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### **Promoting Legal Protection for People with Special Needs (A Study Under Public International Law)**

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#### **abstract**

People with special needs are generally in urgent need of help and assistance, especially children, as confirmed by the International Bill of Human Rights, which aimed to promote and protect the rights of all people, including those with special needs, even if they are not explicitly mentioned in it. There is approximately 15% of the world's population, or nearly 1 billion people, with disabilities. Undoubtedly, promoting legal protection for them through the adoption and proper application of international and regional documents will enhance the factors of peace, security, and overall development for all societies.

#### **Introduction**

The consideration of our societies today shows a great deal of progress in dealing with the segment of people with special needs, whose needs have increased, demands have multiplied and their misfortunes have spread, despite efforts to help them, on the one hand, and to reintegrate them into society, on the other, to become a rather self-sustaining segment, especially as the category of people with special needs continues to grow as a result of environmental and social conditions and the increase in wars and their consequences. The International Disability Alliance was established in 1999 to be a network of international and then regional organizations of persons with special needs, as of 2007. As for its goal, it is to encourage the effective and complete implementation of the United Nations Convention on the Rights of Persons with Special Needs around the world, as well as the importance of strengthening legal protection for this segment of society. This is what will be addressed by dividing the study into two chapters, the first deals with the concept of people with special needs and their distinction from

others, while the second chapter will be about the legal framework for the protection of people with special needs.

### **The research importance**

The importance of the study lies in the full enjoyment by people with special needs of their rights without discrimination under international and national legal standards through the promotion of international cooperation to improve the enjoyment of this segment of society of their rights and ensure their implementation.

### **The research problem**

The problem of the study is that all international and national documents provide for the promotion and protection of people with special needs, but the reality of this segment, especially at the national level, still suffers from many obstacles, despite the increasing focus on guaranteeing the rights of people with special needs, many national legislations did not do justice to this segment, and it is considered the most marginalized group in every society.

### **The research objective**

Highlighting an important segment in all societies through practical strategies that require direct action and legal guarantees of protection, whether through effective legal means or advice and guidance to organizations and associations with special needs on international human rights mechanisms.

**Research methodology:** This study will be based on the analytical description by analyzing the texts of international legal documents that regulate the rights of people with special needs.

### **Study structure**

**Chapter one:** the concept of people with special needs.

**The first requirement:** the definition of people with special needs

**The second requirement:** Distinguishing people with special needs from others

**The third requirement:** types of people with special needs.

**Chapter two:** the legal framework for the protection of people with special needs.

**The first requirement:** the development of international protection for people with special needs.

**The second requirement:** International Convention for People with Special Needs 2006.

**The third requirement:** international and national mechanisms to protect people with special needs (Iraq as a model).

### **Chapter one**

#### **The concept of people with special needs**

Societies today are in an advanced form of dealing with a segment of people

with special needs, whose needs have increased and their demands have multiplied, and their misfortunes have continued despite all the efforts made to help this segment of society and to return them to the bosom of society, on the other hand, to reach a basic goal, which is the possibility of this segment of society being somewhat self-reliant, especially since the concept of people with special needs has gone through many stages of nomenclature, the first of which called that segment with the disabled, then followed by the emergence of the term "special groups", and finally the designation of people with special needs was adopted as a name for the disabled by the International Convention on the Rights of Persons with Disabilities issued in 2006. This term has been demanded by the disabled themselves, and among the reasons for this term, is that the term "disabled" constitutes an insult, while the term "people with special needs" may be shared by many groups that may not suffer from any kind of disabilities, and on this basis, this topic will be divided into a first requirement in which we address the definition of people with special needs, while the second requirement will be to distinguish between people with special needs from others, and the third requirement is about the types of people with special needs (Nur, Sembel, & Gunawan, 2021).

### **The first requirement**

#### **The definition of people with special needs**

Technological developments and the means of modernity have shown the extent of development in the societal interaction of the segment of people with special needs, through understanding the gradation in the stages of perception and the method of dealing. The transition in the method of assimilation and understanding became evident when we looked at the gradual stages of misunderstanding associated with either the use of violence or the method of dealing with contempt and deportation to the possibility of resorting to complete isolation in special places within shelters or institutions out of pity to satisfy their primary needs, to the possibility of recognizing all health, social, educational and rehabilitation rights, which means adopting a new type of realistic philosophy to deal with an important segment of society based on integration and normalization towards normal life, i.e. providing opportunities for normal life and exploiting the capabilities of that segment of society through the development and human investment to highlight energies within society to eliminate all forms of discrimination between segments of society, including the segment of people with special needs.

