



MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

„The Right to Primary Education for Children with
Disabilities in Iran“

verfasst von / submitted by

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angestrebter akademischer Grad / in partial fulfilment of the requirements for the
degree of

Master of Arts (MA)

Wien, 2018 / Vienna 2018

Studienkennzahl lt. Studienblatt /
Postgraduate programme code as it appears on
the student record sheet:

A 992 884

Universitätslehrgang lt. Studienblatt /
Postgraduate programme as it appears on
the student record sheet:

Master of Arts in Human Rights

Betreut von / Supervisor:

Mag. Mag. Dr. Dr. Ursula Juliane Naue

Acknowledgment

Special thanks are particularly due to my supervisor Mag. Mag. Dr. Ursula Juliane Naue, who gave me her time, precious advice and made constructive comments, and helped to steady the bridge between her knowledge to this Master Thesis.

I also would like to thank the team of the Vienna Master of Arts in Human Rights for their constant support and help to achieve this master.

Finally, I would like to thank my family and friends for their presence, encouragement, kindness and support.

Table of Contents

Acknowledgment	I
Index of Acronyms and Abbreviation	II
1. Introduction	1
1.1 Background of the thesis and research interest	1
1.2 Overview of the situation of persons with disabilities in Iran with a specific focus on children	2
1.3 Topic	6
1.4 Research questions	6
1.5 Scope of Master's thesis	6
1.6 Methodology	7
1.7 Limitations	7
2. Definitions and conceptual analysis	9
2.1 Disability	9
2.1.1 Definition of disability according to international instruments	10
2.1.1.1 Definition based on the medical model of disability	11
2.1.1.2 Definition based on the social model of disability	15
2.1.1.3 Framework of the Convention on the Rights of Persons with Disabilities	17
2.1.2 Iranian Laws regarding disability	22
2.2 Children	27
2.2.1 Definition of the child in the Convention on the Rights of the Child	28
2.2.2 The definition of children under Iranian law	29
2.3 Education	31
3. Legal framework of the right to education	33
3.1 The right to education in international human rights instruments	33
3.2 The right to education within the framework of the United Nations Sustainable Development Goals	35
3.3 The right to education in the Iranian legal system	37
4. The right to education for children with disabilities	42
4.1 Legal requirements regarding the right to education for children with disabilities under international law	43
4.1.1 Obligations under the Convention on the Rights of the Child	43

4.1.2 Obligations under the Convention on the Rights of Persons with Disabilities	46
4.1.2.2 The principle of non-discrimination	48
4.1.3 Compulsory education	49
4.2 Educational system of Iran	52
4.2.1 Inclusive education system for children with disabilities in Iran	53
4.2.2 The principle of non-discrimination in the educational system of Iran	56
4.2.3 The right to a compulsory education system for children with disabilities in Iran	59
4.2.4 Executive challenges to an education system respectful of the legal commitments of Iran	62
5. Role of organisations in the education of children with disabilities in Iran	64
5.1 State Organisations	64
5.1.1 Special Education Organization	64
5.1.2. State Welfare Organization (Sazman Behzisti)	65
5.2 Non-Governmental Organizations	68
6. Equalisation of Opportunities for persons with disabilities	70
7. Conclusion	75
8. Bibliography	81
Abstract in English	98
Abstract in German	99

Index of Acronyms and Abbreviations

CADE	Convention Against Discrimination in Education
CEDAW	United Nations Convention on the Elimination of all Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CommRC	Committee on the Rights of the Child
CRC	Convention on the Rights of the Child
CRPD	Conventions on the Rights of Persons with Disabilities
HR	Human Rights
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICF	International Classification of Functioning, Disability and Health
ICIDH	International Classification of Impairments, Disabilities and Handicaps
ILO	International Labour Organization
IRI	Islamic Republic of Iran
SWO	State Welfare Organization
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UPR	Universal Periodic Review
WHO	World Health Organization
WPA	World Program of Action Concerning Disabled Persons

1. Introduction

1.1 Background of the thesis and research interest

The situation of children with disabilities in Iran is particularly difficult and this thesis will look at this issue through a human rights lens. Studying and analysing regulations related to children with disabilities is very important to me both personally and professionally. As an advocate of Iranian women's human rights who grew up in Iran, working on the violations of human rights in Iran and trying to improve the human rights situation there is one of my main concerns in life. Thanks to my studies in the Human Rights Master's programme at the University of Vienna, I got the opportunity to further develop my expertise in the human rights field and generally enhance my level of knowledge. I learned to look more neutrally and impartially at human rights aspects in the academic context while at the same time using my activism background.

Through my own personal experience, I have witnessed from an early age the difficulties faced by children with disabilities to access the education system in Iran. Indeed, children with disabilities are separated from the other children and are obligated to study at schools especially reserved for them. Children, being one of the most vulnerable groups in society, need more attention and support from their families and the government. In spite of that, children with disabilities are often victims of marginalisation in society, which also frequently happens in Iran.¹

The difficult situation in Iran pushed me to conduct more research on this topic and to write my Master's Thesis on the right to education for children with disabilities in Iran, where children with disabilities are grappling with numerous challenges.

¹ Blue Law International, The Stimson Center, *Advancing the Rights of Persons with Disabilities: A US-Iran Dialogue on Law, Policy and Advocacy*, 2011, p. 35, available from: https://www.files.ethz.ch/isn/136359/Complete_Iran_Report_PDF_w_Cover.pdf, (accessed 5 June 2018).

More specifically, I wish to challenge and denounce the methods used by the Iranian government to isolate and discriminate against children with disabilities.

1.2 Overview of the situation of persons with disabilities in Iran with a specific focus on children

Iran has been called the “Islamic Republic of Iran” since the revolution in 1979. It is a majority Shia Muslim country and has a population of 80,840,713 (median age 28).² Its economy is characterised by the hydrocarbon sector, agriculture and services sector and a noticeable state presence in manufacturing and financial services”.³ Due to its abundant natural resources, Iran is one of the richest countries in the world. “according to estimates by the World Bank, the country’s GDP amounted to US\$439.5 billion in 2017.”⁴

In spite of these figures and the availability of resources to the government of Iran, the human rights situation in the country is serious and alarming and specifically marginalised groups in society, such as persons with disabilities, face severe obstacles and challenges. Iran’s failure to comply with its international human rights obligations, including the protection of the rights of persons with disabilities, has been criticised repeatedly by the United Nations (UN) treaty bodies as well as other states in the context of the Universal Periodic Review (UPR), which is conducted by the UN Human Rights Council (UNHRC) every five years.⁵

² International Educational and Cultural Exchange, *30 Facts on the Education System of Iran*, Available from: <https://acei-global.blog/2017/02/16/30-facts-on-the-education-system-of-iran/>, (Accessed 28 March 2018).

³ The World Bank, *Overview on the Islamic Republic of Iran*, 1 April 2018, Available from: <http://www.worldbank.org/en/country/iran/overview>, (Accessed 15 June 2018).

⁴ *ibid.*

⁵ S. MoiniPour, *UN treaty-based bodies and the Islamic Republic of Iran: Human rights dialogue (1990–2016)*, 2 March 2018, Available from: <https://www.tandfonline.com/doi/full/10.1080/23311886.2018.1440910>, (accessed 18 August 2018); UPR.info website, *UPR process*, available from: <https://www.upr-info.org/en/upr-process/what-is-it>, (accessed 10 August 2018).

There are different figures available regarding the number of persons with disabilities in Iran, however, there have been doubts about their accuracy.⁶ According to the national census of 2011, the number of persons with disabilities was equivalent to only 1.35 percent of the population.⁷ In 2015, state agencies supporting persons with disabilities put this number at 1.87 million people or 4.2 percent of the overall population, but the current figure probably exceeds this number, with some officials recognising between 11 and 14 percent of the population, which is equivalent to 9 to 11 million persons, as persons with disabilities.⁸

For comparison, on a global scale and based on estimates by the World Bank and the World Health Organisation (WHO), roughly 15 percent of the world's population are persons with disabilities.⁹ Possible reasons for the inconsistency between the officially recognised number of persons with disabilities in Iran and the real life situation can be found in the stigma and discrimination suffered by the persons concerned - especially in rural areas -, administrative red tape in the registration process as well as the lack of knowledge about their rights, which can make some people reluctant to register.¹⁰

This is particularly true for women and girls, who constitute only 35 percent of people registered as persons with disabilities with the State Welfare Organization (SWO), which is the main governmental organisation commissioned with the support of persons with disabilities in Iran.¹¹ Their situation is further complicated by entrenched gender stereotypes, a male dominated society and grave limitations for women's autonomy, independence and freedom to exercise their rights.¹² Since Iran is one of the few

⁶ Human Rights Watch, Center for Human Rights in Iran, "*I am equally human*". *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, p.15, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July 2018).

⁷ *ibid.*

⁸ *ibid.*

⁹ *ibid.*

¹⁰ Human Rights Watch, Center for Human Rights in Iran, p. 16, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July 2018).

¹¹ *ibid.*

¹² *ibid.*

countries which have not ratified the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), it is also unlikely that the difficult and aggravated situation for women and girls in the Iranian society will improve any time soon.¹³

Another explanation for the discrepancy of the numbers are the strict criteria applied from the SWO for persons to be recognised as persons with disabilities. Only about 1.3-1.5 million persons with disabilities in Iran receive support by the State Welfare Organisation, because the requirements and conditions to be recognised as a person with disabilities are highly restrictive and consequently lead to the neglect and disregard of those individuals who are most in need of support.¹⁴

A general criticism of the Iranian government in this context is that it has failed to provide the required support for persons with disabilities and to allot sufficient financial and other resources to the protection of their rights and the provision of adequate support facilities. Senior officials of the SWO have time and again complained about the low and substandard allocation of financial resources, which are required to provide adequate assistance to persons with disabilities in Iran.¹⁵

Persons with disabilities in Iran generally encounter numerous barriers regarding their full and effective access to public transportation, public spaces and facilities as well as governmental services, education and legal protection in the justice system. They also suffer from severe discrimination in the field of employment.

¹³ UN Women, *Convention on the Elimination of all Forms of Discrimination against Women, Country Reports, Iran*, available from: <http://www.un.org/womenwatch/daw/cedaw/reports.htm>, (accessed 10 August 2018).

¹⁴ Center for Human Rights in Iran, *Iran's Parliament Should Pass Pending Disability Rights Bill*, 30 November 2017, available from: <https://www.iranhumanrights.org/2017/11/irans-parliament-should-pass-pending-disability-rights-bill/>, (accessed 13 May 2018).

¹⁵ Human Rights Watch, Center for Human Rights in Iran, *"I am equally human". Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, p.3, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July 2018).

The lack of opportunities to participate in society on an equal basis with others and the numerous obstacles often lead to the isolation of persons with disabilities at home and their complete dependence on their family and social network.¹⁶ The barriers regarding their access to services and supporting facilities are in part caused and exacerbated by negative perceptions, discriminatory treatment and the stigmatisation of persons with disabilities, which unfortunately are quite common in Iran and do not exclude medical professionals and welfare workers.¹⁷

These challenges are even more severe for children with disabilities, who do not receive adequate support by the government. Unfortunately, children with disabilities face discrimination on a daily basis and are often seriously constrained in their advancement in life and in exercising their rights due to a lack of adequate policies and legislation on the domestic level. They tend to have fewer opportunities than other children in the Iranian society, because their access to education, healthcare and supporting facilities and services or sometimes even to adequate nutrition and other basic means of survival is highly restricted.

In addition to that, their freedom of expression is constrained, and their opinions and concerns are generally not highly appreciated and taken less seriously by society. They are also more likely to become victims of physical abuse, which can happen inside the family or in separate institutions specifically established for the education and care of children with disabilities.

¹⁶ Human Rights Watch, Center for Human Rights in Iran, *"I am equally human". Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, p.3, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July 2018).

¹⁷ *ibid.*

1.3 Topic

This Master's thesis is focused on the following topic:

The right to primary education for children with disabilities in Iran, analysed within the framework of the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Convention on the Rights of the Child.

1.4 Research questions

1. What are Iran's obligations regarding the access to primary education for children with disabilities according to the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child?
2. What are the main challenges regarding the implementation of the international obligations at the national level of Iran and how can they be addressed?

1.5 Scope of Master's thesis

In order to limit the scope of this research, only children with disabilities who study at primary schools in Iran will be considered. In Iran, primary education starts at the age of six and lasts for five years. At the end of this five-year period, pupils are required to take a national examination.¹⁸ Thus, the children within the age range of six to 11, as they are engaged in primary education, will be taken into consideration in this Master's thesis.

¹⁸. The Iranian education system described and compared with the Dutch system, *Education system Iran*, Nuffic, 2nd edition December 2010, version 3, August 2015, P.6.

1.6 Methodology

This thesis uses qualitative research, which mostly relies on secondary data in the form of a literature review. In order to gather relevant information on disability in general and on the situation of persons with disabilities and the right to education in Iran in particular, a variety of sources and documents such as books, publications, journals, articles, state reports as well as reports by the Committee on the Rights of Persons with Disabilities was consulted.

The first part of the analysis in this Master's thesis provides an explanation of the different terms used, most importantly disability, children, education and the right to education. Different concepts will be presented to analyse these terms and after this, the legal framework will be presented, first from an international perspective and second in the specific context of Iran. The final chapter will provide an analysis of the extent of Iran's compliance with its legal obligations under the international Conventions as well as the specific challenges regarding the right to education for children with disabilities in the country. Finally, an attempt will be made to provide suggestions for possible solutions to these challenges and positive measures that could be adopted in order to improve the situation in Iran.

1.7 Limitations

A challenging aspect in this Master's thesis was the accessibility of the official websites, because a lot of them are filtered by the Iranian government and cannot be accessed from outside of the country. Therefore, it was necessary to use the Virtual private network (VPN), which is accessible only to Iranian citizens, or to ask Iranian contacts for information in order to circumvent the country's censorship. Still, some websites and documents are also filtered within Iran and cannot be accessed at all. For this reason, the available resources for this Master's thesis were limited and the access to them was difficult.

In addition, as I do not have a legal background, I led interviews with four Iranian human rights lawyers and three persons with disabilities living in Iran, in order to identify the main challenges that people with disabilities are facing in the country. Also, the perception of human rights lawyers on the compliance with the international obligations on the right to education for children with disabilities enlightened me the structure to follow for this Master's thesis.

Due to the time limitation in the research process and also due to concerns for the person's privacy, and the potential repercussions they could suffer by the government, the interview transcripts are not included in this Master's thesis. The responses, however, provided a direction for the research and analysis of the situation in Iran.

2. Definitions and conceptual analysis

In the first part of the analysis in this Master's thesis the main terms and concepts used will be analysed, most importantly "disability", "children" and "education". With regard to disability, different models and conceptions have been applied at different times and within different contexts. It is essential for this research to understand and emphasise the historical evolution of the model of disability and the shift from the medical model to the social model of disability, in particular thanks to the adoption of the UN Convention on the Rights of Persons with Disabilities, and to examine closely the approach of the Iranian government to this issue. This approach constitutes one of the elements leading to the discrimination of children with disabilities and the violation of their rights in this country, including the right to education.

2.1 Disability

The concept of disability includes a wide discourse; within understanding disabilities one should understand its different divisions. Disability is a complex, dynamic, multidimensional and controversial concept and there has been a long discussion about the definition of disability. Despite the classification series developed by the World Health Organization (WHO)¹⁹ there is no general or international definition of disability.

The definition of disability varies from one country to another and there are also several different legal understandings, concepts and consequences of being a person with disabilities in different places around the world.

¹⁹ World Health Organisation, *Classifications*, available from: <http://www.who.int/classifications/en/>, (accessed 5 April 2018).

Further, various models, which will be explained more in detail in the following chapters, should be used when defining and explaining the term.²⁰

These are not limited to the medical model, which perceives disability through a lens of impairments or differences, but also include the social model of disability, which argues that disability is “caused by the way society is organised”²¹ It is important to understand that various factors need to be considered when explaining what disability really means.

Most importantly the definition should follow the concept of the Convention on the Rights of Persons with Disabilities (CRPD), which is focused on social structures and barriers.²²

While the medical model of disability has long been the dominant model in this context, it has been recently challenged to a large extent and is no longer accepted in the current discussion and perception of the rights of persons with disabilities. Also, from a theoretical point of view, the definition of disability has frequently been put into question and the current focus primarily lies on the types of barriers a person encounters when trying to participate in society.

2.1.1 Definition of disability according to international instruments

There are various international instruments which refer to the topic of disability. Until the adoption of the CRPD by the United Nations General Assembly (UNGA) in 2006, there was no comprehensive international instrument directly addressing the rights of persons with disabilities.

²⁰ Scope, *The Social Model of Disability*, Available from:

<https://www.scope.org.uk/about-us/our-brand/social-model-of-disability>, (accessed 20 July 2018).

²¹ U. Naue, 'Human Rights of Persons with Disabilities', in K. Januszewski, M. Nowak, T. Hofstätter (eds.), *All Human Rights for All. Vienna Manual on Human Rights*, Vienna, Graz, NWV, 2012.

²² J. Charlton, *Nothing about us without us: disability, oppression and empowerment*, Berkeley, University of California Press, 1998, p.10; United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, available from: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 21 July 2018).

Providing a concrete international definition of disability has always been and is still an issue as it raises numerous questions due to the fact that there are several and quite diverse understandings of the topic and essential differences between the medical model of disability and the social model of disability, which will be described and analysed further in the following chapters.

2.1.1.1 Definition based on the medical model of disability

The long road to developing a human rights based definition and concept of disability started in 1975 with “The Declaration on the Rights of Disabled Persons”.²³ This text defined a person with disabilities as “any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of deficiency, either congenital or not, in his or her physical or mental capabilities.”²⁴

At the time the definition of disability was based on the medical model of disability. According to this approach, which was also initially followed by the World Health Organization, disability is understood as a physical condition of the individual.²⁵

The World Health Organization developed certain classification series designed with the aim of creating a systematic programme for health information systems and creating a common language for describing health in different countries and the possibility of comparing different data.

