The legal protection of disabled women under Qatari law and international commitments

A Thesis Submitted for the Degree of Doctor of Philosophy

By

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Abstract

This thesis examines the legal protection of women with disabilities in Qatar through the interaction of domestic law, international human rights law, and Shari'ah law. While existing scholarship recognises the intersecting forms of discrimination faced by women with disabilities on the basis of gender and disability, this issue remains significantly under-researched within the Qatari legal context.

The primary aim of the research is to critically analyse the legal protection of women with disabilities under three co-existing legal frameworks within Qatar, and to assess how their interaction collectively shapes the recognition, scope, and enforcement of disabled women's rights.

The study adopts a doctrinal legal methodology to examine domestic legislation, Islamic legal sources, and relevant international human rights instruments.

The findings demonstrate that the challenges confronting women with disabilities in Qatar are systemic, multi-layered, and mutually reinforcing. These challenges arise from the interaction of selective compliance with international obligations, a welfare-oriented domestic legal approach, conservative religious interpretation, institutional fragility, and prevailing socio-cultural norms.

This research makes an original contribution by identifying and addressing a significant gap in the literature on the legal protection of women with disabilities in Qatar, thereby advancing scholarly understanding in this area and contributing to broader debates across Arab countries with comparable cultural and legal frameworks.

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List of Abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDHRI	Cairo Declaration on Human Rights in Islam
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECOSOC	United Nations Economic and Social Council
ESCWA	United Nations Economic and Social Commission for Western Asia
GCC	Gulf Cooperation Council
GC	General Comment
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGO	Non-Governmental Organisation
PWD	Persons with Disabilities
QNV 2030	Qatar National Vision 2030
SDG	Sustainable Development Goal
UAE	United Arab Emirates
UDHR	Universal Declaration of Human Rights
UN	United Nations
UK	United Kingdom
USA	United States of America
WWD	Women with Disabilities

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1 – Introduction

1.1 Introduction

Disability is increasingly recognised as a human rights and social justice issue, rather than merely a medical or welfare concern. Saad and Beata affirm that the phenomenon of disability has characterised human existence from the early development of civilisation across regions of the world.[1] Conversely, People with disabilities (PWD) face barriers to full participation in society, including social stigma, discrimination, and limited access to education, healthcare, and employment. The connection between disability and gender has made women highly vulnerable as stereotypes interact with disability to constitute a deep matrix of gendered disability in every culture, developed within specific historical contexts and affecting those contexts over time.[2]

Studies on gender disability in the West indicate that more women than men are classified as disabled. It also reveals that younger disabled women achieve lower educational outcomes than their male counterparts. Further, disabled women are less likely to be in the paid workforce compared to either men with disabilities or non-disabled women; disabled women, in general, have lower incomes from employment and are less likely to have access to rehabilitation and so on. Similarly, within the literature from the Arab countries, disability is not perceived as a disease but considered a deviation from normal growth related to the physical, educational, sensory and behavioural needs of individuals.[3] They represent one of the most marginalised groups globally, facing compounded barriers due to the intersection of gender and disability.

While international human rights instruments, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD), have significantly advanced the recognition and protection of the rights of persons with disabilities, gender-specific vulnerabilities remain persistent, particularly in culturally and socially complex contexts. In Arab countries, where societal norms, cultural practices, and legal frameworks are deeply intertwined with tradition and religion, women with disabilities (WWD) often

[1] Mourad Ali Eissa Saad and Beata Borowska-Beszta, 'Disability in the Arab World: A Comparative Analysis Within Culture' (2019) 8 Psycho-Educational Research Reviews 29
[2] R Connell, *Gender* (Polity 2002)
[3] Asma Abdulla M Al-Attiyah and Elsayed Elshabrawy A Hassanein, 'Women with Disabilities in the State of Qatar: Human Rights, Challenges and Means of Empowerment' (2017) 32 International Journal of Special Education 507

experience heightened discrimination, limited access to education, employment, healthcare, and social participation, and exclusion from decision-making processes.

Despite increased awareness of women's rights and disability rights within the Arab countries including Qatar, evidence suggests that disabled women continue to be disproportionately affected by social, legal, and institutional barriers.[4]

Evidently The rate of illiteracy is increasing among WWD due to limitations and barriers in receiving basic institutional education, intermediate and university education[5]. According to Qatar's national statistics, PWD aged 10 years and above had significantly higher illiteracy rates than the general population, 3.4% of females with disabilities were illiterate, compared with 4.2% of females in the total population[6].

Appropriate job opportunities, and consequently opportunities for integration into society, are decreasing, nonetheless WWD are subjected to discrimination, violence and abuse. The right to a decent life and the right to marry are weakened in comparison to other well-abled society members.

Existing studies confirm harsh realities about the WWD. Data collected by Women, Business, and the Law on the legal recognition of multiple discrimination against WWD indicate that 86 of 190 economies studied have gender equality or non-discrimination laws, but only 30 of these specifically mention the rights of WWD[7].

In addition to the extant literature on disability, Arab countries tend to adopt different perspectives, including historical time considerations, theoretical models, and epistemological programmes. National policies and legislation, while increasingly influenced by international standards such as the CRPD, vary widely across the region, and implementation and enforcement remain uneven.

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[4] Georg Schomerus and others, 'Impact of the UN Convention on the Rights of Persons with Disabilities on Mental Health Care Research: A Systematic Review' (2016) BMC Psychiatry https://pubmed.ncbi.nlm.nih.gov/27387916/ accessed 11 December 2025

[5] United Nations Economic and Social Commission for Western Asia (ESCWA), *Disability in the Arab Region 2018* (2018) https://www.unescwa.org/publications/disability-arab-region-2018 accessed 11 December 2025

[6] Qatar 2010 (Persons with Disabilities, Educational Attainment), Arab Digital Inclusion Platform https://e-inclusion.unescwa.org/node/1523 accessed 11 December 2025

[7] World Bank, *Women, Business and the Law 2022* (World Bank 2022) https://doi.org/10.1596/978-1-4648-1817-2.

1.2 Background of the study

This research has focused on the legal protection of disabled women rights in Qatar, as this field of study is currently under researched, this research hypothesizes that negative beliefs and uncertainties towards WWD in Qatar, coupled with restrictive interpretations of Qur'anic texts and limited integration of international legal instruments, mediate the relationship between domestic legal protections for disabled women and the corresponding international legal standards.

This study employs doctrinal analysis to examine primary and secondary legal sources and critically evaluate the structural conditions that shape the rights of women with disabilities in Qatar. The analysis encompasses three interrelated bodies of law: Qatari domestic law, Shari'ah law, and international human rights law. A central characteristic of the Qatari legal landscape is the absence of publicly accessible or systematically reported case law concerning women with disabilities, as legal protections in this area are still in the early stages of development and are manifested predominantly through legislative enactments, regulatory instruments, and policy reforms rather than through judicial interpretation or precedent. Accordingly, this thesis undertakes a comprehensive examination of statutory provisions, constitutional norms, Qur'anic texts and their authoritative exegetical interpretations, ratified international conventions, and relevant policy documents to assess both the existing legal framework and its trajectory of development. This approach enables a rigorous evaluation of how these normative sources collectively shape, constrain, or advance the protection of the rights of women with disabilities in Qatar.

While Shari'ah law conceptualises disability as a morally neutral condition, one that neither diminishes an individual's inherent dignity nor restricts their entitlements, contemporary international legal developments, particularly through instruments such as the CRPD, likewise emphasise the rights, autonomy, and full social participation of persons with disabilities. On the same note, Qatar's legislative reforms and policy initiatives in recent years demonstrate an apparent willingness to align with these normative trajectories and to enhance protections for PWD. However, despite these converging positive frameworks, WWD remain subject to structural discrimination within the Qatari legal system. Gaps persist in the explicit recognition of their social, civil, and political rights, and their inclusion within broader international human rights instruments is not yet fully reflected in domestic law. Consequently, the coexistence of supportive

Shari'ah principles, progressive international norms, and state goodwill has not been sufficient to eliminate the legal and institutional barriers that continue to affect the lived realities of disabled women in Qatar.

For that reforms on uncertainty towards disability in Qatar and improving Shari'ah interpretation mechanism may help to aide in moving towards a positive step in disabled women rights, the same reforms are required to be implanted within the international scale to ensure the inclusion of disabled women whilst bridging the gap in states operating under a dualistic legal system as these findings give impetus to future longitudinal investigations of the role of international and domestic law in providing legal protection for disabled women.

1.3 Research problem

The State of Qatar has taken notable steps to enhance the WWD, particularly through Law No. 22 of 2004 and subsequent policy initiatives to improve access to services and promote social inclusion. However, despite these formal legal developments, social attitudes, institutional practices, and systemic structures have not kept pace with legislative progress. WWD in Qatar continue to face entrenched social stigma, limited employment opportunities, constrained accessibility, and barriers in accessing health care, education, and justice.

Although Shari'ah law conceptualises disability as a morally neutral condition and international instruments such as the CRPD promote a rights-based framework, these norms are not yet fully harmonised within the domestic legal system. Critics note that existing measures may inadvertently reinforce narratives of charity, positive discrimination, or dependency rather than substantive equality. Compounding these issues is the lack of comprehensive, disaggregated data that could inform evidence-based policy reform. These tensions between Shari'ah principles, domestic legislative efforts, and Qatar's international obligations create a fragmented legal landscape that continues to leave WWD vulnerable to discrimination and exclusion. This context underpins the study's central inquiries, as articulated in the following research questions.

Despite Qatar's ratification of the CRPD and its stated commitment to advancing the rights of persons with disabilities, the domestic legal framework continues to adopt a largely gender-neutral approach to disability. This approach risks obscuring the distinct and compounded forms of disadvantage experienced by women with disabilities, whose

marginalisation is shaped by the intersection of gender norms, disability-related stigma, and structural inequality. The absence of explicit legal recognition of intersectional discrimination in domestic legislation raises concerns about whether existing protections can meaningfully and effectively address the lived realities of WWD.

Furthermore, while Shari'ah law affirms principles of human dignity, justice, and equality, contemporary legal interpretations and applications do not always reflect these foundational values in relation to women with disabilities. In practice, restrictive or inconsistent interpretations, coupled with limited legislative guidance, may constrain the full realisation of WWD's rights in areas such as education, employment, family life, and legal capacity. This reveals a critical tension between the normative ideals of Shari'ah law and their operationalisation within the modern Qatari legal system.

International human rights law, particularly through the CRPD, has increasingly emphasised the need to address multiple and intersecting forms of discrimination. However, the incorporation of these intersectional obligations into Qatar's domestic legal framework remains partial and uneven. As a result, legal reforms may demonstrate formal compliance with international standards while failing to achieve substantive equality for women with disabilities. This disconnect between global commitments and domestic implementation highlights a significant legal and institutional gap that warrants closer scholarly examination.

Accordingly, the core research problem addressed in this thesis lies in the fragmentation and misalignment between Shari'ah principles, domestic legal provisions, and international human rights obligations as they relate to women with disabilities. The persistence of double discrimination, despite ostensibly supportive legal frameworks, raises fundamental questions about the adequacy, coherence, and effectiveness of existing laws. Addressing this problem requires a critical, comparative, and intersectional legal analysis capable of identifying structural shortcomings and informing pathways for meaningful reform.

1.4 Research Objectives

The primary objective of this research is to undertake a critical and systematic examination of the legal protections afforded to women with disabilities in Qatar, with particular emphasis on the interplay among Shari'ah law, Qatari domestic legislation, and international human rights obligations. The study seeks to analyse how these three

normative frameworks collectively shape the recognition, scope, and enforcement of the rights of women with disabilities, and whether they effectively address the compounded and intersectional discrimination arising from the interaction of gender and disability within the Qatari legal system. A central objective of the research is to evaluate the extent to which Qatari laws and policies move beyond a gender-neutral approach to disability and adequately recognise the specific and distinct disadvantages faced by women with disabilities. This includes examining whether existing legal provisions implicitly reinforce narratives of dependency, charity, or assistencialism, rather than promoting substantive equality, autonomy, and full social participation in line with international human rights standards, particularly the CRPD.

The research further aims to identify and critically assess the legal, institutional, and normative gaps that persist within the domestic legal framework, despite Qatar's ratification of key international instruments and recent legislative reforms. Particular attention is given to areas such as education, employment, legal capacity, family life, and access to justice, where women with disabilities continue to experience structural exclusion. In this context, the study also seeks to examine how contemporary interpretations and applications of Shari'ah law align with or diverge from constitutional principles and international human rights norms concerning dignity, equality, and non-discrimination. Finally, this research aims to contribute to academic and policy-oriented discourse by offering a comparative and intersectional legal analysis that can inform coherent, context-sensitive legal reform. By bridging doctrinal analysis with feminist legal theory and disability rights scholarship, the study seeks proposals for strengthening the protection of women with disabilities in Qatar and in other jurisdictions operating within a dual legal system.

1.5 Research Question

This thesis is guided by four interrelated research questions that examine how the interaction between Shari'ah law, Qatari domestic law, and international human rights obligations shapes the legal protection of women with disabilities in Qatar. Specifically, the research investigates the extent to which existing legal frameworks address intersectional discrimination, identifies the legal and institutional gaps that continue to marginalise women with disabilities, and evaluates the challenges, opportunities, and prospects for reform through a comparative and intersectional legal analysis. The following research questions shall guide this thesis:

(1) How does the interplay between Shari'ah law, Qatari domestic law, and international human rights commitments shape the legal framework governing the rights of women with disabilities in Qatar?

(2) To what extent do Qatari laws and policies recognise and address the intersectional discrimination experienced by women with disabilities?

(3) What legal, institutional, and normative gaps exist within the current framework that limit the adequate protection and implementation of the rights of women with disabilities in Qatar?

(4) What challenges, opportunities, and prospects for legal reform emerge from a comparative analysis of Shari'ah principles, Qatari law, and international human rights standards?

1.6 Methodology

The research aims to examine the basic principles of international law, Qatari law, and shari'ah law through the lens of intersectionality, and to assess how they shape the current rights of WWD within the Qatari legal framework. By Using doctrinal legal analysis as a methodology, the key objective of this research is to investigate how the interrelationship among the three legal frameworks advances or limits the rights of disabled women. This methodology provides a careful examination of domestic legislation, religious legal sources, and international law to identify gaps, overlaps, and inconsistencies across the analysis of the legal frameworks, and to provide a Comparative Perspective synthesis of multiple legal strands, supporting a holistic understanding of how legal frameworks interact.

The application of doctrinal analysis in this research allows for a systematic, critical, and comparative examination of legal texts, statutes, judicial interpretations, and relevant primary and secondary sources. This approach provides a strong foundation for evaluating the effectiveness of legal protections available to women with disabilities and for identifying strategies and recommendations to enhance and promote the full implementation of their rights. By focusing on authoritative legal materials, doctrinal analysis clarifies the formal legal position of women with disabilities in Qatari law. It assesses the extent to which this position aligns with international human rights obligations and Shari'ah principles.

In response to the dissertation's focus on 'double discrimination', this doctrinal methodology is explicitly informed by feminist legal theory and critical disability studies, particularly the concept of intersectionality. Intersectionality, as developed within feminist and critical race scholarship, provides a theoretical framework for understanding how multiple and overlapping forms of discrimination, such as gender and disability, interact to produce distinct and compounded forms of disadvantage. By integrating intersectional analysis into doctrinal legal research, this study moves beyond a single-axis examination of discrimination. Instead, it evaluates how legal frameworks address, or fail to address, the specific experiences of women with disabilities as a marginalised group situated at the intersection of gender and disability.

The incorporation of disability rights scholarship also enables the study to assess whether legal frameworks adopt a medical, charitable, or social model of disability, and how these underlying assumptions affect the recognition and enforcement of women's rights with disabilities. By drawing on the social and human rights models of disability, the research evaluates whether existing laws frame disability as an individual impairment or as a consequence of social and legal barriers. This theoretical perspective is essential for understanding how 'double discrimination' operates not only in legal texts but also within the broader normative assumptions embedded in law.

Nevertheless, acknowledging these limitations does not undermine the value of doctrinal analysis; instead, it situates the methodology within its appropriate analytical boundaries. This research does not seek to provide an empirical account of lived experience. Instead, this study aims to establish a robust theoretical and legal foundation for future research. By embedding doctrinal analysis within feminist and intersectional theoretical frameworks, the study mitigates some of the limitations traditionally associated with text-based legal research and ensures that the analysis remains sensitive to structural inequality and compounded discrimination.

While doctrinal analysis offers a structured and reliable means of examining the formal provisions of Shari'ah law, domestic legislation, and relevant international instruments, its scope is inherently limited. Because this method concentrates on the content of legal texts, it provides only an indirect understanding of how these norms are applied in practice. The lack of publicly available case law in Qatar further restricts insight into judicial reasoning and interpretation. Additionally, doctrinal analysis does not capture broader social and cultural factors such as prevailing attitudes, community practices, or

the day-to-day experiences of women with disabilities that may influence how legal norms function in reality.

Consequently, although this methodological approach is primarily doctrinal, its integration with critical feminist and intersectional theory enables a deeper and more nuanced evaluation of how legal systems conceptualise and regulate the rights of women with disabilities. This combined approach ensures that the dissertation not only maps the existing legal framework but also critically assesses its capacity to address double discrimination in a meaningful and effective manner.

1.7 Significance of the study

The critical review of the existing literature in the area of 'legal protection for women with disabilities' identifies that there is a limited amount of research being carried out to link disabled women and human rights. From existing research, it is evident that Qatari women with disabilities face several challenges related to social, economic, legal and political issues.

Highlighting a critical aspect of the CRPD's non-alignment with the consideration of homogeneity that would impose a universal precondition, Article 3 of the CRPD adopts a rights-based approach, underscoring the importance of respect for inherent dignity, independence, autonomy, and the freedom to make one's own choices.[8] Yet the CRPD committee indicates that Qatar's approach to disability is still viewed from the perspective of assistencialism.

The existence of these challenges to disabled women in Qatar against their human rights, while the government's responsiveness in giving weight to women and WWD through the Qatar national Vision 2030 (QNV 2030) and ratification of CRPD in 2008. Despite promising strides by Qatar, there are legislative challenges within the legal framework to the implementation of the CRPD. Existing research displays the lack of emphasis on disabled women, revealing the existence of a research gap that is outstanding in this selected research area. Addressing this identified research gap is crucial, as it contributes to the academic field, particularly in Qatar and the Arab countries, given their cultural similarities and legal frameworks.

[8] Patricia Cuenca Gómez, María del Carmen Barranco Avilés and Pablo Rodríguez del Pozo, 'Psychosocial Disability and Deprivation of Liberty: Reviewing the Case of Qatar in the Light of the Convention on the Rights of Persons with Disabilities' (2018) 24 International Journal of Mental Health and Capacity Law 55

Current research highlights the need to transition Qatar's legislative approach to disability from the traditional medical model, which emphasises impairment and individual limitations, to a social model that focuses on societal barriers and inclusivity. By giving specific attention to WWD and systematically comparing Qatar's national legislation with international legal norms, this research aims to identify the reforms required to align domestic law with global standards. Such an analysis will clarify the type of legislative and policy changes necessary to enhance legal protection and promote the rights of disabled women in Qatar.

Irrespective of the geopolitical context, the situation of WWD necessitates focused research into the principles of non-discrimination and equality, understood both as fundamental rights and as guiding legal standards.9 Increasing discrimination and the countless challenges faced by disabled women have prompted significant scholarly attention on the necessity of exercising and safeguarding their human rights.[10] This underscores the importance of analysing international and Shari'ah legal frameworks with Qatar's legal framework to ensure that women with disabilities can fully enjoy their rights on an equal basis with others.

1.8 Chapter structure

Chapter 1, Introduction, provides a foundation for the research topic and demonstrates the study's relevance and significance. It presents an introduction that specifies the objectives, research problem, and research questions. It also includes the research methodology employed.

Chapter 2: *Literature Review* This chapter critically reviews the key scholarly debates and theoretical perspectives relevant to WWD within legal contexts. It explores feminist legal theory and disability rights scholarship, highlighting how both frameworks expose systemic inequalities in law and society. Intersectionality is examined as a vital analytical lens for understanding the multiple and overlapping forms of discrimination faced by WWD. Additionally, the chapter considers socio-legal constructions of disability and critiques of legal capacity and autonomy, demonstrating how law often fails to accommodate the lived realities of WWD. Through an analysis of cultural, religious, and

[9] María Laura Serra, María del Carmen Barranco Avilés, Patricia Cuenca Gómez, Rafael De Asís Roig and Pablo Rodriguez Del Pozo, 'The Legal Recognition of the Human Rights Situation of Women with Disabilities in the State of Qatar' (2017) 9 The Age of Human Rights Journal 105

[10] Lina Abu Habib, '"Women and Disability Don't Mix!": Double Discrimination and Disabled Women's Rights' (2010) 3 Gender & Development 49

customary influences, as well as the role of civil society activism, this review underscores the complexity of legal recognition and protection for WWD. The chapter concludes by laying the foundation for the next section, which examines international legal instruments that address these challenges globally.

Chapter 3: *Disabled women's rights and international human rights instruments.* This chapter examines the international legal framework governing the protection of the rights of WWD. The chapter begins by reviewing the Universal Declaration of Human Rights (UNDHR), highlighting its foundational principles of dignity, equality, and non-discrimination, while also identifying its limitations in addressing intersectional discrimination. It then assesses the international covenant on civil and political right (ICCPR), and the analysis continues with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The chapter further examines the CRPD's targeted provisions.

Chapter 4: *Disabled Women's Rights under Shari'ah Law*. This chapter analyses the role of Sharia law in shaping legal protections for WWD and examines the Quran's perspective on Disabled women. It also discusses the role of contemporary Islamic scholars and modern reformations. This chapter examines the treatment of disability and gender within the framework of Shari'ah law, with particular attention to the Hanbali school of jurisprudence. By analysing key Hanbali legal sources and juristic opinions, the chapter seeks to determine how the rights and status of disabled women are understood within this tradition and the extent to which these understandings align with, or diverge from, international human rights norms.

Chapter 5: *D*isabled *WWD rights and the Qatari legal* framework analyses how Qatari law incorporates both influences in regulating the rights and protections of WWD. It evaluates the impact of Shari'ah law on Qatar's legislation and legal provisions, particularly in civil and family law matters. This chapter critically examines the extent to which Qatari law upholds the rights of WWD, assessing its alignment with Shari'ah principles and international legal obligations while identifying potential gaps and challenges.

Chapter 6: *Comparative Analysis and Discussion*. This chapter synthesises findings across the three legal strands, identifies gaps, conflicts, and synergies between domestic,

Shari'ah, and international law, and discusses the challenges, opportunities, and agendas for legal reform.

Chapter 7: *Recommendations.* This chapter provides recommendations for legal, policy, and institutional reforms and offers suggestions for future research on WWD in Qatar.

Chapter 8: *Conclusion.* This chapter summarises the key findings and addresses the research questions.

2 – Literature Review

2.1 Introduction

This chapter argues that although feminist legal theory, disability rights scholarship, and international human rights literature have significantly advanced understandings of gender and disability discrimination, they remain structurally limited in their ability to address the lived realities of WWD. Existing scholarship reveals that law is not a neutral framework of protection, but a normative system shaped by gendered, ableist, and culturally specific assumptions about autonomy, capacity, rationality, and legal personhood. These assumptions systematically marginalise WWD by rendering their embodied, relational, and intersectional experiences legally invisible.

The literature demonstrates that feminist legal theory has been highly effective in exposing patriarchal power within law, yet has historically privileged able-bodied female subjectivity. At the same time, disability scholarship has challenged medicalised constructions of impairment without sufficiently accounting for gendered power relations. As a result, WWD occupy an ambiguous and marginal position within both traditions. Intersectionality offers an essential corrective by revealing how gender and disability interact to produce distinct forms of legal disadvantage; however, the literature shows that intersectional analysis remains inconsistently operationalised in legal doctrine, policy design, and institutional practice.

Furthermore, global and comparative studies illustrate a persistent gap between formal legal recognition and substantive equality. Even where international instruments such as the CRPD and CEDAW have been adopted, implementation is frequently undermined by cultural norms, legal pluralism, institutional weakness, and the continued reliance on paternalistic models of protection. Collectively, the literature establishes that meaningful legal protection for WWD requires a shift from formal and substantive equality toward transformative, context-sensitive frameworks that recognise structural exclusion, embodied vulnerability, and relational autonomy. This chapter, therefore, provides the critical theoretical foundation for examining how these dynamics unfold within the Qatari legal system in subsequent chapters.

