Plata, in Argentina, has identified three major historical models through which the concept of disability has been conceived, which, in turn, determined how disabled persons should be treated (Palacios 2008: 103).

Isolation and exclusion

The isolation and exclusion notion of disability is the most primitive one. In this model, magic or the intervention of supernatural powers were considered to be the cause

⁶ These organizations, which totaled about 70 at the end of the process, worked together in the International Disability Caucus.⁷

⁷ Resolution 48/96, adopted by the General Assembly 48/96 (A/RES/48/96).

of disability. People with disability were considered unnecessary, or even dangerous, bearers of evil messages or living signs of the God's ire. As a consequence, societies isolated these people by marginalizing them or, at best, by treating them as objects of charity – to alleviate their lives that were not worth living. Needless to say, there was a clash between these ideas and any notion of human rights.

The medical model

This concept, sometimes called rehabilitative approach, sees the origin of disability as a product of a physical, mental, or sensory limitation, and dictates that those with disabilities should be studied and managed by medical science. People with disabilities are no longer considered useless, as in the previous model, as long as they can be rehabilitated. This model seeks to normalize people with disabilities in order to integrate them into society (Oliver 1996: 31). Disability is seen as a problem of the individual caused by accident, illness, or a physical condition, requiring medical assistance. The goal of such assistance is either a cure or to better adapt the individual to his or her situation (Oliver, Barnes and Mercer, 2003). Disability is, in this model, dealt within the framework of the social security system, and is protected by civil law through regulating the declaration of incapacity and the establishment of rules for guardianship.

Since this model deals with the treatment of disability from a welfare point of view, persons with disabilities are not seen as subject to discrimination (Lawson 2007: 563–619. Stein 2007. Cuenca 2012). Rather, they are seen as having a limiting physical or mental anomaly: accordingly, public policies should be aimed at resolving such anomalies to the greatest degree possible in order to integrate the rehabilitated person into mainstream society.

The social model and its diversity model variant

In this case, disability is seen as a set of limitations, the roots of which have to be found in the failure of society to accommodate the differing degrees of ability of its members and to provide appropriate services for those who need them (Morris 1991. Hanh 1993. Hughes 2002). In this view, it is not the organic or mental condition *per se*, but rather the social context that determines the individual's disability. Disability is viewed not only as a result of functional limitations but also as a consequence of social influences (Quinn and Degener 2002: 14). Problems that at first seem to belong to an individual, in fact, assume a social nature – a consequence of social dynamics.

In this model, the rights of people with disabilities are limited by the social context. It is thus necessary that public policies overcome discrimination and realize the universal enjoyment of rights, paying special attention to the social determinants of discrimination.

Of late, a variant of the social model is gaining traction, however. This variant is called the diversity model of disability (Romañach and Palacios 2006: 28), and it is based on the postulates of the independent life movements. This notion considers disabled

people (or differently abled persons, to use the term favored by the proponents of this vision) as intrinsically valuable on their own merits on the basis of their diversity, which exists to enrich human societies and make them more creative, interesting, and even prosperous.

The diversity model shares with the social model's view that disability is a socially determined condition, but it adds something of its own: it does not perceive disability as being necessarily bad, or an intrinsic limitation. The person with a disability is, in this perspective, simply a person different from others, and his or her presence in society contributes to its richness. Public policy with regard to disability should, thus, become nearly invisible, or at least non-obvious. To this end, the diversity model demands the specification of a set of rights.

The social and diversity models share a number of postulates, three of which will be mentioned here. First, they question the focus of the traditional model of human dignity based on people's capacities and social role (a greater contribution to society equals greater dignity and honors) (De Asís 2007. Cuenca 2015). Almost as a corollary, they do not accept the notion of percentages of handicap⁸, but rather focus on the specific situation in which each person with disabilities finds himself or herself. Finally, they both pursue equality as their final goal.

This is why they support the main strategic tool to enable equality, this is, positive discrimination, or the idea that there are circumstances and situations that make persons different and these are relevant enough to justify unequal treatment in order to achieve material equality.

