



High Council for Human Rights of  
the Islamic Republic of Iran

# Supporting Rights of Persons with Disabilities & Elderly in Judicial Proceeding

The High Council for Human Rights  
of The Islamic Republic of Iran

(August 2023)

*In the Name of GOD*

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## **Supporting Rights of Persons with Disabilities & Elderly in Judicial Proceeding**

In implementation of Article 29 of the Constitution, which states that everyone has the right to social security, Chapter 8 of the Law on Protecting the Rights of Persons with Disabilities, enacted in 2017, regarding judicial protection and tax relief for persons with disabilities, and the last part of Article 71 of the Code of Criminal Procedure Law appertaining to the duty of the prosecutor to follow up on the criminal prosecution of persons with disabilities or elderly victims who are incapable of filing a lawsuit, and citing the right to sue of persons with disabilities subject to Paragraphs 1 and 2 of Article 13 of the Law on Ratifying the Convention on the Rights of Persons with Disabilities, approved in 2017, appertaining to assistance in guaranteeing effective access for justice and equalizing fair trial opportunities for them and prohibiting discrimination in the judicial system due to having a disability and applying legal protections to prevent violence against the elderly, taking into account the rapt attention of the religion of Islam and the guidelines of the Fourteen Infallibles, peace be upon them, to respect the rights of these persons, maintain friendship therewith and exercise tolerance theretoward, and considering the need to preserve the dignity and human respect of persons with disabilities and the elderly, the Judiciary of the Islamic Republic of Iran approved the “Bylaw on How to Protect the Rights of Persons with Disabilities and the Elderly in the Judicial Proceedings” on 19 July 2023. The Bylaw in question consists of 37 Articles and 12 Chapters as outlined hereinunder:

### **1. Extending Umbrella of Protection for Persons with Disabilities & Litigants with Such Conditions**

Since the Bylaw is protective, the Judiciary has tried to develop the beneficiaries in every way. For this purpose, older adults can also benefit from the facilities referred to therein if they are unable to initiate or pursue a lawsuit or defense, depending on their physical, psychological, or mental condition. Moreover, the guidelines strive to support people with all kinds of disabilities, the elderly, and veterans in all situations in the judicial system, including litigants, witnesses, informants, lawyers, visitors to judicial authorities, or prisoners.

## **2. Anticipatory & Subsequent Support**

As per the Bylaw, the Judiciary's supportive and supervisory measures are carried out with the goals of "preventing the occurrence of disability" and "empowering the eligible people" to eliminate discrimination and create equality. For this purpose, the Vice President of Social Affairs and Crime Prevention of the Judiciary, in cooperation with the Attorney General, has been tasked with monitoring and following up on the implementation of the following measures through legal channels and executive bodies: 1) Supervising the complete clearing of areas where landmines and unexploded ammunition have been planted, 2) supervising the monitoring of high-risk marriages in order to ensure the health of the fetus and to ensure the necessary training in case of marriage, and 3) monitoring and dealing with factors leading to air, sea and land accidents, including human, technical and transportation causes, which lead to long-term physical and mental injuries. Furthermore, to empower the affected people and fight against poverty as a factor that aggravates deprivation caused by disability, the two said authorities have been tasked with monitoring job opportunities and providing technical and vocational training and occupational therapy.

## **3. Extensive Interpretation of Accessibility in line with CRPD & General Comment No. (2) of Committee on Rights of Persons with Disabilities**

The Bylaw guarantees accessibility in such a way that all actions are aimed at creating a barrier-free and accessible environment for the participation of people with disabilities in all areas and providing them with equal opportunities to enjoy the facilities of social life like other people. Therefore, the Bylaw includes accessibility and physical adaptation by considering the "independent living of person with disabilities" subject of Article 19 of the Convention as well as "ensuring access to mobility, vision, hearing and communication, devices and assistive technologies of the individual's choice and tailored to their individual needs" and also "Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities" subject of Article 20 of the Convention. It also includes the following elements: access to information, communication, training, guidance and assistance, litigation, and defense.