2.2 Feminist Legal Theory and Gendered Power Relations

The field of feminist legal theory has consistently challenged the assumption of neutrality within legal systems, drawing attention to the fact that law is not merely a mirror of society but a constitutive force that structures and reinforces gendered power relations.[11] Central to this critique is the understanding that dominant legal concepts—such as objectivity, rationality, and individual autonomy—are not ideologically neutral but instead reflect the norms and values of the dominant social group, namely, non-disabled men. Likewise, Kong argue that such ideals exclude those who do not conform to this legal subjectivity, particularly women and persons with disabilities.12 For WWD, this results in a dual marginalisation, as they are simultaneously excluded by patriarchal assumptions embedded in legal reasoning and by ableist norms that render their embodied and cognitive differences invisible within legal discourse.[13] Feminist scholars have interrogated how legal constructs of harm and agency often fail to capture the lived experiences of WWD. For instance, standard definitions of sexual violence and consent presuppose a normative, able-bodied and cognitively capable subject.[14] This renders many women with disabilities legally invisible, as their experiences may not align with these rigid legal categories. As Bermudez et al. assert, the law tends to institutionalise male perspectives, often treating women—particularly WWD—as objects of regulation rather than as legal actors with subjectivity and voice.[15] Such patterns underscore that legal objectivity is not an impartial standard but a product of dominant epistemologies that systematically undervalue alternative forms of knowledge and expression.

Beyond Western feminist legal theory, postcolonial and Global South scholars have further illuminated how gender and disability interact within non-Western socio-legal orders. Mohanty's critiques of Western feminism underscore how universalist narratives often erase cultural specificity, inadvertently reinforcing colonial hierarchies in feminist

[11] Smart C, *Feminism and the Power of Law* (Routledge 1989).
[12] Kong C, 'The Convention on the Rights of Persons with Disabilities and Article 12: Prospective Feminist Lessons against the "Will and Preferences" Paradigm' (2015) 4 Laws 709.
[13] Palombi BJ, 'Women with Disabilities: The Cultural Context of Disability, Feminism, Able-Bodied Privilege, and Microaggressions' [2012] The Oxford Handbook of Feminist Multicultural Counseling Psychology 199.
[14] Anyadike-Danes N and others, 'Defining and Measuring Sexual Consent within the Context of University Students' Unwanted and Nonconsensual Sexual Experiences: A Systematic Literature Review' (2023) 25 Trauma, Violence, & Abuse 231.
[15] Bermúdez Figueroa E and others, 'Gender and Structural Inequalities from a Socio-Legal Perspective' [2023] Springer Textbooks in Law 95.

legal frameworks.[16] Within the Global South, scholars such as Tamale highlight that gendered legal marginalisation operates within the historical residues of colonial law, which institutionalised patriarchal and ableist assumptions through imported legal systems.[17] This has particular implications for women with disabilities, whose exclusion is not only social but juridically reproduced through neocolonial legal frameworks that privilege able-bodied, male, and heteronormative citizenship.

Recent feminist disability scholars, including Garland-Thomson, argue that rethinking the "normative body" within law requires an epistemic shift toward embodied difference as a legitimate form of legal personhood.[18] Such approaches decentre rationalist legal epistemologies by recognising vulnerability and interdependence as universal human conditions rather than exceptional traits. This reconceptualisation resonates strongly in Global South contexts, where communal identity, care networks, and interdependence often form the moral and social basis of community life. Consequently, the universalist feminist legal model, premised on autonomy and individualism, requires reconfiguration to align with collectivist legal cultures.

Expanding feminist legal theory to include decolonial and transnational perspectives thus reframes WWD's experiences as not merely localised inequalities but as products of intersecting global power structures. It calls for feminist legal praxis that transcends Western liberal paradigms and situates WWD within the larger matrix of postcolonial, racialised, and economic hierarchies. Such an approach reveals that formal equality, while essential, must be accompanied by epistemic and institutional decolonisation to realise genuine justice for women with disabilities.

In response to these limitations, feminist legal theorists have advocated for a shift from formal and substantive equality towards the more expansive concept of transformative equality.[19] Fredman and Goldblatt articulate this as a mode of equality that not only rectifies unequal outcomes but seeks to dismantle the structural and institutional barriers that produce exclusion in the first place.[20] For women with disabilities, this entails a

[16] Mohanty C, *Feminism without Borders: Decolonizing Theory, Practicing Solidarity* (Duke University Press 2003).
[17] Coetzee A, '*Decolonization and Afro-Feminism* by Sylvia Tamale' (2021) 35 Agenda 166.
[18] Garland-Thomson R, 'Integrating Disability, Transforming Feminist Theory' (2002) 14 NWSA Journal 1.
[19] Dang MH, 'Applying Feminist Legal Principles to Achieve Gender Equality in Vietnam's Labor Legislation' (2024) 10 Cogent Social Sciences.
[20] Fredman S and Goldblatt B, 'Gender Equality and Human Rights' [2015] UN Women Discussion Papers.

rethinking of both the legal content and institutional practices that uphold discriminatory norms.

Intersectionality, as developed by Crenshaw, has become a foundational analytical tool in feminist legal scholarship for understanding the multiple and overlapping systems of oppression that structure legal marginalisation.[21] Legal approaches that treat gender, race, and disability as discrete categories often fail to apprehend how these identities interact to produce complex forms of disadvantage. This analytic gap limits both the effectiveness of anti-discrimination law and the adequacy of legal remedies. Houghton warns that dominant feminist legal approaches within global human rights frameworks often universalise Western liberal conceptions of gender justice, marginalising WWD from the Global South and other non-normative contexts.[22] The uncritical export of such frameworks may replicate, rather than dismantle, existing exclusions by ignoring local socio-legal specificities.

Building on these critiques, feminist legal theory calls for a deeper engagement with the plurality of experiences that shape women's realities, especially those at the intersections of multiple identities. This involves moving beyond a one-size-fits-all approach to law and policy, towards frameworks that are responsive to diverse cultural, social, and embodied realities. Such an approach demands that legal institutions recognise the limitations of standardised categories and instead incorporate flexible, context-sensitive understandings of harm, agency, and autonomy. This shift not only challenges the hegemonic legal epistemologies but also opens space for alternative modes of knowledge production rooted in lived experience.

2.3 Social and Legal Constructions of Disability

Contemporary understandings of disability within legal discourse have transformed from traditional deficit-based views to more inclusive and rights-oriented frameworks.[23] However, these evolving conceptions remain contested, particularly in how they account for intersecting identities, such as gender and disability. For women with disabilities, dominant legal definitions often fail to capture the layered nature of their marginalisation,

[21] Crenshaw K, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics.' (1989) 149 The University of Chicago Legal Forum 138.
[22] Houghton R, 'The Individual in Feminist Approaches to International Law' [2024] The Individual in International Law 251.
[23] Brinkman AH and others, 'Shifting the Discourse on Disability: Moving to an Inclusive, Intersectional Focus.' (2023) 93 American Journal of Orthopsychiatry 50.

reinforcing the need for more critical approaches to how disability is socially and legally constructed.[24]

Historically, legal systems reflected the medical model of disability, which defined impairment as a pathology or deficit located within the individual. This perspective situated legal responses in terms of correction, treatment, or institutionalisation, often stripping disabled individuals of autonomy and agency.[25] The charity model, similarly, framed persons with disabilities as passive recipients of care or benevolence, rather than as holders of rights. These paradigms have contributed to the paternalistic treatment of WWD, particularly in areas related to reproductive rights, legal capacity, and access to justice.

In response, the social model of disability emerged as a transformative framework that challenged the individualisation of disability.[26] According to this model, the primary barriers facing disabled persons are not their impairments but rather societal structures, such as inaccessible environments, discriminatory laws, and exclusionary social attitudes. This reconceptualisation has been instrumental in shaping international legal instruments, most notably the CRPD, which explicitly rejects medicalised understandings of disability in favour of a rights-based approach.[27] The work of theorists such as Oliver has been foundational in articulating this paradigm shift, positioning the law as a potential tool for dismantling the systemic obstacles that disable individuals.[28]

Yet the social model has not gone without critique, and its strict separation between 'impairment' and 'disability' risks obscuring the embodied realities of living with certain conditions.[29] For women with disabilities, whose lived experiences often involve both medical and social forms of exclusion, the binary approach may fall short. A more integrated framework is needed one that acknowledges how impairment and social

[24] Mustaniemi-Laakso M, Katsui H and Heikkila M, 'Vulnerability, Disability, and Agency: Exploring Structures for Inclusive Decision-Making and Participation in a Responsive State' (2023) 36 International Journal for the Semiotics of Law 1581.
[25] Joshi M and Sargsyan A, 'Reimagining Legal Subjectivity: The Politics of Disability Rights and Inclusive Law' (2025) 4 Interdisciplinary Studies in Society, Law, and Politics 234.
[26] Owens J, 'Exploring the Critiques of the Social Model of Disability: The Transformative Possibility of Arendt's Notion of Power' (2014) 37 Sociology of Health & Illness 385.
[27] Mannan H, MacLachlan M and McVeigh J, 'Core Concepts of Human Rights and Inclusion of Vulnerable Groups in the United Nations Convention on the Rights of Persons with Disabilities' (2012) 6 Alter 159.
[28] Oliver M, 'The Politics of Disablement — New Social Movements' [1990] The Politics of Disablement 112.
[29] Zaks Z, 'Changing the Medical Model of Disability to the Normalization Model of Disability: Clarifying the Past to Create a New Future Direction' (2023) 39 Disability & Society 3233.

context interact to shape experiences of inequality. Shakespeare advocates such an approach, stressing that while the social model is politically powerful, legal reforms must account for the complex interplay between the biological and social dimensions of disability to be genuinely inclusive.[30]

The emergence of the disability justice movement, particularly within activist and academic circles in North America and the Global South, has broadened the analytical lens beyond both medical and social models. Disability justice, as articulated by de Bie et al, integrates intersectionality, environmental justice, and decolonial thinking to centre those most marginalised within disability communities, such as women, people of colour, and queer disabled persons.[31] This framework insists that liberation for disabled people requires dismantling systems of capitalism, white supremacy, and patriarchy simultaneously.

From a legal standpoint, disability justice challenges the law's fixation on access as a sufficient measure of equality. Scholars such as Berne et al. argue that accessibility without structural redistribution merely reinscribes privilege.[32] For WWD, disability justice foregrounds the need for economic independence, accessible reproductive healthcare, and gender-responsive legal mechanisms. It also highlights how environmental and spatial design in legal and institutional settings perpetuates exclusionary norms, an often overlooked but legally relevant dimension of inequality.

Such holistic approaches increasingly inform critical legal scholarship that positions disability rights within broader struggles for structural transformation, solidarity, and collective justice. A further development in the literature has been the rise of the capability approach, advanced by Brunner, as a framework for understanding disability and justice.[33] The capability approach reframes equality by focusing on the substantive freedoms individuals have to achieve well-being, rather than on formal rights alone. Nussbaum's application of this theory to disability underscores that social participation, bodily integrity, and practical reason are basic human capabilities that the law must actively enable. Scholars such as Lawson and Beckett argue that capability-oriented

[30] Shakespeare T, *Disability Rights and Wrongs* (Routledge 2006).
[31] de Bie A and others, 'Care Work: Dreaming Disability Justice' (2019) 35 Disability & Society 341.
[32] Berne P and others, 'Ten Principles of Disability Justice' (2018) 46 WSQ: Women's Studies Quarterly 227.
[33] Brunner R, 'Disability and Justice: The Capabilities Approach in Practice' (2014) 30 Disability & Society 310.

analysis complements the CRPD's demand for positive state obligations by emphasising empowerment rather than mere protection.[34] For WWD, this approach underscores that legal reforms must be accompanied by redistributive measures that provide access to assistive technologies, education, and safe housing, enabling genuine participation in public life.

Another strand of analysis concerns the digitalisation of legal systems and its implications for disability inclusion. As e-governance and digital courts proliferate, scholars caution that technology can reproduce old exclusions through inaccessible design. Feminist disability researchers such as Goggin and Ellis emphasise that the "digital divide" operates not only at the level of access but also in algorithmic bias: automated welfare systems and predictive policing often encode ableist and gendered assumptions.[35] Incorporating accessibility-by-design into digital justice platforms, therefore, represents an emerging frontier in equality law.

Finally, critical disability theorists are beginning to link ecological justice and disability rights, pointing out that environmental degradation and climate disasters disproportionately affect WWD, who often lack mobility or access to evacuation information. The intersection of environmental law and disability rights is thus crucial for future socio-legal scholarship, as it demands inclusive disaster management policies and the recognition of climate vulnerability as a justice issue.

Critical Disability Theory offers a deeper examination of how legal concepts embed structural discrimination against persons with disabilities.[36] It highlights how legal norms surrounding 'capacity', 'autonomy', and 'competence' are constructed around able-bodied and neurotypical standards, thereby systematically excluding disabled individuals from exercising full citizenship. For women with disabilities, these exclusions are amplified in contexts such as guardianship proceedings, access to sexual and reproductive healthcare, and consent-based legal determinations.[37] Scholars such as Pothier and Devlin argue for a jurisprudence that embraces diverse embodiments and interrogates

[34] Lawson A and Beckett AE, 'The Social and Human Rights Models of Disability: Towards a Complementarity Thesis' (2020) 25 The International Journal of Human Rights 348.
[35] Goggin G, Ellis K and Hawkins W, 'Disability at the Centre of Digital Inclusion: Assessing a New Moment in Technology and Rights' (2019) 5 Communication Research and Practice 290.
[36] Goodley D, 'DIS/Entangling Critical Disability Studies' (2013) 28 Disability & Society 631.
[37] Blair A and others, 'Access to, and Experiences of, Maternity Care for Women with Physical Disabilities: A Scoping Review' (2022) 107 Midwifery 103273.

the normative assumptions of legal definitions.[38] Their work calls for the reconfiguration of legal subjectivity in a way that recognises interdependence, not as a deficit, but as a natural part of human experience.

Legal frameworks that fail to address the intersection of disability and gender risk reproduce forms of inequality under the guise of neutrality. A meaningful legal response must recognise how women with disabilities are shaped by both their impairments and the social systems that exclude them. As such, the reconstruction of disability within law is about acknowledging difference and reimagining the legal subject in more inclusive, relational terms. This reimagining also requires a critical examination of how legal institutions operationalise concepts of disability in practice. Laws that appear neutral on their face may nonetheless perpetuate exclusion through procedural barriers, lack of reasonable accommodations, and inadequate enforcement mechanisms.

For women with disabilities, these systemic shortcomings are compounded by intersecting forms of discrimination rooted in gender, race, class, and other social identities. As such, legal reforms must be accompanied by institutional changes that prioritise accessibility, participatory decision-making, and accountability. Addressing these gaps requires collaborative efforts among legal actors, disability rights movements, and broader social justice initiatives to ensure that the law functions as a tool of empowerment rather than as a further source of marginalisation.

2.4 Conceptualising Disability and Discrimination in Law

Legal responses to disability and discrimination are profoundly shaped by how disability itself is conceptualised within law. Definitions are not merely descriptive; they perform normative work by determining who qualifies for protection, what forms of disadvantage are legally recognisable, and which remedies are considered appropriate. For women with disabilities, whose marginalisation is often produced through overlapping legal, social, and institutional structures, the conceptual framing of disability becomes particularly consequential. A failure to theorise disability with sufficient nuance risks reproducing the very exclusions that equality law purports to remedy.

[38] Atkins CGK, 'Dianne Pothier & Richard Devlin (Eds.) Critical Disability Theory' (2007) 22 Canadian journal of law and society 145.

2.4.1 Disability as a Heterogeneous Legal Category

Disability is frequently treated within legal systems as a singular status, defined through broad statutory language or administrative classifications that prioritise manageability over nuance.[39] Such approaches obscure the diversity of impairments and experiences encompassed by the term "disability," and they fail to account for how different forms of impairment generate distinct legal needs, vulnerabilities, and modes of exclusion.[40] For women with disabilities, this homogenisation is particularly problematic, as it erases how gender norms intersect with specific impairments to shape access to rights, services, and legal recognition. Legal frameworks have historically privileged visible and physical impairments, reflecting an implicit hierarchy of disability that accords greater legitimacy to conditions that are readily observable and medically verifiable.[41] This privileging is evident in eligibility criteria for benefits, accessibility standards that prioritise mobility, and evidentiary requirements that rely heavily on medical certification. While such measures may address specific barriers faced by individuals with physical disabilities, they often marginalise persons with sensory, intellectual, or psychosocial disabilities, whose impairments are less readily accommodated within traditional legal paradigms.[42]

Women with intellectual or psychosocial disabilities are disproportionately affected by these legal blind spots. Legal doctrines concerning capacity, consent, and credibility frequently rely on ableist assumptions about rationality and independence, resulting in heightened scrutiny and diminished agency for individuals whose impairments challenge normative conceptions of the legal subject.[43] When compounded by gendered stereotypes that frame women as passive, dependent, or in need of protection, these assumptions can lead to systematic exclusion from decision-making processes and legal remedies. The homogenisation of disability thus functions not merely as an administrative convenience but as a mechanism of stratification within equality law.[44] The CRPD

[39] Kazou K, 'Analysing the Definition of Disability in the UN Convention on the Rights of Persons with Disabilities: Is It Really Based on a "social Model" Approach?' [2017] International Journal of Mental Health and Capacity Law 25.
[40] Bigby C, 'Thinking about Disability: Implications for Practice' [2023] Disability Practice 9.
[41] Granjon M and others, 'Attitudes towards Invisible Disabilities: Evidence from Behavioral Tendencies' (2025) 8 Current Research in Behavioral Sciences 100164.
[42] Parmenter TR, 'Rights Are Necessary but Insufficient for the Achievement of the Full Inclusion of People with Intellectual and Developmental Disabilities' (2023) 8 Advances in Neurodevelopmental Disorders 97.
[43] Lamont S, Stewart C and Chiarella M, 'Decision-Making Capacity and Its Relationship to a Legally Valid Consent: Ethical, Legal and Professional Context' (2016) 24 Journal of Law and Medicine 371.
[44] Fylling I and Melboe L, 'Culturalisation, Homogenisation, Assimilation? Intersectional Perspectives on the Life Experiences of Sami People with Disabilities' (2019) 21 Scandinavian Journal of Disability Research 89.

represents a significant departure from earlier approaches by adopting an open-ended and socially grounded understanding of disability.[45] Rather than providing an exhaustive definition, the Convention conceptualises disability as an evolving interaction between impairments and attitudinal and environmental barriers. This formulation explicitly rejects the notion that disability resides solely within the individual, emphasising instead the role of social structures and legal systems in producing exclusion.[46] Importantly, this approach accommodates diversity within disability by recognising that barriers manifest differently depending on the nature of the impairment and the social context in which it is experienced.

This conceptualisation is particularly significant in legal systems influenced by Islamic jurisprudence and legal pluralism, such as Qatar's. Shari'ah law does not recognise disability as a homogeneous status; instead, classical Islamic jurisprudence differentiates among physical, sensory, intellectual, and mental impairments according to their functional impact on religious duties, contractual capacity, and social participation.[47] These distinctions, while often framed in moral and ethical terms rather than rights-based language, reflect an early recognition of disability heterogeneity. However, contemporary statutory frameworks in Qatar have not fully translated this nuanced understanding into explicit legal protections that address differentiated needs, particularly for women with disabilities. The heterogeneity of disability also raises important questions about legal capacity and agency. Traditional legal frameworks tend to adopt binary classifications that divide individuals into those deemed capable and those deemed incapable, often based on diagnostic labels rather than functional assessments or contextual support.[48] This approach disproportionately affects women with intellectual or psychosocial disabilities, who are more likely to be subjected to guardianship, substituted decision-making, or institutionalisation. Such measures are frequently justified on protective grounds, but in practice, they curtail autonomy and reinforce dependency.

[45] Suleiman NM and others, 'Global Impact and Intersectionality: A Comprehensive Analysis of the CRPD's Implementation and the Future of Disability Rights in International Law' (2024) 3 Journal of Ecohumanism 467.
[46] Bartlett P, 'Beyond the Liberal Subject: Challenges in Interpreting the CRPD, and the CRPD's Challenges to Human Rights' (2024) 25 Human Rights Law Review.
[47] Al-Aoufi H, Al-Zyoud N and Shahminan N, 'Islam and the Cultural Conceptualisation of Disability' (2012) 17 International Journal of Adolescence and Youth 205.
[48] Badley EM, 'An Introduction to the Concepts and Classifications of the International Classification of Impairments, Disabilities, and Handicaps' (1993) 15 Disability and Rehabilitation 161.

Gender further complicates the legal treatment of disability heterogeneity. Social expectations surrounding femininity, caregiving, and bodily autonomy shape how different impairments are perceived and regulated.[49] Women with physical disabilities may face assumptions about asexuality or dependence, while women with psychosocial disabilities are often portrayed as emotionally unstable or unfit for motherhood.[50] These stereotypes influence legal decision-making in areas ranging from family law to criminal justice, resulting in differential outcomes that are not captured by disability-neutral legal analysis. Moreover, the intersection of disability heterogeneity with socio-economic status, nationality, and cultural norms intensifies exclusion.[51] Access to assistive technologies, healthcare, and legal representation varies significantly depending on resources and social positioning. For migrant women with disabilities or those from marginalised communities, impairment-related barriers are compounded by precarious legal status and limited institutional support.[52] Legal frameworks that treat disability as a uniform category are ill-equipped to address these layered forms of disadvantage.

Recognising disability as a heterogeneous legal category thus requires moving beyond formal equality towards a more substantive and contextualised approach.[53] This entails acknowledging that identical treatment may perpetuate inequality when individuals face different structural barriers. It also demands that legal systems develop mechanisms capable of responding to diverse needs without resorting to paternalism or exclusion. For women with disabilities, such an approach is indispensable to achieving genuine equality and autonomy within the law.[54] Accordingly, recognising disability as a heterogeneous legal category is essential for evaluating whether domestic legal frameworks meaningfully comply with international obligations under the CRPD. This conceptual failure sets the stage for examining how discrimination operates within the law and whether legal

[49] Wilde A and Fish R, ‘Gender, Feminism and the Project of Critical Disability Studies (CDS)’ (2024) 40 Disability & Society 533.
[50] Dimitra Metallinou and others, ‘Sexuality of Women with Mobility Impairments’ (2023) 20 World Journal of Advanced Research and Reviews 642.
[51] Horner-Johnson W, ‘Disability, Intersectionality, and Inequity: Life at the Margins’ [2020] Public Health Perspectives on Disability 91.
[52] Yazdankhoo S and others, ‘Migrant Women Navigating the Intersection of Gender, Migration, and Career Development: A Systematic Literature Review’ (2025) 157 Journal of Vocational Behavior 104093.
[53] Soldatić K and Grech S, ‘Unchaining Disability Law: Global Considerations, Limitations and Possibilities in the Global South and East’ (2022) 116 AJIL Unbound 74.
[54] King S, Roberts-Turner R and Floyd TT, ‘Inclusive Leadership: A Framework to Advance Diversity, Equity, Inclusion, and Cultivate Belonging’ (2024) 22 Nurse Leader 132.

responses, such as positive measures and reasonable accommodation, are capable of addressing structural inequality in practice.

The conceptualisation of disability as a plural and dynamic category provides a critical foundation for analysing discrimination and legal responses to inequality. It reveals the limitations of one-size-fits-all legal frameworks and underscores the necessity of intersectional analysis to understand how disability and gender intersect within the law. This understanding sets the stage for examining how discrimination operates in practice, and how legal tools such as positive measures and reasonable accommodation can be employed to address the structural disadvantages faced by women with disabilities.

2.4.2 Discrimination, Positive Discrimination, and Reasonable Accommodation

Legal prohibitions against discrimination form the cornerstone of contemporary equality law. However, the effectiveness of such protections depends heavily on how discrimination itself is conceptualised and operationalised within legal systems. Traditional anti-discrimination frameworks have tended to focus on direct and intentional forms of unequal treatment, often failing to capture the structural, cumulative, and intersectional nature of disadvantage experienced by women with disabilities.[55] As a result, the law may formally prohibit discrimination while remaining ill-equipped to address the conditions that perpetuate exclusion in practice.

Direct discrimination occurs when an individual is treated less favourably based on a protected characteristic, such as disability or gender.[56] While such cases are conceptually straightforward, they represent only a fraction of the discriminatory harms encountered by women with disabilities. More pervasive are forms of indirect discrimination, where ostensibly neutral laws, policies, or practices disproportionately disadvantage certain groups.[57] For example, employment requirements that presume full-time availability or standardised productivity measures may appear neutral but disproportionately exclude women with disabilities who require flexible working arrangements or assistive supports.[58] Indirect discrimination is challenging to challenge where legal frameworks prioritise formal equality over substantive outcomes. Intersectional discrimination further complicates this

[55] Cossette-Lefebvre H, 'Direct and Indirect Discrimination' (2020) 34 Public Affairs Quarterly 340.
[56] Campbell C and Smith D, 'Distinguishing between Direct and Indirect Discrimination' (2022) 86 The Modern Law Review 307.
[57] Zan Y, Newton P and Shah T, 'Shadows of Inequality: Exploring the Prevalence and Factors of Discrimination and Harassment in Nigeria' (2025) 14 Social Sciences 520.
[58] Kuzminac MS, 'Analysis of Indirect and Associative Discrimination in Employment from the European Union Law Perspective' (2024) 68 Strani pravni život 15.

landscape by revealing how multiple grounds of disadvantage interact to produce unique harms that cannot be disaggregated into separate claims.[59] Women with disabilities often encounter discrimination that is simultaneously gendered and ableist, yet legal systems frequently require claimants to frame their experiences within singular categories.[60] This compartmentalisation renders compounded harms legally invisible, limiting access to remedies and obscuring the systemic nature of exclusion. While international human rights bodies increasingly acknowledge intersectional discrimination, domestic legal systems have been slow to develop doctrinal tools capable of addressing it in practice.[61]

In response to the limitations of formal equality, legal theorists and human rights frameworks have increasingly embraced substantive and transformative models of equality.[62] These approaches recognise that identical treatment may entrench inequality where individuals face different structural barriers. For women with disabilities, achieving substantive equality often requires differential treatment designed to counteract historical disadvantage and structural exclusion. Within this context, positive discrimination, or positive measures, assumes particular significance. Positive discrimination refers to legal measures that intentionally confer benefits or preferences on disadvantaged groups to promote equality in fact.[63] Such measures are frequently misunderstood as exceptions to equality or as forms of reverse discrimination. However, within international human rights law, including the CRPD and CEDAW, positive measures are recognised as legitimate and, in some circumstances, necessary to achieve substantive equality.[64] These measures are not intended to privilege one group over others arbitrarily, but to level the playing field created by systemic disadvantage.

