INTERDEPENDENCE, INDIVISIBILITY AND THE SOCIAL RIGHTS OF PERSONS WITH DISABILITIES IN THE LAW OF QATAR[1]

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Abstract: Based on the description of the situation of some social rights of persons with disability in Qatar, this article is aimed to highlight the need to address the protection of human rights from interdependence and indivisibility. The analysis of Qatar Law reveals that social protection alone is not sufficient guarantee of dignity, as would not be a system based exclusively on freedom as not interference. Although providing noteworthy resources for persons with disabilities along with a good level of social protection and health care, Qatar does not base its system on autonomy and inclusion and this is a shortcoming to move towards a human rights-based approach.

Keywords: Convention on the rights of persons with disabilities, Social Rights, Interdependence and Indivisibility, Persons with Disabilities in Qatar.

1. THE CRPD AND HUMAN RIGHTS THEORY

The international consensus on the notion that political power is only justified as long as it serves human dignity is clearly enshrined in the Universal Declaration of Human Rights and the United Nations Charter. Within this framework, human rights, which can be defined as tools aimed at safeguarding dignity (instruments conceived to prevent persons engaged in social living from being treated as a means to an end), are the ultimate standard when measuring the legitimacy of power. Additionally, they must be deemed as universal.

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When it is claimed that human rights are universal, the underlying assertion is that everyone is entitled to equal rights by virtue of being human. Therefore universality is closely related to equality. However, it must be remembered that one of the cornerstone texts in the modern understanding of human rights is The Declaration of the Rights of Man and of the Citizen passed by France's National Constituent Assembly in August 1789. Indeed, this provision illustrates the idea upheld herein, i.e. that not only have systems of rights failed to provide equal protection to all human beings, but also they have often further stigmatized some individuals (Grear 2013). On the one hand, the 1789 Declaration was passed in a context where the definition of "men" excluded women; on the other, at that time citizens had to meet certain requirements that not even all men were able to fulfil, including nationality, race, age, economic conditions, or functional diversity. Accordingly, citizens were defined as white male nationals of legal age who owned property (including money) and who were socially and physically independent.

The construct that justifies compatibility between these exclusions and equality can be found in the so-called "traditional theories" (Baxi 2002). In accordance with these approaches, rights are granted to those who are acknowledged as moral agents, i.e. those who are allegedly free to choose and therefore who can be held accountable for their choices. Nevertheless, during the 18th and 19th centuries in Europe and America, not all human beings, not even all men, were considered to be free and accountable individuals.

The bottom line of this construct is that rights are claimed to be universal, yet they exclude persons both in terms of their entitlement and also as a result of the content of those rights: entitlement, because rights are only granted to whomever can be deemed to be the "abstract" (an abstraction rather than a real individual) bearer of rights within society; content because rights amount to specific guarantees vis-à-vis situations where the abstract rights-holder can be treated as an instrument, and they are of no use in other circumstances.

These "traditional theory" approaches are reviewed in law through generalization and specification processes. The generalization process stems from the focus on the circumstances that can be faced by human beings: it adopts the perspective of "the situation" and then projects that perspective into a general fulfilment of rights. However, only those who can be considered current bearers of rights in the aspects deemed essential (rationality and autonomy) are actually entitled to those rights (the paramount example of this being the right to vote), thus leading to uniformity for those individuals, but a uniformity that actually excludes a large proportion of the population or that requires their assimilation (Barranco, 2015a).

Furthermore, new rights that focus on different circumstances may be granted (economic, social, and cultural rights), but it is worth noting that these rights, under the generalization process, require the rights-holder to be rational and autonomous under particular definitions. Therefore the circumstances taken into consideration are not natural, but social or economic.

The specification process stems from a focus on specific circumstances faced by particular or "special" individuals. This focus is then given a group perspective. Although it is true that as a result of the specification process entitlement is diversified, the particular grounds for greater specific rights have been twofold. Firstly, they seem justified due to a negative assessment of the group-defining feature, which according to this approach must be "removed" or "remedied." This perspective calls for a separation between what is normal and what is special.

For example, the effect of this process on women's rights entails, on the one hand, reconsidering their entitlement to general rights—insofar as women share certain features with men—but also justifying the acknowledgment of "special" rights in those aspects considered to be exclusively inherent to women and which are thus considered to be "not normal." The result is that this kind of assessment, which is applied both to women and other groups, is ultimately stigmatizing (Bunch 1990).

Secondly, the specification process can also detract from a positive assessment of the group-defining feature, and accordingly it is considered that such feature must be enhanced. This is the approach that is sometimes taken in relation to the cultural rights of minorities.

Both the generalization and specification processes (Peces-Barba 1995, 154-199) have failed to integrate diversity within rights systems over the 20th century, since the consequence of generalization without specification has been standardization (construed as integration, yet not as inclusion), and the outcome of specification processes lacking in generalization has been segregation.

During the 21st century there has been a change in how these processes have been viewed and addressed. This change had been announced by the Convention on the Rights of the Child and, particularly, and it is definitely evidenced by the Convention on the Rights of Persons with Disabilities (Barranco, 2015 b).

The Convention on the Rights of Persons with Disabilities was adopted on December 13, 2006. The treaty, which was ratified by Qatar on May 13, 2008, provides that "[p]ersons 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" (Article 1).

Most certainly the CRPD provides a new paradigm for international human rights law, grounded on a full review of the classic theory. This re-examination disregards the notion of homogeneity, which worked as a precondition for universality, but the meaning of "special" or "vulnerable" versus what is normal is also reviewed,

thus leading to a human rights based approach in relation to vulnerable groups. In the case of the CRPD, this approach takes the form of the social model[7].

The CRPD moves away from the idea that homogeneity is a precondition for universality. As discussed previously, universalism and individualism (which have historically constituted the foundations of human rights philosophy) have provided grounds to justify the belief that rights, and the capacity to exercise them, should be granted solely to those who can engage in social living in an autonomous and rational manner. Tackling disability as a human rights matter implies taking for granted that instrumentalizing persons with disabilities undermines human dignity. Therefore, through the CRPD, the international community has moved away from a system in which true rights are only those designed to protect white heterosexual bourgeois men who are socially and physically independent.

The CRPD introduces an approach that forces us to re-examine the meaning of what is deemed to be "special" and "vulnerable" vis-à-vis what is considered to be "normal": this aligns with the social model of disability, reflected in its definition of a "person with disabilities." Ultimately, according to this model, disabilities are the result of an interaction.

As opposed to other approaches, the social model deals with breaches of the rights of persons with disabilities as if they were human rights violations. In addition, regarding the very notion of disability, the social model no longer regards disability as a purely individual phenomenon; it focuses on how the environment might foster the emergence of disabilities.

The foregoing entails a modification of the kind of public policies used to tackle diversity. Public policies in favor of certain groups traditionally deemed as vulnerable have fallen into three main models, according to their underlying principles and the "intervening agent:" the conservative, the technocratic, and the social model. These three approaches have historically –and still do– dictate the way disability is handled, but also the way social protection is addressed.

Conservative policies, which regarding disability have been designated as the isolation and exclusion model (Palacios 2008, 36-75). are characterized by the fact that they leave in the hands of society the treatment of persons who, just like the disabled, belong to groups that do not have the same chances to enforce their rights as those persons deemed to be "normal." From this perspective, conservative policies entail the non-intervention of political power and disability (as poverty) is often considered to be due to past actions performed by individuals or their parents that are morally reprehensible. Additionally, persons with disabilities are considered a burden on society, and thus it would be better for them not to exist. At many moments in history,

[7] The purpose of these words is not to assess the social model, but to present those of its features that allow us to understand to what extent the social policies of disability in Qatar adopt a human rights approach. For an in deep analysis of the challenges faced by Qatar for the general implementation of the model, see Asis *et al*. (2017) and Rodríguez del Pozo *et al.* (2016)

and still today in some places worldwide and regarding specific issues, this isolation and exclusion model was the prevailing approach to disability. There were attempts to tackle disability by eliminating or separating persons with disabilities: through sterilization, selective abortions, "euthanasia," by hiding them, secluding them or even imprisoning them. As a result of this approach persons with disabilities have suffered serious violations of their rights.