²³ United Nations General Assembly, *Declaration on the Rights of Mentally Retarded Persons*, adopted 20 December 1971, Available from: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfMentallyRetardedPersons.aspx>, (accessed 29 July 2018).

²⁴ United Nations General Assembly, *Declaration on the Rights of Disabled Person*, adopted 9 December 1975, Available from: <https://www.ohchr.org/en/professionalinterest/pages/rightsofdisabledpersons.aspx>, (accessed 5 May 2018).

²⁵ World Health Organisation, *World Report on disability*, 2011, Available from: http://www.who.int/disabilities/world_report/2011/chapter1.pdf, (accessed 1 May 2018).

The “International Classification of Impairments, Disabilities and Handicaps” (ICIDH), which was created by the WHO in 1980, made a distinction between impairment, disability and handicap. These terms were defined as follows:

- An *impairment* is any loss or abnormality of psychological, physiological, or anatomical structure or function;
- A *disability* is any restriction or lack of ability (resulting from an impairment) to perform an activity in the manner or within the range considered normal for a human being;
- A *handicap* is a disadvantage for a given individual resulting from an impairment or a disability, that limits or prevents the fulfilment of a role that is normal (depending on age, sex, and social and cultural factors) for that individual.²⁶

According to the WHO, there are different types of disabilities, primarily mental and physical disabilities. Persons with mental or intellectual disabilities have a mental disorder and failure or delay in mind due to a variety of reasons including hereditary or peripheral reasons.²⁷ As a result, they often face several problems. To properly describe these challenges, it is necessary to use several classifications. For instance, to understand the degree of disability, it is important to look at the presence of related physical and psychological disorders, as well as other conditions related to a mental disability.

These factors can be applied in a systematic manner using a multi-purpose system. In the WHO’s ICD-10 Guide for Mental Retardation five systems have been used on which the characteristics of the persons with mental impairment would be recognised. These include the severity of retardation and problem behaviours, associated medical

²⁶ World Health Organisation, *International Classification of Impairments, Disabilities and Handicaps*, 1980, pp. 47, 143 and 183, available from: http://apps.who.int/iris/bitstream/handle/10665/41003/9241541261_eng.pdf;jsessionid=B9A4B9A646160951ADD98D12869D8F72?sequence=1, (accessed 5 April 2018).

²⁷ Bartlett, Peter, Lewis, Oliver, Thorold, Oliver, *Mental Disability And the European Convention on Human Rights*, Martinus Nijhoff Publishers, Volume 10, 2007, p. 2.

conditions, associated psychiatric disorders, global assessment of psychosocial disability and associated abnormal psychosocial situations.²⁸

The term “physical disability” covers a vast range of difficulties relating to the functioning of the physical body.²⁹ Physical and sensory disabilities include spinal cord injury and physical and sensory impairments, spongy lesions, skeletal malformations, biological and metabolic disorders, visual or auditory disorders and others. Diseases like asthma, diabetes, kidney disease, anaemia, haemophilia, tuberculosis, cancer, and Acquired Immune Deficiency Syndrome (AIDS) also may also be seen as physical disabilities due to abnormalities and physical impairments and individual may experience.³⁰

One of the most notable forms of physical disabilities is cerebral palsy. Cerebral palsy is the inability to control the movements and condition of the body due to brain damage, which usually occurs during the birth process or shortly thereafter.³¹ It can be said that cerebral palsy is a general term that includes a group of lesions that disrupt the individual's mobility control. The disorder caused by this lesion appears in the early years of a person's life. This disease is caused by a defect in the evolution of or damage to the mobility regions of the brain, which, as a result, is not able to control the individual's physical condition.³²

In this context, it is important to mention that the description of the WHO's provisions is part of an analysis of the historical evolution and development of the definition and concept of disability and the intention is not to justify or support in any way the

²⁸ World Health Organization, *International Classification of Diseases, ICD -10, guide for mental retardation*, WHO/MNH/96.3, 1996, available from: http://www.who.int/mental_health/media/en/69.pdf, (accessed 2 April 2018).

²⁹ M. Fox, *Including Children 3-11 With Physical Disabilities: Practical Guidance for Mainstream Schools*, Routledge, 2013, p.21.

³⁰ N. Nabati, *Protecting the persons with disability in international system of human rights*, Tehran, Shahre Danesh, 1389 (2010), p. 43.

³¹ World Health Organisation, *International Classification of Diseases, ICD -10, guide for mental retardation*, WHO/MNH/96.3, 1996, p. 12, available from: http://www.who.int/mental_health/media/en/69.pdf, (accessed 2 April 2018).

³² *ibid.*

definitions and classifications elaborated and used by different international organisations. These definitions, which include terms such as “handicapped” or “physically or mentally challenged”, are not in line with the CRPD, which is the most important and reliable international document on the rights of persons with disabilities and serves as a standard for building inclusive societies. The CRPD will be presented and analysed more in detail in the following chapters. It must be clearly stated that the classification system provided by the WHO must be read in the context of the CRPD and its provisions and considering especially the appropriate use of terminology following the CRPD.

The International Labour Organisation (ILO) instruments also addressed the matter of disability and defined the term in its rules, including the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) and the corresponding recommendations, namely the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168) and the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99).³³

In the Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983 (No. 159), persons with disabilities are defined as follows:

For the purposes of this Convention, the term “disabled person” means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment.³⁴

The serious problem arising from the medical model of disability, which is also the basis of the definition provided by the ILO, is the stereotype and stigma created by defining an individual by their limitations. From a human rights perspective, it was high

³³ International Labour Organisation, *List of instruments by subject and status, Employment Policy and Promotion*, available from: <https://www.ilo.org/dyn/normlex/en/f?p=1000:12030::NO>, (accessed 10 April 2018).

³⁴ International Labour Organisation, *Vocational Rehabilitation and Employment (Disabled Persons) Convention*, 1983 (No. 159), article 1, para.1, available from: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312304:NO, (accessed 10 April 2018).

time and essential to move toward a social definition that would separate the concept of disability from the physical impairment.³⁵

2.1.1.2 Definition based on the social model of disability

The general approach to the topic of disability changed in 1993 when the United Nations General Assembly (UNGA) introduced the “UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities.”³⁶ In this text, disability is defined as a by-product of the socially constructed environment.³⁷

Thereafter, in 2001 the WHO completely shifted to the social definition of disability by introducing a new classification series regarding disability, namely “The International Classification of Functioning, Disability and Health” (ICF).³⁸ Far from giving one immutable definition of disabilities, this classification provides a thorough and precise framework in order to describe and organise information on disability. It covers all aspects of human health and some elements of welfare as “health-related areas”.³⁹

The ICF approaches disability as a multidimensional concept. To this effect, physical impairments, the functioning at the level of the individual in relation to its activities, the participation or involvement of people in all areas of life and environmental factors are taken into account. Personal factors such as age and gender might also be considered as they influence how disability is experienced by the individual.

³⁵ *ibid.*

³⁶ United Nations General Assembly, *Standard Rules on the Equalization of Opportunities for Persons with Disabilities, A/RES/48/96*, 4 March 1994, available from: <http://www.un.org/disabilities/documents/gadocs/standardrules.pdf>, (accessed 22 July 2018).

³⁷ United Nations General Assembly, *Standard Rules on the Equalization of Opportunities for Persons with Disabilities, A/RES/48/96*, 4 March 1994, article 5, available from: <https://www.ohchr.org/en/professionalinterest/pages/personswithdisabilities.aspx>, (accessed 20 June 2018).

³⁸ World Health Organization, *International Classification of Impairments, Disabilities and Handicaps*, available from: http://apps.who.int/iris/bitstream/handle/10665/41003/9241541261_eng.pdf;jsessionid=8BF3E0AFE898185756BF576C7ACADDFC?sequence=1, (accessed 20 July 2018).

³⁹ *Ibid.*

This definition, in addition to separating the concept of disability from the concept of impairment, identifies systemic barriers, negative attitudes and exclusion as disabling factors.

This classification changed the perception of disability in international human rights law but also had a broader effect, as it was also designed for health care workers, researchers, policy makers and individuals.

Finally, in 2006, a binding international human rights Convention on the rights of persons with disabilities was adopted by the UNGA in the form of the CRPD.⁴⁰ The question of the definition of disability within this Convention was crucial and the writers finally chose not to explicitly define the term “disability”. The reason for this can be found by reading the preamble of the Convention, in which disability is perceived as an evolving concept.⁴¹

Nevertheless, the Convention clearly states the following:

Persons with disabilities include 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.⁴²

This article outlines the underlying concept of disability. First, a person with a disability is a person with a long-term impairment. Second, their participation is restricted through barriers created in the interaction with society and the physical environment, and finally, the purpose and aim of the Convention is to achieve full equality between all persons and to remove any barrier. Without completely following the framework created by the

⁴⁰ United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, Available from:

<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 25 July 2018).

⁴¹ United Nations, *Convention on the Rights of Persons with Disabilities*, preamble, 13 December 2006, Available from:

<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 26 July 2018).

⁴² *ibid*, article 1.

WHO, the CRPD succeeded in including the social model and understanding of disability in the framework of society, its multipolar dimension and in providing a list of individuals that cannot be excluded from the group of persons with disabilities at the discretion of the signatory country.

2.1.1.3 Framework of the Convention on the Rights of Persons with Disabilities

This chapter explains the social model of disability, which helped to develop the foundation of the CRPD, both in theory and practice and also constitutes its aim and purpose. In essence, this model emphasises that participation in society is a basic right of all persons and must be the priority for all governments in their effort to comply with their obligations and commitments to implement the provisions and principles of the CRPD. Researchers from the United States and the United Kingdom focusing on the issue of disability elaborated a model in the 1980s which rejected the traditional perspective on disability as an exclusively medical issue and concerning only the individual and was subsequently referred to as ‘the social model of disability’.⁴³

The previously most commonly used “individual-medical model of disability” was focused on a person’s physical deficiencies which were seen as the core of the disability and did not include the societal framework in the discussion of the issue.⁴⁴ The new model, which was developed, emphasized the need to consider primarily the interaction with society and the barriers faced by persons with disabilities in ordinary life. After the change of perspective and shift of paradigm, it was no longer possible to look at the issue of disability as a separated and individual issue without recognising the important factor of society in this regard.

The “social model of disability” is highly significant and is further viewed as an instrumental and effective “political tool” with the aim of achieving the full

⁴³ U. Naue, 'Human Rights of Persons with Disabilities', in K. Januszewski, M. Nowak, T. Hofstätter (eds.), *All Human Rights for All. Vienna Manual on Human Rights*, Vienna, Graz, NWV, 2012, p. 443.

⁴⁴ *ibid.*

participation of persons with disabilities by fundamentally changing societal attitudes and structures.⁴⁵ This model is closely related to the “Independent Living Movement” and advocates for a significant change of “socio-political practices” in order to achieve the aim of inclusion and the full or at least enhanced participation of persons with disabilities.⁴⁶

In essence, the model defines negative societal conditions, structures and attitudes such as discrimination, exclusion and oppression as the main causes of disability instead of a physical or mental impairment of any individual person and put the rights of persons with disabilities in the focus, completely disregarding the notion of charity in this context.⁴⁷ People with disabilities have been kept invisible in and by society and their rights have not been respected and protected in an adequate manner and therefore a real shift of perspective and paradigm to the new model, which moves the burden of achieving full inclusion of all persons from the individual to society, is required.⁴⁸ Following the principles and concepts of the social model of disability, it is essential to understand that barriers and “disabling conditions” in society must be removed when addressing the issue of disability and trying to surmount individual challenges in everyday life and that the aim is not to “normalise” or change persons with disabilities in any way.⁴⁹

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

The social model of disability has been highly influential globally and marked a real change in perception and rhetoric on this issue and has put the focus primarily on the rights of persons with disabilities.⁵⁰ The CRPD, which was adopted in 2006 and entered into force in 2008, is the most important international human rights document in this context and is built on the social model of disability.⁵¹

It is a widely ratified human rights document since it has been ratified by 177 states, including the Optional Protocol, which has been ratified by 97 states.⁵² Article 1 of the Convention outlines the main obligation of states parties 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” and therefore clearly aligns with the concept and the aim of the social model on disability.⁵³

Although this shift of paradigm and the widespread global recognition of the rights of persons with disabilities, which is apparent in the large number of states parties to the CRPD, is a very positive development and highly encouraging for proponents and defenders of the rights of persons with disabilities, there is also a downside to this process, namely the lack of implementation of the policies outlined in the CRPD in the form of specific measures, policies and laws on the domestic level.⁵⁴ Without concrete and bold moves by states to implement the CRPD and to comply with their obligations and commitments with regard to human rights and honouring the principles of inclusion, participation and diversity the situation of persons with disabilities will not change and there will be no progress and lasting difference.

⁵⁰ *ibid.*

⁵¹ *ibid.*

⁵² United Nations Department of Economic and Social Affairs Division for Inclusive Social Development, *Convention on the Rights of Persons with Disabilities*, available from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>, (accessed 3 July 2018).

⁵³ *Convention on the Rights of Persons with Disabilities*, article 1.

⁵⁴ U. Naue, 'Human Rights of Persons with Disabilities', in K. Januszewski, M. Nowak, T. Hofstätter (eds.), *All Human Rights for All. Vienna Manual on Human Rights*, Vienna, Graz, NWV, 2012, p. 443.

Article 3 of the CRPD explicitly mentions the underlying principles of the Convention, which must be achieved by states parties and which include the “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”, “equality of opportunity”, “accessibility” as well as “respect for the evolving capacities of children with disabilities”.⁵⁵

The aim of achieving the “full and effective participation” of persons with disabilities in society is essential, because they have been kept at the margins of society and in separate institutions for a long time and were therefore not able to fully take part in social life.⁵⁶ The prevalent and common perspective of society, which has existed for a long time, that persons with disabilities must be taken care of by somebody else and put in separate care or educational institutions, because they are not in a position to care and act for themselves, has led to their societal exclusion and marginalisation.⁵⁷

Achieving the “full and effective participation” of persons with disabilities in society and therefore regarding them as full and active members of society is an important focus and objective of the CRPD and encompasses participation on the social, political as well as scientific level.⁵⁸ The main focus of states should lie on building and developing an “inclusive” and rights-respecting society and this target can only be achieved by facilitating the full participation of persons with disabilities.⁵⁹ It must further be encouraged that persons with disabilities can make their own decisions about their lives and act independently whenever that is possible.

They should be perceived as full and independent members of society who can voice their opinions and contribute in the same way as any other person and naturally deserve

⁵⁵ *Convention on the Rights of Persons with Disabilities*, article 3.

⁵⁶ U. Naue, 'Human Rights of Persons with Disabilities', in K. Januszewski, M. Nowak, T. Hofstätter (eds.), *All Human Rights for All. Vienna Manual on Human Rights*, Vienna, Graz, NWV, 2012, p. 443.

⁵⁷ *ibid.*, p. 444.

⁵⁸ *ibid.*, p. 444.

⁵⁹ *ibid.*, p. 444.

the same respect and recognition. An important aspect of an inclusive society is that there are no separate institutions or educational facilities specifically designed for persons with disabilities, which, however, does not mean that their specific needs should not be addressed. To the contrary, any barriers or any form of stigmatisation that exists in society and that prevents persons with disabilities from participating fully must be removed. The model of guardianship is widely used for persons with disabilities, however, it can prevent them from leading an “independent, free and autonomous life”.⁶⁰

It is critical that persons with disabilities are consulted in the process of establishing new laws, for instance regarding guardianship laws, because such laws have a large influence on their lives and determine their agency and independence in decision-making and exercising their legal capacity.⁶¹

For this consultation to work, it is essential that persons with disabilities have access to information, the necessary time and support and that their personal expertise and life experience is recognised and valued as an important contribution to the process.⁶²

It can be concluded from this analysis that although it is very difficult to change and challenge common and long-established ideas and attitudes towards persons with disabilities, the social model of disability is widely recognised as an important tool to develop an inclusive society, in which the rights of persons with disabilities are fully respected. Furthermore, the adoption of the CRPD was highly important for persons with disabilities and improved their situation at least to a certain extent, because it challenged the common perception of this marginalised group in society and, importantly, shifted the focus from the individual situation of persons to the societal barriers they encounter on a daily basis.

⁶⁰ *ibid.*, p. 444.

⁶¹ *ibid.*, p. 444.

⁶² *ibid.*, p. 445.

2.1.2 Iranian Laws regarding disability

From 1959 onwards, a variety of rules and regulations have been enacted to address the issues concerning persons with disabilities.⁶³ After the Iran-Iraq war (1980-1988), the Iranian government incorporated the term “war veteran” in its definition of persons with disabilities and the Foundation for War Veterans was established for the purpose of treating and assisting war veterans who had acquired disabilities in combat activities.⁶⁴ The Comprehensive Law on Protection of the Rights of Persons with Disabilities⁶⁵ and its Executive Instruction⁶⁶ were enacted on 2004, they are the fundamental sources of the rights of these individuals in the Iranian legal system. The law states the requirement of providing full access to public buildings, housing, the education system, financial services as well as employment opportunities for persons with disabilities.⁶⁷ It is accompanied by the establishment of the State Welfare Organization (SWO), which has been tasked by the government with providing services to persons with disabilities.⁶⁸

More recently, the parliament has adopted a new law on the rights of persons with disabilities which will be enforced in 2019. The law will supposedly Access to social facilities, provide free transportation for people with multiple disabilities, refine the insurance coverage of persons with disabilities in such a way that it would cover psychiatric and physical rehabilitation services and provide free education to “eligible

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ International Labour Organisation, *Comprehensive Law on Disability Rights*, 2004, available from: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91491&p_country=IRN&p_count=168, (accessed 1 August 2018);

Islamic Parliament Research Center of The Islamic Republic of IRAN, *Comprehensive Law on Disability Rights*, 2004, available from: <http://rc.majlis.ir/fa/law/show/94044>, (accessed 26 July 2018).