The social and diversity models both correspond to two major points of focus present in the contemporary study and treatment of disability: the focus on the individual situation and the focus on the group (De Asís 2013: 70).

The focus on the individual situation, typical of the social model, analyzes the disability not by concentrating on the features that identify the person with a disability, but rather by focusing on the surrounding social circumstances in which the person is immersed. The legal response to these situations is aimed at enacting the rights that are denied or that the disabled person is effectively unable to exercise.

The focus on the group, a development from the diversity model, analyzes the question of diversity from the perspective of the characteristics that serve to identify a person, and sees the appropriate legal response as reaffirming the value of the group, by highlighting what makes the group recognizable and promoting diversity as the guiding value and goal.

⁸ As does, for example, Spanish legislation that makes reference to a handicap equal to or greater than 33%.

There is a subtle difference between these two approaches. While they are both aimed at universalizing rights, that is, to extend the enjoyment of human rights to people with disabilities and to correct discriminatory situations, the focus on the individual situation resorts to positive discrimination to achieve equality, while the focus on the group uses positive discrimination not to strengthen the rights of scattered individuals, but rather to combine all individual recognitions of rights in order to obtain a positive valuation of the group's identity (De Asís 2010: 163). In the group view, the group's identity is the path to achieving equality.

The CRPD contains elements that reflect both these models and focus⁹.

CRPD: The human rights-based approach to disability

The model of diversity that was analyzed earlier and the focus on the group are embodied in the preamble to the CRPD, which affirms that signatory states recognize "...the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty." Also paragraph 'd' of Article 3 sets out as one of the general principles of the Convention, "Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity." These principles have influenced the Convention the most.

Article 1 proclaims that the basic objective is "to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity." As is made patent throughout the text, the final goal of the Convention is not the recognition of new rights exclusive to persons with disabilities; rather it is the identification of the rights that all human beings possess, paired with a set of additional assurances that need to be provided to people with disabilities so that they can enjoy the benefits of their basic human rights on the same basis as everyone else, most particularly within environments in which the protection of those rights needs to be reinforced due to the extent to which they have historically been unprotected or directly violated.

The CRPD marks a turning point in the treatment of disability. Its most noteworthy feature is that it completes a process where disability is brought within the purview of the parameters of human rights (Palacios and Bariffi 2007. Mackay 2007). In addition, the CRPD fosters visibility and raises awareness about the rights of persons with disabilities, and provides a legal instrument to demand the effective exercise of those rights (Cuenca 2012).

⁹ From the material published to date on the pursuit of rights for the hearing impaired, this community could be placed in the individual model. However, hearing impaired communities are not pursuing a disability human rights strategy, but rather a strategy of cultural and linguistic rights.²³

The human rights approach is based on legitimate and inalienable demands and interests, independent of any political wrangling and beyond changing economic and other policies. The uniqueness of the human rights-based approach implies, at least (De Asís 2013: 33). 1) the consideration of those rights as the inspiration for, and the factor that determines the validity of, public policies; 2) the legal enforceability of the identification of any individual with disabilities as being in full possession of their human rights; 3) the identification of those who have the legal mandate to respect those rights; 4) legal accountability for the non-observance of those rights; 5) the accountability of the states in relation to the enactment of rights; and finally, 6) the requirement of the treatment of the disability as a matter of universal interest, not limited to a single group.

This has significant implications for the demands and aspirations of persons with disabilities. The reference to the human rights framework brings these demands and aspirations within the ambit of legal rights that can be defended before a court of law, because such rights now create, in turn, true obligations held by public authorities and individuals.

Beyond that, the rights recognized by the Convention can be defended by resorting to the tools provided by international law on human rights. The human rights approach implies abandoning the discourse of welfarism or, in the least, relegating it to a secondary order (Barranco 2015: 29).

Nevertheless, it must be cautioned that the human rights framework does not turn the demands and claims of persons with disabilities into absolute ones. General human rights theory has stated that it is not possible to refer to absolute human rights. The right to universal accessibility may be restricted to what is considered necessary, possible, and reasonable (De Asís 2013: 82).