The definition of people with special needs, or what is called within some of the previous concepts people with disabilities, has a differentiation and difference, which makes this definition more comprehensive and accommodating to the real life of that segment of society. The word "disabled" may mean a person who is unable to secure himself, in whole or in part, for the necessities of his normal individual or social life due to a congenital or non-congenital deficiency in his

physical or mental capabilities.

While the World Health Organization considers that disability is (every deficiency suffered by the individual as a result of an organic, physical or mental illness that leads to a state of incapacity that does not enable him to perform his basic duties relying on himself or practicing his work and continuing with it at the normal rate). The term "persons with disabilities" was also adopted in the text of the Convention on the Rights of Persons with Disabilities issued by the United Nations and signed by 130 countries.

As the United Nations did not forget that vulnerable persons are persons with disabilities who need to be protected and their rights guaranteed based on the fact that they need more attention and care than the rest of the groups or persons, and here the so-called "most caring persons" is similar to the condition of a state that needs special care and attention under the law of treaties.

Persons with disabilities, or what they are called people with special needs, are a group of individuals who suffer from a specific disability as a result of genetic or environmental factors that prevent its owner or limit his ability to play a normal role in relation to age, gender, social and cultural factors.

Disability is also defined as a physical, psychological, mental, or moral deficiency that represents a barrier to the individual's fulfillment of his normal duties within the community. It is damage or loss that afflicts the individual and renders him completely or partially unable to engage in any activity because of this disability.

Another definition can be given to people with special needs, as (every group of members of society, regardless of age, gender, or religion, whose members are distinguished by certain characteristics or traits that either impede their growth, interaction, and compatibility with themselves and with others, or these characteristics serve as excellent capabilities that can be exploited and directed so that they benefit them in this way. In normal aspects, we find geniuses or talents and those with special abilities, and in pathological aspects, we find all kinds of deficiency, disease, or physical, mental, psychological, or moral disorder that impedes the growth and progress of personality in all areas of human activity)

The United Nations has issued many international documents in this field, the most important of which is the Declaration on the Rights of the Mentally Retarded, which was adopted by the United Nations General Assembly by Resolution No. 2856 of 1971, which states in the first paragraph: "The mentally retarded, to the fullest extent possible, has the same rights as all other human beings."

Also, the Declaration on the Rights of Persons with Disabilities, adopted by the United Nations General Assembly under Resolution No. 3447 of 1975, and the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, which was adopted by the United Nations General Assembly by Resolution No. 46/119 of 1991.

A special definition can be given to people with special needs as (a group of

individuals suffering from different physical or psychological disabilities, which caused them a complete or partial disability that hindered their interaction and normal integration within society and created a different or distinct segment from each other with the degree of disability).

## **The second requirement**

### **Distinguishing people with special needs from others**

The basis on which to distinguish between natural persons and people with special needs is the adoption of a specific criterion, as the text of the Convention on the Rights of Persons with Disabilities does not include a special section related to other groups of persons with disabilities, and if we look at paragraph (p) of the special preamble In the Convention, we note a list of non-depth grounds that deserve a lot of attention, which include persons with disabilities who are subject to discrimination according to race, color, sex, language, religion, political or other opinions, nationality, ethnicity, social, racial or national origin, property, birth, and another status (Nwaobia, Ogundajo, & Abe, 2022)

It is necessary to distinguish between people with special needs from others who are called the disabled, the elderly, or even the gifted, who, for some, is out of the ordinary.

1. Gifted: as positive energies deviated from the natural, as the basis for determining talent is intelligence tests and competition compared to the same age group to which he belongs, and as a result, this person becomes unacceptable to many of his peers, especially after reaching a more modern concept called it (Divergent thinking), which is the opposite of another concept, which is (convergent thinking), as the first refers to the human ability to find flexible, diverse and creative responses, unlike the traditional concept, which depends on traditional tests in which the human being is asked for one answer specific and correct.