Based on paragraph 1 of Article 9 of the Convention as well as Article 2 of the Law on Protecting the Rights of Persons with Disabilities, the Bylaw requires not only the Judiciary but also non-governmental institutions providing judicial services such as marriage and divorce notary offices and judicial electronic service offices to take the following measures within 6 months: 1) provide the necessary facilities to facilitate transportation and adaptation for the eligible people, 2) if the location of the aforementioned bodies is not physically suitable, a place on the ground floor of the relevant building should be provided to offer services to these people and provide the necessary facilities and workforce for those in the hearing and any such individuals receiving judicial services, 3) if none of the two previous cases can be realized, until the time of physical adaptation, a branch or office or unit providing judicial services for persons with disabilities shall be provided in every urban area, 4) the distance between the parking lot allocated to persons with disabilities and the entrance door of the building should not be too much, or the possibility of entering the vehicle of the person with a disability in the parking lot of the mentioned authorities should be ensured in such a way that the distance to the entrance door of the building is not too far, and 5) judicial services or proceedings for eligible persons can be provided online.

In addition to guaranteeing effective access to fair proceedings for persons with disabilities, in accordance with Articles 12 and 13 of the Convention on the Rights of Persons with Disabilities and Articles 22 and 23 of the Law on Protecting the Rights of Persons with Disabilities, Article 1 of the Bylaw also ensures non-physical access, including the necessary measures for awareness and notification of rights, resources, statistics and access to platforms. In this regard, the official gazette is obliged to upgrade the technology infrastructure of its site, provide non-physical access to legal resources, and make persons with disabilities aware of their rights in such a way that the ability to convert symbols into loud speech and hear is available thereto based on global standards.

Moreover, the Fourth Chapter of the Bylaw, dubbed as “Right of Access” guarantees the provision of the following communication facilities as a prerequisite for equal access to justice and fair proceedings: 1) providing an official sign language interpreter or, in the absence of an official interpreter, a trusted expert fluent in Farsi or local sign language when necessary, 2) predicting a trusted person to establish correct verbal communication for persons with visual

and vocal impairments, 3) providing rehabilitation aid such as wheelchairs or walkers and assistive technologies in the field of writing aids for the visually impaired, including magnifiers, computers, and communication hearing devices for people who are hard of hearing, 4) anticipating the presence of a psychologist or psychiatrist for persons with mental and mental disabilities and the like, so that the independence of the involved people in performing administrative tasks is ensured, 5) making necessary arrangements for the use of experts and referees, 6) providing technical and physical engineering facilities necessary to keep people in detention centers and prisons, and 7) making all systems and portals of the Judiciary accessible to persons with sensory disabilities.

In addition to paying attention to the necessity of fundamental reform of the platforms necessary for fulfilling the right of access and predicting top-down supervision and control over the effective implementation of the directive, the Judiciary has mandated the judicial authorities to monitor the implementation of the instructions and has also foreseen bottom-up monitoring. Therefore, in cooperation with the State Welfare Organization, and in order to maintain the equality of people before the law, the judicial authorities must ensure that the affected persons are aware of the rules and regulations and their rights, that the venue of the hearing is suitable, that they have access to a lawyer or consultant or expert, and that the affected person is aware of the existence of the existing support structures referred to in the Bylaw in question.

#### **4. Respecting Native Language of Persons with Disabilities**

Paragraph (a) of Article 6 of the Bylaw stipulates that if a deaf person is not familiar with the Persian language, the Judiciary is obliged to provide an expert familiar with a sign language related to the local language for these people.

#### **5. Rule of Principles of Equality & Non-Discrimination**

The Bylaw has tried to provide support and facilities in such a way that persons with disabilities can benefit from effective access to justice and social services, equally with other citizens and without any discrimination. Article 3 of the Bylaw states: “The eligible individuals have equal rights with others without discrimination. Any discrimination based on disability or old age is prohibited in

all stages of proceedings and before judicial, quasi-judicial, and police authorities.” In addition, the Bylaw stipulates that in case the executive bodies and responsible institutions abandon their legal duty, and it either leads to the lack of effective access of persons with disabilities to equal education, healthcare, rehabilitation, and vocational training services or deprives them of recreational and entertainment services, the related offices and institutions are obliged to report the nonfeasance to the competent prosecutor and court.