In any event, the rights framework, which assumes the non-existence of absolute rights, requires that any limitation of rights is strictly undertaken within its ethical framework, related to the notion of human dignity and in line with the main objective of that right. The right to accessibility, for instance, is designed to address the barriers and obstacles that prevent the execution of certain goals, such as being educated or having access to justice, which are considered to be indispensable.

IMPLEMENTING THE CRPD IN QATAR

Qatar ratified the CRPD on May 13, 2008, and signed its Optional Protocol, pending ratification. By ratifying this treaty, the State of Qatar commits to a number of obligations that have social and legal repercussions. The depth and legal strength of those developments will depend on three main contextual factors and critically on the textual factor, this is, the current legislative and regulatory framework.

The contextual factors are concerned with the local and international political climate, and with the social dynamics in Qatar. The first contextual factor is represented

by the political willingness of the Qatari legislators and their sensitivity toward the satisfaction of the rights of persons with disabilities. The second factor is the role of the CRPD's United Nations Follow-Up Committee in identifying missing goals or deviations and requesting corrective measures in a proper and timely manner. The third contextual factor is the dynamism and efficacy of movements and groups dedicated to the rights of persons with disabilities in Qatar, and their ability to raise awareness among the public about those rights and become a receptive and respected voice before the government.

It is critical for the implementation of the CRPD that these contextual factors are aligned and operate synergistically. The precondition to achieve such synergy is that all parties involved have a shared philosophy about disability and, thus, speak the same language. The foundation of the CRPD was dictated by what we describe as the social model of disability, mentioned above, where disability is understood to be the consequence of the social environment. Nevertheless, the CRPD also contains elements that belong to the abovementioned diversity model, where the differently-abled person is seen as a valuable member of society, based on his or her contribution to the benefits of diversity.

All the actors in the process of implementing the CRPD should embrace its model of understanding and methods of dealing with disability. The legislator should be sensitive to the social conditions that make disability apparent. Social movements and groups promoting the rights of persons with disabilities should ensure that their demands focus on the social context and include the value of persons with disabilities as individuals as well as a group. These movements should educate the public in the philosophy that inspires the CRPD.

However, even having achieved an alignment of contextual factors, and even if all the contextual factors were aligned and operated synergistically, the implementation of the CRPD could still be derailed if the work of the relevant bodies is technically weak or incoherent. Enter the textual factor, which is technical in nature and consists of having a solid understanding of the current textual legal framework in Qatar and of the necessary changes and adjustments required to make it compliant with the CRPD. The quality of the textual factor will, in the end, determine, despite the political willingness of the legislator, the work of the United Nations Follow-Up Committee and the strategies of the stakeholders: the actual realization of the rights of persons with disabilities in Qatar, as has happened in other ratifying countries. This requires an understanding and a study of Qatari legislation.

It is, thus, critical to conduct a study that aims to define the impact of the CRPD on the rights of persons with disabilities in Qatar and to identify areas where adjustments are needed in the Qatari legislation to ensure its full compliance with the CRPD. It is also important to suggest ways in which the internal Qatari law might be incorporated into the requirements of the CRPD, employing a legislative technique that is consistent with the Qatari legal system and its inspiring values and traditions.

In the following section, we will try to outline some of the challenges related to contextual factors and the legal and regulatory factors to be addressed for an in-depth implementation of the CRPD in Qatar, as well as a work plan that takes into account both the technical complexity of the task and the methodological requirements of a Convention based on international rather than local considerations.

Understanding the context

The State of Qatar has introduced a number of important legislative reforms, many of which are aimed at promoting the rights established by the 2003 Constitution approved by a referendum, indicating a breakthrough for the region and a testament to Qatar's leadership.

Continuing on this path, Qatar has ratified the international conventions on human rights and has created governmental agencies for the promotion and protection of those rights, such as the Human Rights Office and the Directorate of Human Rights, at the Ministry of Foreign Affairs and at the Ministry of Interior, respectively. To the same end, Qatar has also created non-governmental agencies such as the National Human Rights Committee. Some of these agencies provide direct aid and services to persons with disabilities, such as the Ministry of Labor and Social Affairs Directorate for the protection of rights of children, women, the elderly and persons with disabilities, the Shafallah Center for Children with Special Needs, and the Al Noor Institute for the Blind, among others.