Technocratic policies –in the context of disability tending to sit in the rehabilitation model (Palacios 2008, 66-102)– assign a very prominent role to public authorities, regarding both the drafting and the implementation of the relevant public policies. This model is rooted in utilitarianism, in which public action should promote the good of society as a whole rather than the welfare of the individual and should protect that society against the greater threats rather than defend the rights of a single person. The main goal of these policies is not to protect the rights of persons with disabilities, but to enhance the overall well-being of the society that is subject to such policies. Disabilities are turned into a "medical issue," and the aim is rehabilitation. Somehow it entails turning persons with disabilities into "normal people," focusing on the individual condition. This is quite relevant in regarding social rights, because social protection from the technocratic point of view doesn't mean recognition of economic, social and political rights, as we will test in the case of Qatar.

Finally, the social model (Palacios 2008, 103-203) seeks to enforce the rights of persons with disabilities. Moreover, both the definition of public action and the implementation thereof are drafted with the involvement of those persons. As pointed out above, it is in the context of this model that any discrimination suffered by persons with disabilities is deemed to be a matter of human rights. Also in the context of this model it is proposed that the concept of "normalcy" is to be defined by the powerful and influential, and that to a large extent the impact of an individual feature on the way a person functions has to do with their environment. In this regard it is worth noting the difference between the situation of a short-sighted person who lives in an environment where it is easy to access prescription lenses (enabling their full and effective involvement in society) and the situation experienced by an equally short-sighted person who has no access to this kind of aid. From this point of view, social protection of persons with disability should be articulated trough the recognition of economic, social and cultural rights.

This model encompasses the definition of a person with disabilities provided by the CRPD. Hence, the rights-based approach is introduced in the treatment of vulnerability (as determined by the United Nations Secretary-General's Reform Programme of 1997) and, as a result, when intervening in favor of persons with disability the end is the rights, participation is the means, and empowerment is the outcome. In addition, it is worth noting that if public actions are founded on human rights they become mandatory.

The rights-based approach can be seen in the content of the CRPD, particularly in the principles set out in Article 3, among which we must highlight here: "[r]espect for

inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons."

Along these lines, one of the most difficult aspects regarding its implementation is equal recognition before the law as provided for in Article 12. The impact of both this right and the right to accessibility, enshrined in Article 9, highlights that the indivisibility and interdependence of human rights triggers, adding to other arguments[8], a re-examination of the sense of the long-standing distinction between civil and political rights, on the one hand, and economic, social, and cultural rights on the other.[9]

2. THE INDIVISIBILITY AND INTERDEPENDENCE OF HUMAN RIGHTS AND THE RIGHTS OF PERSONS WITH DISABILITIES

We must briefly reflect on the meaning of human rights before presenting the main point upheld in this section. The CRPD puts at stake the long-standing distinction between civil and political rights, on the one hand, and economic, social, and cultural rights on the other. Accordingly, it is possible to contend that "human rights" is a notion with two dimensions: ethical and legal. From an ethical point of view, rights are claims linked to the idea of dignity (making them ethical demands): tools conceived to prevent persons from using other persons as means.

It is important for States to protect human rights, because only by doing so can they be considered legitimate. Since they protect values with a particular significance, they must be included in the highest standards of the legal system. However, it is possible to ask what rights we have, because States have to protect these rights in order to achieve, maintain, or reinforce their legitimacy. The answer to this question depends on our approach to the notion of instrumentalization. Nowadays, we consider that a person is being used as a tool when his or her civil and political, or economic, social, and cultural rights are denied. Not everybody agrees with this and, in fact, social rights tend to have less efficacy in protection systems than civil and political rights. In the international system of protection however, the applicable rule on this matter is the interdependence and indivisibility of human rights (Añón 2015, 44 ff).

The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on June 25, 1993, states the following: "5. [a]ll human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

[8] Additionally to the opinion of the Committee on Economic, Social and Cultural Rights in the General Comment 3 (CESCR 1990) and of the authors as Sandra Fredman (Fredman 2008)

[9] The scope of both these rights and their impact on the remaining rights can be seen in Committee on the Rights of Persons with Disabilities, *GC No.1* 2014 (CRPD/C/11/4), as well as on CRPD, *GC No. 2* 2014 (CRPD/C/11/3).

Before 1993, and particularly prior to 1997, social rights were mostly considered to be a development question, but on this latter date the Secretary-General of the United Nations published a document entitled "The Human Rights-based Approach to Development Cooperation. Towards a Common Understanding Among UN Agencies" (1997) stating the principles of universality and inalienability, equality and non-discrimination, participation and inclusion, accountability and the rule of law, as well as the two principles particularly pertinent at this point, i.e. indivisibility, on the one hand, and interdependence and interrelatedness, on the other. The Common Understanding document reads as follows:

> "Indivisibility: Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.
>
> Inter-dependence and Inter-relatedness. The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information." (UN Develompent Group 2003).

The significance of these principles for the effectiveness of the rights granted within the framework of the international human rights protection system is clearly shown in the CRPD, in particular in the way the right to equal recognition before the law and the right to accessibility impact the content of the remaining rights that have been acknowledged, especially the content of the rights traditionally considered as economic, social and cultural.

In this connection, it is worth recalling that an extraordinarily important provision in order to understand the model underlying the CRPD is Article 12, pursuant to which:

> "1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
>
> 2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life."

In accordance with the traditional classification of rights, the right acknowledged in Article 12 can be considered to be a civil right. As enshrined in the CRPD it is closely related to other rights such as access to justice (Article 13), liberty and security (Article 14) or the right to live independently and be included in the community (Article 19), but it is also embedded in every situation where persons with disabilities have to make decisions, regardless of whether these decisions affect the

exercise of civil, political, or economic, social, or cultural rights. Along these lines, the Committee on the Rights of Persons with Disabilities points out the following:

> "Legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights. It acquires a special significance for persons with disabilities when they have to make fundamental decisions regarding their health, education and work. The denial of legal capacity to persons with disabilities has, in many cases, led to their being deprived of many fundamental rights, including the right to vote, the right to marry and found a family, reproductive rights, parental rights, the right to give consent for intimate relationships and medical treatment, and the right to liberty." (Committee on the Rights of Persons with Disabilities, GC No 1 2014, para. 8).

Indeed, as shown below in the analysis of the rights to health, employment, education, and social living in Qatar, a large share of the difficulties faced by persons with disabilities in order to attain equality regarding these rights usually involves the fact that they are denied the ability to decide in these domains or that the barriers to making free decisions that they encounter are disregarded.

Accessibility had never been acknowledged as an individual right in the universal protection system until it was enshrined in paragraph 1 of Article 9 of the CRPD:

> "To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas."

As can be inferred from the wording of this provision, the guarantee of accessibility comprises the exercise of all the remaining rights, since it ensures access to goods, spaces, services, and processes tied to its effectiveness. The second General Comment issued by the Committee on the Rights of Persons with Disabilities refers to accessibility, and in connection with the topic of this paper it highlights the importance of accessibility for the exercise of civil rights, but also for the exercise of political, economic, social, and cultural rights. Thus, once again, CRPD provisions go beyond the long-standing distinction between generations of rights.

Accessibility is achieved through one of two immutable paths: one that relates to groups and the other that is based on *ex ante* or is based on the perspective of individuals. For groups, accessibility requires universal design, meaning that any goods, spaces, services, or processes must be usable by as many diverse persons as possible with no need to perform any special accommodation or adjustment. The obligation to

ensure accessibility in this group-oriented dimension prevails, although from the beginning there was no design for all, and calls for setting targets and deadlines to remove barriers:

> "States parties should establish definite time frames and allocate adequate resources for the removal of existing barriers. Furthermore, States parties should clearly prescribe the duties of the different authorities (including regional and local authorities) and entities (including private entities) that should be carried out in order to ensure accessibility. States parties should also prescribe effective monitoring mechanisms to ensure accessibility and monitor sanctions against anyone who fails to implement accessibility standards." (Committee on the Rights of Persons with Disabilities, GC No 2, 2014, para. 24).