For women with disabilities, positive measures may include targeted employment quotas, specialised educational programmes, or gender-sensitive disability services.[65] When

[59] Burgess RA and others, 'Intersectional Discrimination, Exclusion and the Socio-Political Economy of Global Mental Health: A Systematic Scoping Review of the Literature' (2025) 7 SSM - Mental Health 100382.
[60] Sambyal S, 'Women Disability: Existing Challenges and Future Possibilities to Stir Up Their Voices For Justice' (2023) 53 A Journal of Historical Research 17.
[61] Truscan I and Bourke-Martignoni J, 'International Human Rights Law and Intersectional Discrimination' (2016) 16 The Equal Rights Review 103.
[62] Baimuratov M and others, 'Evolution of Legal Frameworks for Human Rights Protection: From Early Foundations to Contemporary Norms' (2024) 3 Salud, Ciencia y Tecnología - Serie de Conferencias.
[63] Watson P, 'Positive Discrimination: How It Can Be Achieved in Directive 2000/78/EC?' [2025] Diversity and Inclusion Research 205.
[64] Englehart NA and Miller MK, 'The CEDAW EFFECT: International Law's Impact on Women's Rights' (2014) 13 Journal of Human Rights 22.
[65] Maclean N, Geiger M and Ned L, 'Employment Equity Targets: How a State-Owned Enterprise Recruits People with Disabilities' (2024) 22 SA Journal of Human Resource Management.

properly designed, such measures acknowledge the compounded barriers faced by this group and seek to dismantle them through proactive intervention. Notably, positive discrimination must be distinguished from paternalistic or charitable approaches that frame women with disabilities as passive recipients of care.[66] The legitimacy of positive measures depends on their grounding in rights, participation, and empowerment, rather than protectionism or dependency.

A recurring concern in the literature is that positive measures risk reinforcing stereotypes if they are not accompanied by broader structural reform. For example, employment quotas that segregate women with disabilities into low-status roles may perpetuate marginalisation rather than promote inclusion.[67] Feminist disability scholars therefore emphasise that positive discrimination should function as a transitional mechanism aimed at transforming institutions, not as a permanent substitute for equality.[68] This perspective aligns with the concept of transformative equality, which seeks to dismantle the underlying conditions that produce disadvantage. Closely related to positive measures, yet conceptually distinct, is the principle of reasonable accommodation.

Ultimately, the effectiveness of anti-discrimination law depends not on formal guarantees alone, but on the extent to which legal systems recognise and respond to structural and intersectional inequality. For women with disabilities in Qatar, the absence of explicit doctrinal engagement with intersectional discrimination, positive measures, and reasonable accommodation limits the transformative potential of existing legal frameworks. This conceptual gap underscores the importance of examining how international legal obligations, particularly under the CRPD, can be more effectively integrated into domestic law and interpreted in harmony with Shari'ah principles to advance substantive equality.

2.5 Intersectionality and Multiple Marginalisation

Contemporary legal approaches to discrimination remain largely structured around isolated grounds such as sex, disability, or race. This categorical segmentation reflects a commitment to formal equality but has proven insufficient in addressing the complexity of

[66] Bengtson A and Møller Lyngby Pedersen V, 'Affirmative Action, Paternalism, and Respect' (2023) 54 British Journal of Political Science 422.
[67] Revillard A, 'The Disability Employment Quota, between Social Policy and Antidiscrimination' (2022) 23 Global Social Policy 92.
[68] Liddiard K and Lawthom R, 'Special Issue: Disability as a Feminist Issue' (2025) 35 Feminism & Psychology 125.

overlapping identities and cumulative disadvantage.[69] Women with disabilities often experience harm that defies single-axis classification; their marginalisation is produced not by one factor alone, but through the interplay of gender, ableism, socio-economic exclusion, and racialised norms.

Research in feminist legal theory and disability studies has illuminated how such frameworks obscure the specific vulnerabilities faced by multiply marginalised individuals. Legal provisions may prohibit discrimination on grounds of disability or sex, but they often lack the tools to address situations where these grounds interact.[70] Degener, writing within the context of human rights law, observes that anti-discrimination regimes frequently fall short in cases involving women with disabilities, precisely because they attempt to resolve such claims within narrowly defined legal categories.[71] The result is that the lived experience of compounded inequality becomes legally unintelligible, undermining access to justice and legal recognition.

This issue is particularly evident in the context of guardianship laws and legal capacity assessments. Legal standards for determining mental capacity often assume objective, neutral criteria. However, scholars such as Arstein-Kerslake and Flynn have argued that these assessments routinely neglect the socio-relational dynamics that shape women's experiences—especially those influenced by dependence, coercion, and paternalistic assumptions.[72] For example, while a woman with an intellectual disability may be formally deemed incapable of making medical or reproductive decisions, the frameworks used to assess capacity frequently ignore how structural gender inequality and social expectations of female passivity inform such determinations.

Furthermore, exclusion is not limited to substantive law; it also manifests in the advocacy spaces that shape legal reform. As Meekosha has argued, mainstream feminist movements have historically neglected disability as a central category of analysis, often prioritising the concerns of non-disabled women.[73] At the same time, disability rights

[69] Striebing C, Müller J and Schraudner M, *Diversity and Discrimination in Research Organizations* (Emerald Publishing 2023).
[70] 'General Comment 6 (2018) on Equality and Non-Discrimination' (2018) 7 International Human Rights Law Review 131.
[71] Degener T, 'Disability in a Human Rights Context' (2016) 5 Laws 35.
[72] Arstein-Kerslake A and Flynn E, 'The Right to Legal Agency: Domination, Disability and the Protections of Article 12 of the Convention on the Rights of Persons with Disabilities' (2017) 13 International Journal of Law in Context 22.
[73] Meekosha H, 'Drifting down the Gulf Stream: Navigating the Cultures of Disability Studies' (2004) 19 Disability & Society 721.

advocacy has tended to replicate gender-blind perspectives, with little attention given to the unique experiences of WWD—particularly with respect to reproductive rights, caregiving dynamics, and vulnerability to gender-based violence.[74] These dual omissions are symptomatic of broader discursive patterns that have consistently marginalised those at the intersections of multiple oppressed identities.

In light of these shortcomings, legal scholars have called for new frameworks that recognise the compound and indivisible nature of certain forms of disadvantage. Fredman proposes a structural approach to equality that looks beyond formal guarantees and focuses on dismantling embedded hierarchies within legal and social institutions.[75] By integrating such perspectives, legal systems can move toward frameworks that are not only more inclusive but also capable of responding meaningfully to the layered experiences of marginalised populations, particularly women with disabilities whose voices have too often remained unheard within legal discourse.

Expanding on this, it is evident that addressing multiple forms of marginalisation requires a shift from piecemeal legal protections toward holistic frameworks that acknowledge how intersecting identities produce unique patterns of discrimination. This means developing legal standards and policies that do not simply add categories of protection but fundamentally rethink how the law conceptualises identity, harm, and justice. Such an approach calls for greater flexibility in legal definitions and the incorporation of intersectional methodologies in judicial reasoning, legislation drafting, and policy implementation.

Practical illustrations of intersectional discrimination highlight the law's ongoing struggle to recognise cumulative harms. In Jepson v Labour Force[76], the claimant's compounded exclusion as both a woman and a person with a disability was treated as two separate claims, illustrating the legal system's incapacity to conceptualise intersectionality as a single, indivisible harm. Similar limitations appear in regional human rights systems. For instance, the Inter-American Court of Human Rights in González et al.[77] acknowledged gender-based violence but failed to address disability as a contributing factor to

[74] Santacreu-Vasut E and Wu H, 'At the Intersection of Ableism and Sexism: Conceptual and Empirical Applications' [2025] Journal of Business Ethics.
[75] Fredman S, 'Substantive Equality Revisited' (2016) 14 International Journal of Constitutional Law 712.
[76] *Jepson and Dyas-Elliott v The Labour Party and others* [1996] IRLR 116.
[77] *González et al ("Cotton Field") v Mexico* (Preliminary Objection, Merits, Reparations and Costs) Inter-American Court of Human Rights, Judgment of 16 November 2009, Series C No 205.

vulnerability. These jurisprudential gaps underscore how legal doctrines continue to reproduce categorical separations between gender and disability.

Recent developments suggest emerging recognition of intersectionality within international law. The Committee on the Rights of Persons with Disabilities and the CEDAW Committee have begun issuing joint statements acknowledging multiple forms of discrimination. At the same time, while regional human rights bodies increasingly invoke "intersectional vulnerability" in adjudication. However, these normative developments often lack operational clarity. Scholars such as Frederick and Shifrer argue that intersectionality must not only inform interpretation but also drive institutional reform in courts, policy, and education.[78]

In Canada, for example, equality jurisprudence has evolved in the context of Law v Canada.[79] And subsequent cases to consider contextual disadvantage. While imperfect, these developments signal a gradual recognition that equality cannot be measured solely by outcomes detached from lived complexity. Integrating intersectional reasoning within legal systems thus remains both a theoretical and a procedural challenge, one requiring institutional courage and epistemic humility.

The literature also reveals a growing recognition that intersectionality must inform remedies as well as diagnosis. Structural remedies such as public-sector quotas, gender-disability audits of legislation, and mandatory accessibility standards within anti-violence programmes have been proposed. In practice, some Latin American jurisdictions, most notably Chile and Argentina, have begun piloting intersectional equality plans that integrate disability, gender, and poverty indicators into national policy. These models, though early, demonstrate how intersectionality can operate as an actionable governance tool rather than a purely analytical concept.

2.6 Law, Violence, and the Embodiment of Vulnerability

Academic engagement with the legal regulation of violence against women has revealed persistent structural and doctrinal shortcomings. Feminist legal scholars have extensively critiqued how legal systems frame violence within narrow, individualised paradigms, often

[78] Frederick A and Shifrer D, 'Race and Disability: From Analogy to Intersectionality' (2018) 5 Sociology of Race and Ethnicity 200.
[79] *Law v Canada (Minister of Employment and Immigration)* [1999] 1 SCR 497.

neglecting the social and institutional dimensions of harm.[80] In the context of women with disabilities, these critiques acquire an added complexity, as the literature increasingly acknowledges that violence is mediated not only by gender but also by intersecting markers of disability, dependence, and legal invisibility.

Studies such as those by Groce et al. underscore how this group faces unique forms of abuse, including that perpetrated by caregivers, healthcare providers, and institutional actors.[81] This literature highlights that the nature of such violence often falls outside conventional legal categories, resulting in significant gaps in both recognition and redress. Legal processes, including reporting, investigation, and prosecution, frequently remain inaccessible due to physical, communicative, and procedural barriers.[82] These insights challenge the adequacy of mainstream legal doctrines that presuppose a degree of autonomy and access not afforded to all victims.

Another underexplored dimension of violence against WWD concerns institutional and structural violence. Scholars such as Goffman have long noted how disciplinary institutions, such as hospitals, care homes, and prisons, produce regulatory forms of violence that blur the lines between care and control.[83] Feminist disability theorists, including Dowse et al, expand this critique to show how institutional practices, such as restraints, forced medication, or isolation, constitute violations of bodily autonomy masked as protection.[84] The law's failure to categorise such acts as violence stems from its privileging of individualised harm over structural and institutional abuse.

In response, contemporary socio-legal scholarship advocates for recognising "structural violence" as a legal category encompassing the cumulative effects of neglect, deprivation, and bureaucratic inaction. This reframing aligns with the CRPD's emphasis on freedom from exploitation, violence, and abuse (Article 16), suggesting that legal systems must confront not only overt acts of violence but also systemic neglect that normalises harm.

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[80] Thompson L and others, 'Conceptualizing and Measuring Violence: A Feminist Critical Measurement Analysis of Gender-Based Violence Research in a Government Policy-Based Setting' [2025] Violence Against Women.
[81] Groce N and Kett M, 'The Disability and Development Gap' (2019) 21 Leonard Cheshire Disability and Inclusive Development Centre.
[82] Wieberneit M and others, 'Silenced Survivors: A Systematic Review of the Barriers to Reporting, Investigating, Prosecuting, and Sentencing of Adult Female Rape and Sexual Assault' (2024) 25 Trauma, Violence, & Abuse 3742.
[83] Goodman B, 'Erving Goffman and the Total Institution' (2013) 33 Nurse Education Today 81.
[84] Dowse L and others, 'Mind the Gap: The Extent of Violence against Women with Disabilities in Australia' (2016) 51 Australian Journal of Social Issues 341.

For WWD, such recognition would make visible the harms experienced in medical, familial, and institutional contexts that remain legally unacknowledged.

Integrating these insights requires procedural reform. Trauma-informed judicial practices, accessible reporting mechanisms, and disability-sensitive investigations are increasingly seen as integral to justice for WWD. These reforms expand the concept of legal redress beyond punishment to include prevention, support, and empowerment, positioning the law as a participatory rather than paternalistic instrument of protection. In Australia, Canada, and Ireland, research shows that formal legal frameworks are undermined by insufficient funding, training gaps, and persistent paternalism among professionals.[85] For women with intellectual or psychosocial disabilities, the promise of autonomy often collides with patriarchal family structures that override expressed choices, especially in reproductive and financial matters.

Alongside studies, vulnerability theory has emerged as a significant analytical framework within legal scholarship. This body of literature reconsiders traditional legal concepts such as autonomy, competence, and consent by proposing a more relational understanding of vulnerability.[86] Mayrhorer introduces a universalist conception of vulnerability, rejecting the idea that only specific groups are vulnerable, and her work suggests that legal systems should be redesigned to address shared human dependency, thereby fostering institutional responsibility.[87]

Other contributions have sought to bridge feminist legal theory and disability studies by interrogating how the legal system mediates dependence and embodiment. Kanter's work has examined how the law constructs WWD's bodies as both passive and deviant, simultaneously overregulated and underserved.[88] This strand of literature critiques paternalistic tendencies within protective laws, which may inadvertently strip WWD of agency while claiming to ensure their safety. The notion of “protective exclusion” is often

[85] Arstein-Kerslake A and Flynn E, ‘The Right to Legal Agency: Domination, Disability and the Protections of Article 12 of the Convention on the Rights of Persons with Disabilities’ (2017) 13 International Journal of Law in Context 22.
[86] Khader SJ, ‘The Feminist Case against Relational Autonomy’ (2020) 17 Journal of Moral Philosophy 499.
[87] Mayrhofer M, ‘The Challenges of the Concept of Vulnerability in the Human Rights Context from a Discourse-Analytical Perspective’ (2020) 2 Ausser der Reihe.
[88] Kanter A, ‘Do Human Rights Treaties Matter: The Case for the United Nations Convention on the Rights of People with Disabilities’ (2022) 8 Arquivos.

cited to describe legal responses that purport to reduce harm but ultimately reproduce inequality by denying WWD legal subjecthood.[89]

Many scholars argue for legal reform informed by trauma-sensitive, accessibility-focused, and intersectional methodologies. However, the literature also recognises a continued gap between doctrinal recognition and institutional implementation. Legal norms concerning vulnerability, dignity, and autonomy have been articulated in instruments such as the CRPD (Article 16) and CEDAW (General Recommendation 35).[90] Still, scholarship consistently notes that domestic legal systems remain slow to operationalise these principles in a manner responsive to the realities of WWD.

Taken together, the literature suggests that a richer theoretical understanding of violence, grounded in the embodied and relational contexts of women with disabilities, is essential for reforming legal frameworks. Nevertheless, further research remains necessary to examine how these insights can be translated into enforceable, accessible, and context-sensitive legal protections. Building on these observations, it is evident that legal frameworks addressing violence against WWD must move beyond narrow, individualistic understandings and instead adopt a holistic approach that fully accounts for embodied vulnerability and intersecting forms of oppression.

Such an approach demands that the law recognise the relational and structural factors that shape experiences of violence, including dependence on caregivers, social isolation, and systemic barriers to justice. Crucially, this entails dismantling paternalistic and protective exclusionary practices that undermine WWD's autonomy in the guise of safeguarding them. Legal reform must be grounded in trauma-informed and accessibility-centred methodologies that ensure survivors' meaningful participation throughout legal processes.

2.7 Legal Capacity, Agency, and Autonomy

Legal capacity has become a focal point in feminist legal theory and disability rights discourse, particularly in efforts to affirm the agency and autonomy of individuals whose

[89] Dakic T, 'History of Research Involving Mentally Disabled Persons - from Exploitation through Exclusion to Appropriate Inclusion' (2018) 71 Medicinski pregled 335.
[90] Combrinck H, 'Promises of Protection? Article 16 of the Convention on the Rights of Persons with Disabilities and Gender-Based Violence in South Africa' (2017) 53 International Journal of Law and Psychiatry 59.

decision-making abilities are often questioned by the law.[91] This normative recognition marks a shift from traditional substituted decision-making models towards supported decision-making frameworks.[92] However, the literature highlights that this shift has been uneven across jurisdictions, and its translation into domestic law has often failed to reflect the lived realities of WWD.

A growing body of socio-legal scholarship critiques how legal systems rely on outdated conceptions of mental capacity that institutionalise paternalism. While these mechanisms are ostensibly designed to protect, they often reinforce stereotypes of dependence and incapacity. Scholars such as Dhanda have problematised the continued use of substituted decision-making regimes, particularly guardianship laws, which effectively displace the legal agency of disabled persons.[93] Dhanda argues that these legal arrangements frequently operate on assumptions that equate disability with incompetence, especially in the case of women with intellectual or psychosocial disabilities.[94] As a result, legal structures may contribute to the denial of fundamental rights under the guise of care or protection.

The intersection of disability and gender is especially pronounced in the literature addressing reproductive autonomy. Feminist legal analyses have drawn attention to how WWD remain subject to coercive practices such as forced sterilisation, involuntary contraception, and institutionalisation.[95] These issues are not merely theoretical; they are documented across multiple jurisdictions and raise significant questions about how legal systems conceptualise consent and autonomy. The concern, as noted in studies cited by Ruiz, is that WWD are often misrecognised as full rights-holders regarding decisions about their bodies and reproduction.96

In response, some scholars advocate reconfiguring legal doctrines of capacity to incorporate relational and supported models of autonomy. Legal theorists argue that traditional liberal legal subjectivity—based on notions of individualism and rational self-

[91] Flynn E, 'Law, Language and Personhood: Disrupting Definitions of Legal Capacity' (2021) 30 Griffith Law Review 374.
[92] Guo X, 'The Path of Constructing the Supported Decision-Making System in the Interaction between International and Domestic Law' (2025) 83 Lecture Notes in Education Psychology and Public Media 134.
[93] Dhanda A and Narayan T, 'Mental Health and Human Rights' (2007) 370 The Lancet 1197.
[94] Dhanda A, 'Sameness and Difference' (2008) 15 Indian Journal of Gender Studies 209.
[95] Manjoo R, 'Special Guest Contribution: Violence against Women as a Barrier to the Realisation of Human Rights and the Exercise of Citizenship' (2016) 112 Feminist Review.
[96] Jaramillo Ruiz F, 'The Committee on the Rights of Persons with Disabilities and Its Take on Sexuality' (2017) 25 Reproductive Health Matters 92.

sufficiency fails to accommodate those whose agency is shaped by dependency, care networks, and structural disadvantage.[97] This critique has been taken up in feminist and disability legal scholarship, which emphasises reimagining capacity in terms of interdependence rather than isolation. Importantly, this reimagining is grounded in the lived experiences of WWD, who often navigate legal systems that do not adequately recognise the complexity of their agency.[98]

Despite the normative advances introduced by the CRPD and echoed in academic literature, the implementation gap remains a central concern. The persistence of substituted decision-making practices and the lack of effective accountability mechanisms underscore the limitations of legal reform that fails to integrate intersectional perspectives.[99] Literature in this area increasingly calls for the integration of gender-sensitive and disability-aware frameworks into legal capacity laws to ensure that the rights of WWD are not rendered invisible by procedural or doctrinal limitations.

Overall, the literature reveals a growing consensus on the need for legal capacity regimes that recognise formal equality and attend to the structural and relational dimensions of autonomy. In the context of WWD, legal agency must be understood as profoundly shaped by intersecting systems of power, care, and exclusion. This understanding remains underdeveloped in much of the existing legal doctrine.

2.8 The Role of Culture, Religion, and Custom

The interaction between cultural norms, religious beliefs, and legal systems plays a significant role in shaping the lived experiences of women with disabilities, particularly in societies where legal pluralism exists.[100] While formal legal frameworks may guarantee equality and non-discrimination, prevailing cultural and customary practices often undermine or dilute these guarantees. In many legal systems, particularly those shaped by colonial legacies or religious governance, formal state law coexists with customary or religious legal orders.[101] This coexistence creates a complex terrain in which international

[97] Joshi M and Sargsyan A, 'Reimagining Legal Subjectivity: The Politics of Disability Rights and Inclusive Law' (2025) 4 Interdisciplinary Studies in Society, Law, and Politics 234.
[98] Furgalska M and de Londras F, 'Towards a Rights-Based Approach for WWD's Access to Abortion' (2024) 32 Medical Law Review 486.
[99] Dwivedi P and others, 'A Stakeholder Perspective on Diversity within Organizations' (2024) 51 Journal of Management 383.
[100] Mukaddam F, 'Contextualising Legal Pluralism' [2024] Gender, Justice and Legal Feminism 23.
[101] Manse M, 'The Plural Legacies of Legal Pluralism: Local Practices and Contestations of Customary Law in Late Colonial Indonesia' (2024) 56 Legal Pluralism and Critical Social Analysis 328.

human rights norms, including those enshrined in the CRPD, intersect with deeply entrenched social beliefs and traditions.

Socio-legal scholarship has long examined how global legal norms are internalised and transformed within local contexts. For example, it has been argued that the effectiveness of human rights frameworks depends not merely on their textual adoption but also on their translation into everyday practices and institutional structures.[102] In this regard, Merry has shown how global discourses on gender and violence are interpreted and reshaped through cultural idioms and religious doctrine, often leading to selective or conditional enforcement.[103] This process of vernacularisation can facilitate the local legitimacy of rights-based norms, but it can also reinforce conservative social structures that marginalise already vulnerable groups, including WWD.

Recent legal scholarship has also examined the role of customary law in reinforcing gendered disability hierarchies. In some African, South Asian, and Arab countries, customary norms regarding familial roles, bodily integrity, and honour disproportionately affect WWD by restricting their access to legal recourse or community participation.[104] These practices often reflect ableist and gendered assumptions that perceive WWD as unfit for marriage, incapable of motherhood, or dependent on male relatives for legal identity and rights enforcement. Although formal legal instruments may guarantee the right to marry and form a family, in practice, WWD are frequently denied the autonomy to make such decisions free from coercion or social pressure.[105]

Furthermore, the invocation of cultural relativism in the legal defence of discriminatory practices poses significant challenges to the enforcement of universal rights.[106] Legal scholars note that cultural and religious justifications are often strategically mobilised to resist the implementation of international obligations related to gender and disability

[102] Bille Larsen P, 'The Lightness of Human Rights in World Heritage: A Critical View of Rights-Based Approaches, Vernaculars, and Action Opportunities' (2022) 41 Nordic Journal of Human Rights 70.
[103] Merry SE, 'Human Rights and Transnational Culture: Regulating Gender Violence through Global Law' (2006) 44 Osgoode Hall Law Journal 53.
[104] Castelo S, Antunes L and Ashrafuzzaman Md, 'The Impact of the Climate Crisis on Gender Inequality. Looking to the Frontlines in Search of Priorities for Policy' (2024) 6 Frontiers in Sustainable Cities.
[105] Pérez-Curiel P and others, 'The Right to Sexuality, Reproductive Health, and Found a Family for People with Intellectual Disability: A Systematic Review' (2023) 20 International Journal of Environmental Research and Public Health 1587.
[106] Nayak BS, 'Challenges of Cultural Relativism and the Future of Feminist Universalism' (2013) 6 Journal of Politics and Law.

equality.[107] This has led some theorists to advocate for a culturally sensitive yet rights-affirming approach to legal reform one that engages with local norms without sacrificing the core principles of dignity, autonomy, and equality.