These are impressive developments in Qatar's infrastructure to address disability in a country where, according to the National Census of 2010¹⁰, there are a total of 7,743 persons with disabilities, representing 0.45% of the total population¹¹.

Political commitment to the cause of people with disabilities has been robust in Qatar. In 1995, the country passed Law No. 38, which modified the provisions of the social security system, providing governmental assistance to social groups including organizations of persons with disabilities. In 1998, the government created the Supreme Council for Family Affairs (SCFA, Decree No. 53/1998), a high-level national body that, among other things, has the mandate to deal with the implementation of international conventions, ratified by Qatar, which relate to the rights of children, women, and persons with disabilities. Following the SCFA's recommendations, Qatar passed, in 2004, Law No. 2/2004, for the protection of people with special needs, aimed at ensuring the rights of persons with disabilities in all the fields¹². The mandates of the law are remarkably ambitious.

¹⁰ See http://www.qsa.gov.qa/QatarCensus/Census_Results.aspx

¹¹ These numbers appear to be remarkably low by international standards, where people with disabilities account for approximately 10% of the total population. Under-registration is a likely explanation for the apparent distortion. Culture may explain part of this phenomenon, but some legal definitions of disability might be at the root of this problem.

¹² These laws can be found at <http://www.almeezan.qa/default.aspx?language=en>

Under this law, persons with special needs enjoy particular protection in the State of Qatar, by means of: 1) special education, health treatment, disease prevention, and vocational training; 2) receiving all the tools and means to facilitate their learning and mobility processes; 3) receiving special qualifications and training certificates upon completion of certain training programs and subsequently being appointed to roles that accommodate their relevant skills and training; 4) dedicating around 2% of the jobs in the private sector to people with special needs without any discrimination based on disability.

Undoubtedly there is administrative, economic, and legislative support for persons with disabilities in Qatar. However, there is a risk that despite all these efforts, resources, and political will, the outcome might be a patchwork of somewhat non-cohesive endeavors when taking steps toward enabling persons with disabilities and implementing the CRPD. The reason behind this fear is that in Qatar, the concept of disability seems to be more slanted toward the medical or rehabilitative model.

In these models, disability is seen to be a state caused by accident or illness or any other physical condition that needs medical care and the assistance of social welfare to overcome physical or mental limits, and that efforts must be made to integrate the newly rehabilitated person productively into society. This has historically led to a huge advancement in the treatment of persons with disabilities, but the CRPD encourages countries and societies to go beyond the medical model to embrace the social and diversity models, which speak the language of antidiscrimination and human rights when approaching the problems of persons with disabilities.

Perhaps the medical concept of disability is at the root of why Qatar is assessed as a country expending considerable effort on behalf of persons with disabilities; however, the implementation of these efforts is still perceived as a work in progress.

A United Nations Special Rapporteur on Disability remarked, after a brief mission to Qatar in 2010, that there is "a clear commitment from Qatari society to the needs of persons with disabilities"; these are tangible at the Shafallah Centre for Children with Special Needs and at the Al Noor Institute for the Blind. The rapporteur stressed that "... it appears that there is a clear commitment from the State and the private sector toward the issues confronting persons with disabilities in Qatar. Anecdotal evidence suggests that the private sector is a big contributor to institutions [for people with disabilities]." Nevertheless, the rapporteur warned that "... it also became clear that much of the caring and development remain almost exclusively disability-specific as opposed to the mainstreaming of the development needs of persons with disabilities."¹³ Clearly, mainstreaming the needs of those with disabilities will be a step in the right direction.

In 2010, the International Disability Alliance, a global network that aims to promote the effective and full implementation of the CRPD, recommended that "Qatar

¹³ These observations may be found at <http://www.un.org/disabilities/default.asp?id=183>

adopt a proactive and comprehensive strategy to eliminate *de jure* and *de facto* discrimination on any grounds and against all children, paying particular attention to girls, [and] children with disabilities.¹⁴

Some of the challenges that have to be addressed at this level have to do with the currently weak independent organization of people with disabilities. One prerequisite that the CRPD stipulates as essential for the social model is that decisions affecting people with disabilities should be taken with their participation. In the case of public decisions, this requires the existence of independent organizations able to act as counterparts to governmental agencies.

