



Bahrain: Brief on the Implementation of CRPD Commitments for Articles 3, 5, 24 and 27

*Information for the Committee on the Rights of Persons with Disabilities
14th Pre-Session Working Group, September 2020*

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EXECUTIVE SUMMARY

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 14th Pre-Sessional Working Group of the Committee on the Rights of Persons with Disabilities.

WORLD works to advance the global evidence base on national laws and policies that address social and environmental barriers to the full realization of the right to work and education for persons with disabilities.

We are immensely fortunate to have had a 19-member steering committee of global leaders from DPOs, academia, intergovernmental organizations, civil society and philanthropy that has guided us on the development of this initiative. While WORLD is responsible for this submission and its content, we have benefited greatly from their advice.

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this executive summary, we provide our findings and suggestions for questions the Committee may ask regarding areas that may have not been covered. Finally, we suggest topics to be addressed by the Committee in its concluding observations. We hope the Committee will recommend that Bahrain address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.



The WORLD Policy Analysis Center's examination of Bahrain's constitutional provisions and legislation vis à vis the commitments it has made through its ratification of the Convention is focused in the following areas:

Areas where Bahrain does not appear to have provisions in place:

A) General equality and non-discrimination (Articles 3, 5)

Based on our review of full-text national constitutions, Bahrain guarantees non-discrimination to persons regardless of sex, origin, language, religion, or creed. **However, the constitution does not specifically guarantee equality or non-discrimination to persons with disabilities.**

We hope the Committee will:

- Recommend in its concluding observations that Bahrain consider amending the constitution to add explicit guarantees of equality and non-discrimination regardless of disability status, consistent with CRPD commitments. These guarantees could be added to Article 18 of the constitution, which already guarantees non-discrimination based on other personal characteristics and statuses.

B) Reasonable accommodation at work (Articles 5, 27)

Based on our systematic review of national legislation, we **did not identify any legislative provisions that guarantee employer-provided reasonable accommodation to workers with disabilities in Bahrain.**

We hope the Committee will:

- In its list of issues, ask Bahrain: Can Bahrain outline any concrete, near-term plans to pass legislation that guarantees employer-provided reasonable accommodation to workers with disabilities?
 - If Bahrain does not have concrete, near-term plans in place, recommend in its concluding observations that Bahrain pass and implement legislation that guarantees employer-provided reasonable accommodation to workers with disabilities.

C) Non-discrimination in education (Article 24)

While we recognize there may be other policies governing the equal educational opportunities based on disability, our systematic review of national legislation available through UNESCO and the ILO **did not identify any national legislative provisions that ensure non-discrimination in education to students with disabilities in Bahrain.**

We hope the Committee will:



- In its list of issues, ask Bahrain: Can Bahrain outline any concrete, near-term plans to pass legislation that guarantees non-discrimination to students with disabilities?
 - If Bahrain does not have concrete, near-term plans in place, recommend in its concluding observations that Bahrain pass and implement legislation that ensures equal education opportunities based on disability by guaranteeing non-discrimination in education based on disability.

Areas where Bahrain has provisions in place, but where these provisions do not appear to fully address the commitments Bahrain has made through its ratification of the Convention:

A) Non-discrimination in work and employment (Article 27)

Based on our review, Bahrain's law broadly states that workers with disabilities enjoy equal employment rights as other workers. However, **we did not identify any national legislative provisions that explicitly prohibit disability-based discrimination at work.**

We hope the Committee will:

- In its list of issues, ask Bahrain: Can Bahrain outline any concrete, near-term plans to pass legislation that prohibits disability-based discrimination in work and employment, including explicit prohibitions of disability-based discrimination in the following critical aspects of the working life course:
 - Employment opportunities and hiring
 - Equal remuneration for work of equal value
 - Access to employer-provided vocational training at work
 - Career advancements including promotions and demotions
 - Continuance of employment or terminations
- If Bahrain does not have concrete, near-term plans in place, recommend in its concluding observations that Bahrain pass and implement legislation that explicitly prohibits disability-based discrimination in all critical areas across the working life course.
- We also hope the Committee will recommend that this legislation includes effective enforcement mechanisms, such as protection from retaliation.



DETAIL

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. General equality and non-discrimination (Articles 3, 5)

Article 3 of The Convention states that:

The principles of the present Convention shall be:

(b) Non-discrimination;

Additionally, Article 5.1 calls on states parties to “recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law”, and Article 5.2 states that “States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution explicitly guaranteed equality or non-discrimination on the basis of disability by prohibiting discrimination, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

BAHRAIN’S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION FOR PERSONS WITH DISABILITIES

Based on our review of full-text national constitutions, Article 18 of Bahrain’s constitution guarantees non-discrimination to persons based on sex, origin, language, religion, or creed. **However, the constitution does not specifically guarantee equality or non-discrimination to persons with disabilities.**

Article 18. People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.

WHY CONSTITUTIONS MATTER

Constitutions state the values of a country, describe the rights of people living within the country, and profoundly influence norms and practice. In nearly all countries, constitutions take precedence over other sources of law, making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal



rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

2. Work and employment (Article 27, General Comment No. 6)

Article 27 of the Convention calls on countries to advance equal work rights and prohibit disability-based discrimination “with regard to all matters concerning all forms of employment”. National laws and policies have an important role to play in achieving these goals and dismantling the discriminatory social and environmental barriers that maintain these disparities in employment. Laws and policies that advance equal work rights are critical.