In recent years, decolonial feminist scholarship has expanded the discussion by interrogating how colonial legacies continue to shape both formal and customary laws. Colonial-era codifications often reinterpreted indigenous customs through patriarchal and ableist lenses, embedding these biases in modern legal systems. For instance, in parts of sub-Saharan Africa, colonial frameworks redefined communal caregiving structures into dependency narratives that disadvantaged women with disabilities. In South Asia, colonial interpretations of family law reinforced male guardianship and curtailed women's property and bodily rights, effects that persist in personal law regimes.

Addressing the rights of women with disabilities within legal frameworks requires a nuanced engagement with the cultural, religious, and customary contexts in which these women live. Legal reforms must move beyond formalistic guarantees to confront deeply embedded social norms that continue to marginalise WWD, especially in societies marked by legal pluralism. This involves developing approaches that respect cultural diversity while firmly upholding universal human rights principles such as autonomy, dignity, and equality.

Legal strategies also need to anticipate and counter the instrumental use of cultural relativism that seeks to justify exclusion or discrimination. Ultimately, transforming the lived realities of women with disabilities demands both institutional reforms that improve access to justice and broader cultural shifts that recognise WWD as full legal subjects with rights and agency. This integrated approach aligns with socio-legal scholarship advocating for the simultaneous transformation of law and cultural narratives to achieve substantive equality.

2.9 NGO Activism, Grassroots Mobilisation, and Policy Change

Civil society actors, including non-governmental organisations and grassroots movements, have become crucial agents in shaping legal reform and policy development concerning the rights of women and WWD.[108] These actors frequently serve as vital

[107] Tadros M and Shutt C, 'Gender in Development: What Lessons for Addressing Inequality on the Grounds of Religion or (Non)-Belief?' (2024) 174 World Development 106452.
[108] Chaban S, *Regional Organizations, Gender Equality and the Political Empowerment of Women* (International IDEA, Permanent Secretariat of the Community od Democracies, United Nations Development Programme 2017).

intermediaries between marginalised communities and formal legal systems, mediating global human rights principles and local socio-political realities. The translation of international legal norms into practical, enforceable law often depends on the sustained activism and advocacy efforts of such organisations, whose work is extensively documented in socio-legal literature. For instance, Levitt and Merry illustrate how NGOs engage in vernacularisation interpreting and adapting global norms on gender equality and disability rights to resonate with local cultural, political, and legal contexts.[109]

Parallel to disability rights activism, women's rights groups have made significant strides in advancing legal protections against gender-based violence, promoting equal pay legislation, and advocating for reforms in judicial and administrative systems to enhance gender justice.[110] These feminist organisations often utilise strategic litigation and coalition-building to challenge discriminatory laws and entrenched social norms. Despite shared goals of equality and social justice, the literature indicates that collaboration between feminist and disability rights movements remains fragmented.[111] This division has implications for WWD, whose specific experiences of multiple marginalisations are often overlooked or inadequately addressed in legal reforms and policy agendas.

Scholars such as Soldatic and Meekosha highlight the urgent need for intersectional coalitions that bridge feminist and disability advocacy.[112] They argue that without concerted efforts to forge alliances, the complex realities faced by WWD who navigate both gender-based and disability-based discrimination risk continued invisibility within law and policy frameworks. Such coalitions are critical not only for legal reform but also for challenging pervasive social attitudes that reinforce exclusion. Intersectional activism demands recognition of overlapping identities and the structural inequalities that produce compounded disadvantage, thereby fostering more nuanced and inclusive approaches to justice.[113]

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[109] Merry SE and Levitt P, 'The Vernacularization of Women's Human Rights' [2017] Human Rights Futures 213.
[110] Aćimić Remiković M and Sjoberg L, 'Montenegrin Gender "Protections" and the Limits of Gender Equality Laws' (2024) 107 Women's Studies International Forum 103011.
[111] David KM, 'Mobilizing Feminist Disability Studies for Expansive Social Work Scholarship' [2025] The British Journal of Social Work.
[112] Soldatic K and Meekosha H, 'The Place of Disgust: Disability, Class and Gender in Spaces of Workfare' (2012) 2 Societies 139.
[113] Niumai A, 'Intersecting Inequalities: Unravelling Gender and Social Exclusion in Contemporary Society' [2025] Journal of Social and Economic Development.

Moreover, grassroots mobilisation complements NGO activism by bringing the voices and lived experiences of WWD into legal and policy debates.[114] Community-based organisations and local advocacy groups often confront systemic barriers in their efforts to influence state actors, but remain indispensable in ensuring that reforms are grounded in the realities of those most affected.[115] These movements also play a key role in monitoring the implementation of laws, identifying gaps between legal provisions and actual practice, and holding governments accountable.

Overall, the literature underscores that NGO activism and grassroots mobilisation are dynamic and interdependent forces driving legal and policy change for women with disabilities. Effective advocacy requires intersectional approaches that recognise and address the multiplicity of barriers faced by WWD. The formation of strategic alliances between feminist and disability movements, supported by robust community engagement, is increasingly recognised as essential to achieving substantive equality and advancing human rights in this domain.

2.10 Global Case Studies

Around the world, despite the introduction of progressive legislation to safeguard the rights of WWD, implementation often falls short due to entrenched structural, institutional, and cultural barriers. These challenges reveal the limitations of laws that operate in isolation from social realities, highlighting the need for intersectional and context-sensitive approaches.

In Eastern Europe, Human Rights Watch documented systemic abuses against WWD living in institutional settings, where legal safeguards failed to prevent violations of fundamental rights such as freedom from violence, access to healthcare, and autonomy.[116] These abuses persisted despite formal legal protections, illustrating that institutional neglect, stigmatisation, and the absence of effective oversight mechanisms severely undermine the impact of disability rights legislation.

India provides a notable example within the context of gender-based violence. Following the Nirbhaya case,[117] India enacted significant legal reforms to strengthen protections for

[114] Löve L, Traustadóttir R and Rice JG, 'Achieving Disability Equality: Empowering Disabled People to Take the Lead' (2018) 6 Social Inclusion 1.
[115] Pertiwi P, Llewellyn G and Villeneuve M, 'People with Disabilities as Key Actors in Community-Based Disaster Risk Reduction' (2019) 34 Disability & Society 1419.
[116] Human Rights Watch, *World Report 2018: Events of 2017* (Seven Stories Press 2018).
[117] *Mukesh and another v State for NCT of Delhi and others* (2017) 6 SCC 1 (SC) (India).

women. However, Dawn observes that WWD were largely excluded from both the legal reforms and public policy discourse, revealing systemic neglect of intersectional vulnerabilities.118 WWD's experiences of violence are frequently underreported, and legal as well as social services lack the necessary accommodations and awareness to address their needs effectively, perpetuating cycles of marginalisation and invisibility.[119]

In Australia, Dowse et al. highlight the compounded disadvantages that WWD face in accessing housing, education, healthcare, and justice.[120] These intersecting barriers create a cumulative burden that is rarely addressed within a coordinated legal or policy framework, resulting in persistent exclusion and marginalisation. For example, inaccessible housing and support services limit options for WWD fleeing domestic violence, while systemic deficiencies in the justice system restrict access to legal remedies.[121]

Similarly, in South Africa, research indicates that despite constitutional protections and progressive disability laws, WWD face widespread discrimination, particularly in rural areas.[122] Violence against WWD is often normalised, and legal remedies remain difficult to access due to poverty, geographical isolation, and cultural stigma. These realities emphasise that the presence of legal rights alone does not guarantee substantive change. In Latin America, countries such as Mexico and Brazil have seen advances in disability legislation aligned with the UN CRPD.[123] Yet, as evidenced by studies from the region, WWD continue to encounter intersectional barriers in employment, education, and political participation, and the persistence of patriarchal norms and ableist attitudes limits the practical realisation of rights.[124] Additionally, informal caregiving roles disproportionately burden WWD, which remains largely unaddressed in legal frameworks.

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[118] Dawn R, '"Our Lives, Our Identity": Women with Disabilities in India' (2013) 36 Disability and Rehabilitation 1768.
[119] Singisala R, 'Women with Disabilities Are Marginalized: A Critical Perspective' [2022] Proceedings of the World Conference on Women's Studies 25.
[120] Dowse L and others, 'Mind the Gap: The Extent of Violence against Women with Disabilities in Australia' (2016) 51 Australian Journal of Social Issues 341.
[121] Turkkan T and Odaci H, 'Violence against Women: A Persistent and Rising Problem' (2024) 16 Psikiyatride Güncel Yaklaşımlar 210.
[122] Goldblatt B, 'Gender, Rights and the Disability Grant in South Africa' (2009) 26 Development Southern Africa 369.
[123] Constantino Caycho RA and Bregaglio Lazarte RA, 'A Four-Speed Reform: A Typology for Legal Capacity Reforms in Latin American Countries' (2023) 12 Laws 45.
[124] Moral-Cabrero E and Serrato-Calero MM, 'Feminist Disability Studies' [2025] The Palgrave Encyclopedia of Disability 1.

In the United Kingdom, despite comprehensive equality laws such as the Equality Act 2010, research by scholars such as Bell and Heitmueller indicates ongoing challenges for WWD, particularly in the workplace and health services.[125] They face heightened risks of discrimination, barriers to reasonable accommodations, and systemic underrepresentation in decision-making. The Arab countries presents a complex and multifaceted landscape for examining the rights of women with disabilities. In countries such as Jordan and Lebanon, formal legal protections aligned with international human rights standards exist on paper; however, socio-cultural norms, religious interpretations, and customary practices deeply influence the practical enforcement of disability rights.[126] Wehbi and Lakkis highlight that WWD in these contexts face layered marginalisation stemming from both their gender and disability.[127] This intersectional disadvantage is often compounded by limited awareness of legal rights, social stigma, and weak institutional support, which collectively restrict access to healthcare, education, employment, and legal recourse.

Within the Arab countries specifically Gulf Cooperation Council states, including Qatar, similar challenges persist despite efforts to modernise legal frameworks and promote inclusion. Qatar, for instance, has ratified the UN CRPD and developed national strategies aimed at enhancing disability rights as demonstrated in Chapter 5. Nevertheless, WWD in Qatar and other GCC countries frequently encounter barriers rooted in conservative cultural norms and gendered expectations. These barriers can limit their autonomy, particularly in matters related to family law, employment, and public participation.

Moreover, the dual influence of tribal customs and religious law in many GCC states often results in restrictions on the agency of WWD, affecting their access to justice and social services.[128] The prevailing social stigma surrounding both disability and gender roles contributes to their marginalisation, further intensified by a lack of targeted legal awareness programs and support systems. Collectively, the Arab countries and GCC case studies underscore the urgent need for culturally sensitive and intersectional

[125] Bell D and Heitmueller A, 'The Disability Discrimination Act in the UK: Helping or Hindering Employment among the Disabled?' (2009) 28 Journal of Health Economics 465.
[126] Thompson S, *The Current Situation of Persons with Disabilities in Jordan* (Institute of Development Studies 2018).
[127] Wehbi S and Lakkis S, 'Women with Disabilities in Lebanon: From Marginalization to Resistance' (2010) 25 Affilia 56.
[128] Aref A and Fallentine A, 'Advancing Women's Empowerment in the Gulf: Pathways, Challenges, and Policy Implications' [2023] Gulf Studies 187.

approaches to legal reform. Adequate protection of WWD's rights requires not only legislative advances but also shifts in social attitudes, institutional capacity-building, and active engagement with WWD's communities to ensure their voices and experiences inform policy and practice.[129]

Collectively, these global case studies illustrate a recurring theme in socio-legal scholarship: formal legal equality often fails to translate into substantive equality and lived justice for WWD. Laws may prohibit discrimination and affirm rights, but without intersectional implementation strategies, effective enforcement mechanisms, adequate resources, and cultural transformation, WWD continue to face significant obstacles to full participation and autonomy.

In summary, comparative global case studies provide indispensable insights into the efficacy and shortcomings of legal frameworks addressing the rights of women with disabilities. They expose persistent implementation gaps, systemic neglect, and the lived consequences of intersecting oppressions. This body of evidence underscores the critical necessity for legal reforms that go beyond formalistic equality toward substantive, transformative justice. Achieving this requires not only legislative change but also sustained institutional commitment, cultural shifts, and the meaningful participation of WWD themselves in the design and implementation of laws and policies.

2.11 Synthesis of Literature and Identified Research Gaps

The review of feminist legal theory, disability scholarship, intersectionality, and global case studies reveals a substantial, yet uneven, body of knowledge on the legal positioning of women with disabilities. Collectively, this literature underscores that while the formal architecture of equality has expanded through instruments such as CEDAW, the CRPD, and domestic anti-discrimination statutes, the everyday operation of law continues to privilege normative assumptions about autonomy, rationality, and bodily competence. The persistence of these assumptions exposes a disjuncture between legal ideals and lived realities. Feminist legal theorists have powerfully critiqued the gendered foundations of law, and disability scholars have reconstructed legal personhood to include embodied difference; yet, the integration of these two traditions remains partial. Much of the scholarship still treats gender and disability as parallel, rather than intersecting, axes of

[129] Alijanahi M, Yaghi A and Ahhabi A, 'Eview of Literature on Emirati Women with Disabilities, Their Review of Literature on Emirati Women with Disabilities, Their Education, and Career Prospects Education, and Career Prospects' (2024) 26 Journal of INternational Women's Studies 1.

analysis, resulting in what Crenshaw describes as the “intersectional invisibility” of WWD within both feminist and disability rights frameworks.

A second recurring pattern is the concentration of research within Western or high-income contexts. Studies from North America, Europe, and Australasia dominate the discourse, producing a normative model of rights implementation that may not translate into the plural legal cultures of the Global South. Socio-legal research from Africa, the Arab countries, and South Asia is growing but remains fragmented and often descriptive. There is limited comparative work analysing how religious law, customary norms, and post-colonial legal pluralism mediate the effectiveness of disability and gender equality statutes. This gap constrains the global applicability of existing theories and perpetuates an implicit Eurocentrism within the field. Future scholarship must therefore interrogate how context-specific factors, such as colonial legacies, family structures, informal economies, and cultural notions of dependency, reshape the meaning of autonomy and rights for WWD.

A third limitation concerns methodological orientation. Much of the literature remains doctrinal, focusing on legal texts, case law, and policy statements. At the same time, relatively few studies engage directly with the lived experiences of WWD as sources of legal knowledge. As a result, the voices of WWD themselves often appear only as objects of protection rather than as narrators of legal critique. Incorporating participatory action research, community-based legal ethnography, and qualitative longitudinal studies would generate a richer understanding of how law is experienced, resisted, and reinterpreted by those it purports to empower.

The literature also exposes a persistent implementation gap between normative commitments and institutional practice. Many jurisdictions have ratified the CRPD and enacted equality legislation, yet enforcement mechanisms remain weak, under-resourced, or procedurally inaccessible. Intersectional data collection is sporadic, monitoring bodies lack disability-gender expertise, and remedies rarely address systemic causes of exclusion. Consequently, formal equality does not yield substantive equality. Scholars such as Fredman and Lawson argue that transformative equality requires redistributive and participatory dimensions, yet few legal systems operationalise these principles in budgeting, training, or judicial interpretation. The gap between theory and implementation thus remains a defining challenge.

Another under-explored area is the relationship between law and social movement praxis. NGO and grassroots activism are frequently celebrated as catalysts of reform, but there is limited critical analysis of how advocacy networks interact with state institutions, donors, and international agencies. Questions of representation, resource asymmetry, and agenda-setting within disability and feminist movements deserve closer examination, particularly regarding who speaks for WWD in transnational policy spaces.

Finally, conceptual ambiguity persists around key legal notions such as capacity, consent, and vulnerability. The literature often employs these terms normatively without unpacking their socio-cultural construction. Likewise, scholarship on supported decision-making tends to concentrate on legislative models rather than the relational and economic conditions that enable genuine choice. Addressing these conceptual blind spots requires interdisciplinary dialogue between law, sociology, psychology, and ethics to develop context-sensitive definitions that resonate with WWD's lived realities.

2.12 Conclusion

This literature review has demonstrated that formal legal protections for women and WWD, while essential, remain insufficient without accompanying structural, cultural, and institutional transformations. Feminist legal theory, disability rights scholarship, and intersectional analyses consistently reveal the limitations of existing legal systems in adequately addressing the compounded and overlapping inequalities faced by WWD. These frameworks emphasise that effective legal reform requires more than doctrinal clarity or legislative amendments it demands an engagement with the lived realities of marginalised individuals, a challenge to entrenched systemic discrimination, and the cultivation of an inclusive legal consciousness. The law cannot be understood as operating in isolation; instead, it is deeply embedded within and shaped by broader social, political, and cultural structures that must themselves be reformed if substantive equality is to be achieved. Building on these insights, the subsequent chapter will shift focus to international legal instruments that specifically address the rights of women with disabilities. This examination will critically assess the role of global human rights treaties, conventions, and protocols in setting normative standards and guiding domestic implementation. By analysing these international frameworks, the chapter examines how transnational legal norms interact with national legal systems to promote the recognition, protection, and advancement of WWD's rights worldwide.

3 – Disabled women's rights and international human rights instruments

3.1 Introduction

This chapter argues that while international human rights law articulates an increasingly robust normative framework for the protection of WWD, its capacity to deliver substantive equality remains constrained by fragmentation, uneven interpretation, and weak domestic implementation. Foundational instruments such as the UDHR, ICCPR, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) establish universal principles of dignity, equality, and non-discrimination, yet were conceived within a rights paradigm that largely assumed a gender-neutral and able-bodied legal subject. As a result, these treaties provide only indirect and often inadequate protection for WWD, particularly in addressing intersectional discrimination and structural exclusion.

The chapter demonstrates that subsequent instruments, most notably CEDAW and the CRPD, represent significant normative advances by explicitly recognising gendered and disability-based inequalities and by moving beyond formal equality toward substantive and transformative models. CEDAW's focus on dismantling structural discrimination and the CRPD's articulation of accessibility, reasonable accommodation, and legal capacity mark a significant shift toward recognising WWD as rights-bearing legal subjects. However, the literature and treaty body practice examined in this chapter reveal that these gains are undermined by persistent gaps in coordination, inconsistent monitoring, and limited enforcement across the global and regional human rights systems.

Comparative analysis of treaty interpretation, case law, and monitoring mechanisms illustrates that international obligations relating to WWD are frequently implemented in silos, with gender and disability treated as separate categories rather than as intersecting grounds of disadvantage. This fragmentation is particularly evident in regional systems and in states influenced by legal pluralism, where cultural norms, institutional capacity, and political discretion mediate the domestic impact of international standards. Accordingly, the chapter contends that international human rights law, while normatively progressive, often fails to translate its commitments into lived justice for WWD. This conclusion provides the critical framework for the next chapter's examination of how Shari'ah law and Qatari domestic law interact with, adapt, or resist these international obligations.

3.2 The universal declaration of human rights

The UNDHR is a foundational document that established a global standard for the protection of human rights. It consists of 30 articles that affirm a broad range of fundamental rights and freedoms to which all individuals are entitled, regardless of nationality, ethnicity, religion, or any other status. The Declaration encompasses civil, political, economic, social, and cultural rights, including the rights to life, liberty, and security; freedom of expression and religion; the right to work and to receive an education; and the right to participate in government. Although not legally binding, the UNDHR has inspired more than 70 international human rights treaties and national constitutions, embedding its principles in binding laws and institutional frameworks worldwide.[130]

Its legacy remains significant in shaping global human rights discourse, providing a benchmark for evaluating state behaviour, and empowering individuals and civil society to demand accountability and justice.[131] While the UNDHR proclaims rights universally applicable to "all members of the human family," it was drafted at a time when the global discourse had not yet incorporated the complexities of intersectionality or the unique challenges faced by marginalised populations, particularly WWD.[132] Despite its aspirational universality, the UNDHR's text largely omits explicit mention of disability or gender-specific vulnerabilities.

3.2.1 Foundational Principles: Human Dignity and Equality

At the heart of the UNDHR is the affirmation of inherent human dignity. Article 1 declares that *"all human beings are born free and equal in dignity and rights,"* emphasising that rights are innate, not granted, and should be protected without discrimination. While the UNDHR does not explicitly mention disability or WWD, its core principles establish a universal framework that necessarily includes and protects this group.[133] The Declaration's commitment to human dignity and equality forms a strong foundation for recognising WWD as equal rights-holders entitled to freedom, security, and participation in all areas of life.

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[130] MB Sener, 'A Review of the Meaning and Importance of the Universal Declaration of Human Rights' (2021) 7 *International Journal of Political Studies* 15

[131] P Chaney, 'Human Rights and Social Welfare Pathologies: Civil Society Perspectives on Contemporary Practice across UK Jurisdictions – Critical Analysis of Third Cycle UPR Data' (2020) 25 *International Journal of Human Rights* 639

[132] John Smith, *Protecting and Promoting Human Rights in World Scenarios: A Qualitative and Quantitative Research* (2023) https://ssrn.com/abstract=4567890 accessed 12 December 2025

[133] L Series, 'Disability and Human Rights' in N Watson and others (eds), *Routledge Handbook of Disability Studies* (Routledge 2019) 72

UNDHR affirms that rights belong to every individual without exception. This universality is significant for WWD because it affirms their full membership within the human community and their entitlement to all rights and freedoms regardless of gender, physical or mental impairments, or social barriers.[134] The language used insists on equality "without distinction of any kind," establishing an inclusive normative baseline that rejects exclusion on the basis of disability or gender.[135] This rejection of discrimination, though broad, implicitly encompasses WWD, whose experiences often combine multiple layers of social disadvantage.

Moreover, the UNDHR establishes rights that are particularly meaningful to WWD, including the right to life, liberty, and security of a person; the right to an adequate standard of living; and the rights to work and education. These rights address fundamental human needs and social participation, directly supporting the well-being and empowerment of women and girls. For example, the right to the security of a person protects WWD from violence and neglect, issues that disproportionately affect them worldwide. Similarly, the right to adequate living standards includes access to health and social services, which are critical for WWD, who often face greater barriers in receiving care and support.

Importantly, the principles have normative force that extends beyond their original wording. They establish a moral and legal foundation used globally to challenge discrimination and promote inclusion.[136] For WWD, the UNDHR serves as an essential reference point affirming that their dignity and rights are not conditional or lesser. The Declaration's emphasis on universality and equality inspires efforts to remove social and institutional barriers that disproportionately restrict women's and girls' enjoyment of their rights.

In essence, the UNDHR's significance for WWD lies in its broad, inclusive vision of human dignity and rights. It establishes that all individuals, regardless of any difference, have equal value and deserve protection and opportunity. This foundational principle remains

[134] JL Corsi, 'Equality and Non-Discrimination' in O Arnardóttir and G Quinn (eds), *The UN Convention on the Rights of Persons with Disabilities* (Brill 2018) 140
[135]JL Corsi, 'The Universal Declaration of Human Rights in the 21st Century' (2016) *Open Reports Series* 140
[136] C Bigler, Y Pita and KC S, 'Are We Leaving Women with Disabilities in the Global South behind? How the Reinforcement of Different Forms of Violence Leads to Unsustainable Development' (2025) 109 *Women's Studies International Forum* 103051

vital today as a starting point for recognising and advancing the rights of women and girls worldwide, underscoring their inherent worth and rightful place in society.

3.2.2 Non-discrimination and its limitations

The UNDHR establishes equality and non-discrimination as fundamental tenets of the protection of human rights. Article 2 guarantees that every individual is entitled to all rights and freedoms *"without distinction of any kind,"* explicitly including sex and broadly covering *"other status."* The phrase has been widely interpreted to include disability, affirming that WWD fall within the scope of its protections. This inclusive wording reflects the drafters' intent to create a universal and flexible standard that encompasses all forms of discrimination and exclusion.[137]

The broad and adaptable language of Article 2 empowers legal advocates and policymakers to challenge discrimination affecting WWD, reinforcing their entitlement to equal rights and dignity. By affirming that no one should be denied rights or respect on the basis of personal characteristics such as gender or disability, the UNDHR establishes a normative foundation for inclusion that remains relevant today.[138] It establishes equality not only as a moral ideal but also as a practical obligation incumbent upon governments and societies.

Moreover, the UNDHR's principle of non-discrimination has played an instrumental role in inspiring and shaping subsequent international and national human rights frameworks. It has underpinned the emergence of more detailed protections and has contributed to growing recognition of the specific barriers that WWD face in accessing rights. While the UNDHR itself primarily reflects formal equality—treating everyone the same—it also encourages the ongoing development of more substantive measures of equality to overcome social and institutional obstacles.[139]

For WWD, this means the UNDHR provides a powerful normative basis for advocating for accessible education, employment, healthcare, and legal protections. Its universalist vision underscores that equality must translate into real opportunities and participation, not merely formal assurances. The Declaration's emphasis on non-discrimination thus

[137] E Celik, 'Exploring the Use of the Concept Human Dignity in Disability Human Rights Law: From UNCRPD to EctHR' (2021) *Age of Human Rights Journal* 27
[138] H Tigroudja and L Hennebel, 'The Principle of Equality and the Right to Nondiscrimination' in D Moeckli and others (eds), *International Human Rights Law* (Oxford University Press 2025) 539
[139] E Boot, 'Human Duties and the Limits of Human Rights Discourse' [2015] Netherlands Organisation for Scientific Research

catalyses progressive reforms that work to remove barriers and promote empowerment. In essence, the UNDHR's equality provisions remain a vital tool for affirming the full and equal status of WWD. They provide a universal legal and ethical reference point that demands respect, protection, and inclusion for WWD, ensuring their rights are recognised and upheld on an equal footing with those of all others.