## **6. Need to Preserve Human Dignity & Respect Individual Independence**

Both in the text and content, the Bylaw has tried to preserve the dignity of persons with disabilities. For this purpose, the use of offensive terms such as “crazy”, “mentally ill”, and “mentally retarded” has been avoided.

On the strength of Article 3 of the Bylaw, all judicial, quasi-judicial, and law enforcement authorities are obliged to prevent any insult, humiliation, and belittling of persons with disabilities which may be used against them due to their disability. The Bylaw has not merely expressed this general principle. Article 4 prohibits actions that are examples of humiliating or degrading persons with disabilities: “In cases where it is necessary to perform a physical inspection, in order to preserve the dignity of persons with disabilities who have artificial organs or mobility devices and the like, the assessment shall be carried out per the conditions and in a place that is free from crowding or in a separate room that is far from the vision of others.”

The Fifth Chapter of the Bylaw takes into account the respect for the independence of persons with disabilities in all the support services that can be provided thereto: “Support measures should not lead to the imposition of the will of others on persons with disabilities. The existence of a sponsoring organization should not cause exclusion, limitation, or expansion of the limitations of such persons. In case of doubt in the manner of fulfilling the will of the person, the best interpretation for his/her wishes and preferences should be considered by the support and judicial institutions.”

Even for persons with mental disabilities and the like, the Bylaw has foreseen the possibility of the presence of a psychologist or psychiatrist in the proceedings as

a companion and in such a way as to ensure the independence of persons with disabilities in handling administrative affairs.

### **7. Supporting Criminals with Disabilities through Positive Discrimination**

Suppose a person with disabilities disturbs the order of the court in the position of one of the litigants, according to the Bylaw. In that case, their imprisonment will be avoided as much as possible, and the judge must consider the person's particular condition when pronouncing a judgment.

The court determines the punishment of persons with disabilities with the priority of alternative punishment instead of imprisonment according to their situation. However, if a person with a disability is sentenced to imprisonment, the State Prisons Organization must take measures to keep him/her separate from other prisoners or criminals, as well as provide health facilities and necessary rehabilitation assistance equipment. Furthermore, these people should be held in detention centers or correctional centers with the necessary facilities such as toilets, wheelchairs, or walking sticks. The court is obliged to supervise the fulfillment of the aforesaid essentials during the proceedings. In case of a lack of places with the mentioned facilities, a special place should be allocated for holding persons with disabilities.

### **8. Observation of Urgency & Priority when Assisting Persons with Disabilities**

Prosecutors are obliged to intervene immediately in cases of house arrest, forced dropout, forced marriage, child abuse, abuse to commit a crime, including in drug trafficking, deprivation of treatment, forced hospitalization, and imposition of treatment methods without a doctor's permission, which lead to deprivation and violation of the rights of freedom and independence for persons with disabilities.

All judicial authorities are obliged under the Bylaw to deal with the accusations attributed to persons with disabilities or their complaints immediately within the limits of the law in the shortest possible time and prevent any action that causes disruption or delay in the judicial process. To facilitate the access of persons with disabilities to fair proceedings, e-trials should be provided thereto, and they

should be prioritized over others. If a person with a disability is sentenced to prison, he/she should be prioritized over other criminals in benefiting from the possibility of enjoyment from electronic tagging.

### **9. Full Supervision of Judiciary over Performance of Staff Dealing with Persons with Disabilities**

The Judiciary considers itself obliged to investigate the situation of those in charge of dealing with persons with disabilities in two aspects. First, it is when they, through negligence or fault, cause the rights of a person with a disability to be violated. Second, it is when they are accused or convicted, and the application of the law thereagainst affects a person with a disability. Therefore, 1) the prosecutors, in cooperation with the Ministry of Social Affairs and Crime Prevention of the Judiciary, and by using the capacity of the relevant executive bodies and non-governmental organizations, are obliged to monitor and supervise the performance of the following people on a quarterly basis: doctors, social workers, legal guardians, parents, and the State Welfare Organization. The monitoring aims to help improve physical and mental health and support the scientific and personality growth, development, and empowerment of persons with disabilities who are under guardianship, custodianship, or covered by the State Welfare Organization. 2) In addition, in case of arresting or imprisoning an accused or convict upon whom a person with a disability is dependent, all judicial authorities should, while examining the status of a person with a disability under the care of this individual, issue the necessary judicial orders to monitor his/her status or apply protective measures, if necessary.