The difference between normal (ordinary) and unfamiliar (gifted) represents problems for some that may cause them to be described as geniuses, meaning that they possess a talent that distinguishes them from other peers of the same age group or somewhat higher than it. As a result, there is doubt that this category is of people with special needs, as it needs a special way to deal, whether in the way of studying or in the way of living. The gifted are (those individuals who outperform a group similar to them in terms of chronological age).

The chronological age of the gifted differs from others, as it is usually measured in such a way that there is a difference between the chronological and mental ages, and this is called asynchrony, which leads to the creation of internal tension in the gifted when he feels that he is different from others, and this difference is what makes others who are in of the same age group feel that there is a certain condition that they cannot perceive within their age group, which may pose to some of them a question about that condition and whether it is a disability or is it a supernatural condition, all of these questions were answered in the

association's yearbook The National for Educational Studies in the United States of America in 1958, which defined a talented person (that person who consistently demonstrates outstanding performance in any field of importance).

Based on the foregoing, the definition includes not only the mentally gifted, but also those who demonstrate talent in music, creative literary works, mechanical skills, or social leadership.

The talent or the so-called divergent thinking represents a national wealth and a factor in the renaissance of society, as the global mental abilities possessed by the talented enable them to contribute directly and effectively to the progress of society, especially since societies are in constant need of taking care of talented people, and they must have differentiation from all segments of society, especially since they have specific needs that are completely different from the segment of people with special needs or the so-called people with disabilities.

2. The elderly: It is also noticeable that there is confusion in the concept between people with special needs and the elderly, as it is necessary to show the extent of differentiation between the two concepts, especially since the elderly are people who have reached later stages of life. It is a different concept from aging because not all elderly people live old age, and old age is a stage of human growth, but when does this stage begin depending on the physical characteristics and distinctive features of this stage and its beginning, and in general it can be described as a stage characterized by biological and physiological atrophy, which results in a steady decrease in abilities and an increase in physiological disorders, all of which gives the well-known picture of the characteristics and symptoms of the elderly.

Talking about the elderly and age changes and the accompanying pathological symptoms may be physiological, psychological, or even social, represented by the difficulty of adapting to reality. All of these variables represent natural results for the advanced stages of life (the elderly), that is, they do not represent a disability arising from environmental or genetic conditions that arose at the beginning of the age stage, and this is what distinguishes people with special needs from other groups within society, including the elderly and the gifted.

Both concepts (the elderly, the gifted) represent a certain segment of society that cannot be measured or even included within the segment of people with special needs (disabled), as this segment has special features and legal articles in most national constitutions, as well as international agreements and UN resolutions issued in this regard.

### **The third requirement**

#### **Types of people with special needs**

The forms of disability for people with special needs vary between physical disability, sensory disability, mental disability, and psychological disability, and all of these disabilities were either the result of environmental, humanitarian, or

genetic conditions or even exceptional circumstances, including cases of war and the use of chemical and nuclear weapons, etc., and we will divide these disabilities into the following types:

1. **Physical disability:** It is a disability that affects a person with a complete or partial deficiency in the functions of the locomotor system as a result of a physical injury such as fractures, amputations, and chronic diseases, such as polio, skeletal and muscular injuries. A physically disabled person is described as being unable to move and therefore unable to carry out his normal life and daily activities as a result of a defect, disability, or disease that affected his muscles, joints, or bones in a way that limits his activity and normal functions.
2. **Sensory disability:** This type of disability centers on the person losing some of the senses that impede carrying out normal activities, as one of the distinguishing characteristics of a person is his possession of the five senses, through which communication with others and his awareness of all things around him, including the sense of smell, hearing, sight, and speech, and with this type of disability, the sensory disabled person is the one who loses one of the sense organs, and that this organ does not perform its function as it should be. It includes the hearing and visually impaired such as the blind, the deaf, the dumb, and others, and we can call them people with special needs.
3. **Mental disability:** It is one of the most harmful types of disabilities to those affected by it. It has a serious impact, because it often leads to difficulty or impossibility of social integration, as it makes the disabled person lose awareness and discrimination, and at other times it decreases his awareness and distinction, unlike a healthy person, and thus it is not possible to perform mental operations. This constitutes a lack of criminal responsibility since all acts committed by the mentally disabled do not raise legal responsibility. The mentally disabled cannot be legally questioned due to the lack of a cornerstone of criminal responsibility, and it can be noted that the mentally disabled person may enjoy his physical strength soundly and be able to move, however, all the actions issued cannot be questioned because the basis of the actions is the mind. Among the most prominent types of mental disability is Down syndrome, or what is known as the Mongolian child, and among the newly identified disabilities is autism, which occurs as a result of brain dysfunction before, during, or immediately after birth.
4. **Psychological disability:** It is not possible to put a specific definition or description for this type of disability, as it is one of the most prevalent diseases at present. They are functional disorders in which psychological factors have the upper hand and are characterized by the presence of internal conflicts and cracks in personal relationships, and even the presence of serious diseases of psychological origin.