Some of the existing conditions in Qatar give us hope that Qatar will be able to produce a seamless implementation of the CRPD: the political will, evident in a number of administrative, organizational, and economic efforts, is palpable. There exists a healthy social environment that is sensitive toward disability, and interest groups are organized around solid institutions that are respected and heard in the social scene. However, there is the risk of not moving at the right pace, not due to lack of effort or will, but rather founded in the prevalent philosophy regarding disability that considers persons with disability as incapable of making their own decisions and which, due to concerns about their care, prevents their equal participation and inclusion. Embracing the social and diversity model of disability is an additional effort that needs to be made to hasten the CRPD's implementation in Qatar, to benefit persons with disabilities.

However, all these efforts do not necessarily guarantee success. The CRPD is a written, enforceable law, and accordingly those interpreting the domestic legislative framework have the task of embedding it into the Qatari legal and regulatory system in a coherent, technically solid manner. This is the textual factor, which will be analyzed in the next section.

Understanding the texts (the legal and regulatory framework)

The “textual” implies studying the current textual legal and regulatory framework in Qatar in order to better understand how to translate into mandatory texts the principles and the provisions of the CRPD. This study might need to fill gaps where the laws are mute, and to introduce changes where they are needed.

The Qatari Constitution, Article 6, states that "The State shall respect international charters and conventions and shall strive to implement all international agreements, charters and conventions to which it is party." However, in incorporating such international charters and conventions, substantial revisions are often required. The formal incorporation of the CRPD into internal law will have a significant impact on the various branches of the legal system and might imply the adoption or modifications of various laws in order to give practical effect to the rights set out in it.

¹⁴ See <http://www.internationaldisabilityalliance.org/sites/disalliance.e-presentaciones.net/files/public/files/UPR-7th-session-Recommendations-from-IDA.doc> (last accessed December 7, 2015).

It might be tempting for the legislator to draw up and pass a general law establishing that legal and regulatory changes should be made, allowing the different departments and agencies to make – or propose – such particular changes independently. However, a single law may not necessarily succeed, first, because some of the needed reforms will probably require a period of time before they reach maturity and become embedded in common practice, and it will also be necessary that social awareness develop simultaneously. Second, because along with some general normative changes, much more scattered, specific areas would need to be addressed, which might require specific mention in the legislation. Third, because some reviews are neither technically nor theoretically complicated, while many others are complex and more controversial – for example making mandatory the construction of ramps, or that signage includes Braille subtitles, cannot be likened to changing the entire system of representation and guardianship *ad litem*. A single law may not cover all the necessary elements required to address these variations.

Particularly complex issues are concerned with the development of technical standards to prevent discrimination on the grounds of disability along with the consideration of cases of multiple or intersectional discrimination. It will also be necessary to articulate a definition of disability under the Convention and, of course, to proceed with the implementation of legal remedies and the harmonization of measures taken within the existing laws to ensure widespread acceptance and practical application.

Naturally, the objectives of the Convention and each of its articles may be subject to different interpretations; and there are sometimes not so clear understandings of internal laws and regulations. An additional challenge to any review of internal Qatari law is, thus, that any proposed change derived from the CRPD must be thoroughly debated on the basis of a range of interpretive arguments and potentially colliding legal hermeneutics.

The next section sketches a work plan aimed at better understanding the impact of the CRPD on the Qatari legal and regulatory system. As in any realistic plan, our proposal is flexible and will need to adapt to, and learn from, what it discovers as it progresses.

The impact of the CRPD on Qatar's legal system: Taking the fast track

Although it is true that each state has the freedom to set up its own internal procedures to transform international law into domestic law, after ratifying an international treaty, state parties have to start a process by which their domestic legislation is reviewed and reformed in order to avoid contravening their international obligations.