Non-discrimination in work and employment (Article 27.1, General Comment 6)

Article 27.1 states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (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 (...)*
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, (...) including protection from harassment, and the redress of grievances;*
- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;*

Per General Comment 6:

Article 5 (2) contains the legal requirements for achieving equality rights for persons with disabilities and persons associated with them. The obligations to prohibit all discrimination on the basis of disability includes persons with disabilities and their associates, e.g. parents of children with disabilities.

General Comment 6 further outlines that:

The duty to prohibit “all discrimination” includes all forms of discrimination. International human rights practice identifies four main forms of discrimination, which can occur individually or simultaneously:



- b. *“Indirect discrimination” means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity*

We systematically reviewed national labor codes, penal codes, equal opportunity, anti-discrimination legislation and other relevant legislation available through the International Labour Organization’s NATLEX database as of May 2018 for all 193 UN member states to determine whether national legislation prohibited discrimination on the basis of disability in employment. We examined legal protections across five areas covered by the Convention:

- Employment opportunities or hiring
- Equal remuneration for work of equal value
- Employer-provided vocational training
- Career advancements or promotions/demotions
- Continuance of employment or terminations

We assessed whether there were explicit prohibitions from discrimination at work based on disability in each of these areas and whether legislation explicitly prohibited harassment based on disability. We further examined whether there were provisions that protected employees from retaliatory action for reporting disability discrimination. We also examined whether legislation prohibited both direct and indirect forms of discrimination.

BAHRAIN’S LEGISLATIVE PROVISIONS: MISSING EXPLICIT LEGISLATIVE GUARANTEES OF DISABILITY-BASED NON-DISCRIMINATION AT WORK

Based on our review, Article 13 of Bahrain’s 2006 Law on the Welfare, Rehabilitation, and Employment of Persons with Disabilities broadly states that workers with disabilities enjoy equal employment rights as other workers. However, **we did not identify any national legislative provisions that explicitly prohibit disability-based discrimination at work.**

Reasonable accommodation at work (Articles 27.1, 5.3)

Article 27.1 of The Convention states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:



- (i) *Ensure that reasonable accommodation is provided to persons with disabilities in the workplace”*

Additionally, Article 5.3 of the Convention States that *“in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.”*

We analyzed whether countries legally guaranteed reasonable accommodation at work. We did not consider guarantees of general workplace accessibility to be equivalent to guaranteeing reasonable accommodation to an individual worker. To assess legislative guarantees of reasonable accommodation, we systematically analyzed national labor codes, equal opportunity legislation, anti-discrimination legislation, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states.

BAHRAIN: MISSING GUARANTEES OF DISABILITY-BASED REASONABLE ACCOMMODATION AT WORK

Our systematic review of national legislation did not identify any legislative provisions that guarantee reasonable accommodation at work.

3. Non-discrimination in education (Article 24)

Article 24.1 of The Convention states that *“States Parties shall ensure an inclusive education system at all levels”*, and Article 24.2.b that *“Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live”*.

We systematically reviewed education acts, child protection legislation, and anti-discrimination legislation available through UNESCO’s Observatory on the Right to Education Library and International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation guaranteed non-discrimination in education based on disability.

BAHRAIN: MISSING GUARANTEES OF NON-DISCRIMINATION IN EDUCATION

While we recognize there may be other policies governing the equal educational opportunities based on disability, **our systematic review of national legislation available through UNESCO and the ILO did not identify any national legislative provisions that ensure non-discrimination in education to students with disabilities in Bahrain.**



Reference Sheet

Recommended Questions and Concluding Observations for Bahrain

For the Committee on the Rights of Persons with Disabilities

14th Pre-Session Working Group, September 2020

Recommended Questions for Bahrain's List of Issues:

Work and Employment

- Can Bahrain outline any concrete, near-term plans to pass legislation that explicitly prohibits disability-based discrimination in work and employment in the following critical areas of the working life course:
 - Employment opportunities and hiring
 - Equal remuneration for work of equal value
 - Access to employer-provided vocational training at work
 - Career advancements including promotions and demotions
 - Continuance of employment or terminations
- Can Bahrain outline any concrete, near-term plans to pass legislation that guarantees employer-provided reasonable accommodation to workers with disabilities?

Education

- Can Bahrain outline any concrete, near-term plans to pass legislation that guarantees non-discrimination to students with disabilities?

Recommended Concluding Observations for Bahrain (where Bahrain's responses to questions from the list of issues are unclear or insufficient):

*Note that wherever possible, these recommendations should be implemented in collaboration with relevant stakeholders, including civil society organizations.

General Equality and Non-Discrimination

- Consider amending the constitution to add explicit guarantees of equality and non-discrimination regardless of disability status, consistent with CRPD commitments. These guarantees could be added to Article 18 of the constitution, which already guarantees non-discrimination based on other personal characteristics and statuses.



Work and Employment

- Pass and implement legislation that explicitly prohibits disability-based discrimination in the following critical aspects of the working life course:
 - Employment opportunities and hiring
 - Equal remuneration for work of equal value
 - Employer-provided vocational training
 - Career advancements including promotions and demotions
 - Continuance of employment or terminations
- Pass and implement legislation that guarantees employer-provided reasonable accommodation to workers with disabilities.

Education

- Pass and implement legislation that ensures equal education opportunities based on disability by guaranteeing non-discrimination in education based on disability.

Brief prepared by the World Policy Analysis Center, University of California, Los Angeles