⁶⁶ Iranian Law Enforcement Identity, Administrative, *financial and administrative regulations*, available from: <https://shenasname.ir/subjects/sar/4388-ghanoon-maloolan.html>, (accessed 22 July 2018).

⁶⁷ *ibid.*

⁶⁸ *ibid.*; Alaedini, P., *Training and Employment of People with Disabilities: Iran 2003 (An Ability Asia Country Study)*, 2004, Bangkok, International Labor Office.

individuals” both at public and even Azad universities. (the term eligible individuals as not been defined by the Parliament yet)⁶⁹.

The Iranian Comprehensive Law on Disability Rights provides the following definition of persons with disabilities: “persons with disability, means persons, by determination of medical commission of the Welfare Organization, who have a continuous and significant impairment in their general health and efficiency, resulted from a physical, mental, psychological or combined disorder; in such a way as to decrease the individual's autonomy in social and economic areas.”⁷⁰

The note 1 of article 1 in the Executive Instruction, describes disability as, "any limitation or lack of performing an activity such as behaviour, communication, and other daily life skills.”⁷¹–In addition, four categories of disability, namely “physical, hearing, visual and mental disability”, have been identified by the State Welfare Organization.⁷²

Those definitions of disability are based on the medical model of disability, which means that the focus lies on the physical condition and the “functioning“ of the individual, without taking societal circumstances, attitudes and perceptions into account, which lead to the establishment of barriers, stigmatisation and a limitation of opportunities for persons with disabilities to participate in society.⁷³ Following this

⁶⁹ Teheran Times, Iran’s Leading International Daily, *Bill ensuring rights of persons with disabilities approved*, January 1, 2018, available at: <http://www.tehrantimes.com/news/419901/Bill-ensuring-rights-of-persons-with-disabilities-approved>, (accessed 22 August 2018).

⁷⁰ International Labour Organisation, *Comprehensive Law on Disability Rights*, 2004, article 1, available from: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91491&p_country=IRN&p_count=168, (accessed 1 August 2018).

⁷¹ S.A.Bakhtar, *Rights of Disabled Persons in Iranian Laws*, Jungle Publication (Javdaneh), edition 2, 2009, p. 15.

⁷² *ibid.*; Alaedini, P., *Training and Employment of People with Disabilities: Iran 2003 (An Ability Asia Country Study)*, 2004, Bangkok, International Labor Office.

⁷³ Human Rights Watch, Center for Human Rights in Iran, “*I am equally human*”. *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, p. 36, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

approach, persons with disabilities are perceived as somehow “deficient”, “vulnerable” and not as full and independent members of society, because they require additional care and support and their impairments are perceived as in need to be “fixed”, so that they can participate in society in the same way as other persons.⁷⁴

This perception of persons with disabilities is not in compliance with the CRPD and its understanding of disability, and unfortunately has led to the establishment of discriminatory laws in the case of Iran. The Iranian Civil Code, Penal Code, the Law on Criminal Procedure and other laws⁷⁵ still include discriminatory terms and descriptions such as “retarded” or “insane” and in the same way the government also refers to “chronic mental diseases”. In the “Charter on Citizenry Rights”, which was adopted in 2016, persons with disabilities are referred to as “ability-seekers”⁷⁶, which certainly is a derogatory expression that impacts persons with disabilities in a negative way and stigmatises them. In the Purposes and Duties of the Ministry of Education Act, adopted in 1987 is provided that “the ministry is obliged to provide the needs of retarded people through the creation and strengthening of special schools.”

Moreover, the definition of disability used in Iranian laws is highly restrictive and leads to the exclusion of many persons. For instance, regarding psychosocial impairments, the SWO only recognises persons suffering from a “chronic mental disease”, which implies that the person suffers from a “social or professional dysfunction” and that their disease has started at least two years ago and has required their hospitalisation more than once

⁷⁴ *ibid.*

⁷⁵ *ibid.*; UN Committee on the Rights of Persons with Disabilities, *Concluding Observations on Initial Report of Islamic Republic of Iran*, adopted in May 10, 2017, para. 8, available from: https://www.ecoi.net/en/file/local/1420565/1930_1514886275_g1711469.pdf, (accessed 10 July).

⁷⁶ Congress on the Constitution and Nation’s Rights, *Charter on Citizenry Rights*, 19 December 2016, available from: Ministry of Foreign Affairs website, Available from: http://moscow.mfa.ir/uploads/%D9%85%D9%86%D8%B4%D9%88%D8%B1_%D8%AD%D9%82%D9%88%D9%82_%D8%B4%D9%87%D8%B1%D9%88%D9%86%D8%AF%DB%8C_133061.pdf, (accessed 10 July 2018); English Version, available from: <http://epub.citizensrights.ir/CitizensRightsEN.pdf>, (accessed 10 July 2018).

in the last two years, as persons with disabilities.⁷⁷ These restrictive requirements mean that many people, who are in great need of support, have no access to the services provided by the SWO.⁷⁸

According to Human Rights Watch and the Center for Human Rights in Iran, in addition of being built on the medical model of disability, the Iranian government's policy and strategy and action framework regarding disability is mainly focused on the prevention and the reduction of the number of persons with disabilities.⁷⁹

This extreme position and the focus on prevention is exemplified in Anoushirvan Mohseni-Bandpey, the director of the SWO, suggesting the use of “medical science evidence to remove disabilities and decrease the number of disabled persons to the least possible.”⁸⁰ In 2017, he mentioned the high number of “children born with congenital disabilities”, which amounted to approximately 25 to 30 thousand each year, and further emphasised the high cost they would bring for the health care system of Iran.⁸¹

As a consequence, the SWO introduced the “premarital genetic counselling” requirement.⁸² Anoushirvan Mohseni-Bandpey, the director of the SWO precisely said that “as giving birth to children with birth defects could prove costly both for parents

⁷⁷ Iranian State Welfare Organization, *Regulations on Establishment of the Rehabilitation and Treatment Centers for Persons with Chronic Mental Disorders*, article 1(1) adopted by SWO Council of Directors, Summer 2007, available from: <http://www.behzisti.ir/Portal/file/?251107/tt8.pdf>, (accessed 10 July 2018).

⁷⁸ Human Rights Watch, Center for Human Rights in Iran, “*I Am Equally Human*” *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, p. 38, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

⁷⁹ *ibid.*

⁸⁰ Azad News Agency (ANA), *Speech by Anoushirvan Mohseni-Bandpey, director of SWO*, 7 December 2015, available from <http://www.ana.ir/news/70270>, (accessed 10 July 2018).

⁸¹ Tehran Times, *Premarital genetic counselling made mandatory in Iran*, 3 November 2017, Available from: <http://www.tehrantimes.com/news/418154/Premarital-genetic-counselling-made-mandatory-in-Iran>, (accessed 11 August 2018).

⁸² *ibid.*

and healthcare sector we try to encourage couples to take the tests and in case they cannot afford the tests the Welfare Organization will cover the costs.”⁸³

This obligatory genetic test for couples before getting married in order to check their genetic information and to detect the potential of developing or passing on a genetic disorder to a future child is a highly controversial aspect of Iran’s “disability prevention” policy.⁸⁴ The requirement of proof of a genetic screening at the time of marriage has been introduced and taken effect at the beginning of 2018 in the whole country in spite of previous recommendations by the Committee on the Rights of Persons with Disabilities (CRPD Committee) not to adopt the draft version of this law, which the Committee had evaluated.⁸⁵

The adoption and the content of this law constitutes a clear violation of the CRPD and specifically a violation of the right to privacy and family life of persons with disabilities, who might not be able to pass this genetic screening and therefore might be prevented from having a family and exercising their respective rights.⁸⁶

It is clear that state policies aiming solely at the prevention of disability are not in compliance with the framework and obligations regarding the protection of the rights of persons with disabilities as specified in the CRPD.⁸⁷ It is also not acceptable for the director of the SWO, which is the main governmental organisation responsible for the

⁸³ *ibid.*

⁸⁴ Human Rights Watch, Center for Human Rights in Iran, p. 40, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

⁸⁵ *ibid.*; *Sixth National Plan for Economic, Social and Cultural Development*, adopted by Islamic Consultative Assembly 14/12/1395 (March 5, 2017), article 75, available from: <https://shenasname.ir/1391-09-30-20-01-30/tosee/plan6/> قانون-برنامه-ششم-توسعه-جمهوری-اسلامی-ایران 3579.html, (accessed 10 July 2018); Committee on the Rights of Persons with Disabilities, *Concluding Observations on Iran*, 2017, para.9, available from: https://www.ecoi.net/en/file/local/1420565/1930_1514886275_g1711469.pdf, (accessed 10 July 2018).

⁸⁶ Human Rights Watch, Center for Human Rights in Iran, p. 40, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

⁸⁷ Human Rights Watch, Center for Human Rights in Iran, p. 39, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

support of persons with disabilities, to use this kind of language and to introduce proposals which are highly discriminatory against persons with disabilities and constitute a clear violation of their rights.

Quite the contrary, the focus of government policies should lie on the provision of full and equal access to services of public health care as well as adequate information on these services for all persons without discrimination of any kind.⁸⁸ Furthermore, Human Rights Watch and the Center for Human Rights in Iran argue that the state's resources must be distributed in a reasonable and effective manner for the protection of the rights of persons with disabilities and should not be primarily focused on specific medical treatments and procedures.⁸⁹

2.2 Children

In this chapter the definition of “child” as well as the age of majority will be discussed. To achieve such purpose, firstly, the concept will be explained in the context of the CRC, secondly, the relevant framework of Iranian laws, especially the Civil Code and the Islamic Penal Code, will be scrutinised. There are different interpretations of the term “child” and the aim of this analysis is not to come to a final definition of the child or the age of majority, but to explain the different approaches. Each country has its own way to define a child or the age of majority, which is often based on cultural and religious traditions, as will be explained more in detail. A special focus will be put on the challenges regarding the implementation of the rights of children according to the CRC in the Iranian society.

⁸⁸ *ibid.*

⁸⁹ *ibid.*

2.2.1 Definition of the child in the Convention on the Rights of the Child

Children belong to the more vulnerable groups of society and therefore require specific protection from the international community as well as national states. Given the urgent need to address children's rights issues at a global level, the CRC was adopted by the United Nations General Assembly in 1989 with the aim of protecting children's rights in a more effective way. Most countries of the world are states parties to the CRC - currently 196 countries - and Iran ratified the Convention on 13 July 1994.⁹⁰

The CRC defines the term "child" in its article 1 as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier."⁹¹

Based on the CRC's approach, a person under the age of eighteen years shall be considered a child, however, the Convention allows states parties to follow different age definitions.

The introduction of the age of eighteen as the age of majority for every country has been rejected during the first reading of the Convention⁹², as some states opposed this provision and argued that in some countries children have to participate in duties and contribute to the survival of the family already at a younger age and therefore majority should be reached earlier.⁹³

Thus, the Convention allows states to set a lower age for the end of childhood and therefore enables a more flexible interpretation of this provision according to different norms and the corresponding national context. However, the Convention does not

⁹⁰ United Nations Treaty Collection, *United Nations Convention on the Rights of the Child*, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

⁹¹ United Nations General Assembly, *Convention on the Rights of the Child*, November 1989, entered into force September 1990, available from: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, (accessed 29 July 2018).

⁹² Geraldine Van Bueren, *The International Law on the Rights of the Child*, Martinus Nijhoff Publishers, 1998, p.37.

⁹³ *ibid.*

mention a minimum age allowed to be set by states for the end of childhood. For Geraldine Van Bueren this constitutes a gaping lacuna.⁹⁴ Indeed, if a child reaches majority according to national law, the rights set forth in the CRC which do not mention a specific age will be inapplicable.⁹⁵

Concerning the criteria that determine the national age limit for the end of childhood, a disposition in article 2 of the Convention is focused on the principle of non-discrimination. The corresponding article reads as follows: “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”⁹⁶ This disposition prevents countries from adopting a different age for majority based on discriminatory principles, including on the basis of sex or disability.

2.2.2 The definition of children under Iranian law

Children generally belong to the more vulnerable groups of society, who require specific protection by the state, which must ensure that their rights are protected under all circumstances.⁹⁷ As about 30 percent of Iran's population are children, their protection should be a main priority of the government.⁹⁸

According to Article 9 of Iran's Civil Code, any ratified international instrument should have the force of law and thus should be enforceable in the national courts and impact

⁹⁴ *ibid.*

⁹⁵ *ibid.*

⁹⁶ United Nation Human Rights Office of The High Commissioner, *International Convention on the Rights of the Child* (adopted on 20 November 1989, entered into force on 2 September 1990), article 2, Available from: <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf> (accessed 20 August 2018).

⁹⁷ *Ibid.*, preamble.

⁹⁸ United Nations Human Rights Office of The High Commissioner, *Committee on the Rights of the Child examines the report of Iran*, Available from: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16940&LangID=E>, (accessed 18 August 2018).

the larger legal framework.⁹⁹ However, the Convention on the rights of the Child allows States parties to follow different age definitions and the Islamic Republic of Iran ignored the recommendation of the Committee on the Rights of the Child (CRC Committee) to States parties to amend their applicable legislation in order to apply the principles and provisions of the Convention to all persons under eighteen.¹⁰⁰ Therefore, the Convention on the Rights of the Child, even though it has been ratified by the Islamic Republic of Iran, does not apply to persons who do not meet the definition of the child set by Iranian law.

The definition of the child in Iran is set in article 147 of the Civil Code, which defines the “child” as someone who has not reached the age of puberty.¹⁰¹ The age of puberty is detailed in 1210 of the Civil Code, as fifteen lunar years for boys (between 14 and 15 solar years) and nine lunar years (between 8 and 9 solar years) for girls.¹⁰² The age of majority is thus different for boys and for girls. However, according to the principle of non-discrimination guaranteed by the article 2 of the CRC¹⁰³ which states “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”¹⁰⁴ and thus prevents countries from adopting a different age for majority

⁹⁹ Civil Code of the Islamic Republic of Iran, art. 9 available from:

<http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir009en.pdf>, (accessed on 20 August 2018).

¹⁰⁰ Convention on the Rights of the Child, Distr. GENERAL. *CRC/C/15/Add.254*. 31 March 2005, Thirty- eight Session, Consideration of Reports Submitted by States Parties under Article 44 of the Convention. p. 5. Available from:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2F15%2FAdd.254&Lang=en (accessed 20 August 2018).

¹⁰¹ The civil code of the Islamic Republic of Iran, Available from:

<http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir009en.pdf>, (accessed on 20 August 2018).

¹⁰² *ibid.*

¹⁰³ United Nations, *Convention on the Rights of the Child*, Adopted by General Assembly on 20 November 1989, Available from: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed on 20 August 2018).

¹⁰⁴ United Nation Human Rights Office of The High Commissioner, *International Convention on the Rights of the Child* (adopted on 20 November 1989, entered into force on 2 September 1990), article 2, Available from: <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf> (accessed 20 August 2018).

based on sex, as well as article 2(2) of the ICESCR¹⁰⁵ and article 2(1) of the ICCPR¹⁰⁶ which confirms that States parties shall respect and ensure the rights set forth in those texts without discrimination of any kind.

Moreover, the Committee on the Rights of the Child emphasised that the minimum age set by states for the age of majority should be the same for both boys and girls, in accordance with the aforementioned principle of non- discrimination.¹⁰⁷

In 2005, the Committee on the Rights of the Child noted with concern the lack of protection for girls between 9 and 18 years of age and for boys between 15 and 18 years of age¹⁰⁸, but an adequate response from Iran is still missing.

2.3 Education

Defining and understanding the term “education” is very important, but there is no consensus on the definition and scope of the term. Thus, different people defined the term in different ways to achieve a comprehensive understanding. There certainly is not one unique definition which comprises all functions and aims of education. Education can be understood in several different ways, for instance with a focus on gaining knowledge and developing certain skills, in the sense of formal instruction in educational institutions such as schools and universities, in the sense of a constant learning process, which continues throughout a person’s life without any specific start or end point or also in the sense of influencing a person’s way of thinking, behaviour

¹⁰⁵ United Nations, *International Covenant on Economic, Social and Cultural Rights*, Adopted by General Assembly on 16 December 1966, Available from: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf> (accessed on 20 August 2018).

¹⁰⁶ United Nations, *International Covenant on Civil and Political Rights*, Adopted by General Assembly on 16 December 1966, Available from: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf> (accessed on 20 August 2018).

¹⁰⁷ Committee on the Rights of the Child, *General Comment 4: Adolescent health and development in the context of the Convention on the Rights of the Child (CRC GC 4)*, CRC/GC/2003/4 (2003), para. 9, Available from: <https://undocs.org/CRC/GC/2003/4> (accessed on 20 August 2018).

¹⁰⁸ Committee on the Rights of the Child, 2005, para. 22.

and acting.¹⁰⁹ The term education is and always has been understood and used in different ways, however, the concept and definition has changed a lot over time and was broadened significantly.

Aristotle defined the term education in a very limited and controversial way as “the creation of a sound mind in a sound body.... It develops man’s faculty, especially his mind, so that he may be able to enjoy the contemplation of supreme truth, goodness and beauty in which perfect happiness essentially consists.”¹¹⁰ The concept of education has certainly changed a lot since the time of Aristotle and the focus now lies on a much more developed understanding of the term, particularly in the context of an inclusive educational system.

According to the Islamic tradition, education is focused on the transmission of religious and cultural norms and practices, which organise people's’ lives and serve as a guidance, especially regarding their spiritual connection and development.¹¹¹

Following a narrower definition, the concept of education only comprises the teaching at school and university beginning with a child’s first admission to school and ending with the graduation from school or at a higher educational level with the graduation from college and university.¹¹²

As explained above, the term education may be defined in several different ways. The analysis in this Master’s thesis is based on the narrower definition of education, which only refers to the period of receiving instruction at educational facilities.¹¹³ Furthermore, the definition of the term as it is used in this Master’s thesis, shall be more limited in the sense that it is confined only to children with disabilities who are educated

¹⁰⁹ U. Shveta, *Basics in Education*, Textbook for B. Ed. Course, NCERT, 2014, p.3.