It is necessary, and timely, to carry out a thorough study of the Qatari norms that are impacted by the CRPD. This extends to all domestic legislation in Qatar, including –

but not limited to – the norms that affect the rights of persons with disabilities, as every single portion of the legal system might be affected by the Convention.

Some efforts have already been made, most particularly in the Law No. 2/2004 on the rights of persons with disabilities. However, an in-depth study must encompass the entire legal system in an attempt to highlight the likely reviews and modifications that the texts would need to become fully CRPD-compliant, without abandoning Qatar's heritage, most particularly those elements that refer to deeply rooted Muslim traditions at the center of national identity.

The study should be divided into: 1) analysis of the principles today that shape the legal framework for the treatment of persons with disabilities, and a review as to what extent they harmonize with the principles that animate the CRPD; 2) analysis of the impact of the CRPD on the broader areas of Qatari legislation (civil, commercial, criminal, labor, tax, and procedural law); 3) analysis of the impact of the CRPD on specific areas of Qatari legislation (e.g., health, healthcare, and biomedical research, freedom and security, employment, social services, accessibility to audiovisual means, travel and transportation); and 4) proposals for ways to reconcile internal law with the mandate of the CRPD.

This study will rely, by design, on three of the classically described methods of law research: doctrinal, problem- and policy-oriented, and reform-oriented.

Doctrinal research probes what the law is in a particular area and tries to determine the exact mandates of that law. In our case, since the intersections between the law and the rights of people with disabilities as defined by the CRPD are scattered throughout the Qatari legal system, the doctrinal method would require us to divide and subdivide the legal system by areas, in order to collect and analyze every relevant piece of legislation. Doctrinal research also requires the analysis of secondary sources, such as specialized journal articles that contain commentaries on the law, and – when necessary – the jurisprudence of the courts, in order to identify the way the judicial reasoning applies the law to reality.

Problem and policy research consists of assessing the problems affecting the law, and the policy issues underpinning the law, in its current configuration. Researchers should identify the policies underpinning the existing law, and should be able to note how some policies may have to be revised and or others that might have become obsolete in light of the CRPD. This would help explain why particular pieces of legislation were enacted in the first place, and would cast a light on the possible legislative reforms required to adapt to the CRPD. This kind of research requires input from agencies, institutions, and organizations that deal with protecting, promoting the welfare and education of, and representing the disabled in Qatar.

Reform-oriented research consists of organizing the findings obtained from other methods, and trying to reach a conclusion on whether the law needs to be reformed. In our case, the project should reach tentative conclusions as to whether the current Qatari

legal system requires amendments, repeals, or the enactment of new laws and regulations in order to become fully compliant with the CRPD and how these changes might be achieved. As with policy research, input from agencies, institutions, and organizations that deal with protecting, promoting the welfare and education of, and representing the disabled in Qatar is very relevant.

The study should be organized in four stages: 1) inquiry into disability and the law in Qatar; 2) determination of the extent to which the principles and criteria of the current legal system in Qatar conform to the legal framework of the rights of people with disabilities as laid out by the CRPD; 3) study of the general impact of the CRPD on the Qatari legal system to determine the areas that need to be modified or reformed; and finally, 4) the design of proposals for the development of the CRPD's mandates and/or the possible amendments required to Qatari legislation for it to become fully compliant with the CRPD. The dissemination of the results will be made stage by stage, in accordance with the objectives of the study and as required by the research design itself.

This study will help Qatar adopt a proactive and comprehensive legal strategy to eliminate discrimination on any grounds, and against any group. It will also help Qatar fulfill its commitment as required by the CRPD. Beyond this, the study will help remove barriers that prevent full integration of the disabled into mainstream society and which might hinder their personal and professional development. The project will help people with disabilities to become visible in Qatar. The study will propose high-impact legal measures to further the protection that Qatar provides to people with disabilities. It will have a critical significance to people with disabilities in Qatar, and to their families. The project will consolidate Qatar's leadership in the region in matters of compliance with international conventions, human rights, and human development.