As for individuals, the approach to accessibility entails reasonable accommodation:

> "In the case of individuals who have rare impairments that were not taken into account when the accessibility standards were developed or who do not use the modes, methods or means offered to achieve accessibility (not reading Braille, for example), even the application of accessibility standards may not be sufficient to ensure them access. In such cases, reasonable accommodation may apply." (Committee on the Rights of Persons with Disabilities GC 2 2014, para. 25).

In both cases accessibility, which can be considered as a newly created right, is hardly classifiable into classic categories (civil, political, economic, social, or cultural) and it impacts on the rights that fall into all of these categories.

As discussed below, these reflections can be incorporated into the following analysis of to what extent the rights to health, employment, education, and participation are acknowledged for persons with disabilities in Qatar.

3. QATAR AND THE CRPD

Qatar is an independent sovereign Arab state on the western coast of the Arabian Gulf, covering an area of approximately 11,521 square kilometers, and with a population of roughly 2,559,267 of which 731,622 are women (April 2016).[10] Only about 12 percent of the total population are Qatari (Snoj 2013).[11]

[10] http://www.mdps.gov.qa/en/pages/default.aspx (last accessed May 30, 2016).

[11] According to the *Qatar's Fourth National Human Development Report* (Ministry of Development Planning and Statistics 2015) "Qatar tops the list of countries with the highest share of foreign population relative to the total population, where the non-Qatari population accounts for around 87% of the total population."

The Constitution currently in force was adopted on June 8, 2004, and it recognizes Shari'a law as the main source of legislation. The political system is a monarchy and the Head of State is the Emir, in whom the executive power is vested and who organizes the Council of Ministers. Legislative Authority is vested in the Al-Shoura Council, an advisory body, consisting of forty-five members, out of whom thirty must be elected by direct, general, secret ballot. The fifteen remaining members are appointed by the Emir.

Qatar is involved in a modernization strategy entitled Qatar National Vision 2030, aimed "towards Qatar becoming an advanced society capable of sustainable development with the goal of providing a high standard of living for all citizens by the year 2030." Within this framework, in 2008 Qatar ratified the International Convention on the Rights of Persons with Disabilities (CRPD).

There is a specific legal provision in force addressed to persons with disabilities in Qatar: Law No. 2 of 2004. In this piece of legislation, the notion of a "person with disabilities" is defined from the viewpoint of the medical model, with the description: "any person with a permanent total or partial disability in any of the senses or in his or her physical ability or in his or her psychological or mental ability to such an extent that his or her opportunity to learn or to undergo rehabilitation or to earn a living" (Article 1 of Law No. 2 of 2004). This perspective is also present in other definitions, such as "*Special education,*" "*Rehabilitation,*" "*Special Education Institutes.*" As we can see, disability is understood to be a medical situation related to special features of the persons, and the aim of the public intervention is mostly to rehabilitate persons with disabilities.

Article 2 of Law No. 2 of 2004 refers to the rights of persons with disabilities in the following terms: "[s]pecial needs persons shall enjoy the following rights in addition to any applicable rights under any other relevant legislation: 1) Education and rehabilitation relevant to their developmental potential; 2) Medical, psychological, cultural and social care; 3) Provision of tools, devices, means of transport and equipment that assist them in learning, rehabilitation and enjoying freedom of movement; 4) Provision of relief, aid and other ancillary services; 5) Provision of work that is appropriate to their abilities and rehabilitate them in both the public and private sectors; 6) Participation in sports and entertainments according to their special abilities; 7) Provision of accommodation for safe and secure movement; 8) Securing of special facilities in public places; and 9) Securing of their participation in decisions related to their affairs."

In this context, we will focus on how the rights to health, education, employment and participation are guaranteed in Qatari law. This analysis is not an in deep presentation of the referred rights in Qatar, but just an assessment of the degree of compliance of Qatar Law with the CRPD in this fields in order to briefly present its main achievements and shortcomings.

3.1. The right to health

Within the framework of the medical model, public policies on disability mainly relate to health issues alongside social assistance. Nevertheless, persons with disabilities (particularly with intellectual or psychosocial disabilities) have often been deprived of the opportunity to make decisions about their own health. They have also been deprived of the opportunity to decide where and with whom they live, mostly because disability is categorized as a health problem. The CRPD considers that the behaviors through which the dignity of persons with disabilities are most frequently disregarded occur within the health domain.

Qatari law mostly falls within the scope of the medical model, so some questions that would not be related to the health field were the social model employed, in Qatar are solved through the invocation of health laws and considerations of environment, or depend upon a medical decision. For example, habilitation and rehabilitation are largely considered medical issues; also Hamad Medical Corporation, a medical institution, is the dedicated authority for special education. This focus on health in the Qatar context justifies the longer length of this section.

Furthermore, this over-emphasis on the health field regarding disability policies is a challenge for research, because sometimes the guarantee exists, but it is hard to identify because disability is viewed as something special or not normal. From the legal perspective disability is understood to be a sectorial matter whereas a human rights-based approach requires disability to be treated as an issue that cuts across society, thus mainstreaming disability.

Articles 25, 26, 14, 17, 15, 22, and 23 are specifically relevant in order to understand the conventional design of the right to health. However, it is worth remembering that the provisions on the health of persons with disabilities have to be understood within the framework of the Convention (Rodríguez del Pozo *et al.* 2016). In other words, they have to be construed from the point of view of the social model and the human rights approach, as well as being based on the principles of dignity, equality, and non-discrimination, accessibility, legal capacity, participation, inclusion, and diversity (Stein *et al.* 2009; Asís *et al.* 2017). A careful presentation of the requirements of these articles is required to understand the scope of Qatar's obligations under the Convention and why the guarantee of the healthcare for persons with disability doesn’t imply the protection of their right to health in the Qatar case.

Article 25 of the CRPD refers to health. The starting point for the recognition of the right to health is non-discrimination. Thus Article 25 sets forth the right to the enjoyment of the highest attainable standard of health *without discrimination on the basis of disability.*

States acquire specific obligations related to the establishment of guarantees for persons with disabilities to access health services on an equal footing with other persons, at a lower cost, and the CRPD expressly mentions sexual and reproductive

health.[12] Also, the CRPD is concerned about the availability of special health services required for the protection of the right to health of persons with disabilities pursuant to Article 25.b).

As an additional guarantee of equality, Article 25.c) points out that health services must be provided as close as possible to the communities, even in rural areas. This concern to protect the link between persons with disabilities and their own community is also present in the provision governing the right to living independently and being included in the community (Article 19.b)): "persons with disabilities have access to a range of in-home residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community" and it is consistent with the principle of "full and effective participation and inclusion in society" expressed in Article 3.c) of the CRPD.

Finally, it is worth noting that the provision expressly mentions two specific domains where discrimination on the grounds of disability is forbidden: access to life or health insurances ("shall be provided in a fair and reasonable manner") and health care, health services, food, or fluids.

Article 26 of the CRPD introduces the right to habilitation and rehabilitation. It would be a mistake to consider the right enshrined in Article 26 to be exclusively related to the health context, but health is one of the areas expressly mentioned therein. The aim of the habilitation and rehabilitation programs is independence, mental, social and vocational ability, and full inclusion and participation: "to enable persons with disabilities to attain and maintain maximum independence, full physical, mental social and vocational ability, and full inclusion and participation in all aspects of life." This objective of "participation and inclusion" is reiterated in Article 26.1.b), and the aim is to ensure such a right by moving programs and services close to communities "including rural areas."