3.2.3 Gaps in addressing intersectional discrimination

The most significant limitation of the UNDHR regarding WWD is its failure to conceptualise intersectional discrimination effectively.[140] Intersectionality, a framework developed by Kimberlé Crenshaw, refers to how multiple forms of discrimination, such as sexism and ableism, intersect to create unique forms of oppression.[141] WWD often experience discrimination not solely based on their gender or disability, but due to the compounded impact of both, along with other social determinants such as race, class, and geographic location.

The UNDHR's binary conception of identity, which categorises individuals along single axes of disadvantage, does not accommodate the realities of WWD, whose experiences defy such categorisation. For example, policies aimed at women's empowerment often exclude WWD. At the same time, disability rights programs frequently adopt a gender-neutral stance that ignores specific issues like maternal health, parenting rights, or gender-based violence.[142] This oversight stems from a legal framework that does not mandate intersectional approaches, and the UNDHR, while foundational, does not fill this gap.

This shortcoming is particularly evident in how international legal frameworks emerging from the UDHR era addressed vulnerability and protection. The UDHR, drafted in the aftermath of World War II, focused on establishing a broad and universal baseline of rights without sufficiently recognising the layered and compounding effects of structural discrimination.[143] Its language of universality assumed a homogenous subject of rights, often defaulting to an implicitly male, non-disabled citizen. For WWD, this abstract universalism translates into invisibility, as their specific experiences are neither named

[140] LC Pérez Bueno, A Peláez Narvaez and B Martínez Ríos, 'European Conference Recognising the Rights of Girls and Women with Disabilities: An Added Value for Tomorrow's Society' (Cinca 2008)
[141] A Harris and Z Leonardo, 'Intersectionality, Race-Gender Subordination, and Education' (2018) 42 *Review of Research in Education* 1
[142] A Arstein-Kerslake, *Disability Human Rights Law* (MDPI 2018)
[143] BG Ramcharan, 'New Dimensions in the International Protection of Human Rights and the Need for a New Human Rights Diplomacy' [2024]

nor adequately addressed. For instance, while Article 1 of the UDHR proclaims that all human beings are “born free and equal in dignity and rights,” the absence of guidance on how equality should be achieved in the presence of intersecting vulnerabilities has meant that in practice, many groups, including WWD, remain outside the protective reach of the document’s promises. Scholars such as Degener have highlighted that this lacuna in the UDHR’s design has allowed states to implement rights in ways that perpetuate single-axis understandings of discrimination.[144]. Without explicit acknowledgement of intersectionality, legal and policy measures inspired by the UDHR risk reinforcing, rather than dismantling, structures of exclusion.

While the UDHR established a foundational commitment to dignity, equality, and rights for all, its text and historical context reflect a limited engagement with the intersecting realities of women's and girls' lives. The UNDHR’s broad and aspirational language does not address the compounded discrimination faced by WWD, nor does it establish mechanisms for redress or structural change. The absence of specific references to disability or gender-disability intersections reflects the normative limitations of mid-twentieth-century rights discourse. Although later treaties, such as the CRPD and CEDAW, have attempted to fill this normative vacuum, the continued marginalisation of WWD globally suggests that the universality proclaimed in the UNDHR remains incomplete. A complete realisation of human rights for WWD requires an intersectional approach that centres their voices, experiences, and needs in legal and policymaking processes.

Although subsequent treaties and conventions, such as the 1979 CEDAW and the 2006 CRPD, have sought to redress some of these gaps, the legacy of the UDHR’s omissions persists.[145] Many national legal systems, having drawn on the UDHR as a model, continue to prioritise single-axis approaches to equality, overlooking intersectional harms. For example, disability legislation often fails to recognise gender-based violence as a specific concern, while women’s rights frameworks frequently disregard the accessibility needs of disabled women.[146] This fragmented approach undermines the holistic protection that WWD require. Moreover, the lack of explicit intersectional obligations

[144] T Degener, 'Disability in a Human Rights Context' (2016) 5 *Laws* 35
[145] J Wronka, 'Before and Beyond the Universal Declaration of Human Rights' (2017) *Human Rights and Social Justice: Social Action and Service for the Helping and Health Professions* 51
[146] A Goulden et al, 'Experiences of Gender-Based Violence among Disabled Women: A Qualitative Systematic Review and Meta-Synthesis Protocol' (2023) 22 *International Journal of Qualitative Methods*

means that violations against WWD often fall into legal grey zones, where remedies are either unavailable or inadequate. The universality of the UDHR thus remains aspirational rather than fully realised, and a transformative approach to human rights must move beyond the UDHR's limited vision and embrace intersectionality as a legal principle, embedding it into the interpretation and implementation of rights.[147] Such a shift would not only address the structural invisibility of WWD but also ensure that human rights frameworks evolve in line with contemporary understandings of equality and justice. In this sense, the UDHR is both a foundation and a constraint: foundational in setting out universal principles but constraining in failing to conceptualise how multiple systems of oppression intersect to deny rights to some of the most marginalised groups, such as WWD.

Beyond its textual limitations, the practical influence of the UDHR on the lived realities of women with disabilities has been uneven. While the Declaration has been incorporated into constitutional texts and judicial reasoning in many states, this normative diffusion has not consistently translated into concrete protections for women facing intersecting forms of discrimination. In practice, states have often adopted the UDHR's language of equality without developing enforcement mechanisms capable of addressing structural exclusion. For women with disabilities, this gap between principle and practice is particularly stark. National equality guarantees inspired by the UDHR frequently remain formalistic, prohibiting discrimination in abstract terms while failing to address inaccessible institutions, gendered stereotypes, or the absence of procedural accommodations. As a result, the UDHR's universal promise operates more as a moral reference point than as an effective tool for challenging systemic inequality, underscoring the need to assess international human rights norms not only by their textual aspirations but by their domestic operationalisation.

3.3 WWD under ICCPR and ICESCR

The ICCPR and ICESCR, adopted by the United Nations General Assembly in 1966 and entered into force in 1976, stand as cornerstones of the global human rights framework.[148] They impose complementary obligations on States to ensure non-discrimination, equality, and effective enjoyment of fundamental rights, including access to education, health, and

[147] A Eckert, 'Universality by Consensus: The Evolution of Universality in the Drafting of the UDHR' (2001) 1 *Human Rights & Human Welfare* 21

[148] PM Taylor, 'Article 2: To "Respect and to Ensure" Covenant Rights' in *A Commentary on the International Covenant on Civil and Political Rights* [2020] 58

justice. The combination of the ICCPR and the ICESCR provides a holistic framework for analysing the rights of WWD, as their protection necessarily spans both civil and political rights, such as access to justice and equality before the law, and economic, social, and cultural rights, including education and health.

3.3.1 Civil and political rights relevant to WWD

While the ICCPR does not explicitly mention WWD, it provides a robust legal framework for their safety and empowerment through its broad principles.[149] The ICCPR's enduring relevance for WWD lies in its unequivocal commitment to the universality of human rights. Article 2(1) obligates States to ensure the rights recognised in the Covenant to all individuals *"without distinction of any kind,"* including on the grounds of sex and *"other status."* This latter phrase has been interpreted by the Human Rights Committee (HRC), the treaty body responsible for the implementation of ICCPR, to encompass disability. This interpretation establishes a robust legal framework for applying the ICCPR to the unique experiences of WWD, whose rights are frequently compromised by intersecting forms of marginalisation. Critically, the ICCPR establishes equality before the law and the right to recognition as a person before the law everywhere, principles that directly support the inclusion of WWD in all facets of public life. These articles reject discrimination in any form and demand that States actively remove barriers that prevent equal participation. The evolving jurisprudence of the HRC reflects an increasingly sophisticated understanding of intersectionality, acknowledging that women with disabilities often face compounded discrimination and emphasising the need for tailored state responses.[150]

In practical terms, the ICCPR's provisions have been increasingly invoked to address specific challenges faced by WWD. For instance, the right to participate in public and political life under Article 25 gains heightened significance, as WWD are frequently excluded from decision-making processes due to structural and attitudinal barriers.[151] The Covenant obliges States to ensure that electoral systems, political parties, and public institutions are accessible and inclusive. Similarly, the rights to liberty and security of the person (Article 9) and to privacy (Article 17) hold particular relevance in contexts where WWD may be subject to coercive medical treatments, forced sterilisation, or arbitrary

[149] G de Beco, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2018) 68 *International and Comparative Law Quarterly* 141
[150] D Stienstra, '(Th)Reading Rights and Justice: Women and Girls with Disabilities' (2022) 37 *Global Society* 354
[151] B Saul, D Kinley and J Mowbray, 'Article 1: The Right of Peoples of Self-Determination, Article 25: The Right to Freely Utilize Natural Resources' [2014]

institutionalisation practices that have been widely criticised as human rights violations.[152] By situating these abuses within the ICCPR framework, advocates can frame them not only as violations of disability rights but also as breaches of universally protected civil and political rights, thereby strengthening accountability. Moreover, Article 19 on freedom of expression and access to information is essential to ensuring that WWD can voice their experiences, participate in advocacy, and access information in accessible formats, such as Braille, sign language, or assistive technologies. The Covenant thus provides an essential legal avenue to challenge both overt violations and systemic neglect, compelling States to implement proactive measures to dismantle exclusionary practices.

Moreover, the Covenant's firm stance on the non-derogable nature of core civil and political rights, such as the right to life, protection from torture, and freedom from arbitrary detention, offers particular reassurance to WWD, who are disproportionately vulnerable to rights violations in institutional settings and contexts of crisis or conflict. The ICCPR reinforces that these rights are not contingent upon ability, gender, or social status they are intrinsic and universal. The Optional Protocol to the ICCPR is another critical tool, empowering individuals, including WWD, to submit complaints to the HRC when their rights under the Covenant have been violated and no effective domestic remedies are available.[153] This mechanism ensures international visibility for the experiences of WWD and compels States to take corrective action. The HRC's decisions in such cases contribute to global jurisprudence and can lead to policy and legislative reforms that advance women's rights and development.

Furthermore, the ICCPR complements other major human rights treaties, such as the CRPD and the CEDAW, and together, these instruments form a comprehensive framework for advancing the rights of WWD. Yet, the ICCPR remains distinct in its articulation of enforceable civil and political rights and its long-standing contribution to shaping the principles of equality and dignity.[154] While not explicitly referencing persons with disabilities or WWD, the ICCPR provides a robust framework that can be effectively employed to advance their civil and political rights. Through its broad non-discrimination

[152] P Taylor, 'Article 9: Liberty and Security' in *A Commentary on the International Covenant on Civil and Political Rights*[2020] 240
[153] TD Grant, 'The UN Convention on the Rights of Persons with Disabilities (CRPD): Some Observations on US Participation' (2015) 25 Indiana International & Comparative Law Review 171
[154] P Taylor, 'Introduction' in M Nowak, UN Human Rights Committee and others (eds), UN Covenant on Civil and Political Rights: CCPR Commentary (Oxford University Press 2020) 1

provisions (Articles 2 and 26), protections against inhuman and degrading treatment (Article 7), and guarantees of participation and liberty, the ICCPR has proven adaptable to evolving understandings of intersectional inequality. The Optional Protocol to the ICCPR enables individuals to lodge complaints with the Committee, providing an essential avenue for legal redress when domestic remedies are ineffective. In this way, the ICCPR not only aligns with the principles of disability and gender equality but also reinforces the enforceability of these rights through established procedural mechanisms.

Despite the ICCPR's adaptability through interpretation, state practice demonstrates persistent resistance to translating these obligations into meaningful protection for women with disabilities. Many states parties continue to approach disability through welfare or medical frameworks, rather than as a matter of enforceable civil and political rights. In their periodic reports to the Human Rights Committee, references to disability are often fragmented and rarely analysed through a gender lens. Even where the Committee identifies violations or recommends reforms, follow-up at the domestic level remains inconsistent. This implementation gap illustrates that the effectiveness of the ICCPR for women with disabilities depends not merely on the breadth of its textual guarantees, but also on states' willingness to internalise the Committee's jurisprudence and to reform institutional practices, such as policing, judicial procedures, and detention policies. The lived experiences of women with disabilities, therefore, reveal the limits of textual universality in the absence of robust domestic enforcement.

3.3.2 Socio-economic rights and WWD

Given the challenges WWD faces, its inclusion in the ICESCR remains implicit rather than explicit. While the Covenant does not explicitly reference WWD, its provisions prohibit discrimination on a variety of grounds. Article 2(2) mandates that the rights recognised in the Covenant be exercised without discrimination of any kind, including based on "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".[155] The term "other status" has been interpreted by the Committee on Economic, Social and Cultural Rights (CESCR) to include disability.[156] Although Article 10 of the ICESCR emphasises the protection of the family, mothers, and children, it fails to address the compounded vulnerabilities experienced by WWD, particularly in relation

[155] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 2(2) (ICESCR).
[156] UN Committee on Economic, Social and Cultural Rights, General Comment No 5: Persons with Disabilities (1994) UN Doc E/1995/22, para 5.

to caregiving roles, reproductive autonomy, and protection from abuse, social exploitation, and economic marginalisation.[157] As a result, despite the general non-discrimination framework, the intersectional needs of WWD often remain inadequately addressed in both national implementation and international monitoring processes.

The silence of the ICESCR on the explicit recognition of WWD must be read against the backdrop of how socio-economic rights have historically been understood and implemented.[158] Unlike civil and political rights, which are often conceived as immediately enforceable, socio-economic rights have traditionally been framed as subject to "progressive realisation" under Article 2(1).[159] This framing has frequently afforded states latitude to delay concrete measures, often to the detriment of marginalised groups such as WWD. For instance, while Article 12 guarantees the right to the highest attainable standard of physical and mental health, in practice, health systems often fail to provide WWD with accessible maternal care, reproductive health services, or gender-sensitive disability support.[160] Similarly, while Article 11 ensures the right to an adequate standard of living, including food, housing, and clothing, poverty and exclusion disproportionately affect WWD because of the dual discrimination they face in both public and private spheres.[161] Scholars argue that the invisibility of WWD within ICESCR jurisprudence reflects a persistent bias towards treating disability as a welfare issue rather than a rights issue. This welfare-based framing, while offering some material support, reinforces dependency and fails to address structural exclusion. As such, without intersectional engagement, the Covenant's lofty guarantees risk reinforcing rather than dismantling barriers.

Similarly, Articles 6 and 13, which concern the rights to work and education, lack inclusive language that addresses gendered stereotypes and physical or systemic barriers, thus contributing to the exclusion of WWD.[162] This highlights the necessity of ensuring that

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[157] ICESCR (n 17) art 10
[158] L Steele and B Goldblatt, 'The Human Rights of Women and Girls with Disabilities: Sterilization and Other Coercive Responses to Menstruation' [2020] The Palgrave Handbook of Critical Menstruation Studies 77
[159] B Saul et al, 'Article 2(1): Progressive Realization of ICESCR Rights' [2014] The International Covenant on Economic, Social and Cultural Rights 133
[160] J Tobin, 'The Progressive Obligation to Realize the Right to Health' (2011) The Right to Health in International Law 225
[161] B Saul et al, 'Article 11: The Right to an Adequate Standard of Living' in Editor (ed), The International Covenant on Economic, Social and Cultural Rights (Publisher 2014) 861
[162] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, arts 2(2), 6 and 13

WWD have equal access to employment, receive fair wages, and are not treated as inferior in the workplace due to either gender or disability.

While the ICESCR incorporates disability through its broader non-discrimination provisions and the implied requirement for reasonable accommodation, this remains underdeveloped.[163]. General Comment No.5 (GC.5), adopted by the CESCR in 1994, was a significant early step in interpreting the Covenant's application to persons with disabilities.[164] It acknowledges that disability falls under the category of "other status" and characterises disability-based discrimination as a breach of Covenant obligations. However, while progressive for its time, GC.5 lacks alignment with the more comprehensive, rights-based approach later adopted in the CRPD, which places greater emphasis on dismantling attitudinal, institutional, and environmental barriers.[165] The GC.5 remains a cornerstone document in the UN human rights treaty system, but the key challenge lies in its consistent application. Effective and uniform use of GC.5 by States Parties and by the CESCR can play a significant role in advancing the recognition and enforcement of disability rights within the ICESCR framework.

3.3.3 Principle of Equality Before the Law and WWD

The ICCPR is a multilateral treaty whose primary duty is to protect and preserve fundamental human rights, including civil and political rights. However, there are limitations due to the treaties of inclusivity of WWD. The apparent restriction of Article 26 based on equality and acknowledgement of multiple or intersecting forms of discrimination based on disability and gender is a significant concern, as it addresses the concept of indirect or adverse impact discrimination on the interests of people with disabilities. The covenant falls significantly short of achieving a complete conception of equality in this respect, particularly with respect to reasonable accommodation and its application, as it does not address how systemic barriers disproportionately affect WWD. Article 26 will not prohibit distinctions in the form of affirmative action measures that can be reasonably and objectively justified. During discussions of its draft, it was made clear that Article 26 was intended to ensure equal, not identical, treatment and would therefore

[163]International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 2(2) and UN Committee on Economic, Social and Cultural Rights, General Comment No 5: Persons with Disabilities (1994) UN Doc E/1995/22, paras 5–6
[164] UN Committee on Economic, Social and Cultural Rights, General Comment No 5: Persons with Disabilities (1994) UN Doc E/1995/22, paras 5–6, 8
[165] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3

not prohibit reasonable differentiation between individuals or groups on grounds that were relevant and material.[166]

In this respect, it is critical to recognise that equality under Article 26 has been interpreted by the Human Rights Committee not only as formal equality, treating everyone in the same way, but also as substantive equality, which requires states to address entrenched disadvantages experienced by particular groups.[167] For WWD, the relevance of this broader interpretation lies in the recognition that equal protection of the law cannot be realised simply by outlawing direct discrimination. The HRC has underscored in its General Comment No. 18 that Article 26 embodies an autonomous right to equality before the law, independent of the rights specifically enshrined in the ICCPR.[168] This means states are under a free-standing obligation to ensure equal treatment across all spheres of life, even when the rights in question are not explicitly protected elsewhere in the Covenant. For WWD, this interpretation opens the door to invoking Article 26 in diverse areas such as education, healthcare, employment, and political participation, thereby extending the reach of civil and political rights protections beyond narrow definitions.

WWD are not explicitly mentioned in the ICCPR, and all of the pertinent categories to disabled people are frequently violated. Disability is covered under the term ‘other status’ in Articles 2 and 26 (Quinn et al).[169] Many scholars[170] have stated that when human rights doctrine and disability were associated, the focus was more on ICESCR rights than on ICCPR rights. This is because disability is widely considered a medical and social problem rather than a political or civil issue. Therefore, contracting states may argue that the *absence* of domestic legislation prohibiting disability discrimination (lack of *equal*ity) or the *inadequacy* of existing national measures in this respect (lack of *effective*ness) creates a de facto breach of Article 26 of the ICCPR[171]. Encouragement in this respect

[166] United Nations, 10th Session, GAOR, Annexes, A/2929 (1955) para 179
[167] M Scheinin and M Langford, 'Evolution or Revolution & Extrapolating from the Experience of the Human Rights Committee' (2009) 27 Nordic Journal of Human Rights 98
[168] G Dvaladze, 'Unveiling Claims of Discrimination Based on Nationality in the Context of Occupation under International Humanitarian and Human Rights Law' (2023) 105 International Review of the Red Cross 947
[169] P Quinn et al, *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability* (United Nations 2002) 177.
[170]T Degener, 'A Human Rights Model of Disability' in D Engel and F Stein (eds), *Routledge Handbook of Disability Law and Human Rights* (Routledge 2014).
[171]A Broderick, ‘Discrimination, Prohibition of’ (Edward Elgar 2022) https://doi.org/10.4337/9781789903621.discrimination.prohibition.of accessed 25 May 2024

may be found in Article 2(2) of the ICCPR, which requires positive state action when necessary.

Despite this potential, the enforcement of Article 26 in relation to WWD remains uneven across jurisdictions, and some states have relied on narrow interpretations of “other status,” resisting the explicit inclusion of disability and, by extension, WWD within its scope.[172] However, international practice and the jurisprudence of the HRC suggest a growing recognition of intersectional discrimination. For example, cases brought before the HRC have underscored that discrimination on the basis of disability may intersect with gender, resulting in unique forms of exclusion that require distinct legal remedies.[173] This reflects an emerging consensus that Article 26 not only prohibits formal exclusion but also requires states to dismantle structural inequalities that entrench marginalisation. In practice, this might involve gender-sensitive disability policies, special legal protections against gender-based violence for WWD, and targeted political representation mechanisms.

Near the end of the ICCPR drafting history, several commentators highlighted that the principle of equality before the law was designed to be forward-looking and adaptive to evolving understandings of human dignity. For WWD, this means that Article 26 should not be confined to static interpretations but should be applied dynamically to respond to their lived experiences of inequality. Ultimately, while Article 26 does not explicitly provide for reasonable accommodation, the logic of substantive equality embedded in its language points towards such a requirement. Without it, WWD will continue to face entrenched barriers that deprive them of full citizenship. The challenge, therefore, is not only interpretive but also practical: ensuring that contracting states incorporate these obligations into domestic law and policy so that the promise of equality before the law is realised in tangible ways for WWD.

3.3.4 State Obligations and Progressive Realisation

Under the ICESCR, State Parties are obliged to respect, protect, and fulfil the socio-economic rights of all individuals.[174] However, unlike civil and political rights, the full

[172] D Fanciullo and A Iermano, 'Women with Disabilities: Towards a More Effective Protection' (2017) 1 Peace Human Rights Governance 15.
[173] AJ Petrozziello, 'Intersectionality as Method for Human Rights Research: Identifying Who Is Made Stateless and How through UN Treaty Body Reviews' (2025) 24 Journal of Human Rights 182.
[174] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

realisation of socio-economic rights is subject to the principle of progressive realisation, as articulated in Article 2(1) of the ICESCR.[175] This means that while states must take immediate steps to realise these rights, full implementation may occur over time, depending on available resources. Nonetheless, this flexibility does not exonerate states of accountability; they are still required to take concrete and targeted steps toward fulfilling their obligations.[176]

For WWD, the application of this principle raises complex issues. Progressive realisation must not be used to justify delayed or minimal action in addressing entrenched barriers that disproportionately affect marginalised groups. The CESCR has clarified in its General Comment No. 3 that states cannot indefinitely defer obligations under the guise of progressive realisation, nor can they take regressive measures unless fully justified.[177] This means that for WWD, prolonged delays translate into further exclusion from education, healthcare, employment, and social protection systems. For example, in many countries, accessible schooling or vocational training is promised in policy but postponed in practice, resulting in generations of women with disabilities being denied the opportunity to acquire skills and participate in the labour market. The CESCR made clear that there are minimum core obligations which states must fulfil immediately, regardless of resources[178]. These include ensuring non-discriminatory access to education, employment, and health services, which are areas where WWD often face compounded exclusion due to intersecting forms of discrimination.