¹¹⁰ A., Sofe, *Education: Traditional Vs. Modern Perspective*, American Research Journal of English and Literature, Volume 1, Issue 2, 2015, p. 3, Available from <http://oaji.net/articles/2015/1979-1431327484.pdf>, (accessed 20 June 2018).

¹¹¹ *ibid.*, p. 27.

¹¹² *ibid.*, p.5.

¹¹³ *ibid.*

in primary school. Although several of the international instruments as well as the national laws of Iran, which will be examined in this analysis, address the right to education generally, the focus of the analysis will be put on children with disabilities.

3. Legal framework of the right to education

In this chapter the concept and importance of the right to education in the international human rights system as well as in the framework of the United Nations Sustainable Development Goals (SDGs) will be examined. Thereafter, the analysis will focus on the right to education in the Iranian legal system.

3.1 The right to education in international human rights instruments

The right to education has been recognised in an international legal instrument for the first time in 1948 in the Universal Declaration of Human Rights.¹¹⁴

Since then it has been reaffirmed in numerous international legal instruments, including the UNESCO Convention against Discrimination in Education in 1960¹¹⁵, the International Covenant on the Elimination of All Forms of Racial Discrimination in 1965¹¹⁶, the International Covenant on Economic Social and Cultural Rights in 1966¹¹⁷, the International Covenant on Civil and Political Rights in 1966¹¹⁸, the Convention on the Elimination of All Forms of Discrimination against Women in 1979¹¹⁹, the Convention on the Rights of the Child in 1989¹²⁰ and the Convention on the Rights of Persons with Disabilities in 2006.¹²¹

¹¹⁴ Universal Declaration of Human Rights, 1948, article 26.

¹¹⁵ International Covenant on Economic, Social and Cultural Rights, 1966, article 13 and 14.

¹¹⁶ Convention on the Elimination of All Forms of Racial Discrimination, 1966, article 5 and 7.

¹¹⁷ UNESCO Convention against Discrimination in Education, 1960, article 1 to 5.

¹¹⁸ International Covenant on Civil and Political Rights, 1966, article 18.

¹¹⁹ Convention on the Elimination of All Forms of Discrimination against Women, 1979, article 10.

¹²⁰ Convention on the Rights of the Child, 1989, article 28 and 29.

¹²¹ Convention on the Rights of Persons with Disabilities, 2006, article 24.

At the international level, the content of the right to education can be conceptualised as the four “As”: availability, accessibility, acceptability and adaptability.¹²² The idea of the four “As” was developed by the former UN Special Rapporteur on the Right to Education, Katarina Tomaševski.¹²³

Availability means that states must ensure a free and compulsory, good quality education, by qualified teachers, available for all children, within safe schools and appropriate infrastructure and facilities, especially with trained teachers. Therefore, it couples two governmental obligations: the right to education as a civil and political right, requiring the government to facilitate the establishment of educational institutions by non-state actors, and the right to education as a social and economic right requiring the government to establish them itself.

Accessibility obliges the states to eliminate any discrimination at school. It implies to provide free and compulsory education at least to the primary education. Acceptability requires that states ensure that education is relevant and respectful of everyone’s rights. The education should respect diversity. Adaptability imposes the obligation on states to ensure that education is adaptable to the child’s specific situation and ability.¹²⁴

All the international human rights instruments mentioned above clearly define and recognise the right to education as a universal right that is applicable to all children, and certainly including children with disabilities, and has to be recognised and protected by governments. Therefore, there is no possible reason or justification for states to exclude some individuals from this general and supreme right.

¹²² K., Tomaševski, ‘Human rights obligations: making education available, accessible, acceptable and adaptable’, *Right to Education Primers*, 2001, pp. 14-15, available from: <http://www.right-to-education.org/resource/primer-no-3-human-rights-obligations-making-education-available-accessible-acceptable-and>, (accessed 10 August 2018).

¹²³ *ibid.*

¹²⁴ *ibid.*

At the regional level, the Arab Charter on Human Rights¹²⁵ addressed the right to education in its article 34: “The eradication of illiteracy is a binding obligation and every citizen has a right to education. Primary education, at the very least, shall be compulsory and free and both secondary and university education shall be made easily accessible to all”. However, those rights are guaranteed for citizens only, which does not comply with the international standards already mentioned.

The following chapter will examine the right to education as one of the goals within the framework of the 2030 Agenda for Sustainable Development in order to emphasise its great importance on the international level.

3.2 The right to education within the framework of the United Nations Sustainable Development Goals

The Sustainable Development Goals (SDGs) are a universal call to action in order to end poverty, protect the planet and ensure that all people enjoy peace and prosperity.¹²⁶ There are 17 Goals overall and quality education is Goal 4 of the United Nations Sustainable Development Goals.¹²⁷ It aims to ensure that by 2030 all girls and boys have access to universal, free, equitable and quality primary and secondary education, but also to quality pre-primary education, technical, vocational and tertiary education. By 2030, all countries should increase the number of persons who have relevant skills, ensure equal access to all levels of education, achieve full literacy and ensure that all learners acquire the knowledge and skills needed to promote sustainable development.¹²⁸

¹²⁵ The Arab Charter on Human Rights, adopted 15 September 1994, entered into force in 2008, available from <http://hrlibrary.umn.edu/instate/arabhrcharter.html> (accessed on 20 August 2018).

¹²⁶ United Nations Development Programme, *United Nations Sustainable Development Goals*, Goal 4, Available from: <http://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-4-quality-education.htm>, (accessed 21 August 2018).

¹²⁷ *ibid.*

¹²⁸ *ibid.*

The 2030 Agenda for Sustainable Development recognizes that all people, ‘irrespective of sex, age, race, ethnicity, and persons with disabilities, migrants, indigenous peoples’, should have access to lifelong learning opportunities, inclusion and equity are the cornerstone of this transformative education agenda.¹²⁹

There are three means of implementation to this agenda: education facilities must be child, disability and gender sensitive and provide safe, nonviolent, inclusive and effective learning environments for all, the number of scholarships available to children in developing countries must be expanded globally and the number of qualified teachers must be increased.¹³⁰

In relation to Iran, it must be observed that conservatives and religious leaders have stood against the implementation of the 2030 Agenda, arguing that it would be a betrayal of Iran’s Islamic codes and would “demoralise” the education system.¹³¹

In response, the Supreme National Security Council ruled against the implementation of the Agenda in 2017.¹³² Later on, Iran’s minister of education has warned that anyone who was using the educational guidelines from the banned “2030 Agenda for Sustainable Development” would be “firmly dealt with.”¹³³ Therefore, unfortunately, the 2030 Agenda is currently not being implemented and not even mentioned in Iran and will most probably also not be implemented in the future.

¹²⁹ *ibid.*

¹³⁰ *ibid.*

¹³¹ Azenews, *Iran ceases realization of UN 2030 Agenda for Sustainable Development*, 14 June 2017, Available from <https://www.azernews.az/region/114722.html> (accessed 21 August 2018).

¹³² *ibid.*

¹³³ Center for Human Rights in Iran, *Iranian Education Minister Issues Stern Warning Against UN 2030 Agenda*, April 16, 2018, Available from: <https://iranhumanrights.org/2018/04/iranian-education-minister-issues-stern-warning-against-un-2030-agenda/> (accessed 21 August 2018).

3.3 The right to education in the Iranian legal system

In article 30 of the Constitution of the Islamic Republic of Iran, the right to free education is mentioned as follows: “The government must provide all citizens with free education up to secondary school and must expand free higher education to the extent required by the country for attaining self-sufficiency.”¹³⁴ This provision provides access to free education for primary school up to secondary school and also includes the requirement to expand the free education measures for the purpose of attaining “self-sufficiency” in the country. However, the Islamic Republic of Iran did not define the scope and definition of “self-sufficiency” and therefore it is in the discretion of the state to decide on the extension of free educational measures.

Also, the 2016 Charter on Citizenry Rights¹³⁵, which contrary to the Constitution refers to specifically to persons with disabilities, states “Any inappropriate discrimination against citizens in accessing public services such as health care services, employment and education opportunities is prohibited. The state must refrain from conducting any decision or measure that would lead to social class distancing and inappropriate discrimination and deprivation from citizenry rights.” and thus proscribe discrimination against persons with disabilities in access to education. Even though the term “inappropriate discrimination” is open to interpretation.

In the context of the Iranian legal system it is highly important to consider the Shari’a as the main source of Iranian laws and to explain the implications of this in the educational system. According to article 4 of the Iranian Constitution, all legal provisions are based on Shari’a law. The article reads as follows: “All civic, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based

¹³⁴ Ministry of Foreign Affairs of the Islamic Republic of Iran, *Constitution of the Islamic Republic of Iran*, article 30, available from: <http://en.mfa.ir/index.aspx?fkeyid=&siteid=3&fkeyid=&siteid=3&pageid=2144>, (accessed 5 June 2018).

¹³⁵ Citizenry Rights Charter, adopted by National Administrative Council, 1395 (2017) Available from: <http://www.rnk.ir/Laws/ShowLaw.aspx?Code=13140> (accessed 23 August 2018).

on Islamic criteria. This principle governs all articles of the Constitution, and other laws and regulations.”¹³⁶

One of the characteristics of the Shari'a of Islam is the existence of comprehensive rules and doctrines which include various provisions for individuals in personal and social relations. Following the Islamic legal tradition, education is supposed to enhance the development of human values such as ethics, justice, peace and tolerance, and respect for fundamental rights and freedoms and it must be acknowledged that all Islamic governments play a key role in this regard and should ensure that education is available to all.¹³⁷

In Islamic societies it is common that some people, especially the religious leaders of the community, take on important responsibilities in this regard as well.¹³⁸ Ultimately and in accordance with the international human rights Conventions, however, the government has the main responsibility for the provision of education for all children.

It should also be noted that one of the distinctive characteristics of Islamic states is that from the point of view of Islamic law, the provision of spiritual resources and the creation of grounds for the growth of morality and spirituality is also one of the tasks of the government in the educational context.¹³⁹ Therefore, in relation to education, the spiritual and intellectual aspects and the promotion of a moral personality must also be considered.

According to the Shari'a, it is highly important for the purpose of education that effective ways and methods for the development and the evolution of intellectual and

¹³⁶ Ministry of Foreign Affairs of the Islamic Republic of Iran, *Constitution of the Islamic Republic of Iran*, article 4, available from: <http://en.mfa.ir/index.aspx?fkeyid=&siteid=3&fkeyid=&siteid=3&pageid=2144>, (accessed 20 July 2018).

¹³⁷ L.A.Foroozandeh Dehkordi and E.Molaei, *Reviewing the value system In Islamic Management and Other Schools*, 2010 ,p.169, Available from: <http://www.ensani.ir/storage/Files/20101211091112-213.pdf>, (accessed 4 June 2018).

¹³⁸ M.M.Meghdadi, Support for people with disabilities, *With a view to providing a comprehensive overview of the protection of the rights of the disabled, 2017*, Available from: <http://2.188.15.35/article-1-125-fa.pdf>, (accessed 6 June 2018).

¹³⁹ M.T. Mesbah Yazdi, *Political Theory of Islam*, Qom, Imam Khomeini Institute, fourth edition, 1390 (2011), p.19.

cognitive abilities, as well as for the development of human skills, attitudes and behaviours are considered.¹⁴⁰

The use of these terms, especially “intellectual and cognitive abilities”, is problematic, because it can have negative consequences for children with disabilities, in the sense of discrimination and stigmatisation, and consequently restrict their access to education. In the context of the right to education, it is also crucial to mention the Universal Islamic Declaration of Human Rights, which was adopted by the Islamic Council of Europe on 19 September 1981 and which was greatly influenced and promoted by the government of Iran after the revolution had occurred in the country.¹⁴¹

In article 21 of the Declaration it is mentioned that “every person is entitled to receive education in accordance with his natural capabilities and “every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.”¹⁴²

When interpreting this article, it can be stated that from the point of view of Islamic states, the right to education for all persons is recognised in principle, however, the form and extent of education shall be adjusted to the natural capabilities of persons and taking into account potential limitations in this process. The interpretation of the right to education in the context of Islamic law is highly problematic, because it can result in the discrimination and unfair treatment of persons with disabilities. In any case, the definition put forth in the Universal Islamic Declaration is not in accordance with the concept of disability provided by the CRPD, which constitutes and outlines the current

¹⁴⁰ Nahjolbalaghe, Hikmat 73, 2015, Available from: <http://www.nahjeali.com/?p=3605>, (accessed 5 June 2018).

¹⁴¹ Islamic Council, *Universal Islamic Declaration of Human Rights*, 1981, available from: <http://www.alhewar.com/ISLAMDECL.html>, (accessed 20 August 2018); A.A. Maruf Olayemi, A. M. Hamzah Alabi, A. H. Buang, ‘Islamic Human Rights Law: A Critical Evaluation of UIDHR & CDHRI In Context Of UDHR’, *Journal of Islam, Law and Judiciary*, vol. 1, issue 3, 2015, p. 29, available from: https://www.researchgate.net/publication/281120061_Islamic_Human_Rights_Law_A_Critical_Evaluati_on_of_UIDHR_CDHRI_In_Context_Of_UDHR, (accessed 20 August 2018).

¹⁴² Islamic Council, *Universal Islamic Declaration of Human Rights*, 1981, article 21, available from <http://www.alhewar.com/ISLAMDECL.html>, (accessed 20 August 2018)

and most appropriate framework and terminology regarding persons with disabilities and their rights.

There are, however, certain rules and principles included in the Islamic Shari'a, which mention specifically the protection of the rights of persons with disabilities.¹⁴³ According to Islamic Law, establishing social justice is one of the most important goals and tasks of Islamic States, which means that the government must act to ensure the just distribution of wealth, services and the elimination of class divisions and the support of persons with disabilities.¹⁴⁴ The theory of Islamic teachings emphasises good behaviour, peace, kindness and respect for human dignity, especially the protection of persons with disabilities.¹⁴⁵

From the perspective of Islamic law, the right to education is a fundamental right for all persons and in the Islamic society the state and the religious leaders should provide it to the greatest extent possible.¹⁴⁶ Furthermore, the general public needs to be aware of the specific situation and needs of persons with disabilities and to ensure that their rights are protected and ensured.¹⁴⁷

The Iranian government has made some efforts in this regard, and in addition to the enactment of domestic laws and regulations, it has also become a party to international agreements, namely the CRC and the CRPD, to better protect the rights of persons with disabilities and to develop a system of inclusive education.

¹⁴³ M. Akbari, *Social Justice in Islamic Law*, 2012; *Islamic Sharia Law Based on Quraan, Sunnah and Ijtihad*, available from: http://www.islamic-laws.com/download/Islaamic_Sharia_Law_sunni.pdf, (accessed 20 July 2018).

¹⁴⁴ *ibid.*

¹⁴⁵ M.B. Majlisi, Baharolanvar, Beirut, Moassesatoalvafa, 1403(AH), volume 75, p.15.

¹⁴⁶ M.M.Meghdadi, Support for people with disabilities, *With a view to providing a comprehensive overview of the protection of the rights of the disabled, 2017*, Available from: <http://2.188.15.35/article-1-125-fa.pdf>, (accessed 6 June 2018).

¹⁴⁷ *ibid.*

As mentioned before (see chapter 1. Introduction), a problematic aspect are the reservations, which were entered by Iran at the time of its ratification of the CRPD in 2009 and also of the CRC in 1994, which exclude the application of the provisions set forth in the Conventions if they contradict the domestic laws and in particular the Islamic law of Shari'a, on which those are based.¹⁴⁸

As a consequence, unfortunately, it is not possible for Iran to live up to the high standard of social justice, the provision of education for all, the respect for everyone's dignity and, importantly for the purpose of this analysis, the full and effective protection and guarantee of their rights of persons with disabilities as mentioned also in the Islamic law and teachings.¹⁴⁹ The lack of respect and non-compliance with the provisions included in the CRC and CRPD concerning the right to education on the basis of Islamic rules therefore constitutes a contradiction in itself.

The following chapter will provide a more detailed description and analysis of the legal requirements regarding the right to education for children with disabilities, with a particular focus on their implementation in Iran.

¹⁴⁸ United Nations Treaty Collection, *Convention on the Rights of the Child*, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018);

United Nations Treaty Collection, *Convention on the Rights of Persons with Disabilities*, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-15&chapter=4&clang=_en#End Dec, (accessed 10 August 2018).

¹⁴⁹ M. Akbari, *Social Justice in Islamic Law*, 2012; *Islamic Sharia Law Based on Quraan, Sunnah and Ijtihad*, available from: http://www.islamic-laws.com/download/Islaamic_Sharia_Law_sunni.pdf, (accessed 20 July 2018); M.B. Majlisi, Baharolanvar, Beirut, Moassesatoalvafa, 1403(AH), volume 75, p.15.

4. The right to education for children with disabilities

Although persons with disabilities were at one time only regarded as individuals in need of assistance and care, they are now rightfully viewed as rights holders fully entitled to exercise all their human rights without any form of discrimination or restriction, including the right to education. Since the 1980s, the recognition of the right to education for persons with disabilities in the same way and to the same extent as for all other persons, which is achieved and provided in the system of inclusive education, has been laid out in the provisions of many international declarations and conventions such as the Convention on the Rights of the Child (1989), the World Declaration on Education for All (1990), the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993) and the Salamanca Statement and Framework for Action (1994).¹⁵⁰

In this chapter the focus will be on the legal requirements regarding the right to education for children with disabilities, in particular the obligations under the CRC and the CRPD. The fundamental provisions will be examined and additionally, the issue of non-discrimination as well as the important concept of “free and inclusive education” and the state and challenges of its implementation within the Educational system of Iran will be analysed.

¹⁵⁰ Committee on the Rights of Persons with Disabilities, *General comment No. 4 (2016) on the right to inclusive education*, available from: <https://www.ohchr.org/en/hrbodies/crpd/pages/gc.aspx>, (accessed 19 August 2018).