As we have pointed out before, habilitation and rehabilitation programs must be comprehensive, and thus should be based on the multidisciplinary assessment of individual needs and strengths. States Parties also have an obligation to promote the use of assistive devices and technologies by persons with disabilities (Article 26.3). As opposed to the structure under the medical model, under the CRPD, habilitation and rehabilitation programs and services are not compulsory.

The Article provides an obligation to promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services (Article 26.2). This commitment is not expressly made with regard to the right

[12] In line with Article 23, 1.b) of the CRPD, introducing "the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided."

to health, but can be inferred from the general obligation "to promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights," as laid down in Article 4.1.i) of the CRPD.

Article 14 of the CRPD is relevant in the health domain, since domestic legislation has usually introduced involuntary placement (and involuntary treatment) for persons with psychosocial disabilities. The rule is clear in this regard: "disability shall in no case justify a deprivation of liberty." Some of the consequences of this provision also have to do with health: when deprivation of liberty is justified through compulsory detention or other treatment of persons with disabilities not within the framework of a criminal investigation or process.

Along similar lines are the rights laid down by Article 14 of the CRPD, relating to the right of persons with disabilities to decide where and with whom they live, pursuant to Article 19 which acknowledges "the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that: (a) persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement."

When a person with disability is unwillingly placed in a hospital to be treated, his or her right to liberty under Article 14 is at stake, as well as his or her right to living independently and being included in the community and, of course, his or her right to integrity. Integrity and the respect for privacy are always exposed in the medical contexts, but this is particularly true regarding persons with disabilities. That is why Articles 17, 15, and 22 are so significant.

Article 17, under the heading "Protecting the integrity of the person," sets out that "Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others." This provision triggers the analysis of informed consent, which must be supplemented by taking into consideration issues such as accessibility and legal capacity. Informed consent requires patients to be able to access information in a physical way, but also be given the possibility of understanding the content. The paradigm shift on legal capacity has a deep impact on this subject, because the relevant decision is that of the person with a disability, regardless of the kind of disability. In the field of biomedical research, this question has been examined. The integrity of persons with disabilities (and of all persons) prevents their involvement in research without guaranteeing that their consent is first freely provided.[13] Therefore,

[13] It is important to take into account that biomedical research should consider human diversity, otherwise studies would be biased and some persons would be excluded from the benefits of medical advances. However, when biomedical research involves human beings it should be subject to rigid and clear criteria aimed at guaranteeing any human rights at stake. See, as an example, the *International Ethical Guidelines*

Article 17 must be supplemented by the rule enshrined in Article 15.1, under the heading "Freedom from torture or cruel, inhuman or degrading treatment or punishment," which is worded as follows: "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation."

Article 23 of the CRPD provides the right to respect for home and the family. Sub-paragraph c) of paragraph 1 requires States to ensure that "persons with disabilities, including children, retain their fertility on an equal basis with others." Nevertheless, it is usual in many countries to sterilize persons with disabilities, especially women. Since sterilization is a medical procedure, this right is also relevant to the health domain.

Article 22.2, on the respect for privacy, states that "States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others. Privacy of health information of persons with disabilities is specially mentioned."

The Qatari Constitution establishes that "[t]he State shall foster public health, provide the means of prevention of disease and epidemics, and promote their cure in accordance with the Law" (Article 26). Law 7/2013 on the Social Health Insurance System defines the health insurance system as mandatory "to ensure the provision of basic health services to all Qatari Citizens, Gulf Cooperation Council (GCC) citizens, residents of the State and visitors" (Article 2). Mandatory health insurance services include preventive, curative, and rehabilitative services and medical tests (Article 8), yet additional services may be provided by employers and sponsors (Article 10). The National Health Insurance Company is responsible for the application and management of the health insurance system (Article 20). Government pays health insurance premiums for every Qatari citizen, employers pay for non-Qatari employees and members of their families, sponsors pay for sponsored individuals and visitors shall be held accountable for their own medical bills during their stay in the country.

The main public health care provider is Hamad Medical Corporation, created through Decree No. 35 of 1979 concerning Hamad Medical Corporation (HMC) and amended by Decree No. 38 of 1987. Therefore, its policies shall be considered for the suitable assessment of the right to health of persons with disabilities in Qatar.

Law 7/1995 provides for the arrangement of medical treatment and health services whilst establishing health service fees. Law 2/2004 in respect of persons with special needs lays down the right granted to "special needs persons" to "medical, psychological, cultural and social care" (Article 2) and the Higher Council for Family Affairs[14] shall work to ensure the "provision of medical preventive, treatment, health and psychosocial services, and provision of the relevant medical reports to the special needs persons and to persons taking care of them provided that such special needs

for Biomedical Research Involving Human Subjects (Council for International Organizations of Medical Sciences 2002).

[14] Nowadays the Ministry of Labor and Social Affairs.

persons and those taking care of them are not covered by any other health insurance system" (Article 3). Pursuant to the foregoing it can be concluded that Qatar has provisions in place aimed at ensuring access to health without discrimination for persons with disabilities.

Taking into account the fact that the Qatari system is still based on the medical model, persons with disabilities' daily life is largely conditioned by the way disability is dealt with in the health field. In fact, the decision about who must be considered a disabled person is a medical matter (not only with regards to the exemption from paying treatment fees).

In the health domain, the physician is responsible for classifying an individual impairment as a disability, subsequently establishing if it is temporary or permanent. With the intervention of a social worker, a form on the medical situation of the patient is filled out, including detailed information about the disability. This medical report is verified and signed by a consultant in that particular field of disability and approved by the medical records department. With a separate social worker's report attached thereto, this document is sent to the corporate social services, where it is firstly verified and then reviewed by a committee made up of three senior representatives (one from the finance department, one from the legal department, and one representative from corporate social services). This Committee ultimately decides whether persons should be exempt from medical fees.

Therefore, in Qatar it is possible for persons with disabilities to have free access to health services. In the Initial Report submitted to the Committee on the Rights of Persons with Disabilities (9-7-2014) Qatar affirms that health services make no distinction between persons with disabilities and others (CRDP/C/QAT/1, para. 187). Also, the rehabilitation programs of Hamad Medical Corporation are listed, and the report mentions "an assessment program for students with disabilities."[15] Health services and programs aimed at ensuring an early identification of disability are also provided.

The existing ties in Qatari law between disability and "health problems" is evidenced by the fact that the Supreme Council for Health seems to have assumed the role of awareness-raising (Article 8 of the CRPD). Furthermore, the medical model is reflected in the report submitted by Qatar, in which disability seems to remain closely tied to health, as it addresses habilitation and rehabilitation mainly in terms of their relationship to health and employment.

In terms of compulsory treatment and detention, Qatar's report does not answer the question of compulsory institutionalization,[16] although the Committee "is concerned

[15] It is worth examining the relationship between this program and the educational system. Roua, a Center in the Supreme Education Council that assesses children and supports educational centers is also worth mentioning.

[16] Law 23/2004 Regarding Promulgating the Criminal Procedure Code, sets out compulsory detention and institutionalization for persons with disabilities who are supposed to be the authors of criminal acts. Even

about the involuntary detention of persons in specialized institutions on the basis of their impairment as well as the deprivation of liberty based on disability including intellectual and/or psychosocial disabilities." (Committee on the Rights of Persons with Disabilities 2015 , par. 27).[17] Law 16/2016 on Mental Health, defines the rights of patients with mental illness and gives detailed conditions for the compulsory admission of patients with "psychiatric diseases", when a) the deterioration of the health and the psychological condition of a person with a psychiatric disease is probable and imminent or, b) the symptoms of the psychiatric disease represent a serious and imminent danger to the safety and health of the patient and other people. Otherwise, if the guardian gives his or her consent, admission is considered voluntary for the person with psycho-social disability.