### **10. Specialization of Judicial Proceedings for Persons with Disabilities**

A branch of judicial authorities in Tehran and, if necessary, in provincial centers, is assigned to deal with cases of violation of the rights of persons with disabilities and exploitation of their negligence or inability to commit crimes by individuals.

## **11. NGOs: Supporting Persons with Disabilities & Assisting Judiciary**

Under the Bylaw, judicial units are required to use the capacity of non-governmental organizations in order to support persons with disabilities in the position of plaintiff, accused, witness or informant, as well as in the position of victim or at risk of being victimized. Moreover, the Attorney General, in cooperation with the Social Affairs and Crime Prevention Department of the Judiciary, and in line with the responsibility of supervising the protection of the rights of persons with disabilities, is obliged to form a working group with the presence of support institutions in the affairs of persons with disabilities and the elderly and with the participation of non-governmental organizations whose articles of association are to support people vulnerable situations such as persons with disabilities, women and children, and by holding continuous or intermittent meetings, monitor the way of providing services to persons with disabilities, observe the performance of judicial units and authorities, and if necessary, offer the necessary suggestions to the Chief of the Judiciary. The reports of this working group, if they have a criminal aspect, will be announced to the competent authority for consideration.

## **12. Prioritization of Children with Disabilities for Enjoyment of Support**

The Judiciary Office for the Protection of Children and Adolescents is obliged to prioritize children and adolescents with disabilities and the people responsible for their care and implement the following measures: 1) judicial intervention to prevent the injury of children and adolescents with disabilities in severe and imminent danger, or to avert further harm to them, or to stop being placed in any dangerous situation, such as misbehavior such as deprivation of treatment or nutrition, 2) providing legal advice and assistance for children and adolescents with disabilities who are victims or at risk, 3) intervening to prevent non-observance of the child's best interests in the administration of financial affairs, or avoid damage to the property and assets of a child or teenager with disabilities, 4) following up on obtaining the necessary judicial order to determine the identity and citizenship of children with disabilities who do not have identity documents, 5) conducting necessary supervision for the enjoyment of children and adolescents with disabilities from family life or guardianship, subject of Article 23 of the Convention, 6) taking the necessary protective measures for persons

with disabilities who are under care if sent to the correctional center, and 7) in line with the principle of family unity, all support measures in dealing with children and adolescents with disabilities should be in such a way that, even if possible, they do not lead to abandonment of family environment or deprivation of family life.

### **13. Rights of Women with Disabilities Prioritized by Judiciary**

Women with disabilities will be prioritized in the following cases: 1) if women's rights are violated due to issues such as economic exploitation or violence due to having disabilities, and 2) if women are expelled from the family due to having disabilities or provided that they deprived of the right to marry or reproduce, or if they are forced to marry or reproduce or have an abortion.

### **14. Broking Doesn't Impede Access to Justice**

According to the laws, persons with disabilities who cannot afford to pay the costs of legal proceedings, forensic medicine, expertise, and cover the costs of a lawyer can be exempted from paying all or part of the aforementioned fees. They can also benefit from the assistance of a court-appointed attorney-at-law.

### **15. Importance of Education & Awareness**

According to the Bylaw, the Judiciary has decided to hold training courses for employees and judges to increase the level of knowledge about and understanding of the dimensions, types and symptoms of physical, motor, sensory, mental, and old age disabilities, and ways to interact and empower the target group to enjoy the right to a fair trial. It has also stipulated that the training mentioned above be offered, along with informing the public with the cooperation of the responsible executive bodies and with emphasis on respecting the human dignity of persons with disabilities and prohibiting the use of insulting and humiliating words, and displaying domineering or pitiful behavior and identifying the instances of such behaviors.

## **16. Still Way to Go...**

The Bylaw obliges the Strategic Deputy of the Judiciary to identify the regulations that cause restrictions on the access of persons with disabilities to their rights or property and to make suggestions to the related authority in order to correct them. Therefore, the Judiciary considers the Bylaw as a prelude to the path of supporting persons with disabilities, not the end of it.