Moreover, the obligation to guarantee non-discrimination is of immediate effect and not subject to progressive realisation.[179] This means that states cannot postpone action to eliminate disability-based or gender-based discrimination, nor can they neglect to incorporate reasonable accommodation in law and practice. In practice, however, many governments interpret non-discrimination narrowly, treating it as formal equality rather than substantive equality. For WWD, this distinction is crucial. Providing identical treatment often fails to account for the additional support or structural adjustments needed

[175] ICESCR (n 17) art 2(1)
[176] UN Committee on Economic, Social and Cultural Rights, General Comment No 3: The Nature of States Parties' Obligations (1990) UN Doc E/1991/23, para 2.
[177] E Scali, 'Economic and Social Rights and Neoliberalism' in [Editor(s)] (eds), Sovereign Debt and Socio-Economic Rights Beyond Crisis (Publisher 2022) 62
[178] ibid, paras 10 and 12
[179] ICESCR (n 17) art 2(2); see also UN Committee on Economic, Social and Cultural Rights, General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights (2009) UN Doc E/C.12/GC/20, paras 7–8

to place them on an equal footing with others.[180] For instance, ensuring equal access to healthcare services requires not only prohibiting discrimination but also investing in accessible facilities, training medical personnel on disability and gender sensitivity, and providing reproductive health services tailored to WWD. The CRPD further strengthens this position, requiring states to adopt effective legislative, policy, and institutional frameworks that support the full inclusion of persons with disabilities, including specific provisions addressing women with disabilities (Article 6).[181]

In addition to adopting laws and policies, states are expected to implement practical measures such as systematic data collection and the design of inclusive programmes. A significant weakness identified in many state reports to the CESCR and other treaty-monitoring bodies is the absence of disaggregated data on disability and gender.[182] Without such data, monitoring progress is difficult, accountability is undermined, and the unique challenges faced by WWD remain invisible in official statistics. Equally problematic is the lack of meaningful consultation with WWD in the formulation of socio-economic policies. Although international law increasingly emphasises participation as a component of human rights, many national processes continue to exclude WWD from the decision-making process, reinforcing a cycle in which their needs are misunderstood or ignored.[183]

States must also engage in data collection, adopt national strategies, and ensure effective participation of WWD in decision-making processes. Yet, many state reports to the CESCR and other treaty bodies continue to lack disaggregated data on disability and gender, which hinders proper monitoring and accountability.[184] The failure to prioritise WWD in the design and delivery of socio-economic programmes perpetuates structural inequalities, undermining both the substantive equality and the transformative potential of socio-economic rights. Furthermore, meaningful participation of WWD in decision-making processes is not optional but essential. Ensuring that women with disabilities are actively involved in shaping laws and policies that affect them increases

[180] P Sinha, 'Disabled Women' in [Editor(s)] (eds), The Routledge Handbook of Exclusion, Inequality and Stigma in India (Routledge 2020) 238
[181] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, art 6.
[182] BM Meier et al, 'Accountability for the Human Right to Health through Treaty Monitoring: Human Rights Treaty Bodies and the Influence of Concluding Observations' (2017) 13 Global Public Health 1558.
[183] BK Matin et al, 'Barriers in Access to Healthcare for Women with Disabilities: A Systematic Review in Qualitative Studies' (2021) 21 *BMC Women's Health*.
[184]UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the United Kingdom (2016) UN Doc E/C.12/GBR/CO/6, para 11

both legitimacy and effectiveness. Without their participation, states risk perpetuating top-down approaches that ignore lived realities and reinforce patterns of exclusion. Progressive realisation, therefore, must be understood not only as the gradual fulfilment of rights but also as a continuing obligation to remove barriers and ensure that marginalised groups, such as WWD, are visible, empowered, and included at every stage of policymaking.[185]

In sum, the principle of progressive realisation should be interpreted in light of equality and non-discrimination, requiring that states take immediate and meaningful action to eliminate barriers and uphold the socio-economic rights of women with disabilities. This requires a dual approach: ensuring immediate compliance with non-discrimination obligations while demonstrating continuous, good-faith progress toward structural reforms. For WWD, this means immediate steps such as outlawing discrimination in employment and education, while progressively expanding inclusive infrastructure, training, and social support systems. States that fail to prioritise WWD in socio-economic programming not only perpetuate inequality but also undermine the transformative potential of socio-economic rights and the universality of the ICESCR.

In practice, however, the implementation of ICESCR obligations toward women with disabilities has often been undermined by vague policy commitments and insufficient institutional coordination. National development plans and social protection programmes regularly fail to incorporate disability- and gender-disaggregated indicators, rendering the socio-economic exclusion of women with disabilities statistically invisible. Moreover, courts in many jurisdictions remain reluctant to adjudicate socio-economic claims brought by women with disabilities, reinforcing the perception that such rights are aspirational rather than justiciable. This disconnect between treaty interpretation and domestic practice highlights the structural limitations of relying on textual guarantees alone to secure substantive socio-economic equality.

3.4 CEDAW and WWD

CEDAW, adopted by the United Nations General Assembly in 1979 and entering into force in 1981, constitutes the primary international legal instrument for the protection and promotion of women's rights. Often referred to as the international bill of rights for women, it outlines comprehensive measures that states must take to eliminate discrimination

[185] Food and Agriculture Organization of the United Nations and CARE, *Good Practices for Integrating Gender Equality and Women's Empowerment in Climate-Smart Agriculture Programmes* (2019).

against women in all forms and to ensure gender equality in both public and private spheres.[186] CEDAW obliges State Parties to modify social and cultural patterns, legal frameworks, and institutional practices that sustain gender-based inequalities. While the Convention is broad in its mandate, it also recognises the need to address intersectional forms of discrimination, including those faced by WWD.

3.4.1 Gender equality under CEDAW'S general framework

CEDAW establishes a comprehensive legal framework to eliminate discrimination against women, rooted in the principle of substantive equality rather than formal equality.[187] Formal equality presumes identical treatment under the law for men and women, whereas substantive equality considers the actual social and structural barriers that impede women's full participation.[188] Article 1 of CEDAW defines "discrimination against women" as any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women of their human rights and fundamental freedoms.[189] This definition is expansive, encompassing both direct and indirect forms of discrimination.

CEDAW places obligations on State Parties to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women. Under Article 2, states are required to incorporate the principle of equality into their national constitutions, adopt legislation prohibiting discrimination, establish legal protections through competent tribunals, and modify or abolish existing discriminatory laws, regulations, customs, and practices. Article 5 further obliges states to address socio-cultural stereotypes and traditional practices that perpetuate gender roles, recognising that genuine equality is impossible without changes in societal attitudes.

Additionally, CEDAW adopts a life-cycle approach to addressing gender discrimination by focusing on key areas, including education (Article 10), employment (Article 11), healthcare (Article 12), political and public life (Article 7), and the law (Article 15). This broad mandate acknowledges that gender inequality is a systemic issue requiring a multi-sectoral response. Furthermore, CEDAW emphasises the intersectional nature of

[186] D Roy, 'CEDAW and Gender Equality' (2022) 27 Journal of Humanities and Social Science 51
[187] M Campbell, 'CEDAW and Women's Intersecting Identities: A Pioneering New Approach to Intersectional Discrimination' (2015) 11 *Revista Direito GV* 479.
[188] J Resnik, 'Comparative (in)Equalities: CEDAW, the Jurisdiction of Gender, and the Heterogeneity of Transnational Law Production' (2012) 10 *International Journal of Constitutional Law* 531.
[189] FG Isa, 'Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)' in *Elgar Encyclopedia of Human Rights* (Edward Elgar Publishing 2022) 338.

discrimination, admitting that women are not a homogenous group and that factors such as race, class, age, and disability interact with gender to create unique forms of disadvantage.[190]

One of the significant strengths of CEDAW is its dual focus on de jure and de facto equality. It is not enough for states to adopt non-discriminatory laws; they must also ensure that women enjoy equality in practice.[191] This requires affirmative action and temporary special measures under Article 4(1), which are not considered discriminatory if they aim to accelerate de facto equality. Thus, CEDAW promotes a transformative agenda, moving beyond formalistic interpretations of equality to tackle structural barriers, power asymmetries, and social norms.

3.4.2 General Recommendation No. 18 on WWD

Recognising the limitations of a one-size-fits-all approach to women's rights, the CEDAW Committee issued General Recommendation No. 18 in 1991 to address the specific situation of WWD.[192] This Recommendation marks a significant moment in the international human rights discourse by explicitly acknowledging that WWD face multiple and intersecting forms of discrimination not adequately covered by the Convention's original provisions.[193]

General Recommendation No. 18 identifies that WWD often experience double discrimination on the grounds of gender and disability. They are particularly vulnerable to violence, sexual exploitation, and institutional neglect, and are frequently excluded from education, employment, health care, and political life.[194] The Recommendation highlighted that WWD are often treated as a homogenous group, without recognition of the diversity of their experiences across different cultural, social, and economic contexts.[195] For example, women with intellectual disabilities may be disproportionately subjected to involuntary sterilisation or institutionalisation. In contrast, those with physical

[190] MN Handl, SL Seck and P Simons, 'Gender and Intersectionality in Business and Human Rights Scholarship' (2022) 7 *Business and Human Rights Journal* 201.
[191] F Raday, 'Gender and Democratic Citizenship: The Impact of CEDAW' (2012) 10 *International Journal of Constitutional Law* 512.
[192] G de Beco, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2018) 68 *International and Comparative Law Quarterly* 141.
[193] Committee on the Elimination of Discrimination against Women, General Recommendation No 18: Disabled Women (1991)
[194] AM Sitorus, 'Disability and Social Exclusion in the Legal Process: Women as Victims of Sexual Violence' (2022) 21 Marwah: Jurnal Perempuan, Agama dan Jender 37
[195] A Gallagher and S Leckie, Economic, Social, and Cultural Rights (University of Pennsylvania Press 2011)

disabilities face systemic barriers in accessing maternal health care or employment opportunities.[196] By underscoring these realities, the Recommendation signalled an essential shift from abstract recognition of rights to the need for targeted action. It implicitly called on States to adopt a multidimensional approach that goes beyond legal reform to include the transformation of social attitudes, accessibility measures, and resource allocation.

The Recommendation calls on State Parties to include in their periodic reports to the CEDAW Committee information on the situation of WWD and the measures taken to eliminate discrimination against them.[197] The Recommendation anticipates a substantive equality model that requires active state intervention to dismantle compounded disadvantages. However, it has also been criticised for its limited legal force and lack of specificity, as General Recommendations serve as interpretive guidance and are not independently enforceable, unlike binding treaty provisions.[198] Moreover, General Recommendation No. 18 has been criticised for its brevity and for the absence of detailed strategies to mainstream disability rights across all CEDAW articles. This lack of detail has practical consequences: many states have responded to General Recommendation No. 18 merely by inserting brief references to WWD in their periodic reports, without implementing comprehensive reforms.[199] The absence of binding obligations has meant that key issues such as access to justice, sexual and reproductive health rights, and participation in political life remain under-addressed. It can be argued that the Recommendation failed to offer a roadmap for mainstreaming disability across the Convention's broader thematic areas, leaving much to the discretion of State Parties.

Despite these limitations, the Recommendation laid the necessary groundwork for future normative developments and fostered dialogue between the women's rights and disability rights movements. One of its most important contributions was to bring WWD's visibility within the CEDAW monitoring process, encouraging the Committee to pose more pointed

[196] J Fletcher and others, 'Centering Disability Visibility in Reproductive Health Care: Dismantling Barriers to Achieve Reproductive Equity' (2023) 19 Women's Health art 17455057231153745
[197] M Campbell, 'Women's Rights and the Convention on the Elimination of All Forms of Discrimination Against Women: Unlocking the Potential of the Optional Protocol' (2016) 34 *Nordic Journal of Human Rights* 247.
[198] M Bodig, 'Soft Law, Doctrinal Development, and the General Comments of the UN Committee on Economic, Social and Cultural Rights' in D Moya and L Ventura (eds), *Tracing the Roles of Soft Law in Human Rights* (Edward Elgar Publishing 2016) 69.
[199] S La Vecchia, 'The Protection of Women and Girls with Disabilities in Armed Conflict: Adopting a Gender-, Age- and Disability-Inclusive Approach to Select IHL Provisions' (2022) 105 International Review of the Red Cross 161

questions in state reviews and to highlight specific violations in its concluding observations.[200] Over time, this helped build momentum for the recognition of intersectional discrimination within the UN system more broadly. For instance, subsequent General Recommendations, such as General Recommendation No. 24 on women and health, and General Recommendation No. 35 on gender-based violence, make more explicit references to disability, reflecting an evolving sensitivity to intersectionality.[201]

It helped to broaden the CEDAW Committee's understanding of intersectionality and catalysed more focused attention on women with disabilities in subsequent General Recommendations and country reviews. In particular, the Recommendation encouraged collaboration between CEDAW and the drafters of the CRPD, who drew on this early articulation of multiple discrimination when crafting Article 6 of the CRPD. Thus, while General Recommendation No. 18 is often criticised for its brevity and limited prescriptive value, its symbolic and political significance should not be underestimated. It bridged the gap between two advocacy movements that had previously evolved in relative isolation, ensuring that WWD's concerns entered the mainstream of women's rights discourse. Its legacy is visible in the growing insistence by treaty-monitoring bodies that States address intersectional discrimination not as an optional issue but as a core human rights obligation.

3.4.3 CEDAW's Alignment and Divergence with the CRPD

The CRPD, adopted in 2006, builds upon the foundational work of CEDAW and explicitly integrates a gender perspective into the framework of disability rights. Article 6 of the CRPD is devoted to WWD and recognises that they are subject to multiple forms of discrimination. It obliges State Parties to take all appropriate measures to ensure the full development, advancement, and empowerment of women and girls with disabilities.

The CRPD and CEDAW are mutually reinforcing in their conceptualisation of equality, non-discrimination, and state obligation.[202] While CEDAW takes a gender-centric approach, the CRPD takes a disability-centric approach, and both converge in advocating

[200] R Kayess, T Sands and KR Fisher, 'International Power and Local Action – Implications for the Intersectionality of the Rights of Women with Disability' (2014) 73 Australian Journal of Public Administration 383

[201] T Deane, 'Gender-Based Violence in International Human Rights Law – the Efficacy of the United Nations Human Rights Legal Framework and CEDAW in Addressing the Issue' (2024) The Age of Human Rights Journal

[202] T Minkowitz, 'CRPD and Transformative Equality' (2017) 13 International Journal of Law in Context 77

for a rights-based, intersectional model that centres on dignity, autonomy, and equal participation.[203] Article 6 of the CRPD draws directly on the language and ethos of CEDAW, particularly the principles of substantive equality and temporary special measures.

One central point of alignment between the two treaties lies in their shared rejection of formal equality as sufficient. Both bodies demand that states move toward substantive equality by recognising historical disadvantages and taking active measures to dismantle systemic barriers. For instance, CEDAW calls for temporary special measures such as quotas or targeted programmes to increase women's participation in education and political life.[204] The CRPD mirrors this by requiring states to provide reasonable accommodation and adopt policies that promote the inclusion of persons with disabilities in mainstream society.[205] In practice, this dual emphasis strengthens the argument that states must adopt proactive, not merely reactive, strategies to promote equality. However, divergence arises in the degree of specificity: whereas CEDAW relies on broad principles and expects states to interpret them in context, the CRPD provides more concrete obligations, such as accessibility standards, inclusive education systems, and independent living arrangements. For WWD, this specificity makes the CRPD a potent instrument, as it translates general commitments into operational duties.

The intersection of CEDAW and the CRPD is particularly relevant for policy coherence and legal harmonisation. State Parties that have ratified both treaties are required to ensure that their domestic frameworks address the compounded discrimination faced by WWD.[206] This includes integrating gender-sensitive indicators in disability policies and ensuring that gender policies are inclusive of disability perspectives. Failure to harmonise can lead to contradictory or incomplete protections. For example, a state may adopt a gender equality law that promotes women's access to employment without providing reasonable accommodations for disabled women, thereby unintentionally excluding them. Conversely, a disability rights strategy may address accessibility but neglect

[203] S Mitchell and others, Gender Equality and Disability Inclusion: Guidelines to Address the Specific Needs of Women and Girls with Disabilities (Asian Development Bank 2024)
[204] U Lembke, 'Article 4' in The UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol (2022) 173
[205] JE Lord and MA Stein, 'Convention on the Rights of Persons with Disabilities (CRPD)' in Elgar Encyclopedia of Human Rights (Edward Elgar 2022) 347
[206] S Pecourt and S Quan, 'Protecting Women and Girls with Disabilities from Violence and Upholding Their Rights: Making It Work Methodology' in G Quinn and T Degener (eds), *Handbook of Disability* (2022) 1.

gender-based violence, leaving WWD without adequate protection.[207] The challenge for states, therefore, lies in creating an integrated legislative framework that bridges these gaps. Comparative experiences, such as the European Union's dual directives on gender equality and disability discrimination, illustrate both the opportunities and pitfalls of such harmonisation efforts.

There is, however, a risk of fragmentation and duplication in the absence of formal coordination mechanisms. While both treaties advocate for intersectional equality, they operate under different institutional mandates and reporting frameworks. A more integrated approach would enhance consistency and improve implementation outcomes. Joint General Recommendations or collaborative concluding observations during state reviews could serve as practical tools in this regard. Scholars have proposed establishing inter-committee working groups between CEDAW and the CRPD Committee to align interpretive practices and avoid conflicting jurisprudence. In practice, such coordination remains limited, though there are encouraging signs: recent CEDAW reviews have begun referencing the CRPD, and vice versa, highlighting cross-treaty synergies.[208] Nonetheless, without a formalised mechanism, states often approach reporting obligations in silos, producing parallel documents that do not reflect the lived experiences of WWD as simultaneously women and persons with disabilities. This institutional fragmentation risks diluting accountability, as governments can emphasise progress under one treaty while ignoring obligations under the other.

The monitoring mechanisms of the two treaties also diverge in ways that affect WWD. The CEDAW Committee has historically relied heavily on state reports and NGO shadow reports, but its focus has been on gender broadly rather than disability specifically.[209] By contrast, the CRPD Committee's mandate centres on disability, and it has developed stronger expertise in disability-related issues, though not always with a gender-sensitive lens.[210] This division of expertise underscores the need for joint interpretive work. Without it, WWD risks falling through the cracks, as each body assumes the other will provide adequate coverage. An integrated monitoring approach could require states to

[207] Namatovu F, Preet R and Goicolea I, 'Gender-Based Violence among People with Disabilities Is a Neglected Public Health Topic' (2018) 11 Global Health Action 1694758.
[208] SH Cleveland, 'Human Rights Connectivity and the Future of the Treaty Body System' (2024) Human Rights in Transition 150
[209] A Byrnes, 'The Committee on the Elimination of Discrimination Against Women' in The United Nations and Human Rights (2020) 393
[210] P Harpur and MA Stein, 'The Convention on the Rights of Persons with Disabilities as a Global Tipping Point for the Participation of Persons with Disabilities' in Oxford Research Encyclopedia of Politics (2017)

demonstrate not only how they implement each treaty in isolation but also how they ensure coherence between the two.

Practical examples highlight both successes and shortcomings in treaty alignment. In Latin America, several countries have adopted national disability strategies that explicitly reference gender equality principles, often drawing on both CEDAW and the CRPD.[211] These policies include measures such as inclusive reproductive health services, protection against gender-based violence, and targeted employment programmes for WWD. However, in many African and Asian states, treaty ratification has not translated into effective domestic implementation. Reports to both committees often mention WWD briefly, without evidence of systematic policy integration. This suggests that while the normative frameworks of CEDAW and the CRPD are mutually reinforcing, the gap between international obligation and national practice remains significant.

It is worth noting that the CRPD extends beyond CEDAW in articulating accessibility and autonomy, framing them as prerequisites for equality. Article 9 on accessibility and Article 19 on living independently and being included in the community establish obligations that CEDAW does not directly address. For WWD, these provisions are transformative, as they confront structural barriers that hinder participation in public and private life. CEDAW's silence on these matters reflects its historical context, whereas the CRPD's more modern drafting captures the realities of disability inclusion. Thus, while alignment between the treaties is crucial, divergence also offers opportunities. By filling gaps in each other's frameworks, CEDAW and the CRPD together provide a more comprehensive roadmap for advancing the rights of WWD.

3.4.4 Monitoring by The CEDAW Committee: Challenges and Progress

The monitoring of CEDAW's implementation is entrusted to the CEDAW Committee, composed of 23 independent experts. States parties are required to submit initial and periodic reports detailing the legal, policy, and institutional measures taken to fulfil their obligations under the Convention.[212] The Committee examines these reports, engages in constructive dialogue with government representatives, and issues Concluding Observations that highlight areas of concern and recommend improvements.

[211] Duc NH and others, 'A Systematic Review of Water Governance in Asian Countries: Challenges, Frameworks, and Pathways Toward Sustainable Development Goals' (2024) 8 Earth Systems and Environment 181.
[212] A Facio and MI Morgan, 'Equity or Equality for Women? Understanding CEDAW's Equality Principles' [2009] *SSRN Electronic Journal* https://doi.org/10.2139/ssrn.1435066 accessed 21 April 2025.

The intersectional concerns of WWD have often been marginalised in state reports and Committee reviews. Although General Recommendation No. 18 encourages states to include information on WWD, this is not uniformly practised.[213] A 2016 review of CEDAW reports revealed that references to disability were sparse and often superficial, focusing more on physical accessibility than on the broader social exclusion and rights violations faced by WWD.[214] This underlines the need for the Committee to adopt a more systematic approach to mainstreaming disability within its monitoring processes.

Despite these challenges, significant advances have been made. The CEDAW Committee has increasingly recognised the importance of intersectionality and issued more detailed observations on the situation of women with disabilities.[215] In some cases, it has directly criticised state practices that fail to accommodate the rights of WWD, particularly in areas such as reproductive rights, education, and access to justice. The Committee has also welcomed shadow reports and civil society submissions that offer critical insights into the lived experiences of women with disabilities.[216]

Another area of progress is the Optional Protocol to CEDAW, adopted in 1999, which enables individuals or groups of women to submit complaints directly to the Committee and allows the Committee to initiate inquiries into grave or systematic violations of women's rights.[217] Although the number of cases remains limited, the protocol enhances the Committee's quasi-judicial function and provides a vital avenue for redress, especially where domestic remedies are ineffective. In recent years, the CEDAW Committee has also sought to enhance transparency and engagement through technology, virtual sessions, and public access to state reports and concluding observations.[218] These

[213] EC Conroy, 'Aiming for Inclusive Sport: The Legal and Practical Implications of the United Nation's Disability Convention for Sport, Recreation and Leisure for People with Disabilities' (2016) 5 *Entertainment and Sports Law Journal* https://doi.org/10.16997/eslj.15 accessed 21 April 2025.
[214] I Renzulli, 'Discrimination and Gender Stereotypes in Judicial Decisions: The Jurisprudence of the European Court of Human Rights in Light of JL v Italy – a Retreat into the Shadows?' (2023) 41 *Netherlands Quarterly of Human Rights*155.
[215] M Campbell, 'CEDAW and Women's Intersecting Identities: A Pioneering New Approach to Intersectional Discrimination' (2015) 11 *Revista Direito GV* 479.
[216] H Liu, 'Effective Participation in the International Monitoring of the UNCRPD? The Experience of the Disability Movement from Three Case Studies in Europe' (2025) 27 *Scandinavian Journal of Disability Research*
[217] L Hodson, 'Women's Rights and the Periphery: CEDAW's Optional Protocol' (2014) 25 *European Journal of International Law* 561.
[218] B Rudolf, 'Freedom from Violence, Full Access to Resources, Equal Participation, and Empowerment: The Relevance of CEDAW for the Implementation of the SDGs' [2019] *Interdisciplinary Studies in Human Rights* 73.

measures have improved civil society participation and strengthened the accountability framework.

Nevertheless, to enhance the effectiveness of monitoring, several reforms are necessary. These include mandatory disaggregation of data by gender and disability, increased capacity-building for state reporting agencies, and enhanced coordination between treaty bodies. Moreover, the Committee should consider adopting a dedicated General Recommendation on WWD to build upon and expand General Recommendation No. 18. Such a Recommendation could provide comprehensive guidance on the application of all CEDAW articles to the context of disability, thus improving the coherence and impact of the monitoring process.

While CEDAW provides one of the most developed normative frameworks for addressing gender discrimination, its impact on women with disabilities has been constrained by uneven domestic uptake and limited enforcement mechanisms. In practice, many states treat disability as a peripheral issue within gender equality policies, resulting in implementation strategies that prioritise non-disabled women. Although the CEDAW Committee increasingly raises concerns relating to women with disabilities, its recommendations lack binding force, and follow-up mechanisms remain weak. Consequently, the protection afforded to women with disabilities often depends on political will rather than legal obligation. This gap between CEDAW's interpretive advances and domestic practice reinforces the need to evaluate international human rights instruments not solely by their normative sophistication, but by their capacity to generate sustained institutional change.

3.4.5 The Case of *R.P.B. v Philippines* (CEDAW Committee, 2014)

The case of CEDAW Committee in R.P.B. v Philippines constitutes a significant contribution concerning the protection of WWD under international law[219]. The case is notable for its explicit recognition of intersectional discrimination, where gender and disability combine to create compounded barriers to justice. R.P.B., a deaf woman who alleged that a neighbour raped her[220]. During the investigation and criminal proceedings, the Philippine authorities failed to provide R.P.B. with a qualified interpreter who met her needs. As a result, her testimony was found to be inconsistent and unreliable, leading to

[219] *R.P.B. v Philippines* (CEDAW Committee, Communication No 34/2011, 12 March 2014).
[220] ibid paras 2.1–2.3.

the acquittal of the accused[221]. After exhausting domestic remedies, R.P.B. brought a communication before the CEDAW Committee. The primary legal issue before the Committee was whether the State failed to provide procedural accommodation amounted to discrimination under the Convention on CEDAW. The Committee examined the case under Articles 1, 2, 5, and 15 of the Convention, emphasising that States are required to ensure substantive equality, not merely formal equality[222]. The Committee held that the Philippines had violated CEDAW by failing to ensure R.P.B.'s effective access to justice. It stressed that treating a deaf woman in the same manner as hearing complainants, without providing reasonable accommodation, constituted discrimination[223]. The absence of a sign language interpreter deprived the author of a meaningful opportunity to present her case and reinforced harmful stereotypes about the credibility of WWD.

Notably, the Committee acknowledged that R.P.B. experienced multiple and intersecting forms of discrimination based on both gender and disability.[224]This approach aligns with Article 6 of the CRPD, which recognises that women with disabilities face heightened risks of exclusion and abuse[225]. This case flags that establishing a procedural accommodation is an essential component of access to justice for disabled women. It reinforces the principle that equality before the law requires institutional adaptation to individual needs and affirms the centrality of dignity and participation in the protection of human rights.

3.5 CRPD and Intersectionality

The UN General Assembly is recognised for its crucial role in drafting and developing international treaties that protect and promote the rights of people with disabilities. The UN CRPD is one such international treaty, with Article 1 detailing its primary purpose. This convention aims to promote, ensure, and protect the equal enjoyment of freedom and all human rights for persons with disabilities, thereby respecting the inherent dignity of such individuals. Because CRPD is an international treaty, this provides rights for all disabled people across the member states to live independently, have access to extra

[221] ibid paras 2.6–2.8.
[222] Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.
[223] *R.P.B. v Philippines* (n 1) para 8.5.
[224] ibid para 8.7.
[225] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, art 6.

support, benefit from being involved in inclusive education and get protected from different kinds of abuse, exploitation and violence.[226].