These measures have a protective aim, but they are not in line with the social model that is based on the principle of "respect for inherent dignity, individual autonomy (including the freedom to make one's own choices), and independence of persons" as well as on the principle of "full and effective participation and inclusion in society." Persons with intellectual and psychosocial disabilities are included in the new model, so Qatar will have to adopt measures aimed at assisting persons with disabilities in making the decision on where and with whom to live. In order for the model to be effective, the accessibility and availability of in-home, residential, and community support[18] for persons with intellectual and psychosocial disabilities is required.[19]

In its report, Qatar includes an explanation of abortion regulation when referring to the implementation of Article 17. However, it does not explain if there is any rule, policy, or practice aimed at ensuring the informed consent of persons with disabilities in the medical context. In this connection, the Policy on "Informed Consent" CL 7226 (September 2014) issued by Hamad Medical Corporation must be taken in consideration. In accordance with this policy, minor or "incompetent" patients are represented by a legal guardian.[20] Patients have the right to be informed by their legal

in the case of no evidence, persons with "mental disability or serious mental illness" are deprived of their liberty until their release on the basis of a medical report.

[17] The Committee is also concerned about the abovementioned rules providing the following: "that persons with intellectual and/or psychosocial disabilities accused of an offence are declared unfit to stand trial and not given due process. It is also concerned that victims of crimes who are persons with intellectual and/or psychosocial disabilities may be temporarily placed in institutions while the case is being resolved." Both aspects are related to access to justice.

[18] According to Article 19 of the CRPD, they are related to the right to live independently and be included in the community.

[19] Provisions included in the Procedural Criminal Code related to the placement of persons "suffering from mental disability or serious mental illness" in specialized therapeutic facilities are here left aside. Law 23/2004 Regarding Promulgating the Criminal Procedure Code, sets out compulsory detention and institutionalization for persons with disabilities who are supposed to be the authors of criminal acts. Even in the case of no evidence, persons with "mental disability or serious mental illness" are deprived of liberty until their release on the basis of a medical report. The rights stated in the new Mental Health Law are also applicable.

[20] Qatari Policy on "Patient and Family Bill of Rights and responsibilities," CL 7225, provides for different definitions of both legal representative (authorized to act in behalf of a patient under the age of

representative or legal guardian, who may be selected in order subsequently to be present during the submission of medical information (Policy "Patient and Family Bill of Rights and Responsibilities" CL 7224). This possibility could be construed as a guarantee if it were re-phrased in order to focus on assistance instead of substitution.

The policy on informed consent mentions a procedure in case the patient needs an interpreter. This point should be expanded to extend this guarantee to assist persons with sensorial, intellectual, or psychosocial disabilities. Currently this aspect is governed by the Policy on "The Provision of Communication Service to Patient, Families and Visitors with Special Needs," OP 4048 (Hamad Medical Corporation).[21]

At this point we must examine the "Policy on the Care of Vulnerable Patient Population" CL 7221 of Hamad Medical Corporation, where patients with emotional or mental illnesses are considered to be the vulnerable patient population. The relevant policy establishes that "[the] health care provider shall ensure that vulnerable patients are admitted in the right health care facilities, treated and cared for by appropriately trained staff." It could be argued that persons with intellectual disabilities should also be expressly included in this policy, and on top of the current protective measures some assistance in any decision-making processes could be provided.

On the other hand, Policy CL 7217 issued by the Hamad Medical Corporation on the "Abuse and Neglect of Children and Adults" defines as the vulnerable patient population "a dependent group of patients who has special health care needs and requires protection. The vulnerable patient population at HMC includes, but is not limited to, children, disabled individuals, the frail, elderly, terminally ill, women in labor, victims of abuse and neglect." Hence, persons with disabilities are included in this policy, which provides special rules for the detection of abuse and for the treatment of victims. It also contains certain provisions regarding evidence, laying down both rules for victim protection, preventing victimization, and a chain of custody. Under these provisions the victim shall be allocated to the appropriate emergency department according to his or her sex and age, the relevant social worker shall be notified, and the social worker shall subsequently notify the police. Hospital authorities shall draft a report, assist health care personnel with the legal requirements or provide assistance regarding any "reporting, documentation, and securing of evidentiary material if abuse, neglect or misappropriation of property is identified" and they must also "protect the persons reporting concerns of abuse from any retaliation actions." A report of the attending physician may be requested as well. The abovementioned policy lists indicators applicable in case there is suspicion of abuse of a vulnerable individual.

Handicapped or mentally disabled persons are also considered vulnerable research subjects by the "Policies, Regulations and Guidelines for Research Involving Human Subjects" drafted by Hamad Medical Corporation. A guarantee in this domain is that "if an IRB (Institutional Review Board) regularly reviews research that involves a

18 or when considered "incompetent") and legal guardian (nominated for the patient when over the age of 18).

[21] Last revision, May 2015. Previous revision, May 2012.

vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects" ("Basic Policy for Protection of Human Research Subjects"). The criteria for approval by the Institutional Review Board for Research regarding persons with disabilities are the following: equity; additional safeguards if subjects vulnerable to coercion are included; and informed consent "appropriately documented from each prospective subject or the subject's legally authorized representative." The first part of the latter criterion can be construed as including accessibility for persons with disabilities, although the second part should be improved, departing from the idea of assistance in decision-making instead of grounding the provision on substitution.

Compulsory sterilization is a widespread practice affecting women with disabilities worldwide. As a result a recommendation has been published by the International Federation of Gynecology and Obstetrics (FIGO 2011): "Female Contraceptive Sterilization." According to this document, "no woman may be sterilized without her own previously given informed consent, with no coercion, pressure, or undue inducement by healthcare providers or institutions" (Rec. 1) and "all information must be provided in language, both spoken and written, that the women understand, and in an accessible format such as sign language, Braille, and plain non-technical language appropriate to the individual woman's needs" (Background 12). This could be used as a reference for all legislators concerning sterilization regulation.

The legal capacity of a live organ donor is required by Law 21/1997, on the Regulation of Transplantation of Human Organs. The removing of an organ from the corpse of a deceased person requires the consent of the near-relatives up to the second degree with legal capacity, and "the deceased person" should not have "expressed before his death any objection to the removal of any of his body organs by virtue of a written objection or the testimony of two witnesses who have full legal capacity" (Article 7). Once again, these rules need to be reconsidered in light of the new approach to legal capacity, and assistance rather than substitution as discussed in the CRPD.

On the other hand, abortion is permitted in Qatari legislation in the case of certain and serious harm to the mother's health and "if there is evidence that the fetus would be born suffering from serious and incurable physical malformations or mental deficiency, and both parents must consent to the abortion" (Law No. 2 of 1983 with respect to the Practice of the Profession of Medicine and Dental Medicine and Surgery, 2/1983, Article 17). This second clause is contrary to Article 10 of the CRPD, according to which "States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others."[22]

The approach to disability in Qatar adopts the perspective of the medical model, so disability is understood to be a medical problem. Consequently, health is a field with

[22] Qatari law also includes certain provisions regarding policies on privacy in the health field.

a great impact on the life of persons with disabilities in Qatar. It is definitely positive that healthcare is free for persons with disabilities, but the main challenge faced by Qatar in order to implement the CRPD is to introduce the social model and a human rights-based approach to disability, and this is a condition to transform healthcare into a rights to health.

In spite of the core role of health in the treatment of disability, it does not seem to be common practice to decide what actually amounts to a "person with disabilities." In some way that would be an advantage if acknowledging a person as a "person with disabilities" does not depend on an administrative decision based on medical factors. The problem is, however, that as a result of the lack of coordination between the different bodies managing the rights of persons with disabilities, they are assessed almost for every service. A better coordination between administrative bodies in relation to persons with disabilities should improve the effectiveness of their rights.

Additionally, measures to detect and avoid compulsory abortion and compulsory sterilization should be put in place. Qatar should also reconsider its abortion regulation, seeking an enhanced protection of the right to life of persons with disabilities.