CONCLUSIONS

Human rights have moved, since the 20th century, toward equality, making successful efforts to eliminate all barriers to this end. The process has gained further momentum in the present century, trying, on the one hand, to further generalize the enjoyment of human rights among persons or groups who were not recognized as the bearers of, or who in practice were denied the benefits of, those rights and, on the other hand, trying to grant a specific set of special rights to certain persons so that they might fully enjoy the full spectrum of human rights.

The UN CRPD of 2008 breaks new ground in the promotion of the rights of persons with disabilities, while also transcending that goal by crystallizing the most advanced model regarding the very concept of disability in the context of human rights. Such a concept is the social model of disability, where disability is seen as the social failure to accommodate the different degrees of ability of its members. To some extent, the Convention adopts the diversity model, which views persons with disabilities as net contributors to the enrichment of human societies.

Qatar ratified the CRPD in 2008. Qatar should be confident that several factors place the country on a solid footing to face the challenges of fully implementing the CRPD. Qatar's leadership has shown the moral sensitivity and political willingness to further the rights of persons with disabilities in accordance with the Convention. This commitment is evidenced by the reforms already implemented to enhance liberties and human rights in general, epitomized by the human rights offices in the Ministries of Interior and Foreign Affairs, together with the National Human Rights Committee, created in 2002. More specifically, the Ministry of Labor and Social Affairs has a directorate dedicated to the elderly and persons with disabilities, to protect the rights of these vulnerable groups. These are impressive structural efforts, which create an auspicious context for the implementation of the CRPD.

Qatar has also passed some key legislative texts, such as Law No. 2/2004 for the protection of people with special needs, which contains ambitious mandates aimed at furthering the rights of persons with disabilities.

All these administrative and legislative efforts have been accompanied by generous funding. However, there is room for improvement in these initiatives. These very valuable initiatives still look unsystematic. This has also captured the attention of the International Disability Alliance in its report on the country in 2010¹⁵. We believe that all Qatari institutions, as well as the private sector, need a clear legal mandate to put the country on the fast track toward the full implementation of the CRPD.

We find that such a clear mandate should start with a simple yet transformative approach to the very notion of disability. In Qatar, today's concept of disability seems to be centered on the medical or rehabilitative model. Given its commitment, Qatar will, no doubt, expand its social model of understanding disability and, ideally, introduce in its framework the principle that persons with disability contribute to social diversity, which enriches and creates a more prosperous society at large.

In addition, a thorough understanding of the current legal and regulatory domestic framework, or the textual factor, as we have termed it, is necessary.

To that end, we first need to study the main bodies of legislation in order to identify, in depth, the impact of the CRPD on the main Qatari legislation (civil, commercial, criminal, labor, tax, and procedural law). Second, a similar analysis should be made of specific areas of Qatari legislation that are critical for the persons with disabilities (e.g. health, health care and biomedical research, employment, social services, accessibility to audiovisual means, travel, and transportation). Such a study should be shared with, and receive the input of, the main actors in each sector along with the government agencies involved in guaranteeing and furthering the rights of persons with disabilities. In addition, for the results to be operational, it should have the participation of disabled people themselves.

¹⁵ See http://www.un.org/disabilities/documents/specialrapporteur/qatar_2010.doc (last accessed December 10, 2015).

On this basis, a number of realistic, constructive proposals should be devised exploring ways to reconcile internal law and the mandate of the CRPD, without deviating from Qatar's heritage and religious traditions.

The value of this study and its ensuing proposals will patently be to enable the evolution of national legislation to meet Qatar's international commitments and further the protection of people with disabilities. It will also become a valuable tool to reaffirm Qatar's leadership in the region in matters of human rights and human development. The Qatari population at large would benefit from this kind of work since it ultimately could help integrate a group of people – people with disabilities – whose contribution to the country's human capital can be of high value, in a context of an increasingly complex, diverse global society that aspires to become a knowledge-based economy in the post-hydrocarbon era.