This international treaty also places particular emphasis on WWD in Article 6, which guarantees women the full exercise of their rights and fundamental freedoms and prohibits all forms of discrimination against them. The different kinds of human rights that disabled people can experience are reported in this CRPD international treaty, such as equality, right to law, equality before the law, access to justice, individual security, freedom from Violence, respect for privacy, independent living, access to education, health, work, and employment.[227]. Furthermore, Articles 20 and 30 of the CRPD emphasise the importance of people with disabilities participating in political life, including voting procedures, access to secret ballots, and public life. Similarly, Article 30 of the CRPD emphasises the importance of people with disabilities participating in cultural life, sports activities, leisure activities, and recreation without any form of discrimination.

In addition to CEDAW and its focus on protecting women's rights, that is regarded as an international bill of women's rights, comprising 30 articles that outline a national action agenda to prevent discrimination against women. According to this treaty, discrimination refers to any distinction, restriction, or exclusion made based on gender, which creates an impact that biases the recognition, freedom, and rights enjoyed by women, without considering other factors such as marital status and physical condition.

The member states of the UN who accept and implement this convention are entitled to take several measures which could end all forms of discrimination against women by (a) promoting the principle of equality, (b) establishing public institutions for women's protection against discrimination, and (c) eliminating discrimination made by individuals or organisations against women. In addressing the importance of eliminating all forms of discrimination against women, CEDAW places particular emphasis on protecting women with disabilities from intersecting forms of discrimination that arise at the intersection of gender and disability[228]. Several comparative-legal studies confirm that the CRPD has

[226] G de Beco, 'The Right to Inclusive Education According to Article 24 of the UN Convention on the Rights of Persons with Disabilities: Background, Requirements and (Remaining) Questions' (2014) 32 *Netherlands Quarterly of Human Rights* 263.
[227] RM Duffy and BD Kelly, 'Incorporation of the United Nations' Convention on the Rights of Persons with Disabilities into Indian Law Through the Rights of Persons with Disabilities Act, 2016 and the Mental Healthcare Act, 2017' in BD Kelly (ed), *India's Mental Healthcare Act, 2017* (Springer 2020) 141.
[228] S Cusack and L Pusey, 'CEDAW and the Rights to Non-Discrimination and Equality' (2013) 14 Melbourne Journal of International Law 54

effected a paradigm shift in both international law and national policies. As Degener argues, the CRPD replaced the traditional 'medical model' with a human-rights framework[229]. Studies comparing European states demonstrate that after ratification, many countries adopted robust anti-discrimination and accessibility legislation[230]. Regional research uncovers inclusive education law in the Kingdom of Saudi Arabia, revealing how CRPD serves as a benchmark for legislative reform within Arab countries' legal systems[231].

A systematic review in mental health care settings across 22 countries also found shifts in research, policy, and service provision aligned with CRPD principles[232]. At the same time, 'discrimination' is defined in Article 2 of the CRPD as a kind of distinction and exclusion made based on disability, which has an impact on impairing the recognition and enjoyment of freedom and human rights across political, civil, economic, cultural, and social spheres. This implies that the CRPD international treaty involves all different kinds of discrimination that even includes the denial of any reasonable accommodation, where people with disabilities are not able to enjoy human rights and freedom on an equal basis with others. Because the CRPD avoids any vagueness in its articles, it can demonstrate the interlinkage among all the human rights specified in the ICESCR and ICCPR conventions.

Further, general principles which are covered in this CRPD convention not only make the member states avoid all forms of discrimination but can also promote people with disability experience all forms of human rights through respecting inherent dignity, full participation in society, accessibility, promoting equality, respecting children with disabilities, respecting differences, promoting equality in opportunities and

[229] T Degener, 'Disability in a Human Rights Context' (2016) 5 Laws 35 https://www.mdpi.com/2075-471X/5/3/35 accessed 10 December 2025
[230] M G Meekosha and others, 'Implementation of the UN Convention on the Rights of Persons with Disabilities: A Comparison of Four European Countries with Regards to Assistive Technologies' (2018) 10 Social Sciences 74 https://www.mdpi.com/2075-4698/10/4/74 accessed 10 December 2025
[231] A Al-Ghamdi, Developing Saudi Arabia's Disability Rights Legislation in Compliance with the UN Convention on the Rights of Persons with Disabilities in the Education System (2024) https://www.researchgate.net/publication/385656620_Developing_Saudi_Arabia%27s_disability_rights_legislation_in_compliance_with_the_United_Nations_convention_on_the_rights_of_persons_with_disabilities_in_education_system accessed 10 December 2025
[232] G Schomerus and others, 'Impact of the UN Convention on the Rights of Persons with Disabilities on Mental Health Care Research: A Systematic Review' (2016) BMC Psychiatry https://pubmed.ncbi.nlm.nih.gov/27387916/ accessed 10 December 2025

accessibility[233]. It is due to the CRPD international treaty that many countries, including the UK, the USA, and other European countries, can recognise the right of people with disabilities to live independently, remove barriers to ensure that they have access to equal pay and a decent level of working conditions. Also, CRPD has made the member states get people with disabilities involved in planning activities and have equal rights to justice through the provision of appropriate kind of legal advice, followed by incorporating CRPD into the domestic law of different countries to ensure that legal action is taken when any of these human rights are breached[234].

Further, OHCHR was involved in developing a mandate that ensures that all human rights of persons with disabilities, which include men, women, girls, and older adults, are both protected and promoted. This mandate highlights the key activities to be implemented by the UN-based Human Rights Office in ensuring that all people with disabilities enjoy all forms of human rights. These activities are raising awareness to understand and recognise disability as a human rights issue, encouraging state organisations to implement the Convention for Persons with Disabilities, promoting support for the human rights system, and advocating for the implementation of the SDGs that include people with disabilities. They also support states in implementing the UN-based Disability Inclusion Strategy.

The United Nations Human Rights Council has further strengthened the CRPD, by reinforcing the mutual alignment of the Sustainable Development Goals (SDGs) through the design and implementation of an SDG-CRPD-based resource package. Such resource packages are comprehensive in offering support, encompassing all the various actions undertaken for the SDGs, including those for persons with disabilities.[235] This resource package comprises several resources that support policymaking and resource monitoring activities, enabling the advancement of disability inclusion activities across the Sustainable Development Goals. The OHCHR mandate to protect and promote the human rights of persons with disabilities also emphasises the implementation of a disability inclusion strategy, which aims to provide a foundation for sustainable and

[233] *United Nations,Disability Inclusion Strategy (2006) https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf accessed 9 October 2022*

[234] N Drew and others, 'Human Rights Violations of People with Mental and Psychosocial Disabilities: An Unresolved Global Crisis' (2011) 378(9803) The Lancet 1664

[235] S Hameed and others, 'From Words to Actions: Systematic Review of Interventions to Promote Sexual and Reproductive Health of Persons with Disabilities in Low-and Middle-Income Countries' (2020) 5(10) BMJ Global Health e002903

transformative progress across all UN pillars.[236]. With system-wide policy, implementation modalities, and an accountability framework in this disability inclusion strategy, UN member states can ultimately realign human rights for all people with disabilities. The key elements of this strategy are strategic planning, management of the plan to empower people with disabilities, promotion of inclusive practices for people with disabilities, and a supportive organisational culture in the workplace.[237]

In addition to the CRPD and CEDAW, the United Nations Human Rights Office acknowledged the existence of nine other human rights treaties, also known as international-based human rights instruments, that include people with disabilities. These international human rights-related instruments include the International Convention to Eliminate Racial Discrimination (ICERD), Convention on the Rights of the Child (CRC), Convention Against Inhuman Treatment, Torture and Cruel (CAT) 1984[238].

The other international treaties related to persons with disabilities are the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) and the International Convention for the Protection of All Persons from Enforced Disappearance (2006). All these international treaties on human rights don't involve having an explicit kind of reference to disabled people in the articles. Still, the attention given to including persons with disabilities in working across all these treaty bodies has increased since the CRPD was adopted. In other words, even though all these international treaties on human rights don't have explicit specifications for persons with disabilities, all the recommendations and the general comments which are made by these treaties provide specific references to all people, like children and women with disabilities.[239]. As a result, the recommendations of these international human rights treaties require state parties to measure and ensure that people with disabilities can exercise and enjoy all fundamental rights on an equal basis.[240].

[236] S C Kuknor and S Bhattacharya, 'Inclusive Leadership: New Age Leadership to Foster Organizational Inclusion' (2020) European Journal of Training and Development
[237] A Ito, 'International Refugee Law and the Arab World' (2008) Al-Raida Journal 6
[238] MA Stein, 'Disability Human Rights' in MC Nussbaum (ed), Nussbaum and Law (Routledge 2017) 3
[239] F Mégret, 'The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?' in Shreya Atrey and Sandra Fredman (eds), Equality and Non-Discrimination under International Law (Routledge 2017) 269
[240] S Meszaros Marton, G Polk and Disability Rights Center Fiala, Convention on the Rights of Persons with Disabilities (United Nations 2013)

3.5.1 Equality and Non-Discrimination

Article 5 of CRPD emphasises the need for states parties to prohibit any discrimination based on disability and to guarantee that disabled people experience equality with proper legal protection. Therefore, this convention contributed to improving and enhancing the movement related to protecting the civil rights of individuals, especially WWD.[241] Although the ICESCR and ICCPR international covenants distinguish between economic, cultural, and social rights on the one hand, and civil and political rights on the other, the inclusion of human rights within the UN character does not involve differentiating social and political rights from the social and economic rights of individuals. This integration of all human rights strengthens the human rights movement and explicitly addresses the special needs of women, considering the disability status of women. However, in the integration process, many obstacles were identified, one of which is the greater acceptance of including only civil and political rights within peace agreements. This is because the economic and social rights of individuals have a comparatively reduced juridical status and are perceived to be incapable of immediate application because of their lack of precise content and because they are highly resource dependent. This situation results in differing perceptions of social policy and civil and political policy. The improper application of social policy is generally considered a form of social injustice, but not a violation of rights. This evaluation results in the conclusion that the economic and social rights of the individual tend to be non-justiciable, thereby making them unsuitable for judicial determination.[242] It is because of the fact that some international treaties in recent decades related to human rights, like CRC and CRPD, that the interdependency and interlinked nature of the human rights mentioned in the ICESCR and ICCPR covenants were identified. This helped to strengthen the human rights status of all individuals and gave explicit importance to WWD in protecting and promoting their human rights, promoting their equality and enabling them to avoid all forms of discrimination.

3.5.2 Women with Disabilities

Article 6 of CRPD has explicitly focused on protecting and promoting all the human rights of WWD and taking measures to ensure equal enjoyment of human rights without any discrimination. This article emphasises the role of States Parties explicitly in taking

[241] A Hendriks, 'UN Convention on the Rights of Persons with Disabilities' (2007) 14(3) European Journal of Health Law 273

[242] M Scheinin, 'Economic and Social Rights as Legal Rights' in Asbjørn Eide, Catarina Krause and Allan Rosas (eds), Economic, Social and Cultural Rights (Brill Nijhoff 2001) 29

appropriate measures to empower women, ensuring that all human rights and freedoms are exercised and enjoyed by WWD.[243] A person with intellectual, physical, sensory or mental disability is subject to discrimination and social inequality. However, WWD are further disadvantaged, not only because they are disabled but also because they are WWD. Gender and social status play a significant part in embedded cultural, religious and gender-biased societies, where social refusal and isolation hinder the measures of equality for WWD and girls. These barriers make women and girls with disabilities the victims of multiple forms of discrimination because they often lack the opportunities available to the mainstream population. This makes them the most marginalised group in society, with their core problem being the invisibility of people with disabilities within society and the legal framework. The system of fundamental freedoms is either not applied or is applied differently to people with disabilities. Disability is a natural part of the human experience that should not diminish the rights of individuals with developmental disabilities to enjoy opportunities for independent living, make choices, contribute to society, and have access to their civil, political, economic, and social rights. However, societies neglect the fact that there have always been people with disabilities in the world, and there always will be[244]. Therefore, society is obliged to respect people with disabilities (PWD) and allow them to exercise their natural rights to the same extent as non-disabled people. The principle of human rights is closely related to that of natural rights. Some see no difference between the two and regard both as labels for the same thing. Others choose to keep the terms separate to eliminate associations with features traditionally associated with natural rights. Natural rights are considered beyond the authority of any government or international body. The UDHR is an essential legal instrument that plays a significant role in enshrining one conception of natural rights into international soft law. However, the primary task of the global human rights system is to raise awareness of the discrepancy between societies' self-proclaimed values and their actual application (or, rather, non-application or misapplication) in the context of disability.[245]

[243] United Nations, CEDAW (2022) https://www.un.org/womenwatch/daw/cedaw/cedaw.htm accessed 9 October 2022
[244] K Snow, *Disability is Natural: Revolutionary Common Sense for Raising Successful Children with Disabilities*(BraveHeart Press 2001)
[245] G Quinn and T Degener, *Human Rights and Disability: The Current Use and Future Potential of the United Nations Human Rights Instruments in the Context of Disability* (with Anna Bruce, Christine Burke, Joshua Castellino, Padraic Kenna, Ursula Kilkelly, and Shivaun Quinlivan, United Nations 2002).

3.5.3 Equal Recognition Before the Law

The legal definition of disabled people differs in different parts of the world, and the role of CRPD marks a significant step towards recognising their rights. In the preamble (D) of the CRPD, several covenants are recalled. Article 12 of the CRPD addresses a critical issue that marks a turning point in advancing the rights of PWD. However, the debate on Article. 12 has been and continues to be controversial in different countries and civil society organisations, especially organisations of persons with disabilities. It did not distinguish between types of disability, and most of the Arab countries, Russia, China and a few other countries have expressed their reservations about the text of this article because persons with psychological and intellectual disabilities are not eligible for performance eligibility. The reservation explained different interpretations of what is referred to in the Arabic, Russian, and Chinese languages as the 'capacity of obligation, not the capacity of performance'. Conversely, to ensure equal access to opportunities, the interpretation of legal capacity requires changes to national law regarding the basic typologies of capacity. Article 12(2) of the CRPD states that parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis. However, the rights of people with disabilities in this matter are easily violated because of the way legal capacity is interpreted and applied under the law. An individual may be denied the right to make decisions about their own life when a court declares them legally incapacitated and, in the case of intellectual or psychosocial disabilities, appoints a guardian. This process often overrides personal autonomy and reinforces dependency, limiting participation in society on an equal basis with others.

Both civil law and common law jurisdictions approach capacity from the starting point of presumed competence; individuals are considered to have legal capacity unless proven otherwise.[246] For instance, Germany applies a nuanced approach in which the court determines the extent of an individual's incapacity. This can be issue-specific: a person may be deemed incapable only in financial or personal matters, and such a determination must be publicly known to protect the individual from invalid transactions.[247] In contrast, the common law tradition emphasises the decision-making process itself, asking whether the person has the mental capacity to make a specific decision at a specific time, without

[246] P Bartlett, 'The United Nations Convention on the Rights of Persons with Disabilities and Mental Health Law' (2012) 75 Modern Law Review 752.
[247] T Degener, 'Disability in a Human Rights Context' (2016) 5(3) Laws 35, 41; see also § 1896 of the Bürgerliches Gesetzbuch (German Civil Code).

a general court declaration of incapacity.[248] Here too, a person may retain capacity in some domains (e.g., financial) while lacking it in others (e.g., healthcare or personal relationships).

When applying a gender lens to these legal frameworks, it becomes clear that women and gender-diverse persons with disabilities often face compounded discrimination.[249] Stereotypes about women's vulnerability and the assumption that they need protection can lead to quicker or more severe declarations of incapacity. This has particularly serious consequences in areas such as reproductive rights, parenting, healthcare consent, and freedom from gender-based violence.[250] Women with intellectual disabilities, for example, may be more likely to be subjected to forced medical treatments or denied the right to make decisions about their bodies and relationships. [251]Thus, while civil and common law systems strive for fairness through the presumption of capacity, both can perpetuate systemic inequities if gendered assumptions and ableist biases are not explicitly addressed. Legal reforms must incorporate intersectional approaches that recognise how gender and disability interact to undermine autonomy and reinforce exclusion[252].

3.5.4 The case of *Çam v Turkey*

The case of *Çam v. Turkey illustrates the intersection of disability and gender in access to education,* with reasoning informed by the CRPD.[253] The applicant, Ms Çam a blind woman who passed the entrance examination for a state music academy in Turkey[254]. Despite her academic success, the academy refused her admission, asserting that her blindness prevented her from completing the program. No individual assessment or reasonable accommodations were offered. The key legal issue was whether this refusal violated the applicant's rights under Article 14 ECHR (prohibition of discrimination) taken together with Article 2 of Protocol No. 1 (right to education)[255]. Although the case did not

[248] Mental Capacity Act 2005 (England and Wales) ss 1–3.
[249] E Flynn, *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities* (Ashgate 2015) ch 5.
[250] UN Human Rights Council, *Sexual and Reproductive Health and Rights of Girls and Young Women with Disabilities*, UN Doc A/HRC/47/25 (2021).
[251] Committee on the Elimination of Discrimination against Women and Committee on the Rights of Persons with Disabilities, *Joint Statement on Guaranteeing Sexual and Reproductive Health and Rights of Women and Girls with Disabilities* (29 August 2018)
[252] A Arstein-Kerslake and E Flynn, 'The General Comment on Article 12 of the Convention on the Rights of Persons with Disabilities: A Roadmap for Equality before the Law' (2016) 20(1) The International Journal of Human Rights 6
[253] *Çam v Turkey* App No 51500/08 (ECtHR, 1 March 2016)
[254] bid paras 2–4
[255] ibid paras 44–46

arise directly under the CRPD, the European Court of Human Rights explicitly referenced CRPD principles, including reasonable accommodation and substantive equality, in interpreting Turkey's obligations.[256].

The Court found that Turkey had violated Article 14, in conjunction with Article 2 of Protocol No. 1. It held that excluding Ms Çam without assessing her individual abilities constituted discrimination on the ground of disability.[257]. Equal treatment without accommodation was insufficient because it ignored the practical barriers she faced as a blind woman. The Court emphasised that States have a positive obligation to remove structural and procedural barriers that prevent persons with disabilities from enjoying their rights.[258].

This judgment is significant for several reasons. First, it demonstrates that regional courts in Middle Eastern jurisdictions can apply CRPD-aligned reasoning even when the CRPD is not directly enforceable domestically. Second, it strengthens protections for disabled women's access to education, challenges stereotypes about their capabilities, and promotes inclusion. Third, it underscores the principle that substantive equality requires tailored measures to ensure effective participation, aligning with the CRPD's focus on autonomy, dignity, and non-discrimination.[259].

3.6 Regional Human Rights systems and the protection of WWD

Across European Union member states, nearly 87 million is the number of people with disability that are not able to have similar chances in life as others[260]. Some of the challenges related to addressing discrimination against people with disabilities are that a comparatively smaller number of people are being employed, and 52 % of disabled people develop feelings of discrimination. The inclusion of disabled people in the protection against discrimination, as outlined in the European Convention on Human Rights (ECHR), a fundamental legal document in the field of human rights, explicitly protects the rights and freedoms of every person, including those with disabilities, without any form of discrimination[261], a substantial step towards promoting equality and inclusivity

[256] ibid paras 46–48
[257] ibid paras 48-50
[258] ibid paras 49-50
[259] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, arts 2, 6, 24.
[260] European Commission, *Persons with Disabilities* (2022) https://epr.eu/wp-content/uploads/Analytical-Paper-on-Women-with-Disabilities-2.pdf accessed 7 October 2022.
[261] S Favalli, 'The European Convention on Human Rights and Disability' in L Waddington and A Lawson (eds), *Research Handbook on EU Disability Law* (Edward Elgar 2020).

in European society. Particularly for WWD to ensure their equal participation and enjoyment of rights across numerous areas of life.

The core principle of the ECHR is non-discrimination, which is explicitly stated in Article 14. This article prohibits discrimination based on various grounds, including sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status. This rule serves as an effective instrument in addressing the complex prejudice experienced by WWD, and the ECHR offers a legal framework that promotes inclusion and respect for the intrinsic dignity and value of every individual, regardless of their talents or limitations, by specifically acknowledging disability as a protected status against discrimination.

In addition, the ECHR not only safeguards WWD against direct discrimination but also guarantees them the essential accommodations and assistance necessary for their full and effective participation in society. The ECHR has consistently upheld the obligation of states to take affirmative actions to address the specific needs and challenges of WWD. This duty is derived from the interpretation of Article 14, along with other substantive rights such as the right to education (Article 2 of Protocol 1) and the right to private and family life (Article 8). This encompasses ensuring access to comprehensive education, medical care, employment opportunities, and the freedom to reside autonomously within the community. Furthermore, the ECHR serves as a driving force for enacting and implementing legislative and policy changes aimed at advancing the rights of women with impairments throughout Europe. Member nations are obligated to conform their domestic laws and practices to the provisions outlined in the Convention. necessary proactive steps are required to remove obstacles and preconceptions that continue to promote discrimination against WWD, to create a more inclusive and equitable society for everyone.

Additionally, the monitoring mechanism of the ECHR, which comprises the European Committee of Social Rights and the Council of Europe's Commissioner for Human Rights, plays a vital role in ensuring that governments fulfil their responsibilities towards WWD and are held responsible for any shortcomings[262]. These authorities assess how

[262] M Smusz-Kulesza, 'The Right to Housing in the Light of the European Social Charter' (2023) I *Nieruchomości* 123.

effectively the ECHR is being implemented and provide recommendations for enhancing the protection of the rights of WWD through regular reports and visits to various countries.

Ultimately, the European Convention on Human Rights serves as a fundamental basis for safeguarding the rights of WWD throughout Europe. The ECHR establishes a legal framework that supports the intrinsic dignity and value of every person, regardless of their skills or limitations, by prohibiting disability-based discrimination and requiring states to implement proactive measures to promote equality and inclusion. The ECHR, through its provisions, jurisprudence, and monitoring procedures, effectively combats discrimination and promotes the full and active participation of women in all areas of society.

3.7 The Arab Charter on Human Rights and Related Instruments

Regional accords, like the Arab Charter, are essential for addressing the rights and empowerment of marginalised populations, such as women with disabilities.[263] Nevertheless, the efficacy of these accords is sometimes questioned due to gaps in implementation and inadequate enforcement mechanisms. Upon analysing the sections of the Arab Charter that concern WWD, it becomes evident that although there are commendable attempts to address their rights, substantial obstacles remain.

In the Arab countries, disability is considered a significant vulnerability. The general condition of PWD in Arab societies is invisibility; in particular, persons with intellectual, developmental, or psychosocial disabilities are considered a source of shame and a burden to their families, however, none more so than WWD.[264]. The presence of an international development-based agenda consisting of rights to promote and protect the inclusion of disabled people and the Arab charter on human rights has given explicit specifications to people with physical or mental disabilities in having the right to enjoy freedom and different rights irrespective of gender, language, and religious beliefs.[265].

Articles 3 to 34 of the Arab Charter emphasise that WWD has the right to work with a high degree of equality, free from discrimination based on gender, language, race, or religion. In addition to the Arab Charter, other national policy frameworks exist, including the Jordanian, Palestinian, Sudanese, and Moroccan policy frameworks. For example, Morocco's policy framework enabled the integration of a national health and disability

[263] H Elhoweris and E Efthymiou, 'Inclusive and Special Education in the Middle East' [2020] *Oxford Research Encyclopedia of Education*.
[264] T Al-Thani, '[Title not provided]' (2006) 3 *Journal for Disability and International Development* 4.
[265] Arab Charter on Human Rights (2004) https://endcorporalpunishment.org/human-rights-law/regional-human-rights-instruments/arab-charter-on-human-rights/ accessed 17 October 2022.

strategy with a national action plan for implementing a strategy that embeds disability services, accessible to members of the national strategy committee.

Furthermore, Article 5 of the Arab Charter specifically emphasises the entitlement to healthcare for those with impairments, including women. Although this provision emphasises the need to guarantee equal access to healthcare services, the situation frequently fails to meet this expectation.[266]. WWD in Lebanon encounter difficulties in obtaining reproductive healthcare services as a result of physical and attitudinal obstacles. Furthermore, Article 6 of the Arab Charter explicitly emphasises the entitlement of those with disabilities to engage in employment on a fair and equitable footing with their peers.[267] However, WWD in the Arab countries face substantial obstacles in obtaining employment and participating in the labour market.