Nevertheless, Qatar should implement measures to ensure that persons with intellectual disabilities are able to make their own decisions about their health care. A procedure similar to the one applicable when there is need for an interpreter could be applied, thus shifting from the current representation model to an "assistance in decision-making model." The "Policy on the Care of Vulnerable Patient Population" CL 7221 provides guarantees to patients with intellectual disabilities, as well as measures regarding assistance in decision-making. Additionally, it is possible to quote Policy CL 7217 of the Hamad Medical Corporation on "Abuse and Neglect of Children and Adults" as an example of good practice on abuse detection and prosecution. Indeed, there are provisions pursuant to which persons with disabilities are deemed to be vulnerable research subjects. Such provisions also guarantee a high degree of equity, yet once again the representation or substitution-oriented model must be replaced by an "assistance in decision-making model."

As we can see, the positive dimension of the right to health of persons with disabilities does not seem to be a problem in Qatar, the concern (which becomes clear in the case of compulsory admission) is to take into consideration the will of persons with disabilities. In relation to this question, the idea of the indivisibility and interdependence of the rights becomes clear. The main shortcoming in the implementation of the provisions of the CRPD on the right to health in Qatar is the lack of development of the right to equal recognition before the law, thereby securing equal guarantees for consent to health care, not just simply access to health services, for persons with disabilities.

3.2. The right to education

A large number of persons with disabilities are out of the educational system. Sometimes they are at home and other social facilities (often managed by private

institutions, even NGOs) different from educational institutions, providing educational services. The problem is that this kind of training is lacking a *curriculum*. Therefore, once persons with disabilities are out of the mainstream system, it is impossible to include them afterwards. Also, the training is often inadequate to facilitate insertion into the labor market and inclusion in the community.

When the education of persons with disabilities is planned from the medical model perspective, the preferred option is usually to set up special schools designed for persons with disabilities. Additionally, special schools are not distributed fairly, and a lot of persons with disabilities have to travel every day or to leave home to go to school. As discussed below, the system is thereby in breach of the main principle enshrined in the Convention: inclusive education.

There are three models regarding the relationship between persons with disabilities and school: segregation, integration, and inclusion. In most countries inclusive education is understood as integration. Children with disabilities are placed in ordinary school, but schools are not accessible and children with disabilities are the ones obliged to adapt to school, instead of adapting the school to needs of all boys and girls.

As a result, even with acceptable levels of "integration" of children with disabilities in school, most of them only reach primary school, very few finish secondary school (even if it is compulsory) and only very exceptionally do persons with disabilities obtain college education. There are also significant differences related to the kind of disability involved: children with intellectual disabilities face the most barriers.

Professional training programs for persons with disabilities (if applicable) as well as standard training programs, are often biased. Therefore, persons with disabilities are oriented towards a few professions, yet those are usually not the best paid.

Nowadays Qatar seems to be experiencing a paradigm shift, as we can read at the Qatari Government's official website regarding "Special Needs Education." The Ministry of Education and Higher Education (2016) "is committing to a new teaching philosophy to help children with special needs. All students deserve the right to participate in all educational experiences. The Ministry of Education and Higher Education believes that whenever possible, special needs students should be taught in a normal classroom setting." Despite the language, which is still anchored in the "special needs point of view," the establishment of Roua, a center that assesses children and supports other educational centers, could be a good starting point. However, this step ahead seems to be moving towards integration and not towards an inclusive paradigm.

Inclusive education is key for persons with disabilities, but it is also essential to build an inclusive society. It requires accessible learning environments from a threefold perspective: in terms of the physical environment, in terms of attitude, and regarding contents and methodologies, as provided by the Universal Design for Learning approach. These fields should also be considered when thinking of disability as

educational content. Once again, the general perspective in Qatari regulation is rooted in specialty, although change is taking place in certain contexts, for example regarding the Qatar Assistive Technology Center (MADA) objectives.

Article 24 of the CRPD refers to the right to an education. Education should be inclusive and it should target the full development of persons with disabilities as well as their effective participation in a free society (24.1). Education is inclusive when persons with disabilities are not excluded from the general education system and children with disabilities are not excluded from compulsory primary or secondary education on the basis of disability. It requires reasonable accommodation, i.e. support within the general education system.

Article 24.3 of the Convention relates to the duty of States Parties to take measures in order to facilitate the accessibility of educational content (using Braille, alternative script, or sign language, among others tools). States Parties should also take appropriate measures to employ qualified teachers, including teachers with disabilities, and to train professionals and staff at all levels of education (24.5) and "shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities."

As a constitutional right (Articles 25 and 49), education is free and compulsory from the beginning of the primary stage until the end of the secondary stage or until the child reaches the age of 18, whichever of the two comes first (Compulsory Education Act). Article 2.1 of Law 2/2004 provides for the right to education and rehabilitation of persons with special needs concerning their development potential. Also, in Articles 3.4 and 4 this right is implemented, since it lays down the obligation incumbent upon the Supreme Council for Family Affairs to provide "appropriate programs for the education and rehabilitation of special needs persons in addition to the special educational programs and the preparation of the qualified technical cadres to support Special Needs Persons." Special Education Institutes "shall award a certificate to each Special Needs Person who completes a rehabilitation program," and it must provide an ID card to any Special Needs Person not in need of rehabilitation services upon request by him or her or his or her family. The Council shall determine the particulars to be included in each rehabilitation certificate and on the relevant ID card." This approach to "special education" is not that of the CRPD, and, despite the work in the Special Education Department at Hamad Medical Corporation with children from 3 to 6, there are contradictions in Qatari law.

Article 8 of Law 25/2001—Mandatory Education—sets out the following: "any child who develops an illness or disability that prevents him or her from attending public or private schools is excused from mandatory education for the period of such illness or disability in accordance with a decision from the Minister based on a

certificate of a Competent Medical Authority at the Higher Council of Health[23]. This exemption also applies to any child suspended from school due to temporary circumstances. Exemption from mandatory school attendance shall cease when such illness, disability or temporary circumstance no longer affects the child." First, the said provision is following the medical model, and thus disability is linked to health. Also, it should not be considered appropriate for a child with a disability or illness to be temporarily exempted from compulsory education; the system should be adjusted to the child's situation instead. The Government should set up accessible schools with adequate support in order to guarantee the right to education on an equal footing, instead of making an exception of children with disabilities.

In any case, the Government's aim should be the inclusion of persons with disabilities in mainstream education. However, according to data submitted by Qatar to the Committee on the Rights of Persons with Disabilities, it seems that mainstream education is the exceptional route for persons with disabilities, and that special education is the rule. In regular schools, there are 1,487 students with disabilities, versus 5,886 students enrolled in schools for the disabled. It seems that some measures have been implemented (see all comments on Article 24 in the report). Also, it is self-evident that there is a ceiling after primary school (in 2010/2011, 82 students were in kindergarten; 841 in primary; 324 in preparatory, 240 in secondary). Also, access to regular school is easier for students with physical or sensorial disabilities. In independent and private schools teaching in Arabic, the figures are the following: dual disability (deaf-blind) 31; speech and language disorders 546; autism spectrum disorders 66; visual impairment 213; physical and motor disability 217; intellectual disability 308; hearing impairment 17; multiple disability (physical and intellectual) 89 (Committee on the Rights of Persons with Disabilities 2010, para. 168).

Policies establish the commitment of the Government to inclusion. In the Guide on Additional Education Special Needs we can find the following provision: "the State of Qatar is committed to providing a comprehensive education service, one which meets the needs of all students and provides them with the highest quality of learning experiences, while, at the same time, actively promoting and supporting traditional Qatari and Islamic beliefs, values and traditions. The driving force behind this commitment is the desire to adequately prepare all students for the challenges and opportunities associated with adult life: the roles and responsibilities of good citizenship, lifelong learning and the world of work." (Supreme Education Council 2009, 9).