The person with psychological disability shows visible signs and disorders

such as introversion, schizophrenia, and anxiety, and they are called behavioral and emotional disturbances, and this type of disability includes problems of incompatibility with emotional disorders and poor social adjustment to family problems.

It is worth noting that a person with special needs may suffer from more than one disability at the same time, which can be called the term "multi-disability." It is noted that the goal of determining the degrees of disability is to show the extent of the need for care and rehabilitation from the state first and then society and the family on a small scale.

Based on the foregoing from the total classifications of people with special needs, we conclude that the concept of disability is complex and difficult to define accurately, as it is a concept that can be developed, especially since the causes of disability are diverse and a person can be double-disabled, meaning that the only criterion that can be inferred and adopted as a legal description of people with special needs is what is adopted according to the medical model, as it deals with these groups as they are handicapped only and need several medical treatment services, without going into other models of description, whether social or humanitarian.

## **Chapter two**

### **The legal framework for the protection of people with special needs.**

It seems obvious that the segment of people with special needs has gone through many stages of neglect and irresponsibility. A simple view of the historical evolution of this segment of society shows how diverse societies are. Indeed, the progress of States and their cultures can be measured by the care they provide for the disabled. As the real interest of this category has spread in European and Arab countries as it is an integral part of society, in addition to their percentage that cannot be overlooked, as many international and regional organizations have issued international charters and conventions that impose a certain standard of decent living for the disabled person. That is, there is a development in the principle of international protection necessary for people with special needs, and this is what we will address in the first requirement. As for the second requirement, it is about the most important international agreements for people with special needs, and what are the international and national mechanisms adopted for their protection (Iraq as a model) and this is what we will address within the third requirement.

#### **The first requirement**

##### **The development of international protection for people with special needs**

The world has gone through many transformations with regard to looking at the segment of people with special needs, and the current century has witnessed



an increasing interest in the conditions of this segment of society, as the increased attention and special care for people with disabilities were noted through many declarations, agreements and international charters that gave global dimensions to the protection of people with disabilities. Many legislations and laws specific to this segment of society were issued.

Ensuring the protection of individuals in any society comes only through laws that give legal protection to interests and rights, and one of the most dangerous and most important types of protection that any society enjoys is what is internationally established, that is, international protection is what provides a wide range of reassurance to all peoples. Protection linguistically: means defend, it is said: This is something that is protected, i.e. prohibited, does not approach, and I protected the place, i.e. made it safe.

Returning to the development of protection, the United Nations considered 1981 the International Year of the Disabled, and the period from 1982-1992 considered it an international decade for people with disabilities. It seems that the adoption of the annual celebration of the disabled, which is celebrated on December 3 of each year, came to give a more comprehensive meaning, as this annual celebration was called the International Day of Persons with Disabilities, and the United Nations General Assembly Resolution No. (47/3) of 1992 was adopted, which stressed that the third of December is an occasion and an anniversary for the disabled in the world. Despite the inclusion of international and national documents on the rights of people with special needs, this segment still faces at the national level many obstacles that do not enable them to enjoy guaranteed rights fully without discrimination with other persons.

The successive development of the rights of people with special needs and international attention based on guiding principles based on recognizing the development of human resources in the field of disability, and that persons with disabilities are rights holders and are not dependent on governments. Besides, what enhances the protection of people with special needs is the issuance of the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care of 1991, as well as the Unified Basic Rules for the Achievement of the Principle of Equal Opportunities for Persons with Disabilities of 1993 and other documents that were among the reasons that helped the United Nations to unify its efforts on January 13 December 2006 with the adoption by the General Assembly, by its resolution No. (661/106), the Convention on the Rights of Persons with Disabilities, which was opened for signature on March 30, 2007, and entered into force in 2008 to be the first convention in the field of human rights in the twenty-first century.