4.1 Legal requirements regarding the right to education for children with disabilities under international law

The general requirements regarding the right to education for children with disabilities are included in the CRC and the CRPD as well as in Iranian laws and regulations. The chapter will start with an analysis of the obligations under the international conventions and will then examine them in the context of Iran.

4.1.1 Obligations under the Convention on the Rights of the Child

The Convention on the Rights of the Child was adopted on 20 November 1989 at the Forty-fourth session of the General Assembly of the UN. Currently, 196 countries have ratified the CRC, including Iran.¹⁵¹ Iran ratified the Convention on 13 July 1994, however, as mentioned before, only with the following reservation: “If the text of the Convention is or becomes incompatible with the domestic laws and Islamic standards at any time or in any case, the Government of the Islamic Republic of Iran shall not abide by it.”¹⁵²

The challenges arising from reservations of this sort and the serious concerns regarding the implementation of the provisions set forth in the Convention have already been mentioned previously in this Master’s thesis (see chapter 1. Introduction). This reservation made by the Iranian Government has a very large scope as it does not target a specific provision of the CRC but instead mentions the incompatibility of “the text of the Convention”. This reservation authorises the Iranian Government not to comply with the CRC if it contradicts “domestic laws or Islamic standards”, which means that the state cannot be made responsible for a violation of the Convention. This provision seems to seriously threaten the binding effect of the CRC on Iran.

¹⁵¹ United Nations Treaty Collection, *Convention on the Rights of the Child*, Available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

¹⁵² *ibid.*

The States' obligations to protect the right to education for children are stated in articles 2, 23 and 28 of the CRC.¹⁵³ Article 23 is the only article of the CRC in which the rights of persons with disabilities are recognised specifically. Articles 2 and 28 focus on the right to education, which involves all children and therefore should be interpreted as including children with disabilities.¹⁵⁴ The provisions in the articles and their purpose will be analysed below.

Article 2 obliges the member states to respect and ensure the rights provided in the Convention to all children without discrimination of any kind, including on the ground of disability. Following this provision, it can be concluded that all States parties to the Convention, including Iran, must provide the necessary conditions to protect and ensure the right to education for children with disabilities, as this right is included in the CRC (see article 28).¹⁵⁵

Article 23 of the CRC refers to the explicit obligation of States parties to protect the right to education for children with disabilities.¹⁵⁶ The basic obligation of States parties is to respect and ensure the rights set forth in the CRC to each child within their jurisdiction without discrimination based on any of the prohibited grounds mentioned, including disability.¹⁵⁷ In paragraph 3 of article 23 it is stated that children with

¹⁵³ United Nations Treaty Collection, *Convention on the Rights of the Child*, Available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

¹⁵⁴ *ibid.*

¹⁵⁵ S.A.Tabatabaei, and S.Nouri Neshat, *Cultural Rights of the Persons with Disabilities*, Art and Culture Collection 5, Office of Culture of persons with Disabilities, Qom, 2011, p. 16.; United Nations Treaty Collection, *Convention on the Rights of the Child*, article 28, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

¹⁵⁶ United Nations Treaty Collection, *Convention on the Rights of the Child*, article 23, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

¹⁵⁷ S. Detrick, *Op cite*, P.384.

disabilities are entitled to an education that maximises their potential and enables them to reach “the fullest possible social integration and individual development.”¹⁵⁸

Regarding the type of education for children with disabilities, it is also recommended by the CRC Committee to establish special education programmes and, where feasible, to integrate them into mainstream schools. According to some authors, the phrase “in a manner conducive to the child's achieving the fullest possible social integration”, in paragraph 3, reveals a preference for the system of inclusive education.¹⁵⁹

Article 28 focuses on two meanings in relation to the concept of education: education means providing the basic skills as well as, promoting the children's intellectual and emotional, or, in other words, fostering child's personality. In fact, education as the process of developing the personality of the child, includes her/his talents and her/his physical and psychological capabilities, creating respect for human rights in a child, fundamental freedoms and maintaining peace and friendship, respecting himself and her/his parents and national values of the country where lives and the values other of civilizations, the development of the child's ability to participate in a free society based on mutual tolerance and creating the feeling of respect for the child in relation to other civilizations, cultures, religions, sexes and the natural environment.¹⁶⁰

¹⁵⁸ United Nations Treaty Collection, *Convention on the Rights of the Child*, article 23, para. 3, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en, (accessed 19 June 2018).

¹⁵⁹ S. Detrick, *Op cite*, p.384.

¹⁶⁰ *Op cite*, p. 11-12

4.1.2 Obligations under the Convention on the Rights of Persons with Disabilities

The CRPD was adopted on 13 December 2006 by the UN General Assembly. Currently, 177 countries have ratified the CRPD.¹⁶¹ Iran ratified the Convention on 23 October 2009 with the following reservation: “With regard to article 46, the Islamic Republic of Iran declares that it does not consider itself bound by any provisions of the Convention, which may be incompatible with its applicable rules.”¹⁶²

The rights of persons with disabilities to education are recognised in article 24 of the Convention.¹⁶³ This article mandates the States parties to ensure access to inclusive general education and prohibits all forms of discrimination against children with disabilities.

4.1.2.1 The right to inclusive education

It is the first time an international legal instrument recognises the right to inclusive education as a sine qua non of the right to education.¹⁶⁴ The term “inclusion” is described by the UN as a process recognising both the obligation to eliminate barriers and the need to change the culture, policy and practice of general schools in order to accommodate all students.¹⁶⁵

¹⁶¹ United Nations Human Rights Office of High Commissioner, *Convention on the Rights of Persons with Disabilities Indicators Map*, April 2018, available from: https://ohchr.org/Documents/HRBodies/CRPD/OHCHR_Map_CRPD.pdf, (accessed 13 August 2018).

¹⁶² United Nations Treaty Collection, *Convention on the Rights of Persons with Disabilities*, available from: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en#EndDec, (accessed 10 August 2018).

¹⁶³ *ibid.*, article 24

¹⁶⁴ United Nations Human Rights Office of High Commissioner, *Thematic study on the right of persons with disabilities to education*, 18 December 2013, A/HRC/25/29, page 7, Available from: https://www.ohchr.org/Documents/Issues/Disability/StudyEducation/A_HRC_25_29_ENG.pdf, (Accessed 21 August 2018).

¹⁶⁵ *ibid.*

The mixed learning environment promoted by the system of inclusive education is viewed as a key point to counter stigmatisation and discrimination¹⁶⁶ as studies have demonstrated that inclusive education not only gives children with disabilities greater chances to participate in the open labour market but also contributes to the creation and development of more tolerant societies.¹⁶⁷

According to article 24 of the CRPD, the right to inclusive education encompasses a no-rejection clause, the right to quality and free education, accessibility and the eradication of barriers, the right to reasonable accommodation, support, the equalisation of opportunities, professional training and capacity-building as well as lifelong learning.¹⁶⁸

The no-rejection clause states that no student can be rejected from general education on the basis of disability.¹⁶⁹ The right to quality and free education is related to the concept of acceptability, meaning that the form and content of education must be relevant, culturally appropriate (for the students and also their parents) and of good quality.¹⁷⁰ Achieving accessibility and the eradication of barriers requires that adequate measures are taken so that all students can participate meaningfully.¹⁷¹

¹⁶⁶ *ibid.*

¹⁶⁷ R. Morrison and I. Burgman, 'Friendship Experiences Among Children with Disabilities who Attend Mainstream Schools' (2009) 76 *Canadian journal of occupational therapy* 145; R. Rieser, *Implementing Inclusive Education: A Commonwealth Guide to Implementing Article 24 of the UN Convention on the Rights of Persons with Disabilities* 2nd edn (Commonwealth 2012) 289–291; A. Kanter, 'The Right to Inclusive Education for Students with Disabilities under International Law' [forthcoming], 33–36, on file with the author.

¹⁶⁸ *ibid.*

¹⁶⁹ United Nations, *Convention on the Rights of Persons with Disabilities*, 2006, article 24 paragraph 2 (a), Available from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>, (Accessed 13 August 2018).

¹⁷⁰ United Nations Human Rights Office of High Commissioner, *Thematic study on the right of persons with disabilities to education*, 18 December 2013, A/HRC/25/29, page 6, Available from: https://www.ohchr.org/Documents/Issues/Disability/StudyEducation/A_HRC_25_29_ENG.pdf, (Accessed 21 August 2018).

¹⁷¹ *ibid.*

Reasonable accommodation ensures that children with disabilities have access to education in the existing system on an equal basis with others.¹⁷² The provision of adequate support to children with disabilities implies their right to an individualised learning plan.¹⁷³ The equalisation of opportunities refers to the necessary measures for children with disabilities to participate in the education system and in society, including for example the access to the Braille code.¹⁷⁴ Professional training and capacity-building address the rights for students with disabilities to have teachers trained to support and facilitate their studies.¹⁷⁵ Finally, lifelong learning is a call for tertiary and adult education, vocational training and lifelong education on equal terms for everyone.¹⁷⁶

4.1.2.2 The principle of non-discrimination

There are two general fundamental provisions of the right to education for children with disabilities which are related to the issue of discrimination. These consist of the principle of non-discrimination and measures of positive discrimination.

According to article 2 of the CRPD:

Discrimination on the basis of disability` means 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. It includes all forms of discrimination, including denial of reasonable accommodation.¹⁷⁷

¹⁷² Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Spain*, CRPD/C/ESP/CO/1, para. 44.

¹⁷³ United Nations Children's Fund, *The Right of Children with Disabilities to Education: A Rights-based approach to inclusive education*, 2012, p. 70, Available from: https://www.unicef.org/disabilities/files/UNICEF_Right_to_Education_Children_Disabilities_En_Web.pdf, (accessed 20 June 2018).

¹⁷⁴ United Nations, *Convention on the Rights of Persons with Disabilities*, 2006, article 24 paragraph 3 (a), available from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>, (Accessed 13 August 2018).

¹⁷⁵ *ibid*, article 24, paragraph 4.

¹⁷⁶ *ibid* article 24, paragraph 5.

¹⁷⁷ *Convention on the Rights of Persons with Disabilities*, adopted on 13 December 2006, entered into force 3 May 2008, article 2.

On the other hand, the term “positive discrimination” describes a set of programmes and policies, which are introduced and implemented by the legislative, executive, and judicial bodies of a country and, according to the Constitution or other laws, aim at achieving real equality in society through the compensation of past discrimination, the elimination of existing discrimination and the special protection of vulnerable groups, including persons with disabilities, which are often being discriminated against.¹⁷⁸

In other words, measures of positive discrimination encompass a number of statutory structures, frameworks and legal guidelines as well as their practical and executive implementation. These guidelines and measures can be used permanently or only for certain periods of time, as it is necessary to support a certain group of persons in moving from a disadvantaged position to participating fully in society and in an accelerated manner, to provide more opportunities for them to grow and develop.¹⁷⁹ Although measures of positive discrimination have sometimes been criticised as being unfair, disproportionate or exaggerated, they are certainly necessary, proportionate and in line with the human rights standards, including the principle of equality.

4.1.3 Compulsory education

As expressed by the UN Committee on Economic, Social and Cultural Rights, “Education empowers individuals to raise themselves out of poverty and advance their socio-economic status.”¹⁸⁰ The right to compulsory education is recognised as a human right in the Universal Declaration of Human Rights¹⁸¹ and the International Covenant on Economic, Social and Cultural Rights.¹⁸²

¹⁷⁸ Positive discrimination mechanisms as a means of eliminating deprivation by looking at the status of women in Iran, *Women's Research Reports*, Vol. 19, Autumn, 2005, p.116

¹⁷⁹ *Ibid.*

¹⁸⁰ United Nations Committee on Economic, Social and Cultural Rights. 1999, “Implementation of the International Covenant on Economic, Social and Cultural Rights General Comment No. 13 The right to education (article 13 of the Covenant).” E/C.12/1999/10.

¹⁸¹ United Nations Office of the High Commission for Human Rights, *Universal Declaration of Human Rights*, 1948.

¹⁸² United Nations, International Covenant on Economic, Social and Cultural Rights, 1966.

Article 26 of the Universal Declaration of Human Rights focuses specifically on the right to education for all:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit;¹⁸³

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace;¹⁸⁴

3. Parents have a prior right to choose the kind of education that shall be given to their children.¹⁸⁵

The first alinea of this article affirms compulsory and free education for at least the elementary and fundamental stages.¹⁸⁶ Compulsory education is not mentioned in the UDHR for higher educational stages. However, a distinction is made between “technical and professional education” and “higher education”. Regarding technical and professional education, access to education shall be made generally available whereas higher education shall be accessible on an equal basis for everyone, but it recognised the idea of selection of students based on the merit. Alinea 2 of the article emphasises the potential of education to respect and promote human rights values and fundamental freedoms including the maintenance of peace and tolerance between nationalities,

¹⁸³ United Nations Office of the High Commission for Human Rights, *Universal Declaration of Human Rights*, 1948.

¹⁸⁴ United Nations Office of the High Commission for Human Rights, *Universal Declaration of Human Rights*, 1948.

¹⁸⁵ *ibid.*

¹⁸⁶ Global Institute for advanced study, *New York University, article 26: The education provision*, 2016, p.4.

ethnicities and religions.¹⁸⁷ Alinea 3 of the article enables parents to choose the kind of education they wish to provide for their children.

Those texts affirm the right to compulsory and free education for at least the elementary and fundamental stages.¹⁸⁸ Compulsory education is not mentioned for higher educational stages. However, a distinction is made between “technical and professional education” and “higher education”. Regarding technical and professional education, access to education shall be made generally available whereas higher education shall be accessible on an equal basis for everyone, but it recognised the idea of the selection of students based on the merit.¹⁸⁹

Compulsory education is however not without its critics. Some possible disadvantages of compulsory education may be derived from claims that compulsory education may take money away from other resources, inhibit individuality¹⁹⁰ or may not prepare children and young people for their future roles in the society and economy.¹⁹¹ Yet, the advantages clearly outweigh the disadvantages with compulsory education being linked to the improvement of economic and social mobility¹⁹², higher employment¹⁹³ and further equalisation between urban and rural populations, particularly if it is extended past primary education.¹⁹⁴ Furthermore, in a system of compulsory education children cannot be prevented from attending school, neither by their parents nor by authorities and regardless of their socioeconomic status or the presence of disabilities.

¹⁸⁷ *ibid.*

¹⁸⁸ *ibid.*

¹⁸⁹ *ibid.*

¹⁹⁰ B.Kaplan, Princeton university press, *The Case against Education ,Why the Education System Is a Waste of Time and Money*, 2018, Available from: <https://press.princeton.edu/titles/11225.html>, (accessed 12 August 2018).

¹⁹¹ R. Lanning, *Canadian Journal of Education / Revue canadienne de l'éducation*, Vol. 19, No. 4 (Autumn, 1994), pp. 465 <https://www.jstor.org/stable/1495343>

¹⁹² Centre Piece, *Benefits of compulsory schooling, 2009*, available from: <http://cep.lse.ac.uk/pubs/download/cp289.pdf>, (accessed 13 August 2018)

¹⁹³ *ibid.*

¹⁹⁴ Mun C. Tsang and Yanqing Ding, *China Review*, Vol. 5, No. 1, Special Issue on: Chinese Education (Spring 2005), pp. 6 <https://www.jstor.org/stable/23461843>, (accessed 13 August 2018)

4.2 Educational system of Iran

The term “educational system” generally means “the integration of the various educational options available within a national territory.”¹⁹⁵ It encompasses several policies, laws, regulations and structures which are concerned with the topic of education.

Thereafter, the understanding of the educational system depends on the perspective of the government and society on the topic of education, since “educational systems are deeply rooted in national traditions and are characterized by specific national features.”¹⁹⁶

All countries have their special and independent educational system. In fact, based on national laws and regulations and the historical and social environment of the countries, different and specific systems have been established. The following analysis will focus on the educational system of Iran.

In the Iranian educational system, children study for 12 years starting from the age of 6. They attend primary school from 6 to 12 years of age. High school lasts from 12 to 18 years of age.¹⁹⁷ Free public schools, private schools with a high tuition fee and “Nemone mardomi”, which are expected to be of higher quality than public schools, are mainly accessible in the big cities. Children in the rural areas face more difficulties to participate in the educational system due to their families’ economic situation as well as the lack of parental support, educational resources and transportation facilities.

¹⁹⁵ D.Müller, F.Ringer, B.Simon, *The Rise of the Modern Educational System: Structural Change and Social Reproduction 1870-1920*, Cambridge University Press, 1989, p.16.

¹⁹⁶ W.Hörner, H.Döbert, B.Kopp, W.Mitter, *The Education Systems of Europe*, Springer Science & Business Media, 2007, p.1.

¹⁹⁷ S.Hazari, British Council, *What does school education look like in Iran?*, 21 April 2015, Available from: <https://www.britishcouncil.org/voices-magazine/what-does-school-education-look-iran>, (accessed 19 August 2018).

In the greater context of education and the labour market, it can be noted that certain fields are gender dominated in Iran. The society conditions people to believe women are best suited for careers such as typist, secretary, nurse, teacher, psychologist, nanny, etc. Similarly, although it is possible and exists, it is not stereotypical for a man to follow the path of becoming a nurse.¹⁹⁸

The educational material and course contents or similar resources are available on the Internet. However, the consolidation of moral principles and the fostering of creativity will be achieved within the educational and social environment such as schools. Pupils should be trained to be able to expand and implement their attained knowledge, which would help them to be more effective in their personal and social life as well as to fulfil their vital role in society.¹⁹⁹ A serious problem in the Iranian context is that there are no supportive provisions for the education of immigrant children and furthermore, the age of girls' marriage is one of the greatest barriers to access education, especially for children living in deprived areas.²⁰⁰

4.2.1 Inclusive education system for children with disabilities in Iran

As further explained in chapter 4.1.2 Obligations under the Convention on the Rights of Persons with Disabilities, inclusion is a process that helps to overcome barriers limiting the presence, participation and achievement of learners. This concept of education is particularly relevant to children with disabilities as it focuses on valuing students for

¹⁹⁸ A.Monajem, Modern psychology, *Iranian Educational system*, Feb 2018, Available from: <http://www.drmonajem.ir/notes/4232/%D9%86%D8%B3%DB%8C%D8%B3%D8%AA%D9%85-%D8%A2%D9%85%D9%88%D8%B2%D8%B4%DB%8C-%D8%AF%D8%B1-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86-%D9%86%DA%AF%D8%A7%D9%87-%D9%81%D8%B9%D9%84%DB%8C-%D9%86%D8%B8%D8%A7%D9%85-%D8%A2/>, (accessed 17 August 2018).