However, in its Concluding Observations on Qatar, the Committee on the Rights of Persons with Disabilities "is concerned that the State party has not taken sufficient steps to provide reasonable accommodation to all students with disabilities in mainstream school as well as the absence of a strategy for quality inclusive education. It is also concerned that only students with certain kinds of impairments attend mainstream education while others are enrolled at separate and segregated facilities."

[23] Nowadays Ministry of Public Health.

(Committee on the Rights of Persons with Disabilities 2015, para. 43). The report issued by the National Human Rights Committee (NHRC 2014, p. 48) mentions that the Supreme Education Council had assumed the responsibility of integrating "special needs children in independent schools," but the NHRC reports that, instead of having been informed of programs and budget "there is no accurate information regarding the progress in said programs."

Certainly, special education seems to be lacking a clear training plan, as well as ways to allow for children in special school to return or to be included in the regular system.

Nowadays, Qatar is facing a paradigm shift towards a more inclusive model. However, children with disabilities can still stay outside of the educational system and special education still seems to be the chosen way for persons with intellectual disabilities. A more effective model shift based on inclusive education is needed; to achieve this goal, Qatar already has professionals trained in the more recent advances in educational psychology, such as universal design for learning. It is also important to clarify the educational curriculum from the point of view of diversity, ensuring continuity for persons coming from a special system and providing persons with disabilities tools for vocational training, to achieve the highest levels of education if it is their choice.

3.3. The right to work

In broad terms, statistics show a lower employment rate for persons with disabilities. Also, persons with disabilities have often been considered not to possess the appropriate skills or abilities to work. In order to balance this situation, in the context of the medical model, in most countries rehabilitative measures have been aimed at "repairing" persons with disabilities, who were considered "defective." Therefore the goal is to recover all this workforce, turning persons with disabilities into equally useful persons. From this point of view, access to some benefits could be subject to rehabilitation.

However, the social model implies claiming the inherent value of persons as a part of human diversity. Also, it considers disability as the interaction between individual impairments and social barriers. From this point of view, problems in finding work experienced by persons with disabilities have to do with social barriers related to physical, communicational, or attitudinal aspects. The bottom line is that the labor environment must be adapted to persons with disabilities and not the opposite. Labor, education, and social services are key for access to independent living. At the same time, accessibility is a condition for the exercise of these rights in this domain.

In the Qatari system, the prevailing approach revolves around specialty, this is a problem from the viewpoint of the CRPD, the aim of which is inclusion. There is also a technical problem regarding the attainment of actual inclusion, since it is difficult to

know how the specific provisions governing persons with disabilities could be binding in general domains.

General rules in Qatar regarding compensation take disability into account when such disability results from work-related accidents or illnesses, but there seem to be no adaptations or other tools aimed at allowing the relevant disabled person to keep his or her job after the incident.

It is impossible to understand the CRPD without taking into account the social model and the human rights-based approach. This perspective is present in the principles of Article 3 on work and employment, so measures that States shall take to safeguard and promote the realization of the right to work must be aimed at implementing the right to work for persons with disabilities on an equal basis with others. Amongst these CRPD measures we can find the obligation of States to (a) "Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions."

In addition to the prohibition of discrimination in the workplace, Article 27 requires States to ensure equal rights of persons with disabilities in subparagraphs b), c), and d) regarding working conditions, exercising labor and trade union rights, and access to training, counselling, and placement services.

Also to promote equality, it should be noted that the CRPD also requires taking the gender perspective into consideration, which as a General Principle (Article 3) has a cross-applicability throughout its text, particularly concerning the right to employment and the work of persons with disabilities.

Finally, since the ultimate goal is the inclusion of persons with disabilities on an equal basis with others, States have to take action in order to ensure the presence of persons with disabilities in various sectors within the labor market and in the public sector. Accordingly, paragraph e) urges States to "[p]romote employment opportunities and career advancement for persons with disabilities in the labor market, as well as [offering] assistance in finding, obtaining, maintaining and returning to employment." Further obligations under paragraph f) refer specifically to entrepreneurship and self-employment to ensure that these aspects of employment are also included in the framework of equal opportunities.

Article 27.1.g) requires States to employ persons with disabilities in the public sector, and Article 27.1.h) sets out an obligation to promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives, and other means. Thus, the obligations of Article 27 not only apply to public policies; in the private sector, regardless of the obligations, they also provide important tools to eradicate discrimination amongst individuals. Furthermore in the private sector, regardless of the

obligations imposed on States Parties throughout the Convention, a specific provision enshrines the essential obligations of States Parties; they must ensure and promote the full enjoyment of all human rights and fundamental freedoms of persons with disabilities without discrimination on the basis of disability. Finally, the second paragraph of Article 27 takes into account the actual exploitation endured by many persons with disabilities, and it requires States Parties to take action to prevent these cases.

Article 26 of the Constitution of Qatar considers employment, alongside ownership and capital, to be the foundation of the social structure of the State, and regards individual rights as having a social function. However, according to the Census of April 2010,[24] out of a grand total of 6,156 persons with disabilities, 1,623 (253 women and 1,370 men) were economically active. Out of those, 1,570 were working, 14 were unemployed although they had worked before, 38 were unemployed and had never worked before, and there was 1 person on a paid training program. Also, 4,535 persons with disabilities were economically inactive (472 of them were students, 1,381 stayed at home, 256 were retired, 362 were not looking for a job, 115 fell into other categories, and 1,949 persons were considered "unable to work").

Access to work and an adequate system of social services are conditions for living independently. Qatar has a quota system, but in their report we read: "The Ministry of Social Affairs, the Ministry of Labor and the Supreme Council for Family Affairs are currently considering abolition of the requirement on private entities under Law No. 2 of 2004 to reserve 2 per cent of jobs for persons with disabilities. The thinking is that the removal of that restriction would open up more opportunities for higher percentages of such persons to be taken on by those entities" (Committee on the Rights of Persons with Disabilities 2015, para. 201).[25]This statement would only make sense if quotas operated to limit the participation of persons with disabilities in the labor market, but this does not appear to be the case.

In broad terms, disability is not visible enough within the employment domain. Labor rules should explicitly lay down the principle of non-discrimination, and they must also require accessibility and adaptation of the workplace. Law 8/2009 on Human Resources Management (which governs the employment of civil servants) takes disability into account when establishing some economic benefits for workers. Also, it considers the effects of disability on termination of service (as determined by Articles 159.1, 165 and 170, the employee's service may cease on the grounds of disability if

[24] Related to individuals with disabilities (15 years and above) by nationality, gender, and relation to workforce population, housing, and establishments census, April 2010. Ministry of Development, Planning and Statistics. The sources of data were the State's disabled centers, the Qatar Paralympic Committee and Rumailah Hospital.

[25] As data on the effectiveness of quotas are lacking, we are not able to assess this purpose. *Prima facie* the Qatar's representative seems to consider quotas as a boundary to further inclusion of persons with disabilities, however quotas are not a maximum but a minimum aim, so this precaution is not necessary.

leaves and holidays are finished) and economic compensation for death or disability is provided for in Article 171.

However, Law 8/2009 fails to require any "tests, competitions, and qualifying programs," as required elsewhere to evaluate the suitability of individuals for employment, to be employed to determine the provision of access (Article 14). Similarly, Law 14/2004 on the promulgation of Labor Law specifically addresses disability occurring as a result of employment (work-related accidents or illnesses), but again this is only with specific reference to economic compensation. Existing labor rules fail to mention concepts such as accessibility, reasonable accommodation, or adaptation of the workplace.

Law 2/2004, in respect of persons with special needs, considers as a right of persons with disabilities the "provision of work that is appropriate to their abilities and rehabilitate them in both the public and private sectors" (Article 2.5). The point of view is, as previously discussed, specialty based and within the medical model: the abilities of persons with disabilities are the precondition for their right to access work. The CRPD requires this mindset to change in order to focus on barriers and thus to adapt the workplace to persons rather than persons having to adapt to the workplace.