It is noticeable that the efforts made by the United Nations through the international instruments it issued, as well as its affirmation in the preamble of its charter on the belief of the peoples of the world in fundamental human rights, in the dignity and worth of the individual, and in the equal rights of men and women, Certainly the segment of people with special needs is part of that preamble, and with reference to the national

legislation that has also paid attention to that segment of society, for example, Iraq paid attention to people with special needs through its permanent constitution of 2005, as well as its accession to the Convention on the Rights of the Disabled for the year 2006, its ratification in 2012, and the year of the Welfare of Persons with Disabilities and Special Needs Law No. 38 of 2013, as well as the scattered texts in other relevant laws, and in this field we will work on expanding the international and national mechanisms adopted to protect this important segment of Iraqi society and within the third requirement of this study.

## **The second requirement**

### **International Convention for People with Special Needs 2006**

The international community has realized that an important segment of society has needs that must be met, namely the segment of people with special needs, as well as the rights that must be observed. Therefore, various countries of the world and international organizations have been keen on the importance of approving the rights of that segment through a package of international and regional covenants.

The Convention on the Rights of Persons with Disabilities is essentially an international human rights treaty of the United Nations that aims to protect the rights and dignity of persons with disabilities of all kinds. It, in turn, is binding on all parties to the Convention on the need to promote, protect and ensure the full enjoyment of human rights for persons with disabilities and to ensure the enjoyment of full equality under the law.

The Convention on the Rights of Persons with Special Needs adopted by the United Nations is the first legally binding international instrument, especially as it seeks to promote, protect and ensure the enjoyment of all persons with special needs on an equal basis with other persons in terms of human rights and fundamental freedoms and the promotion of dignity.

The agreement adopted by the United Nations General Assembly has proven that it is a comprehensive agreement with humanitarian dimensions and has achieved the goals for which it was established since it was adopted by the United Nations General Assembly on December 13, 2006, and entered into force on May 3, 2008, after it was ratified by (20) countries only, and in May 2010 the number of ratifying countries reached (86) countries, including the European Union. In December 2012, the US Senate voted to ratify it, and the Convention was monitored by the Committee on the Rights of Persons with Special Needs.

It is necessary to refer to the most important principles, rights and obligations dealt with in the agreement, and we will divide them as follows:

#### **First, the general principles**

The agreement dealt with a set of general principles that are supposed to

guide the implementation of all the articles of the document, and this is what was stipulated in Article (3) of the Convention on the Rights of Persons with Special Needs, and among the most important of those principles is what is stipulated in the document (8) as follows:

1. Respecting the dignity of people with special needs and their autonomy, including the individual's freedom of choice and self-determination.
2. Non-discrimination.
3. Ensuring the full and effective participation of persons with disabilities and their full and effective participation in society.
4. Respecting differences and accepting persons with disabilities as part of human diversity and human nature.
5. Equal opportunities.
6. Accessibility.
7. Equality between men and women.
8. Respecting the evolving capabilities of children with disabilities and respecting their right to preserve their identities.

The Convention also promotes and protects the rights of persons with civil, political, economic, cultural, and social needs, it contains nearly fifty legal articles. The agreement also includes specific obligations to guarantee the freedom of the rights of women with disabilities and children in articles (6 and 7) and stipulates that awareness measures be taken and all procedures for accessing and collecting statistical data and strengthening international cooperation to ensure the proper implementation of the agreement and the achievement of its objectives.

### **Second: public rights**

The international convention states that people with special needs should guarantee all their rights without discrimination and based on equal opportunities. Perhaps one of the most important rights is what all international human rights instruments refer to, including:

1. The right to education: the agreement stipulates that this segment be guaranteed the right to comprehensive education at all levels, regardless of age, and without discrimination.
2. The right to health care: Article (25) of the Convention states that people with special needs enjoy the highest level of health without discrimination based on disability.
3. Protection of personal integrity: Article (17) of the Convention states that every person with a disability has the right to respect for his physical and mental integrity on an equal basis with others.
4. Respect for the family: Article (23) of the Convention prohibits compulsory sterilization of persons with disabilities and guarantees their right to adopt children.
5. Rehabilitation: Article (26) of the Convention affirms that states shall take effective and appropriate measures to enable people with special needs to

achieve and maintain the maximum degree of independence and physical, mental, social, and professional ability.