¹⁹⁹ *ibid.*

²⁰⁰ Human Rights Watch, Center for Human Rights in Iran, "*I am equally human*". *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July 2018).

their abilities and seeing diversity as a positive addition to the education atmosphere.²⁰¹ In fact, in many non-inclusive systems children with disabilities are severely deprived of their right to education in such a way that the restriction to fully exercise their rights will further prevent them from finding suitable and dignified jobs and from fully participating in society. Therefore, inclusive education is regarded as being of great value and importance for children with disabilities, as well as other minorities in schools.²⁰²

The former Minister of Education of Iran affirmed in 2003 that inclusive education has been introduced in Iran in 1994 for three groups: hearing loss, low vision and physical-sensory disabilities.²⁰³ This is very interesting as inclusive education was mentioned for the first time in an international text in June 1994 in the “Salamanca Statement”.²⁰⁴ The reasons for and the truthfulness of the mentioning and the introduction of inclusive education so soon in Iran remain unknown. In spite of that, according to the former Minister of Education, inclusion in the educational system of Iran is conceptualised as follows. The inclusion at the preschool level is only implemented to a certain extent, which means that the child attends an ordinary kindergarten for three days a week and a special kindergarten for another three days. Children with disabilities are instructed by a teacher with a specific formation who can provide the necessary support. Usually, the nearest school to the place of residence of children with disabilities is chosen for their inclusive education.²⁰⁵

²⁰¹ The United Nations Educational, Scientific and Cultural Organization, *A guide for ensuring inclusion and equity in education*, 2017, Available from: <http://unesdoc.unesco.org/images/0024/002482/248254e.pdf> p. 13, (Accessed 14 August 2018).

²⁰² *ibid.*

²⁰³ Ministry of education, *National Report on Development of Education in the I.R.of Iran With an Emphasis on Inclusive Education a way to the Future*, 2003, Available at: http://www.ibe.unesco.org/National_Reports/ICE_2008/iran_NR08.pdf (accessed 22 August 2018).

²⁰⁴ UNESCO, *Salamanca Statement*, June 1994, Available at: <http://www.csie.org.uk/inclusion/unesco-salamanca.shtml> ,(accessed 22 August 2018).

²⁰⁵ *Ibid*

Apart from the 2003 report of the Ministry of Education of Iran, which was mentioned above, there are no sources available that could confirm that inclusive education is or has been implemented or even considered in the Islamic Republic of Iran. In fact, Iranian laws do not mention the term “inclusive” and considering the heavy criticism that was voiced by the Iranian Government with respect to the inclusive education goal of the United Nations Sustainable Development Agenda²⁰⁶, the overall tendency goes against any mentioning or implementation of an inclusive educational system in the country any time soon.

Furthermore, according to UNESCO the right to inclusive education provides a solid basis for persons with disabilities holding governments accountable for the respect of this right. This means that governments are expected to demonstrate, explain and justify how they have discharged their obligations regarding the right to education of persons with disabilities and to enable the rights holders to seek redress for the violations of their rights.²⁰⁷

The accountability mechanisms regarding the right to inclusive education should include treaty monitoring, legislation reviews, national monitoring, complaint procedures and social work at the local level.²⁰⁸ In the case of the Islamic Republic of Iran, the lack of efficient complaint procedures must particularly be emphasised. Indeed, the office of Evaluation, Inspection and Addressing Complaints within the State Welfare Organization is responsible for conducting regular inspections to evaluate the performance of its staff as well as of the agencies and organisations that provide additional services to persons with disabilities.²⁰⁹ However, persons with disabilities

²⁰⁶ See 3.2.2 Right to education within the framework of the United Nations Sustainable Development Goals.

²⁰⁷ UNESCO, Global Education monitoring report, 2019, Available from: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/GEM_Report_201718_Accountability_in_education_2017_En.pdf (Accessed 21 August 2018).

²⁰⁸ *ibid.*

²⁰⁹ Human rights watch, „*I am equally human*” *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, June 2018, Available from: <https://www.hrw.org/report/2018/06/26/i-am-equally-human/discrimination-and-lack-accessibility-people-disabilities-iran> (accessed 21 August 2018).

interviewed by *Human Rights Watch* were either unaware of the existence of this office or stated that they did not trust its impartiality and efficiency.²¹⁰

4.2.2 The principle of non-discrimination in the educational system of Iran

The Iranian Constitution, in different articles, has focused on the principle of non-discrimination. In paragraph 3 of article 9 it is provided that “the government of the Islamic Republic of Iran is obliged to use all of its resources for free academic and physical education at all levels for everyone; the facilitation and extension of higher education”²¹¹ and also in article 19 it is stated that “the people of Iran enjoy equal rights, regardless of the tribe or ethnic group to which they belong. Colour, race, language, and other such considerations shall not be grounds for special privileges.”²¹²

Thus, persons with disabilities have the right to education like any other person according to the law. There should be no discrimination against persons with disabilities in Iran considering the obligations under the CRPD and the national law. The law has to be applied in the interest of persons with disabilities, as explained in next subsection. The CRPD was ratified by the Islamic Republic of Iran on 23 October 2009 and, according to article 9 of the Iranian Civil Code, would be tantamount to a national law.²¹³

²¹⁰ *ibid.*

²¹¹ Ministry of Foreign Affairs of the Islamic Republic of Iran, *Constitution of the Islamic Republic of Iran*, article 9, para. 3, available from: <http://en.mfa.ir/index.aspx?fkeyid=&siteid=3&fkeyid=&siteid=3&pageid=2144>, (accessed 5 June 2018).

²¹² *ibid.*, article 19.

²¹³ Iranian Civil Code, article 9: *Treaty stipulations which have been, in accordance with the Constitutional Law*, concluded between the Iranian Government and other government, shall have the force of law.

In practise, however, there is a huge problem regarding the implementation of the national laws as well as the provisions of the CRPD in Iran, because there is no independent monitoring mechanism. Furthermore, Iran has not ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD-OP), which means that individuals cannot file a complaint in case of a violation of their rights.

Non-discriminatory education also implies free education. Being free to educate is an essential part of the social nature of the right to education as education has the power to be an equalising and unifying force via its ability to bring together people of different backgrounds and abilities. However, putting people into specific forms of education, while not having the financial capability to promote this education to its fullest extent, is very unreasonable and occasionally beyond the ability of the people.

The “Salamanca Statement”, called so as it was written and signed in June 1994 in Salamanca, Spain, by members of the World Conference on Special Needs Education, highlights the need for inclusive education in every country of the world by putting into practice the idea that all schools should work to educate all children regardless of any perceived “hindrances” that they may have.²¹⁴ This means that children with disabilities should be educated in the location and within the context in which they would be educated should they not have any disability.²¹⁵

Also, under article 8 of the Comprehensive Law on Protection of the Rights of Persons with Disabilities, “persons with disabilities in need and qualified at different ages can receive free education....” As explicitly required, persons with disabilities of “different ages” may receive free education.

²¹⁴ UNESCO, *Salamanca Statement*, June 1994, Available at: <http://www.csie.org.uk/inclusion/unesco-salamanca.shtml> ,(accessed 22 August 2018).

²¹⁵ *ibid.*

Concerning positive discrimination, in Iran's legal system, provisions and arrangements of positive discrimination are applied to persons with disabilities through the granting of special facilities and mechanisms of support without specifically calling these measures “positive discrimination”. According to article 8 of the Comprehensive Law on Protection of the Rights of Persons with Disabilities, as a provision for positive discrimination in education, it is required that “qualified persons with disabilities in need at different ages can receive free education, by introduction of the Welfare Organization, in the educational units of the Ministry of Education, Science, Research and Technology Ministry, Health, Treatment and Medical Education Ministry and other governmental bodies, as well as Islamic Azad University.”²¹⁶

Under article 1, paragraph (c), of Executive Regulation of article 8 approved, jointly, by Welfare Organization, the Ministry of Education, Science, Research and Technology Ministry, Health, Treatment and Medical Education Ministry and Islamic Azad University, a “qualified persons with disabilities in need” is a person with disabilities that his/her need should be confirmed by the relevant units in the Welfare Organization of the country. Free education implies the exemption of the person from the payment of the relevant education costs. Education includes all levels of education including kindergarten (pre-school), primary, secondary, high school, pre-university, college, specialised and supplementary and technical and vocational skills training.²¹⁷ Such educational units include all educational units of the Welfare Organization, the Ministry of Education, Science, Research and Technology Ministry, Health, Treatment and Medical Education Ministry and Islamic Azad University, the country's Technical and Vocational Training Organization, Islamic Azad University, Payame Noor University,

²¹⁶ International Labour Organisation, *Comprehensive Law on Disability Rights*, art. 8, 2004, available from:

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91491&p_country=IRN&p_count=168, (accessed 5 August 2018);

Iranian Ministry of Justice website, <http://www.rrk.ir/Default.aspx>, (accessed 5 August 2018).

²¹⁷ International Labour Organisation, *Comprehensive Law on Disability Rights*, paragraphs D and E of article 1, 2004, available from:

http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91491&p_country=IRN&p_count=168, (accessed 5 August 2018).

Comprehensive Scientific-Practical University, educational units of other ministries, Organizations, institutions and state companies.

“The Inclusive-combined Education for Children and Students with Special Needs Regulation approved by the session 735 of the Education Council on 4 July 2006”²¹⁸, the introduction to the regulation states that school children, like community members, may be different in colour, race, language, and physical or mental abilities, but these differences should not lead to their being excluded from the educational programs. According to article 1, students with disabilities which are recognized by the Assessment Center of Exceptional Education Organization, are covered by this method.²¹⁹

4.2.3 The right to a compulsory education system for children with disabilities in Iran

In developed countries - defined by the Cambridge Dictionary as “a country with a lot of industrial activity where people generally have high incomes²²⁰”, primary education is typically compulsory for all children from the age of 6 to 16, and this education may be conducted at public or private schools or at home, additionally the government monitors children to meet primary education or the equivalent to it. As well in these countries, parents of children are obliged to cooperate with the government in order to register their child in one of the schools, and education authorities will take appropriate action, and if the child's parents are not willing to cooperate or the child flees from

²¹⁸ Laws and Regulations Portal of Islamic Republic of Iran, Inclusive-combined Education for Children and Students with Special Needs Regulation approved by the session 735 of the Education Council, Available from: <http://law.dotic.ir/AIPLaw/regulationview.do?reqCode=lawRegulationView&lawId=39467&isLaw=1>, (accessed 20 June 2018).

²¹⁹ S.A.Tabatabaee, S.Nouri Neshat, *Cultural Rights of the Disabled persons*, Publisher: Office of the Cultural Disability, Fall 2011, pp. 20-23.

²²⁰ Cambridge University Press, *Cambridge Dictionary*, 2018, <https://dictionary.cambridge.org/dictionary/english/developed-country>, (accessed 20 August 2018).

school, they are responsible, and the law has predicted necessary sanctions, in this regard.²²¹

Under the Law on Compulsory and Free General Education, adopted 29 July 1943,²²² the compulsory and free education was recognized. The parent's duties are provided in article 5: they are bound to enrol their children, who are six years old, in primary schools. Whenever a child, because of the illness, could not study at the time prescribed, his parents are bound to introduce him to the primary school soon after the illness.²²³ At that time, the matter of compulsory education of children was important to the extent that the law provided for that sanction, as stipulated in article 6: "Whenever the parents of a child at the due time, without a valid excuse did not send the child for regular education in the primary school, in addition to being forced to compensate for their neglect, they would be fined ten Rials."

The Executive Regulation of the Law was passed on 6 August 1943²²⁴ (less than 10 days after the enactment of the law), which fully reflected the importance and sensitivity of the subject of compulsory education in the primary period. Thereafter on 19 June 1971,²²⁵ the Amendments Law on Compulsory and Free General Education were adopted. These provisions indicated that the primary education was compulsory in Iran and the government by enactment of law and regulation has protected of such matter.

²²¹ UNESCO, Institute of Statistics, Compulsory education 2018, Available from: <https://data.worldbank.org/indicator/SE.COM.DURS> (accessed 23 August 2018)

²²² Islamic Parliament Research Center of the Islamic Republic of Iran, *The Law on Compulsory and Free General Education*, Available from: <http://rc.majlis.ir/fa/law/show/93633>, (accessed 2 June 2018).

²²³ *ibid.*

²²⁴ Islamic Parliament Research Center Of the Islamic Republic of Iran, *Law Enforcement on free and compulsory education in Iran*, approved 6 August 1943, Available from: <http://rc.majlis.ir/fa/law/show/93856>, (accessed 4 June 2018).

²²⁵ Islamic Parliament Research Center of the Islamic Republic of Iran, *The law on the reform of the law on free and compulsory education of 1943*, approved 19 June 1971, Available from: <http://rc.majlis.ir/fa/law/show/96626>, (accessed 4 June 2018).

Now and since the Islamic Revolution of Iran in 1979 these laws are void.²²⁶ As the Fiqaha of the Guardian Council may invalidate laws and regulations which are not based on Islamic criteria²²⁷ and they decided that it was the case for the laws on compulsory education law passed by Parliament.²²⁸

After those events, the Statute of the Literary Movement of the Islamic Republic of Iran, adopted in 1984²²⁹, addressed the right to education for children. Note 2 of article 4 required that: “the movement may cover children who have reached the age of literacy in areas where the Ministry of Education has not yet been able to attend.” Under this provision, the children have the right to education and in special areas the Movement assumes such obligation. However, in this Statute, there is no compulsory rule to indicate the explicit duty of the Organisation to educate children and also the children are not bound to attend in literacy classes.

Therefore, currently, education is not compulsory in Iran. In fact, current national laws and regulations are about the free education, but they do not consider it compulsory, and now there is no law to force individuals to enrol in the primary period. This covers also children with disabilities. In addition, in practice, there is no easy access for all social groups based on different geographical locations, such as towns and villages and nomadic societies.²³⁰

²²⁶ A.Fallahzadeh, and D.Motawali, Meysam, Supervision of the Guardian Council on pre-revolutionary laws and the Revolutionary Council, Journal of Public Law, Second year, Fall 2013, No.5, p. 105.

²²⁷ *ibid.*

²²⁸ The law to abolish some of the pre-revolutionary laws was approved on 3 July 2017, in which the abolition of the laws on compulsory education was also laid down. Available from: <http://www.rrk.ir/Laws/ShowLaw.aspx?Code=13395>, (accessed 5 June 2018).

²²⁹ Islamic Parliament Research Center Of the Islamic Republic Of Iran, *Statute of the Literary Movement of the Islamic Republic of Iran*, 24 May 1984, Available from: <http://rc.majlis.ir/fa/law/show/90908>, (accessed 10 June 2018).

²³⁰ Government Information Base, *The proposed education minister was introduced to the parliament, announcing his plans for the ministry*, 2016, <http://dolat.ir/detail/284724>, (accessed 15 July 2018).

4.2.4 Executive challenges to an education system respectful of the legal commitments of Iran

The cultural barriers constitute the main challenge to inclusive education in Iran²³¹. Indeed, many families hide at home their family members with disabilities.²³² It is particularly the case for people with psychosocial disabilities²³³. Also, according to the SWO most of the persons with disabilities who are hidden by their families, are women and girls.²³⁴ In 2015, the director of Iran's Special Education Organization recognized that while there are around 110,000 children with disabilities attending primary and secondary schools in Iran, there are likely two to three times more children with disabilities hidden at home.²³⁵

The inadequate pension system for persons with disabilities is also a major obstacle to inclusive education in Iran.²³⁶ Human Rights Watch and the Center for Human Rights in Iran expressed concerns on this subject as they noticed that the amount of the SWO disability pension is substantially less than other pensions paid under other social protection programmes.²³⁷ In addition, the eligibility criteria for the disability pension are overly restrictive, as they include only persons with disabilities which are "diagnosed to be severe or very severe."²³⁸

²³¹ Iran News Agency, *Cultural barriers deprive special students from education*, February 3, 2015 Available from: <http://www.irna.ir/rkhorasan/fa/News/81490703/> (accessed 21 August 2018).

²³² *ibid.*

²³³ A.A.Sayari, deputy of Health affairs of the Ministry of Health, *Treatment and Medical Education*, 2017, Iran News Agency (IRNA), Available at: <http://www.irna.ir/fa/News/81808077/>, (accessed August 21, 2018).

²³⁴ H.Nahvinezhad, rehabilitation director of SWO, "Need to improve disability identification system in Ministry of Health" Iranian Students News Agency (ISNA) February 19, 2017, Available from: <http://www.isna.ir/news/95113021296/> (accessed August 21, 2018).

²³⁵ Iran News Agency, *Cultural barriers deprive special students from education*, February 3, 2015 Available from: <http://www.irna.ir/rkhorasan/fa/News/81490703/> (accessed 21 August 2018).

²³⁶ World Health Organization and World Bank, "World Report on Disability," 2011, Available at: https://www.unicef.org/protection/World_report_on_disability_eng.pdf (accessed August 21, 2018).

²³⁷ Human Rights Watch and the Center for Human Rights in Iran, *I Am Equally Human" Discrimination and Lack of Accessibility for People with Disabilities in Iran*, June 2018, Available at: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf (accessed August 21, 2018).