The medical model is also present in Article 5 of Law 2/2004, establishing a quota system,[26] because there is no reference to adaptation of the workplace. However, Article 11 is worded as follows: "without prejudice to the rights of special needs persons related to the obtaining of appropriate compensation, violation of the provisions of Article 5 herein shall be punishable by a fine of a maximum of Twenty Thousand Riyals and in the event of multiple infringements commensurate multiple fines shall be applied." And Article 7 states that persons recruited in accordance with Article 5 "may not be denied or excluded from any privileges or rights prescribed generally for staff employed at the organization for which the special needs [person] works." In addition Article 9 states that persons who are unable to work shall be entitled to a monthly pension (Article 9).

Certainly the applicable law provides for quotas, and employers employing special needs staff are required to record the names of all special needs staff and also all rehabilitation certificates.[27] We can see in this provision that habilitation and

[26] "A minimum of 2 percent of the total number of job opportunities with the competent authorities shall be allocated for special needs persons holding the certificates or ID cards referred to in Article 4. Such appointment shall be in accordance with the capabilities and qualifications of the people with special needs based on the nomination of the Council, in coordination with the competent authorities.
Each private sector employer employing more than twenty-five (25) persons shall undertake that 2 per cent or at least one person of their workforce shall fall into the category of special needs persons, and such employment must be subject to the written consent of the Council.
In all cases, upon the written consent of the Council, the appointment on the above jobs may not be from non-special needs persons, except in the case of lack of the proper qualifications to fill in the required post."
Persons injured due to military operations or during the performance of military service have priority.

[27] The form and dates to record shall be decided for the resolution of the Chairperson of the Council.

rehabilitation are closely related to employment. In this regard, Articles 17 and 18 of Law No. 38 of 1995 on Social Security (Law 38/1995) set forth the duty of "the ministry [Ministry of Labor and Social Affairs] in cooperation with the competent authorities, to take the necessary measures for the rehabilitation of the beneficiaries of [the] social security system in accordance with the provisions of this law, in order to enable them to rely on themselves for their livelihoods. These measures include the following: 1. Inflicting [*sic*] individuals in vocational training centers, 2 Organize training courses for them 3. Help them establish small productive projects 4. The one eligible rejected, or loved one, rehabilitation advanced without an acceptable excuse, the Ministry may stop the pension due distract him [*sic*]." From this it can be deduced that the Ministry is responsible for providing employment to persons with disabilities if they complete vocational training.[28]

Furthermore, the idea of helping persons with disabilities when establishing small productive projects is a step towards fostering the entrepreneurship of persons with disabilities.

Professional training for persons with disabilities in order to assure their inclusion in the labor market is necessary. The "Job Qualification Center at the Ministry of Labor" is mentioned in the Qatar Report (para. 198). This Center includes programs to prepare persons with disabilities for the workplace and provides training courses allowing persons with disabilities to obtain a technical or vocational certificate "that qualifies them for access to the job market."

As we have seen, Qatar's legislation on the right to work of persons with disabilities is anchored in the medical model; for example, the Ministry of Labor and Social Affairs may stop paying the relevant pension if they reject rehabilitation. Qatari law also lacks measures aimed at adapting the workplace to persons who might need particular modifications. The regulation of disability from the specialty perspective is a technical problem, because the applicable legal requirements concerning persons with special needs remain isolated from general regulation. As a result, the system in place regarding access to work also seems not to support the inclusion of persons with disabilities, which is a main goal of the Convention. Any measure to be implemented in favor of persons with disabilities pursuant to labor rules must be tied to general labor law provisions.

3.4. The right to an adequate standard of living and social protection

The medical model is in line with technocratic public policies and with an "assistentialist" approach to disability, however, these interventions have usually been put forward with a disregard for the autonomy of persons with disabilities, and therefore governments will ultimately decide where, how, and with whom persons with disabilities must live. Those providing subsidies or economic aid to persons with

[28] Article 18 of Law No. 38 on Social Security (Law 38/1995).

disabilities end up deciding what kind of assistance is required. As an example, personal assistance has not usually been included within social protection.

Furthermore, social assistance has not usually provided enough support to fulfil the basic economic needs of persons with disabilities, who have traditionally been poor. In countries where a pension is provided, if the system is linked to social security, unemployed persons with disabilities often have serious issues regarding access, and pensions for persons who have not worked are usually lower. Therefore a clear difference between persons with disabilities who have a job and those who are unemployed is established, and this is also relevant for women with disabilities; in fact it is particularly significant for women with disabilities. In family-oriented models of social protection (such as those in South America or southern Europe), the fate of persons with disabilities depends on the family's fate, and women are doubly dependent, just like persons with disabilities and persons who take care of others in an unpaid role (Bock and Thane 1991, 4).

Article 28 of the CRPD introduces the right to an "adequate standard of living and social protection." Social services are related to the provision of this right, and accessibility to general social services and the adaptation of these services to the requirements of diversity should also be considered as part of the realization of this requirement.

In general terms, Qatar seems to have done great work in providing means and resources to social services. The concern is that the approach does not always revolve around autonomy, independence, and inclusion in the community. However, a general problem is also ascertaining who are actually considered persons with disabilities in order for them to be able to access social services.

We can find some comments in the State report's section related to an adequate standard of living and social protection. The question regarding social services in Qatar (not included within constitutional rights) is that the point of view is not the human rights-based approach and measures are not decided based on the input of individual persons with disabilities or their representative organizations. Notwithstanding the foregoing, the level of guarantees seems to be acceptable. However, for example, Article 10 of Law 2/2004 provides for the duty of competent authorities to secure accommodation for special needs persons, thus those authorities will make special adaptations to their provision in accordance with the priorities and controls set by the Council. Therefore, once again, the approach revolves around the special nature of persons with disabilities and not around universal accessibility.

The Council of Ministers Decision No. 49 determines the salary for the groups mentioned in Law 38/1995 on Social Security: widows, divorcees, families in need, persons with special needs, orphans, children of unknown fathers or mothers under 17 years old, children of unknown fathers or mothers older than 17 years old, persons unfit to work, the elderly, prisoners' families, abandoned wives, or families of missing persons. It must be pointed out that the Committee on the Rights of Persons with

Disabilities does not mention this point in its General Comments on the initial report about Qatar.

Qatar seems to have a good level of social protection for persons with disabilities. Nevertheless, from a legal perspective it remains unclear who are considered persons with disabilities in order to qualify for social protection. In addition, most of the services are designed from the specialty perspective. Accordingly, the field of social protection illustrates some of the general shortcomings of this approach, for instance: absence of the social model, the lack of a unified concept of a person with disabilities, absence of participation of persons with disabilities in the design of public policies on disability, or the absence of persons with disabilities in the design of his or her own life plan.

As shown above, most of the challenges faced by Qatar regarding the implementation of the social rights included in the CRPD have to do with requirements that are far beyond the positive obligations linked to those rights. Although we usually hear the claim that social rights depend upon the economy, Qatar's situation shows how even under good economic conditions these rights can still be ineffective. Unlike the model of rights included in the CRPD, Qatar address the rights of persons with disability from the normal-special dichotomy, from the medical model and so disregarding indivisibility and interdependence.

Usually civil and political rights are deemed to be negative rights, provided with judicial guarantees, whereas economic, social, and cultural rights are considered rights to obtain benefits, the scope of which must be debated and negotiated in the political arena and not within the legal domain. Insofar as they are rights to obtain certain benefits, social rights are expensive, so their effectiveness is subject to the existence of resources. Nevertheless, if persons with disabilities in Qatar face several barriers in order to enforce their social rights is due to the prevalence of a legal capacity regime where persons with disabilities are not granted the right to equal recognition before the law and where accessibility is not guaranteed. The long-standing distinction between categories of rights that has placed such rights in different pieces of legislation within the universal protection system does not account for the new scenario where the principle of indivisibility and interdependence has come into play.

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