6. Participation rights: The agreement provides for full and effective participation and integration in society and enshrines the rights of persons with disabilities to full and equal participation in society and all aspects of life.
7. Work and Employment: Article (27) stipulates the right of persons with disabilities to be given all opportunities to earn a living in any work they choose or accept freely. That is, the states must protect and promote the realization of the right to work for all segments of society.
8. Adequate standard of living and social protection: Article (28) stipulates that states parties have the right of persons with disabilities to enjoy an adequate standard of living for themselves and their families and to provide what meets their needs.
9. The right to vote: Article (29) stipulates the necessity of providing a machine specifically designed for use by voters with disabilities and providing all necessary means to facilitate the voting process for that segment of society.

### **Third: General Obligations**

Article 4 of the Convention stipulates that states parties work to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities without discrimination of any kind, through:

1. Take all legislative, administrative, and other measures to enforce the rights recognized in this Convention.
2. Taking legislative, administrative, and other measures to eliminate discrimination against persons with disabilities.
3. Promote and protect the rights of persons with disabilities in all policies and programs.
4. Refrain from undertaking any act or practice that is inconsistent with this Agreement or ensure that the public sector acts in accordance with it.
5. Take measures to eliminate discrimination based on disability.
6. Encouraging the training of specialists and employees working with persons with disabilities.
7. The participation of persons with disabilities in the development of legislation and policies in all decision-making processes.

### **The third requirement**

#### **International and national mechanisms to protect people with special needs (Iraq as a model).**

The International Convention on Persons with Disabilities imposes a set of obligations on all States parties to the Convention and is binding on them, and

there are many mechanisms through which it is possible to work on the enforcement of this convention, whether at the international or national level. At the international level, the Convention referred to many obligations, some of which represent general obligations, and some that are private, as each of the rights mentioned previously corresponds to an obligation of the state, and recognizing the concept of these obligations and determining their content may represent a great help in determining the issue of the state's violation of rights and freedoms and the extent of its obligations to implement them.

The Optional Protocol to the Convention is a legal instrument related to an existing treaty to deal with matters not covered in whole or in part by the Convention, and this Protocol is open to States parties to accede to it. It is optional in nature, meaning that states are not obligated to be a party to the (optional) additional protocol, even if they are a party to the parent treaty.

It is complementary to the Convention, especially as it has added an important competence to the mechanism for implementing the treaty, which is the Committee on the Rights of Persons with Disabilities, which was stipulated in Article (34) of the Convention, and represents the role of the Committee is to receive communications from individuals or groups within its jurisdiction who claim to be victims of a State party's violation of the provisions of the Convention and to consider those communications, noting that the Committee may not name any communication relating to any state party to the Convention that is not a party to this Protocol.

This protocol also allows, through the Special Committee to investigate serious or systematic violations of the Convention. Thus, this protocol is a tool that states can use to improve the existing mechanisms to protect the rights of persons with disabilities, as well as the state's understanding of the developments that it must take to promote and protect people with special needs and use it to justify state actions in cases where the committee concludes that there has been no violation, which allowed the opportunity to create public awareness of the standards of the rights of persons with special needs.

It is noted that the role of the Additional Protocol Committee has specified the tasks to be performed in terms of receiving communications, investigation, and other procedures. However, the actual implementation of these mechanisms indicated that the agreement specified that the states parties appoint one or more coordinating bodies at the national (governmental) level to be concerned with the implementation of issues related to the agreement and the possibility of establishing a coordination mechanism within the government to conduct business with jurisdiction in various sectors, fields, and levels at all levels.

Civil society organizations, particularly organizations for people with disabilities, can be used as an effective means in the process of diagnosis and monitoring.

To highlight national and international mechanisms for the protection of persons with special needs in Iraqi law and to identify the most important rules and

laws relevant to that segment of Iraqi society, chapter IV of the Social Welfare Act No. 126 of 1980 refers in the first chapter of it the classification of persons with disabilities. Article (44) referred to the classification of persons with disabilities, while the second chapter and in Article (51) it referred to the establishment of a center for the care and rehabilitation of persons with disabilities of all kinds, while the third chapter came with general organizational provisions, as Article (92) referred to a set of provisions related to implementation mechanisms in that each center for people with special needs has a technical committee to be formed in accordance with the provisions of this law and to achieve the required quorum for decision-making and the means of implementation by submitting the report of the committee to the director-general of the concerned center for approval, as well as the role of those committees in approving the annual plan of the centers, preparing and supervising the programs of their affiliated units, approving the annual budget of the centers, and most importantly, following up on the disabled after graduating from one of the centers' units to ensure fully integrated into society.