²³⁸ *ibid.*

Furthermore, the accessibility of school buildings and services remain a significant obstacle.²³⁹ The Comprehensive Law to Protect persons with disabilities requires that “all ministries, government organizations, and public and revolutionary institutions to design, produce and construct public buildings and facilities, roads and service equipment in a way that persons with disabilities can use them as other people do.”²⁴⁰ While Tehran and larger cities may have accessible public infrastructure and transportation, the persons with disabilities who live in rural areas face particular difficulties going to schools²⁴¹. This is particularly true for people in wheelchair and blind people. Nevertheless, the government has recently made some progress in improving accessibility of persons with disabilities across the country by adopting a mandatory accessibility standard for urban architecture.²⁴²

Finally, the lack of funding is a real barrier to inclusive education. The resources of a school including human, scientific, equipment and spacious resources to the needs of the students with disability as a significant prerequisite for implementing the inclusive education plan is necessary.²⁴³ The content of educational books, is provided in conjunction with a general purpose to educate ordinary students. Therefore, in many subjects, such as geography, mathematics, physical education, etc., there is no consistency, in theory and practice, in relation to the needs and limitations of students with disabilities. Therefore, the textbooks, in their appendix or in a separate book, should provide the materials in such a manner, to be applicable for students with disabilities.²⁴⁴

²³⁹ *ibid.*

²⁴⁰ Comprehensive Law on Protecting Disabled Persons, Ratification No. 31960, adopted by Cabinet of Ministers, May 30, 2005, Available from: <http://rc.majlis.ir/fa/law/show/123284> (accessed 23 August 2018).

²⁴¹ Human Rights Watch and the Center for Human Rights in Iran, *I Am Equally Human” Discrimination and Lack of Accessibility for People with Disabilities in Iran*, June 2018, Available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf (accessed August 21, 2018).

²⁴² Book on Architecture and Urban Regulation for Physically Disabled People, <http://www.nezammohandesi.ir/uploads/zavabet-malolin.pdf> (accessed August 23, 2018).

²⁴³ M.Ashouri, and S.S.Jalil’ Abkenar, *Exceptional Education*, 2014, p.53.

²⁴⁴ Gholam Hosseinzadeh, Hassan, *Pupil Education: Existing and Desirable Situation*, *Exceptional Education*, Year 15, May 2015, NO. 2, pp. 52-55

5. Role of organisations in the education of children with disabilities in Iran

In this section, the role of organisations in the education of children with disabilities will be analysed. In this regard, two types of organisations, namely state organisations and non-governmental organisations (NGOs) will be discussed.

5.1 State Organisations

There are two important organisations which play a key role in the education of children with disabilities in Iran. These are the “Special Education Organization” and the State Welfare Organization (Sazman Behzisti), which has been mentioned before. The duties of these organisations with regard to the education of children with disabilities will be discussed in the following subsections.

5.1.1 Special Education Organization

In 1969, an office called “Education for Exceptional Children and Students” in the Ministry of Education was formed and activities in the exceptional schools and special classes formed governmentally and officially.²⁴⁵

In 1990, the establishment of the Special Education Organization Act was approved by the Islamic Consultative Assembly (Parliament).²⁴⁶ Its aim is to ensure the right to education for children with disabilities and to protect the right to education. The law required that: “considering the importance and characteristics of the rehabilitation of education for exceptional children and students such as the blinds, semi-blinds, deaf, semi-deaf, mentally retarded, and emotionally disturbed, sensory and motor disability and multi-disability, subject to the law, the state institution named as “Special Education Organization” affiliated to the Ministry of Education would be created.” The Special Education Organization was created to ensure the right to education for children with

²⁴⁵ Islamic Parliament Research Center Of the Islamic Republic of Iran, *The Law on the Establishment of an Exceptional Education Organization*, available from: <http://rc.majlis.ir/fa/law/show/91853>, (accessed 12 June 2018).

²⁴⁶ *ibid.*

disability and aims to protect the right to education. This organisation is a state institution and is under the supervision of governmental bodies such as the Ministry of Education. This Ministry uses public budget and is responsible for the Special Education Organization.²⁴⁷ In 2017, approximately 137,029 persons with disabilities were studying at special needs schools managed by the Special Education Organization schools nationwide.²⁴⁸

5.1.2. State Welfare Organization (Sazman Behzisti)

The Country Welfare Organization Constitution Act, adopted by the Islamic Consultative Assembly on 14 June 1980 provides adoption and foster care to orphans, including those with disabilities and social rehabilitation for the persons with physical and mental disabilities.²⁴⁹

The SWO is a focal points for matters relating to the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).²⁵⁰ According to this single article, it is stipulated that:

In line with the fulfilment of the provisions of article 3, articles 21 and 29 of the Constitution law of the Islamic Republic of Iran, in order to ensure the planning, coordination, monitoring and evaluation and providing of service norms and standards and the development of the scope of welfare programs in support of children without guardian and providing various services for children and preparation of preventive facilities and professional and social rehabilitation for the persons with physical and mental disabilities and re-training of social deviant and support and maintenance of children without guardian and people that cannot be rehabilitated that have disabilities

²⁴⁷ Islamic Parliament Research Center Of The Islamic Republic Of Iran, *Statute of the Exceptional Education Organization*, available from: <http://rc.majlis.ir/fa/law/show/91925>, (accessed 12 June 2018).

²⁴⁸ Teheran Times, Some 137,000 students study at special schools in Iran, 2 December 2017, Available from : <http://www.tehrantimes.com/news/418987/Some-137-000-students-study-at-special-schools-in-Iran> (accessed 22 August 2018).

²⁴⁹ State Welfare Organization of Iran, *The bill on the formation of a welfare organization of Iran*, Available from: <http://www.behzisti.ir/Portal/home/?237215/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AA%D8%A7%D8%B3%DB%8C%D8%B3>, (Accessed 16 August 2018).

²⁵⁰ Law on Ratification of the Convention on the Rights of Persons with Disabilities, 2008, adopted by Islamic Consultative Assembly, Available from: <http://rc.majlis.ir/fa/law/show/134833> (accessed 23 August 2018).

and the elderly and education of human resources, welfare and rehabilitation services and providing the conditions of encourage, attracting the participation and activity of volunteer groups and NGOs, welfare organization will be constituted.²⁵¹

As mentioned previously, the terms used to describe persons with disabilities are based on the medical model of disability and are therefore not in line with the CRPD and its provisions.

As expressed above, in the Country Welfare Organization Constitution Act, one of the most important reasons (purposes) in the creation of the Welfare Organization is to protect children with disabilities, because the provisions, including: “providing various services for children”, “professional and social rehabilitation for the persons with physical and mental disability”, “training of children without guardian” and “education of human resources and welfare and rehabilitation services”, indicate the purpose of education of children with disabilities, which should be one of the most important duties of the Welfare Organization.²⁵²

Additionally, in other regulations the education of children with disabilities through the Welfare Organization is also adopted. In fact, the Welfare Organization of the country, based on its goals and policies and in pursuance of the provisions of the Comprehensive Law on Protection of the Rights of Persons with Disabilities has provided for welfare rehabilitation services to various groups of persons with disabilities. Accordingly, students with a variety of disabilities are also eligible for these services.

However, the Ministry of Education and the Special Education Organization, while giving priority to educational services, consider the providing of welfare facilities for students. However, the necessity of completing the efforts and helping to improve the

²⁵¹ State Welfare Organization of Iran, *The bill on the formation of a welfare organization of Iran*, Available from:

<http://www.behzisti.ir/Portal/home/?237215/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AA%D8%A7%D8%B3%DB%8C%D8%B3>, (Accessed 16 August 2018).

²⁵² Islamic Parliament Research Center of The Islamic Republic of Iran, *The bill on the formation of a welfare organization of the country*, approved 14 June 1980, Available from: <http://rc.majlis.ir/fa/law/show/98948>, (Accessed 16 August 2018).

quality of life of students requires that the Welfare Organization, along with the providing of social and medical rehabilitation services, consider the expansion of welfare services.

Therefore, the Welfare Organization intends to provide cash aids for children with disabilities, to strengthen their educational motivation and to improve the quality of their life. Such duty of the Welfare Organization in helping to provide education for children with disabilities is stated in the Instruction of How to Pay Fellowship to Students with Disabilities, approved by Deputy of Rehabilitation Affairs of Welfare Organization in 2012.²⁵³

However, in a recent report, Human Rights Watch described the failures and abuses of the State Welfare Organization.²⁵⁴ To begin with, many persons interviewed by HRW described the SWO staff as disrespectful and offensive towards persons with disabilities.²⁵⁵

In addition, they spoke out about the lack of information, the inefficiency of the complaint office, the lack of professional personal assistance, the absence of essential services such as physiotherapy, speech therapy, occupational therapy, and psychotherapy, and of assistive devices such as wheelchairs, crutches, and hearing aids.²⁵⁶

²⁵³ Iranian State Welfare Organization, Available from: <http://www.behzisti.ir/Portal/file/?251095/t3>, (accessed 17 June 2018).

²⁵⁴ Human rights watch, "*I am equally human*" *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, June 2018, Available from: <https://www.hrw.org/report/2018/06/26/i-am-equally-human/discrimination-and-lack-accessibility-people-disabilities-iran> (accessed 21 August 2018).

²⁵⁵ Ibid, part II

²⁵⁶ Ibid

5.2 Non-Governmental Organisations

NGOs are “any organisation working for a social, cultural, economic, educational or religious cause.”²⁵⁷ They are independent legal persons who work independently from the government towards the promotion of specific causes, especially in the social field. The challenges they face in the process of investigation and in the implementation of their aims, include restrictive domestic laws for the operation of NGOs, the lack of financial resources and in some countries and fields of operation, limited support by the government as well as limited access to international budget.

The situation is especially difficult for national NGOs who work towards goals which contradict the government’s interests and therefore face increased restrictions or even defamation and legal prosecution.

Important international NGOs working for the protection and support of persons with disabilities include “Lumos”²⁵⁸, which aims to end the institutionalisation of children around the world by 2050²⁵⁹ and “Light for the World”, which is a global disability and development organisation trying to break down barriers to enrich society and to unlock the potential in all of us”.²⁶⁰ Additionally, there is the “World Federation of the Deaf “, which promotes the recognition of deaf persons and in particular the respect of the sign language and advocates for their rights and for equal access and opportunity in all areas of life.²⁶¹

²⁵⁷ A. Abraham, *Formation and Management of NGOs: Non-governmental Organizations*, Universal Law Publishing, 2011, pp.3-4.

²⁵⁸ OHCHR, Lumos contribution to the General Comment on article 19 of the CRPD by the Committee on the Rights of Persons with Disabilities, available from: <https://www.ohchr.org/Documents/HRBodies/CRPD/DGD/2016/Lumos.doc>, (Accessed 14 August 2018).

²⁵⁹ Lumos, Available from: <https://www.wearelumos.org/what-we-do/global-training/>, (Accessed 15 August 2018).

²⁶⁰ Light for the World, Available from: <https://www.light-for-the-world.org/light-world>, (Accessed 10 August 2018).

²⁶¹ World Federation of the Deaf, Available from: <http://wfdeaf.org/who-we-are/>, (accessed 25 August 2018).

These international NGOs can serve as a good example for domestic NGOs in Iran. On the national level, several NGOs work specifically for the protection and support of persons with disabilities and on educational matters.

For instance, the Center of Persons with Spinal Cord Injury” is focused on the protection of the individual and social needs of this particular group, including their right to education and the access to all facilities and information.²⁶²

“The Iran Autism Association” is licensed by the State Ministry to act at the national level. The Association aims to enable autistic persons to fully participate in society by providing the suitable conditions and support, emphasising participatory principles such as transparency and providing education, counselling, training, research, rehabilitation and supporting services.²⁶³ The education is very important for autistic children and they should be educated from the early ages.²⁶⁴

Generally, NGOs play a vital role on the domestic level, because they contribute a lot to the protection and promotion of human rights and, importantly, can send “shadow reports” to the UN treaty bodies, including the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, which complement state reports and provide a clear and comprehensive picture of the situation on the ground and the difficulties faced by the people concerned.

Most of the Iranian NGOs have a collaboration with the State Welfare Organization and therefore have to respect and follow the guidelines and rules, which have been established by this organisation. This can lead to restrictions in their work and limit

²⁶² Iran Capale, *Paravac nerve prosthesis system for rehabilitation for patients with spinal cord injury*, Available from:

<http://iranetavana.ir/1395/12/25/%D8%B3%DB%8C%D8%B3%D8%AA%D9%85-%D9%BE%D8%B1%D9%88%D8%AA%D8%B2-%D8%B9%D8%B5%D8%A8%DB%8C-%D9%BE%D8%A7%D8%B1%D8%A7%D9%88%D8%A7%DA%A9/>, (Accessed 15 August 2018).

²⁶³ Iran Autism Association, Available from:

<http://irautism.org/%D9%85%D8%B9%D8%B1%D9%81%DB%8C-%D8%A7%D9%86%D8%AC%D9%85%D9%86-%D8%A7%D8%AA%DB%8C%D8%B3%D9%85-%D8%A7%DB%8C%D8%B1%D8%A7%D9%86/>, (accessed 17 June 2018).

²⁶⁴ Pourmohammad rezaei Tajrishi, Masoomeh, Rajabi Shamami, Behnaz and Haggioogo, Hojatollah, Pivotal Response Treatment (PRT) Education for children with Autism Disorder, *Exceptional Education Journal*, Year 13, 2013, No. 8, p.57.

their activities to a great extent. Another challenge is the lack of resources and the lack of an independent monitoring mechanism to observe and follow their mandate and achieve their purpose.

As mentioned in the previous chapter, there was a lot of criticism, including online feedback, directed at the State Welfare Organization, because of the lack of resources allocated to and the inadequate support for persons with disabilities. The SWO has, however, not made this public and has also not reacted to the criticism.

6. Equalisation of Opportunities for persons with disabilities

The concept underlying the term “equalisation of opportunities” has become a global issue since the International Year of Disabled Persons in 1981 and the following adoption of the World Action Programme by the UNGA in 1982.²⁶⁵ According to paragraph 6 of the “World Programme of Action Concerning Disabled Persons” (WPA), adopted by the UN General Assembly on 3 December 1982, by its resolution 37/52, disability is the lack or limitation of opportunities to participate in social life at the same level as others.²⁶⁶ Thus, based on this definition, the solution to the difficulties faced by persons with disabilities requires the provision of equal opportunities with all other people in society. If the general systems and services of society, such as the physical and cultural environment, housing, transportation, social and health services, job opportunities, educational, social and cultural life, are accessible to all people, that means that life opportunities in the community are divided equally.²⁶⁷

²⁶⁵ Department of Economic and Social Affairs Division for Inclusive Social Development, *History of United Nations and Persons with Disabilities – The World Programme of Action Concerning Disabled Persons*, Available from: <https://www.un.org/development/desa/disabilities/history-of-united-nations-and-persons-with-disabilities-the-world-programme-of-action-concerning-disabled-persons.html>, (accessed 10 July 2018).

²⁶⁶ Department of Economic and Social Affairs Division for Inclusive Social Development, *World Programme of Action Concerning Disabled Persons*, Available from: <https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html>, (accessed 10 July 2018).

²⁶⁷ *ibid.*

The “equalisation of opportunities” is essential to the WPA since the aim is to achieve a society without any barriers for persons with disabilities, which allows them to take part in social life to a full extent.²⁶⁸ The process of equalisation includes a wide range of cultural and physical actions and requires the implementation of policies on the micro and macro level of society. For example, if persons with disabilities do not have equal opportunities with others in the educational sector, it is not only due to inadequate buildings or the inaccessibility of equipment and facilities, but sometimes cultural and attitude barriers or the low level of information and awareness of the community prevent persons with disabilities from achieving opportunities on an equal level with others.²⁶⁹ Therefore, all these aspects of discrimination and potential barriers in society for persons with disabilities need to be addressed and resolved. It is highly important that persons with disabilities have access to all services, most importantly to social security services, all levels of education, vocational training, employment opportunities and assistance and health care facilities, which “should be provided, whenever possible, within the existing social, health, education and labour structures of society.”²⁷⁰

Following the global strategy laid out in the WPA, “issues concerning persons with disabilities should not be treated in isolation, but within the context of normal community services.”²⁷¹ Separate institutions focused specifically on the needs of persons with disabilities should only be established if it is really necessary and if there is no possibility to include all persons in the existing social structures.²⁷² In any case, the main goal should be to “ensure an early and lasting integration of persons with disabilities into society.”²⁷³

²⁶⁸ *ibid.*

²⁶⁹ *ibid.*

²⁷⁰ *ibid.*

²⁷¹ Department of Economic and Social Affairs Division for Inclusive Social Development, *World Programme of Action Concerning Disabled Persons*, Available from: <https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html>, (accessed 10 July 2018).

²⁷² *ibid.*

²⁷³ *ibid.*

Disability can lead to social exclusion as a result of a lack of opportunities in life. Existing levels of inequality regarding the available resources and opportunities result in the neglect of the needs and desires of persons with disabilities and the failure to appreciate their abilities and their contribution to the development of the communities they live in. In fact, the presence and well-being of persons with disabilities is an indicator of the extent of the development of the respective community. Then, if people do not have the right opportunities, they might eventually be excluded from the community. This does not just mean that persons with disabilities are limited with regard to the level of their participation in society and the enjoyment of their rights, but it also means that society cannot appreciate and use all the potential and abilities of the persons concerned to achieve further growth and development.²⁷⁴ It is highly important that governments provide equal opportunities for persons with disabilities in various fields, including education, science, culture and art. The use of the creativity and artistic and mental capacities of persons with disabilities is essential, not only in their personal interest but importantly also for the development of the communities and societies they live in.

It is essential to concentrate on and to support people's abilities and their possible contributions to society instead of putting the emphasis on the disabilities and the possible limitations for their actions and the activities they can engage in.²⁷⁵ Negative stereotypes, perceptions and attitudes, which exist in society towards persons with disabilities, have to be challenged and overcome, because they constitute the main obstacle for full and equal participation in society by the persons concerned.²⁷⁶

According to the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, which were adopted by the UN General Assembly in 1993, the aim of

²⁷⁴ S.H., Hosseini; F. Safari, *Disability, Poverty, Social Exclusion*, Social Welfare Journal, Autumn and Winter 1387 (2008), No. 30 and 31, p. 281.