REFERENCES

- Ansuátegui Roig, FJ. (2014). “Ciudadanía y fronteras de los derechos”. *Papeles - El tiempo de los derechos*, 24.
- Bariffi, F. (2014). *El régimen jurídico internacional de los derechos humanos de las personas con discapacidad*. Madrid: Cinca. Available at http://www.cermi.es/es-ES/ColeccionesCermi/ConvencionONU/Lists/Coleccion/Attachments/12/coleccion%20ONU%20no11_ONU.pdf. Last accessed September 7, 2015.
- Barranco, M.C. (2015). “Human rights and vulnerability. The examples of sexism and ageism”, en *The Age of Human Rights Journal*; 5.
- Barranco, MC. (2011). *Diversidad de situaciones y universalidad de los derechos*. Madrid: Dykinson.
- Cabra, MA, Bariffi, F. and Palacios, A. (2009). *Derechos humanos de las personas con discapacidad: la Convención Internacional de las Naciones Unidas*. Madrid: Ramón Areces.
- Cuenca Gómez, P. (2012). *Los derechos fundamentales de las personas con discapacidad. Un análisis a la luz de la Convención de la ONU*. Madrid: Cuadernos de la Cátedra Democracia y Derechos Humanos, Universidad de Alcalá-Defensor del Pueblo
- Cuenca Gómez, P. (2015). “Disability and human rights: a theoretical analysis”, en *The Age of Human Rights Journal*, 4.
- Cuenca, P. (2012). *Estudios sobre los derechos de las personas sordas*. Madrid: Dykinson.
- De Asís, R. (2007). “Derechos humanos y discapacidad. Algunas reflexiones derivadas del análisis de la discapacidad desde la teoría de los derechos”. En Campoy Cervera, I, Palacios, A (eds), *Igualdad, no discriminación y discapacidad. Una visión integradora de las realidades española y argentina*. Madrid: Dykinson.

- De Asís, R. (2010). “Las situaciones de dependencia desde un enfoque de derechos humanos”, en Ramiro, M.A. y Cuenca, P (eds) *Los derechos humanos. La utopía de los excluidos*. Madrid: Dykinson.
- De Asís, R. (2013). *Sobre discapacidad y derechos*. Madrid: Dykinson.
- Hanh, H. (1993). The political implications of disability definitions and data. *Disabil Policy Stud.*;4(2).
- Hughes, B. (2002). Disability and the body. Barnes C, Barton L, Oliver M (eds), *Disability Studies Today*. Oxford: Polity Press.
<https://doi.org/10.1080/09687590220148531>
- Lawson, A. (2007). “The United Nations Convention on the Rights of Persons with Disabilities: New era or false dawn?”, en *Syracuse J Int Law Commerce*; 34.
- Mackay, D. (2007). “The United Nations Convention on the Rights of Persons with Disabilities”, en *Syracuse Journal International Law Commerce*; 34.
- Mégret, F. (2008). The disabilities convention: Human rights of persons with disabilities or disability rights? *Hu Rights Quaterly*; 30.
- Morris, J. (1991). *Pride against Prejudice. A Personal Politics of Disability*. London: Women’s Press Ltd.
- Oliver, M. (1996), *Understanding Disability: From Theory to Practice*. New York: Palgrave Macmillan.
<https://doi.org/10.1007/978-1-349-24269-6>
- Oliver, M., Barnes, C. and Mercer, G. (2003). *Disability*. Cambridge: Polity Press.
- Palacios, A (2008). *El modelo social de discapacidad*. Madrid: Colección CERMI.
- Palacios, A. y Bariffi, F. (2007). *La discapacidad como una cuestión de derechos humanos. Una aproximación a la Convención Internacional sobre los derechos de las personas con discapacidad*. Madrid: Cinca, Colección Telefónica Accessible.
- Peces-Barba, G. (2014). *Historia de los derechos fundamentales. Siglo XX*. Madrid: Dykinson.
- Peces-Barba, G. (2015). *Curso de derechos fundamentales*. Madrid: BOE–Universidad Carlos III.
- Quinn, G. and Degener, T. (2002), eds. *Human Rights and Disability: the Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*. Geneva: Office of the United Nations Commission for Human Rights, United Nations.
- Romañach, J. and Palacios, A. (2006). *El modelo de la diversidad*. Madrid: Diversitas–AIES.
- Stein, MA. (2007). Disability human rights. *Calif Law Rev.*, 95.