As for the rights of people with special needs in the Iraqi constitution of 2005, they have all rights and freedoms. Chapter Two of the Constitution, referred to the right to equality and non-discrimination based on disability, as the Constitution stipulated that (Iraqis are equal before the law without discrimination based on gender, race, nationality, origin, color, or economic and social status).

Thus, disability is not a reason for discrimination, but rather the text was general. The constitution treats people with disabilities in general treatment without discrimination, meaning that people with disabilities enjoy all the rights and freedoms recognized by the Iraqi constitution for every individual or citizen in society. The constitution accords them with special care. In Article 32, the state cares for the disabled and those with special needs, and the state must guarantee and rehabilitate them to integrate them into society.

As for the rights of people with special needs in the Iraqi legislation, the Iraqi legal system has been emptied of a law specifically related to the rights of people with special needs, as these rights are regulated in separate laws, including in the Retirement and Social Security for Workers Law No. 39 of 1971, amended, or the Social Welfare Law No. (126) of 1980 or other laws, which is the opposite of what is in place in many countries that have established law of their own, such as the Palestinian Law of 1999 and the Saudi Disabled Care System of 1421 AH, or the Jordanian Law of Care for the Rights of Persons with Disabilities of 2007.

Thus, the rights of people with special needs in Iraqi legislation are not defined by a special law that guarantees them their rights especially and separately from other Iraqi laws and legislation, which resulted that many of these rights have been lost because there are certain disabilities to which the Workers' Social Security Act applies, while others are covered by the Retirement Act and within specific categories of the Retirement Act. It is also possible to include other categories in the Social Welfare Law according to the conditions and controls of that law, all of these reasons are to waste the right of an important segment of Iraqi society, which

is the segment of people with special needs.

## **CONCLUSION**

After completing our study, there are several conclusions and suggestions reached as follows:

### **First: conclusions**

- 1.** Increasing international attention to the segment of people with special needs through the issuance of many international instruments and charters, perhaps the most important of which is the Convention for People with Disabilities of 2006, which emphasized the achievement of equality and non-discrimination, as well as its role in consolidating the human rights of this segment of society within the framework of its broad concept.
- 2.** The term people with disabilities are part of a broader term called people with special needs, meaning that people with disabilities are a category of people with special needs, in addition to the gifted, the elderly, and other groups that may appear in the future as the world progresses.
- 3.** A different view toward the segment of people with special needs, specifically in the mechanism of dealing, that is, the difference in dealing from medical to social. This is what raised the concerns of society in the way of dealing with them from the perspective of compassion and kindness to a legal perspective, and the international instruments are the first and most important ones that contributed to changing the dimensions and inserting them within the sound legal framework.
- 4.** The existence of several separate national legislation in Iraq regulating the rights of people with special needs, which caused clear confusion and loss of many rights in light of the high percentage of this segment due to the crises that the country has experienced. The absence of a special law for people with special needs increases the problem and disperses local efforts to meet the basic needs of this segment.

### **Second: suggestions**

- 1.** Benefiting from all human rights agreements, and adopting them as a basic criterion in enacting legislation and laws for people with special needs.
- 2.** Exerting maximum efforts at all international and local levels to enable this segment to show its legal personality and reintegrate it into society and to strengthen international cooperation to raise and improve this segment's enjoyment of their rights and provide the necessary guarantees for their protection.
- 3.** Work to enact unified law legislation in Iraq that deals with people with special needs according to specific mechanisms within the law that guarantee this segment of all its types a decent standard of living. In addition, this law should be a means of guaranteeing this category of

enjoying all rights and privileges, noting that this legislation contains an article stipulating the importance of establishing a council or a supreme body that enjoys legal reputation and administrative independence that deals with the interests of people with special needs.

4. Focusing on the awareness and media aspect of the problems and needs of this segment of society, as well as awareness campaigns related to the prevention of different types of disabilities, regarding the importance of media and awareness cooperation at the international level to ensure keeping pace with interest and giving a clear picture of the status of this segment in the international and local community.

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