²⁷⁵ Department of Economic and Social Affairs Division for Inclusive Social Development, *World Programme of Action Concerning Disabled Persons*, Available from: <https://www.un.org/development/desa/disabilities/resources/world-programme-of-action-concerning-disabled-persons.html> (accessed 10 July 2018).

²⁷⁶ *ibid.*

the process of the equalisation of opportunities is to ensure the full and effective access for all members of society, with a specific focus on persons with disabilities, to all services, supporting facilities and information that are available in the society, while specifically referring to the education, employment, social security, family life and personal integrity, culture, religion, recreation and sports, as “target areas for equal participation.”²⁷⁷

As has been mentioned before in this thesis, these rules contributed significantly to changing the perception of persons with disabilities and shifting the approach from the medical model to the social model of disability (see chapter 2.1.1 Definition of disability according to international instruments).

Implementing the “principle of equal rights” requires that community planning and the allocation of resources are conducted according to the needs of all persons, which are all equally relevant, and with the clear aim of creating equal access and equal opportunities to participate in society for everyone.²⁷⁸ In addition, the UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities also mention that “as part of the process of equal opportunities, provision should be made to assist persons with disabilities to assume their full responsibility as members of society”, which means that the focus not only lies on ensuring equal rights for all persons but also on assuming equal responsibilities.²⁷⁹ The “equality of opportunity” is also stated as a general principle and fundamental provision of the CRPD in its article 3.²⁸⁰

²⁷⁷ United Nations General Assembly, *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, 1993, available from: <https://www.ohchr.org/en/professionalinterest/pages/personswithdisabilities.aspx>, (accessed 20 June 2018).

²⁷⁸ *ibid.*

²⁷⁹ United Nations General Assembly, *Standard Rules on the Equalization of Opportunities for Persons with Disabilities*, 1993, available from: <https://www.ohchr.org/en/professionalinterest/pages/personswithdisabilities.aspx>, (accessed 20 June 2018).

²⁸⁰ *Convention on the Rights of Persons with Disabilities*, article 3, para. 5, available from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>, (accessed 10 June 2018).

The principles of equality and opportunity are an important part of the discussion and analysis of the topic of disability in Iran. According to the definition by the State Welfare Organization of Iran (SWO), the term “equalisation of opportunities” describes a process, which aims at making the general systems of society, like the physical environment, housing and transportation, social and health services, education and job opportunities, social and cultural life, including sports and leisure facilities, available to all persons without any discrimination.²⁸¹ This includes the removal of barriers to the participation of all persons with disabilities in all these areas so that they can reach the level of quality of life that other members of society enjoy.²⁸²

In the recent decades, the attention of the Iranian society was more focused on persons with disabilities, which is an important minority group in any society, and the perception changed to some extent. However, the access of persons with disabilities to various social areas is still restricted in a way which is not true for other members of society²⁸³, as has been explained before in this thesis (see chapters 1.2 and 2.1.2).

The principle of equal opportunities has been diminished in Iran due to the daily and repeated administrative actions and the introduction of new governmental policies as well as generally the conditions of social life and it is, therefore, necessary to highlight the actual situation on the ground in the country and to demand the full implementation of the principle of equal opportunities by the Iranian government, as is required to fulfil its international commitments.

²⁸¹ State Welfare Organization of Iran, *Rules and regulations*, available from: <http://www.behzisti.ir/Portal/home/?237215/%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%AA%D8%A7%D8%B3%DB%8C%D8%B3>, (accessed 10 June 2018).

²⁸² M. Selseleh, A. Basir, *Electronic Accessibility in Digital Cities for the Empowerment of the Disabled persons*, set of articles in the Second Conference of the City of Electronic, 1392 (2013), p. 458.

²⁸³ Human Rights Watch, Center for Human Rights in Iran, “*I am equally human*”. *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 10 July).

7. Conclusion

Considering the importance of education in society and its great potential to develop and transform a country, all forms of exclusion, marginalisation, separation and inequalities regarding the access to and the participation of children in the educational system need to be addressed, challenged and removed to the greatest extent possible. The targets in the field of education and the commitments under the international Conventions can only be considered as achieved if every child has access to education.

In order to reach these essential targets, several structural changes are required, and new and diverse educational policies must be introduced and applied, which focus on marginalised groups in society and particularly children with disabilities, so that nobody is left behind and neglected.

Researching on this topic has enabled a better understanding of the international legal requirements and regulations related to the access of children with disabilities to education as well as the legal barriers to their application in Iran.

Persons with disabilities in Iran encounter numerous barriers regarding their full and effective access to public transportation, public spaces and facilities as well as governmental services, education, employment and access to the justice system.²⁸⁴ Those barriers are exacerbated by the stigmatisation they constantly face.²⁸⁵ These challenges are even more severe for children with disabilities as it often implies not having access to education or at least only restricted access.²⁸⁶

In this thesis, Iran's obligations regarding the access to primary education for children with disabilities according to the UN CRPD and the UN CRC and the main challenges

²⁸⁴ *ibid.*

²⁸⁵ Sayyed Ali Samadi, *Status of Intellectual Disabilities in the Islamic Republic of Iran*, 04 June 2008.

²⁸⁶ Human Rights Watch, Center for Human Rights in Iran, "*I am equally human*". *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, p.3, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 18 August 2018).

regarding the implementation of the international obligations at the national level of Iran were analysed.

It was noted that the Iranian government has ratified the main international instruments addressing the rights of persons with disabilities²⁸⁷, the right to education²⁸⁸ as well as children's rights.²⁸⁹ Those Conventions recognise the rights of persons with disabilities to individual autonomy, non-discrimination, full and effective participation and inclusion in society, equality of opportunity, accessibility and respect for the evolving capacities of children with disabilities²⁹⁰ and more specifically for children with disabilities the right to have access to a free and inclusive education compatible with the four "A's": availability, accessibility, acceptability and adaptability.²⁹¹ However, there are some very important gaps and shortcomings in the Iranian legal system that hinder the rights of education for children with disabilities. First, the definition of disability under Iranian law not only does not match the definition provided by the CRPD²⁹² and the WHO²⁹³, but also stigmatises persons with disabilities and excludes many persons with disabilities.²⁹⁴

²⁸⁷ United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, Available from: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 25 July 2018).

²⁸⁸ International Covenant on Civil and Political Rights ratified on 24 June 1975, International Covenant on Economic, Social and Cultural Rights ratified on 24 June 1975.

²⁸⁹ United Nations, *Convention on the Rights of the Child*, ratified on 13 July 1994.

²⁹⁰ United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, Available from: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 25 July 2018).

²⁹¹ United Nations Human Rights Office of High Commissioner, *Thematic study on the right of persons with disabilities to education*, 18 December 2013, A/HRC/25/29, page 7, Available from: https://www.ohchr.org/Documents/Issues/Disability/StudyEducation/A_HRC_25_29_ENG.pdf (Accessed 21 August 2018).

²⁹² United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, Available from: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#1>, (accessed 25 July 2018).

²⁹³ World Health Organisation, *Classifications*, available from: <http://www.who.int/classifications/en/>, (accessed 5 April 2018).

²⁹⁴ UN Committee on the Rights of Persons with Disabilities, *Concluding Observations on Initial Report of Islamic Republic of Iran*, adopted in May 10, 2017, para. 8, available from: https://www.ecoi.net/en/file/local/1420565/1930_1514886275_g1711469.pdf, (accessed 10 July).

In addition, the definition of “child” under Iranian law is very restrictive, excluding girls from the age of 9 and boys from the age of 15.²⁹⁵ Furthermore, the right to education, as developed as one of the UN SDGs within the framework of the “2030 Agenda for Sustainable Development”, has been abandoned by the Islamic Republic of Iran and the observance and use of the respective educational guidelines leads to penalties for the persons involved.²⁹⁶ Some larger gap appears in practice, as the cultural reality of children with disabilities in Iran often prevents them from even going to school.²⁹⁷

In order to overcome the barriers faced by children with disabilities to access the educational system, the State Organizations (Iranian State Welfare Organization and the Special Education Organization) have implemented various programmes²⁹⁸ which are in line with Iranian law, however, not in line with the international core human rights treaties.²⁹⁹ For this reason, NGOs are increasingly active in the promotion and protection of the rights of persons with disabilities and in particular the rights of children with disabilities.³⁰⁰

Nevertheless, recently, the Iranian government has made some efforts in order to increase the level of protection for persons with disabilities, including children. Following the ratification of the CRPD in 2009 it created the “National Headquarters on Accessibility” in 2015 in order to enhance and promote the full and unrestricted access to public buildings, the transportation system as well as other facilities in several cities,

²⁹⁵ World Intellectual Property Organization, *The Civil Code of the Islamic Republic of Iran*, available from: <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir009en.pdf>, (accessed on 20 August 2018) .

²⁹⁶ Azenews, *Iran ceases realization of UN 2030 Agenda for Sustainable Development*, 14 June 2017, available from <https://www.azernews.az/region/114722.html> (accessed 21 August 2018).

²⁹⁷ Human Rights Watch, Center for Human Rights in Iran, “*I am equally human*”. *Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 21 August 2018).

²⁹⁸ Islamic Parliament Research Center Of the Islamic Republic of Iran, *The Law on the Establishment of an Exceptional Education Organization*, available from: <http://rc.majlis.ir/fa/law/show/91853>, (accessed 12 June 2018).

²⁹⁹ *ibid.*

³⁰⁰ Iranian Disabled Society, <http://iransdp.com/?part=menu&inc=menu&id=1600>, (accessed 17 June 2018).

not only its capital.³⁰¹ Furthermore, the new bill on the protection of the rights of persons with disabilities recently passed by the Parliament³⁰² has potential to have a positive impact if implemented fully as it would enhance the accessibility and access to education for persons with disabilities. But there is still much more action required by the government in order to achieve full compliance with its obligations and to ensure that the rights of children with disabilities in particular are protected in full accordance with the international human rights instruments.³⁰³

7.1 Recommendations

From the sources used for this thesis and their examination and analysis, the following recommendations can be drawn in order to align the Iran legal system with its respective international obligations.

Regarding the definition and terminologies used in the law to address persons with disabilities, Iran should follow the definition of disabilities given in the Convention on the Rights of Persons with Disabilities on the basis of the social model of disability, and repeal derogatory terminology referring to persons with disabilities, including in the new Criminal Code. It should also withdraw the article 90 of the Sixth Development Plan of Iran that provides for compulsory premarital genetic testing to prevent the birth of children with disabilities as all persons with disabilities have the right to exercise their sexual and reproductive rights.³⁰⁴

³⁰¹ Building Engineering Organization of Khorasan Razavi Region, Terms and conditions of urban planning and architecture for physically and mentally handicapped people, Available from: <http://www.nezammohandesi.ir/uploads/zavabet-malolin.pdf>, (accessed August 17, 2018).

³⁰² Teheran Times, Law on rights of persons with disabilities to be fully enforced within a year, June 1, 2018, Available from: <http://www.tehrantimes.com/news/424149/Law-on-rights-of-persons-with-disabilities-to-be-fully-enforced> (accessed 21 August 2018).

³⁰³ Human Rights Watch, Center for Human Rights in Iran, *"I am equally human". Discrimination and Lack of Accessibility for People with Disabilities in Iran*, 2018, available from: https://www.hrw.org/sites/default/files/accessible_document/iran0618english_i_am_equally_human.pdf, (accessed 21 August 2018).

³⁰⁴ OHCHR, *Concluding observations on the initial report of the Islamic Republic of Iran*, 10 May 2017, CRPD/C/IRN/1, Available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/114/69/PDF/G1711469.pdf?OpenElement>, (accessed 21 August 2018).

Considering the difference of treatment between boys with disabilities and girls with disabilities, a specific focus should be given to gender equality in achieving the right to education for all children.³⁰⁵ Iran is generally lagging behind as far as the achievement of gender equality and the protection of the rights of women is concerned. In a first and extremely urgent step to improve this situation, Iran must ratify the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and work towards the implementation of its provisions, in particular with respect to the rights of girls with disabilities.

Concerning the inconsistencies between the Convention on the Rights of Persons with Disabilities and Islamic laws, a dialogue with religious and community leaders should be conducted to reconsider the reservation made upon ratification of the Convention.³⁰⁶

About the institutional framework around persons with disabilities, a neutral monitoring mechanism is required to be set up while ensuring 'inclusive and equitable quality education and promoting lifelong learning opportunities for all' and its corresponding targets. In addition, an independent mechanism should be considered for children with disabilities to submit their cases of violations.³⁰⁷

Upon the physical accessibility of schools, the Islamic Republic of Iran should take measures to physically facilitate the access to primary school to ensure the inclusion of children with disabilities.³⁰⁸

³⁰⁵ Zuraidah Don, A.Salami & A.Ghajarieh, *Voices of girls with disabilities in rural Iran*, 29 Jun 2015.

³⁰⁶ OHCHR, *Concluding observations on the initial report of the Islamic Republic of Iran*, 10 May 2017, CRPD/C/IRN/1, Available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/114/69/PDF/G1711469.pdf?OpenElement>, (accessed 21 August 2018).

³⁰⁷ UNESCO, *Education 2030 Framework for Action*, May 2015, Available from: <http://unesdoc.unesco.org/images/0024/002456/245656E.pdf>, (Accessed 16 July 2018).

³⁰⁸ Human Rights Watch and the Center for Human Rights in Iran, *"I am equally human", discrimination and lack of accessibility for people with disabilities*, 2018.

Moreover, the training of teachers and of children on the topic of disability is essential to promote better understanding and the inclusion of children with disabilities in schools. It could consist of educational measures adapted specifically to the type of disabilities of their students.³⁰⁹

Regarding financial support granted to persons with disabilities, sufficient resources should be allocated to develop a system of personal assistance which aims to promote access to all public locations including school.³¹⁰

To address and prevent the stigmatisation of persons with disabilities, the Islamic Republic of Iran should adopt a strategy to sensitise families and communities, promote respect for the diversity of persons with disabilities in line with the CRPD.³¹¹

Concerning the mechanisms of the Convention on the Rights of Persons with Disabilities, Iran should fully cooperate and regularly submit its reports to the Committee.³¹²

And finally, in order to improve the access to education for children with disabilities, especially those living in rural communities, Iran should establish a time frame for the transition process from segregated to inclusive education.³¹³

³⁰⁹ United Nations, *Thematic study on the right of persons with disabilities to education*, 18 December 2013, A/HRC/25/29, Available from: https://www.ohchr.org/Documents/Issues/Disability/StudyEducation/A_HRC_25_29_ENG.pdf (accessed 21 August 2018).

³¹⁰ *ibid.*

³¹¹ OHCHR, Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of the Islamic Republic of Iran*, 10 May 2017, CRPD/C/IRN/1, available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/114/69/PDF/G1711469.pdf?OpenElement> (accessed 21 August 2018).

³¹² *ibid.*

³¹³ *ibid.*

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Abstract in English

Persons with disabilities, and in particular children, belong to the most marginalised and discriminated groups in Iran. Iran has ratified the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) and the UN Convention on the Rights of the Child (CRC), which both recognise the right to education. The targets in the field of education, in accordance with Goal 4 (on education) of the UN Sustainable Development Goals, and Iran's commitments under the international Conventions can only be considered as achieved if every child has full access to education without any discrimination.

On the national level, however, several obstacles are preventing the full implementation of this fundamental right. These include the reservations entered by Iran at the time of ratification of the CRPD and the CRC and importantly, the exclusive application of the medical model of disability.

To achieve full compliance with the international obligations, all forms of exclusion, marginalisation, separation and inequalities regarding the access to and the participation of children with disabilities in the educational system need to be addressed and eliminated. This requires several structural changes focused primarily on the removal of all kinds of barriers, the adoption of new educational policies and policies for the protection of persons with disabilities by the Iranian government, the application of the social model of disability in conformity with the provisions of the CRPD, the establishment of an effective and independent monitoring mechanism and the full observance and implementation of the recommendations by the CRPD Committee.

Abstract in German

Menschen mit Behinderungen, und insbesondere Kinder, gehören zu den am meisten ausgegrenzten und benachteiligten Gruppen im Iran. Iran hat sowohl das Übereinkommen der Vereinten Nationen über die Rechte von Menschen mit Behinderungen (UN-BRK) als auch das Übereinkommen über die Rechte des Kindes (KRK) ratifiziert. Das Recht auf Bildung ist in beiden Konventionen verankert. Die Ziele im Bildungsbereich, in Übereinstimmung mit Ziel 4 (Hochwertige Bildung) der UN Nachhaltigkeitsziele, und Irans Vertragsverpflichtungen können nur dann als erfüllt betrachtet werden, wenn jedes Kind einen uneingeschränkten Zugang zu Bildung hat, ohne jegliche Diskriminierung.

Auf nationaler Ebene wird die vollständige Umsetzung dieses fundamentalen Rechtes jedoch aufgrund mehrerer Hindernisse beeinträchtigt. Dazu zählen die Vorbehalte, welche Iran im Zuge der Ratifizierung der UN-BRK und KRK erklärt hat, sowie die ausschließliche Anwendung des medizinischen Modells von Behinderung.

Um die vollständige Einhaltung der internationalen Verpflichtungen zu gewährleisten, muss jede Form von Ausgrenzung, Marginalisierung, Trennung und Ungleichheit in Bezug auf den Zugang zu Bildung und die Teilhabe von Kindern mit Behinderungen thematisiert und beseitigt werden. Dies bedarf mehrerer struktureller Veränderungen, die insbesondere auf die Entfernung jeglicher Barrieren ausgerichtet sind, der Verabschiedung neuer Richtlinien im Bildungsbereich sowie zum Schutz von Menschen mit Behinderungen durch die iranische Regierung, der Anwendung des sozialen Modells von Behinderung in Übereinstimmung mit der UN-BRK, der Einrichtung eines effektiven und unabhängigen Kontrollmechanismus sowie der vollständigen Beachtung und Umsetzung der Empfehlungen des Ausschusses zum Schutz der Rechte von Menschen mit Behinderungen.