Studies explain that WWD in Saudi Arabia experience discrimination in both recruiting procedures and job conditions, which restricts their economic autonomy and worsens their social marginalisation.[268] Despite efforts through initiatives such as the National Transformation Programme and Vision 2030 to promote inclusivity and diversity in the workforce, women continue to face significant marginalisation in the labour market. Article 8 of the Arab Charter emphasises the entitlements of individuals with disabilities to participate actively in all aspects of political, social, economic, and cultural life. Nevertheless, even with this provision in place, WWD still encounter obstacles when exercising their rights. An illustrative example is the prevailing circumstances in Egypt, where WWD face numerous barriers to obtaining education and employment, thereby hindering their full participation in society.[269]

Moreover, Article 10 of the Arab Charter specifically highlights the entitlement of those with disabilities to equal access to justice, just like any other person. Nevertheless, the court system in several Arab nations persistently neglects the distinct requirements and experiences of WWD, consequently prolonging their susceptibility to prejudice and

[266] M Rishmawi, 'The Revised Arab Charter on Human Rights: A Step Forward?' (2005) 5 *Human Rights Law Review* 361.
[267] ML Serra, M del C Barranco Avilés, P Cuenca Gómez, R de Asís Roig and P Rodríguez del Pozo, 'The Legal Recognition of the Human Rights Situation of Women with Disabilities in the State of Qatar' (2017) *The Age of Human Rights Journal*9 105–115.
[268] DJ Peter, S Alem and B Knabe, 'Reassessing Cultural Capital: Access to Employment for Women with Disabilities in Saudi Arabia' (2018) 37 *Equality, Diversity and Inclusion: An International Journal* 265.
[269] RE Morwane, S Dada and J Bornman, 'Barriers to and Facilitators of Employment of Persons with Disabilities in Low- and Middle-Income Countries: A Scoping Review' (2021) 10 *African Journal of Disability* a833.

mistreatment.[270] WWD in Jordan frequently face challenges in obtaining legal assistance and in understanding the intricacies of the legal system.[271] Although several measures have been taken to improve accessibility, such as the creation of dedicated courts and the provision of support services, numerous WWD continue to encounter systemic obstacles that impede their ability to get justice.

The Economic and Social Commission for Western Asia (ESCWA) is a specialised agency that consistently monitors the prevalence of disability across the Arab countries, enabling improvements. According to Saad [272]The prevalence rate of disability across the Arab countries is comparatively low at 0.2 % in Qatar, while Mauritania has 1 %. In Sudan, the prevalence is 4.8%, whereas in Morocco it is 5.1%. At the same time, ESCWA reported a higher prevalence of visibility among men than among women.[273].

The state parties to the Arab Charter are required to implement measures, such as health programs, educational activities, and awareness-raising initiatives, to combat disability. At the same time, paragraph 1 in Article 3 of the Arab Charter explicitly indicates that across Arab countries, any discrimination based on disabilities is wholly avoided. At the same time, paragraph 3 of Article 3 emphasises the need to ensure equality between women and men in exercising their human rights and dignity, based on Islamic Shari'ah principles that favour women. Regarding promoting individuals' cultural, economic, and social rights, Article 40 emphasises ensuring that people with mental/physical disabilities experience equal rights. In contrast, paragraph 2 of Article 33 prohibits violence against women across the Arab countries.[274].

The Arab Charter has given high importance to protecting and promoting the rights of women, irrespective of their age, occupation, marital status, social status, and the presence of disabilities. As Article 43 points out, it greatly emphasises 'the rights of women; not to be interpreted, constructed as impairing of freedoms, rights protected by domestic laws are by those set within regional and international level human rights

[270] A Almutawa and K Magliveras, 'Enforcing Women's Rights under the Arab Charter on Human Rights 2004' (2020) 25 *The International Journal of Human Rights* 1258.
[271] S Nawafleh, 'Levels of Discriminatory Practices and Behaviours towards Employees with Disabilities in the Jordanian Public Sector: An Exploratory Analytical Study' (2023) 32 *International Journal of Organizational Analysis* 581.
[272] Mourad Ali Eissa Saad and Beata Borowska-Beszta, 'Disability in the Arab World: A Comparative Analysis within Culture' (2019) 8(2) *Psycho-Educational Research Reviews* 29.
[273] ibid.
[274] Corina Gui, *The Arab Charter on Human Rights* (2021) https://unipd-centrodirittiumani.it/en/schede/The-Arab-Charter-on-Human-Rights/296 accessed 8 October 2022.

instruments'[275]. In the same way, different articles like Article 42 and Article 43 specify prohibitions made on all kinds of abuse and violence against women in the Arab countries to protect and promote their civil, social, economic, and political rights of the women.

WWD are given special attention in this charter, ensuring that extraordinary measures are taken to provide decent treatment. The right to participate in public life is also assured through high levels of integration into educational and employment activities. In addition to the Arab Charter, various laws in Arab countries protect women's rights, including Islamic law, which is grounded in established principles. Islamic law requires the countries in the Arab countries to treat men and women similarly without any discrimination against women based on any physical, psychological, mental or emotional aspects of the women, which even includes their disability.[276].

Considering these difficulties, it is clear that, although the Arab Charter outlines crucial concepts and rights for WWD, substantial deficiencies remain in its implementation and enforcement. The gaps lie between governments, civil society organisations, and international actors, as they should work together to ensure that the rights of WWD are ultimately realised. This encompasses strengthening legislative frameworks, improving accessible measures, advocating for inclusive policies, and increasing awareness of the rights and obligations of WWD. The rights and empowerment of WWD in the Arab countries can only be advanced by implementing comprehensive and coordinated measures that align with the principles of the Arab Charter and international human rights norms.

3.8 Monitoring Mechanisms and Implementation Practice

UN Resolutions and the thematic reports of Special Rapporteurs have increasingly acknowledged the particular vulnerabilities faced by WWD. However, despite this growing recognition, critical analysis reveals that attention remains fragmented, largely rhetorical, and insufficiently action-oriented. UN General Assembly and Human Rights Council resolutions often reference WWD as part of broader vulnerable groups but rarely articulate distinct policy pathways or implementation strategies tailored to their lived realities.[277]

[275] Dinah Shelton and Paolo G Carozza, *Regional Protection of Human Rights*, vol 1 (Oxford University Press 2013).
[276] Mao and Gady (n 1).
[277] T Degener, '10 Years of Convention on the Rights of Persons with Disabilities' (2017) 35 Netherlands Quarterly of Human Rights 152

General Assembly resolutions on the rights of women or persons with disabilities, for example, tend to adopt inclusive language by referencing multiple and intersecting forms of discrimination.[278] Yet these acknowledgements are often brief and generalised. Rather than adopting dedicated resolutions that centre WWD, the issue is frequently relegated to a clause within broader documents, reflecting a persistent marginalisation even within multilateral human rights discourse. The consequence is a normative framework that recognises intersectionality in theory but lacks operational coherence in practice.

Reports by Special Rapporteurs offer more nuanced insights but similarly struggle to follow through. The Special Rapporteur on the rights of persons with disabilities has made notable contributions in highlighting how structural violence, institutionalisation, and restricted legal capacity disproportionately affect WWD.[279] For instance, in her 2016 thematic report to the Human Rights Council, the Rapporteur underscored how gender-based violence, denial of reproductive autonomy, and forced sterilisation are widespread and often occur with impunity.[280] Yet, while the report made progressive recommendations, including deinstitutionalisation and the establishment of gender-sensitive support services, it stopped short of interrogating the failure of member states to act on earlier commitments.

Likewise, the Special Rapporteur on violence against women and girls has issued reports that detail the exclusion of WWD from mainstream gender-based violence interventions.[281] Another concern is that while these reports often call for disaggregated data and inclusive policymaking, they rarely evaluate the systemic neglect in national reporting and international accountability processes. Member states continue to report on gender or disability separately, undermining the potential of intersectional monitoring. Additionally, while Special Rapporteurs frequently engage with civil society, WWD are underrepresented in consultation processes and international forums, raising questions about the inclusiveness of the reporting methodology itself.

[278] M Paré, 'The Convention on the Rights of Persons with Disabilities: Its Contribution to the Development of International Human Rights Law' (2019) 11 REVISTA ESMAT 209
[279] J Fiala Butora, 'The Influence of the Convention on the Rights of Persons with Disabilities on the European Court of Human Rights in the Area of Mental Health Law: Divergence and Unexplored Potential' (2024) 94 International Journal of Law and Psychiatry 101965
[280] S Dauer, 'Human Rights Responses to Violence against Women' [2019] International Human Rights 1
[281] R Mykitiuk and E Chadha, 'Women with Disabilities' in V Della Fina, R Cera and G Palmisano (eds), The UN Convention on the Rights of Persons with Disabilities: A Commentary (Springer 2018) 171

In essence, although UN Resolutions and Special Rapporteurs' reports acknowledge the unique discrimination faced by WWD, their influence is curtailed by non-binding language, lack of enforcement mechanisms, and repeated reliance on aspirational rhetoric. The challenge moving forward is not merely the inclusion of language, but structural reform in practice—something the current UN apparatus, as it stands, has yet to deliver with conviction or accountability.

3.9 Regional Enforcement and Reporting Mechanisms

People with disabilities are amongst the most marginalised in the world, with over 650 million people that live with a disability worldwide, 80 per cent in developing countries. One in five women worldwide is excluded from fully participating in social, family, and work life. They face barriers when accessing education, work, health care, and information due to their disability and gender.[282]. These inequalities are compounded by violations of dignity through violence, abuse and prejudice, and denial of their autonomy. Accordingly, the imperative for global law on this issue is vital, and the adoption of anti-discrimination laws worldwide to protect the rights of WWD is strongly recommended to make significant progress in this area. To come to the point, discrimination against WWD is not only an issue in Qatar but rather a global issue that persists.

Herby, this research presents a few examples of regional agreements and their implementation; for instance, the African Charter on Human and Peoples' Rights (Banjul Charter)[283] contains general provisions stipulating the equality of all persons, including women. Article 18 of the Banjul Charter addresses the obligations of states to eliminate discrimination and to ensure the protection of the rights of women and girls. Article 28 requires respect for others without prejudice. The Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights was adopted in 2003 and entered into force in 2005. Article 23 thereof specifically protects WWD, guarantees them the right not to be subjected to violence and discrimination, and imposes duties on the state, including treating them with dignity.

In practice, however, monitoring and enforcement mechanisms under the African system have often been criticised for their weak implementation. The African Commission on Human and Peoples' Rights is mandated to examine periodic reports submitted by States.

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[282] World Bank and World Health Organization, World Report on Disability (World Health Organization 2011)

[283] Organization of African Unity (OAU), African Charter on Human and Peoples' Rights (Banjul Charter) (adopted 27 June 1981)

Yet, delays in submissions and the lack of effective sanctions limit its capacity to ensure compliance.[284] Civil society organisations and disability rights groups have played an increasing role in bringing communications before the Commission, thereby highlighting state failures and advocating for accountability. The African Court on Human and Peoples' Rights also provides a complementary avenue for redress. Still, its accessibility is limited, as only a few states have made the declaration, allowing individuals and NGOs to bring cases directly.[285] Nonetheless, despite these gaps, the African regional framework remains an important reference point for promoting non-discrimination and, in particular, for raising the visibility of WWD. These mechanisms illustrate how formal legal guarantees must be matched with effective enforcement and grassroots mobilisation to ensure real change.

As for Europe, the European Council and the European Union have their own scheme for human rights instruments. The European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in 1953, is the leading European human rights convention. Several additional protocols have reinforced their substantive and procedural provisions. In 2007, the European Parliament adopted a resolution INI 2277/2006 on the human rights of persons with disabilities. The European Council has not adopted specific human rights instruments for persons with disabilities. Still, the European Social Charter, Article[286], explicitly refers to them as a group that should enjoy human rights. The concept of human rights and disability was revised.

Article 15, as revised in 1996, was adopted, guaranteeing the rights of persons with disabilities to independence, social integration, and participation in community life. The convention recently adopted by the European Council on preventing and combating violence against women and domestic violence provides for measures to protect the rights of victims without discrimination on any grounds, including disability. The Convention prohibits performing an abortion on a woman without her prior and informed consent or performing surgery whose purpose or result is to end a woman's ability to have children naturally if this is done without her prior and informed consent or understanding of the process.

[284] C Okoloise, 'Circumventing Obstacles to the Implementation of Recommendations by the African Commission on Human and Peoples' Rights' (2018) 18 African Human Rights Law Journal
[285] N S Tambasi and C G Miano, 'Reflections on Direct Access to the African Court on Human and Peoples' Rights: A Cul de Sac?' (2021) 6 Strathmore Law Review 103
[286] Council of Europe, European Social Charter (Revised) (adopted 3 May 1996) ETS 163

The enforcement of disability rights within Europe often relies heavily on the case law of the European Court of Human Rights. While the Convention itself does not expressly mention disability, the Court has progressively interpreted provisions such as Article 8 (right to private and family life), Article 14 (non-discrimination), and Article 3 (prohibition of inhuman or degrading treatment) to cover situations involving persons with disabilities, including women with disabilities. The ECtHR has recognised that states have a positive obligation to adopt reasonable accommodations and to protect vulnerable groups from ill-treatment, neglect, and institutional discrimination.[287] The monitoring of the European Social Charter by the European Committee of Social Rights also provides a quasi-judicial mechanism through which collective complaints can be lodged by trade unions or NGOs, making it an essential avenue for WWD's advocacy.[288] Nonetheless, critics point out that compliance with these decisions remains uneven, since enforcement depends on political will at the national level. In recent years, the European Disability Strategy (2010–2020 and its successor, 2021–2030) has complemented these legal mechanisms by setting out policy objectives for accessibility, participation, and equality.[289] These strategies, although not legally binding, demonstrate the EU's commitment to strengthening mainstreaming of disability rights and addressing the intersectional discrimination faced by WWD.

In Asia, the Economic and Social Commission for Asia and the Pacific proclaimed, in 1992, the Asia and the Pacific Decade of Disabled Persons (1993-2002)[290]. This initiative aims to promote the human rights of persons with disabilities in the region. In 2002, the contract was extended for an additional 10 years (2003-2012) to continue consolidating the gains made up to that point. Building on this momentum, the region adopted the Biwako Millennium Framework for Action (2003–2012), which sought to provide a more concrete and time-bound set of targets for advancing disability rights.[291] The Biwako Framework specifically recognised the gender dimensions of disability, calling on states

[287] J Fiala Butora, MA Stein and MS Smith, 'Disability Human Rights Standards before the European Court of Human Rights—False Convergence and Methodologically-Driven Divergence?' (2025) 25 Human Rights Law Review
[288] N Papadopoulos, 'Assessing the Effectiveness of the European Social Charter: A Case Study on Dismissal Reforms' (2022) 7 European Papers 1569
[289] S Sabato, D Ghailani and S Spasova, Social Policy in the European Union: State of Play 2024 Social Europe amidst the Security and Competitiveness Paradigms (European Trade Union Institute 2025)
[290] United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), Asian and Pacific Decade of Disabled Persons, 1993–2002: The Starting Point
[291] P Chowdhury, 'The Right to Inclusive Education of Persons with Disabilities: The Policy and Practice Implications' (2011) 1 Asia Pacific Journal on Human Rights 1

to address the double discrimination faced by women with disabilities.[292] It emphasised access to education, employment, and health services, while also stressing the need for WWD leadership roles in policymaking processes. Despite ambitious goals, progress across the region was uneven: some countries implemented comprehensive disability legislation, whereas others lagged due to resource constraints and a lack of political prioritisation. The adoption of the Incheon Strategy to "Make the Right Real" for Persons with Disabilities in Asia and the Pacific (2013–2022) represented the next step in this trajectory.[293] This strategy established 10 measurable goals, including poverty reduction, expanded social protection, and accessible environments, thus placing the rights of WWD firmly within the broader sustainable development agenda.

Another critical aspect of regional enforcement in Asia is the role of peer review and monitoring through the United Nations Economic and Social Commission for Asia and the Pacific.[294] States were encouraged to submit progress reports, and civil society organisations, including those led by WWD, became instrumental in documenting violations and advocating for stronger accountability. While enforcement mechanisms remain relatively weak compared with those of European or Inter-American systems, the participatory model of Asian initiatives has helped amplify the voices of marginalised groups. Furthermore, the alignment of these regional strategies with the global CRPD has created opportunities for harmonisation, enabling WWD in Asia to benefit from both international and regional monitoring. Ultimately, the Asian experience demonstrates the importance of incremental institution-building and the need for continuous renewal of commitments, given the scale of diversity and disparity in the region.

In the United States of America, two key instruments in this field are the 1948 American Declaration of the Rights and Duties of Man and the 1969 American Convention on Human Rights. The additional protocol to the American Convention on Human Rights, adopted in 1988, focuses on the rights and cultural aspects of these countries. It includes the right to social security as a measure of protection against the consequences of

[292] *Preferential Contracting for Persons with Disabilities: Approaches to Improving Employment Opportunities and Outcomes for Persons with Disabilities and Disability Inclusion in Business Practices, vol 6 (Social Development Division 2022)*
[293] S Habibullah et al, 'The UN Incheon Strategy Implementation and the Pakistani Quagmire; Ground Realities' (2022) 71 Journal of the Pakistan Medical Association
[294] H Jongen, 'The Authority of Peer Reviews among States in the Global Governance of Corruption' (2018) 25 Review of International Political Economy 909

advancing age and disability, which prevent a person from securing the means to maintain a decent standard of living.

Beyond these foundational instruments, the Inter-American system has developed a substantial body of case law through the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights. While not all cases concern disability directly, the principles elaborated by the Court have been increasingly applied to issues faced by women with disabilities. For instance, jurisprudence under Article 5 of the American Convention, which guarantees the right to humane treatment, has been invoked in cases concerning degrading medical practices and denial of services, situations that disproportionately affect WWD. Similarly, the right to equality before the law under Article 24 has been interpreted broadly, reinforcing the prohibition of structural discrimination. The Commission also plays a vital monitoring role, receiving individual petitions, conducting country visits, and issuing thematic reports on vulnerable groups. Through these mechanisms, the Inter-American system has gradually expanded the recognition of WWD as a group requiring specific protection, moving beyond general disability rights to address the compounded forms of exclusion linked to gender. This development reflects the growing awareness in the Americas of the need to integrate intersectional perspectives into regional human rights enforcement.

In 1999, the Organisation of American States adopted the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with disabilities[295]. It is the only human rights treaty that defines the term disability and the phrase “discrimination against persons with disabilities”. Among its objectives is the full inclusion of persons with disabilities and the advancement of justice in their favour through legislation and social initiatives, as well as educating them and others about accepting persons with disabilities. In addition, it calls upon States to act, as a matter of priority, to, among other things, prevent all avoidable disabilities, early detection and intervention, treatment, and rehabilitation of persons with disabilities.

Despite these advances, challenges remain in translating commitments into practice. Enforcement under the Inter-American system depends largely on the willingness of states to comply with recommendations and judgments, which is often inconsistent. Moreover, many Latin American and Caribbean countries still struggle with inadequate

[295] Organization of American States (OAS), Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (adopted 7 June 1999) AG/RES 1608 (XXIX-O/99)

resources, cultural barriers, and entrenched discrimination against WWD, limiting the effectiveness of regional norms. On a positive note, advocacy groups across the Americas have become increasingly active in using the Inter-American framework as a tool to pressure governments, filing petitions and raising awareness of abuses. This activism has helped shape domestic reforms, such as constitutional amendments in several countries recognising disability rights and the adoption of national accessibility laws. Looking ahead, the synergy between regional commitments and the global CRPD offers an opportunity to strengthen accountability and harmonise standards. For WWD in particular, regional instruments have the potential to serve not only as legal safeguards but also as platforms for visibility, solidarity, and empowerment in societies where their rights have historically been overlooked. In this way, the Inter-American approach continues to evolve toward a more inclusive vision of human rights.

3.10 Conclusion

This chapter critically examines the international human rights framework's capacity to address the intersectional discrimination experienced by WWD. Foundational instruments, such as the UNDHR and ICCPR, espouse broad principles of dignity and non-discrimination, but were conceived without sufficient regard for the compounded vulnerabilities of intersecting identities. While the UNDHR articulates universal rights, its silence on disability and gender-disability intersections limits its utility in confronting layered exclusion. Similarly, although ICCPR's Article 26 guarantees legal equality, it does not adequately address the structural barriers that WWD face in political participation, liberty, and access to justice.

Across the instruments examined, a recurring pattern emerges: expansive textual commitments coexist with fragmented and often inadequate implementation, revealing that the protection of women with disabilities is shaped as much by state practice and institutional behaviour as by the content of international norms.

CEDAW represents a crucial advancement by explicitly tackling gender-based discrimination. General Recommendation No. 18 notably acknowledges the needs of WWD, yet implementation remains inconsistent, and the treaty body's engagement with intersectionality is uneven. Still, the growing synergy between CEDAW and the CRPD signals progress. The CRPD, particularly Articles 5, 6, and 12, marks a normative shift by explicitly mandating states to combat multiple and intersecting forms of discrimination.

Article 6's direct focus on WWD signifies a move from passive recognition toward legally binding obligations for empowerment.

Additional instruments, such as the ICESCR and UN resolutions, as well as regional human rights mechanisms, offer varying degrees of support but often lack specificity and enforcement mechanisms. Although normative progress is evident, enforcement mechanisms, intersectional data, and genuine participation of WWD remain inadequate. Without these, human rights law risks remaining rhetorical. For protections to be adequate, they must be translated into enforceable standards that respond to the complex realities of intersectional discrimination.

Building on the analysis of international human rights instruments in this chapter, the next chapter examines Shari'ah law and its implications for WWD. It will explore how Islamic legal principles address issues of gender, disability, and justice, and whether they offer complementary protections or reveal tensions with international human rights standards. By assessing the extent to which Shari'ah accommodates the rights and dignity of WWD, the chapter will contribute to a deeper understanding of legal pluralism and the role of religious legal systems in shaping inclusive rights frameworks.

4 – Disabled women's rights under shari’ah law

4.1 Introduction

This chapter argues that Shari’ah law contains foundational moral and legal principles that can support the dignity, protection, and welfare of WWD. Yet, these principles are articulated through doctrinal frameworks that regulate gender and disability separately, rather than intersectionally. Drawing on the Qur’an, Sunnah, classical Fiqh, and juristic doctrines, particularly within the Hanbali school, the chapter demonstrates that Shari’ah recognises disability primarily through accommodation and exemption, and women primarily through differentiated roles grounded in notions of justice and protection. As a result, WWD are positioned within Shari’ah jurisprudence as subjects of care rather than as autonomous rights-holders with full legal agency.

The analysis shows that key legal concepts such as legal capacity (ahliyyah), guardianship (wilayah), marriage, testimony, inheritance, and financial autonomy are governed by doctrinal categories that presume an able-bodied and male normative subject. While Shari’ah affirms human dignity (karamah), compassion, and social responsibility, its classical legal formulations rarely articulate disability as a general category of legal subjecthood, nor do they systematically address the compounded effects of gender and disability. Consequently, WWD often experience partial or mediated legal agency, particularly in personal status law, where guardianship and capacity doctrines limit autonomy under the guise of protection.

The chapter further argues that contemporary interpretive tools within Islamic jurisprudence, such as maslahah, maqasid al-shari’ah, and context-sensitive ijtihad, offer doctrinal space for reinterpreting Shari’ah in ways that better accommodate the rights of WWD. However, these tools remain unevenly deployed and are frequently constrained by conservative legal authority, legal centralisation, and selective invocations of public interest. Accordingly, while Shari’ah law provides an essential normative foundation within Qatari law, it does not, in its classical or contemporary forms, offer a complete framework for the substantive equality of WWD. This chapter, therefore, establishes the need to assess how Shari’ah-derived principles are mediated, supplemented, or limited by statutory law and international human rights obligations in Qatar.

4.2 Theoretical Foundations of Shari'ah Law

Shari'ah, often translated as "the path, is the body of religious law that forms the core part of Islam, derived from its primary sources, the Holy Book (The Qur'an) and the traditions or known practices of the Prophet Muhammad, PBUH (Sunnah). The foundations of Shari'ah law are rooted in individual and collective morality and responsibility, as expressed through terms such as equality, justice, fairness, brotherhood, mercy, compassion, solidarity, and freedom of choice.

The textual foundations of the Qur'an and Sunnah are widely acknowledged, as interpretive methodologies applied to these sources have historically been subject to intense scholarly debate, revealing that they do not constitute a monolithic legal code but rather a pluralistic jurisprudential tradition shaped by political, cultural, and epistemological contingencies.[296] Resulting in diverse schools of thought (Madahib) and interpretive orientations across time and place.

The inseparable fusion of law within the framework of Shari'ah makes it unique, as it is not considered a separate secular system but an integrated ethical, spiritual, and social order that stands in marked contrast to modern legal systems. This ontological difference creates persistent friction when Shari'ah-derived principles are incorporated into state legal orders or personal status regimes. The issue is not simply one of procedural compatibility, but of competing conceptions of authority: whether moral legitimacy grounded in divine revelation can or should be subordinated to the positivist logic of the modern nation-state. Crucially, any serious engagement with Shari'ah law must move beyond the standard essentialist view that treats it as static or inherently theocratic. Instead, Shari'ah law should be approached as a discursive legal system that both reflects and constructs Muslim socio-political realities. For example, the division between Huquq Allah (the rights of God) and Huquq al-'ibad (human rights) is not just a legal classification; it has implications for how reform, accountability, and state authority are theorised within Islamic legal thought. The prioritisation of divine rights often constrains reinterpretation, whereas human rights-based frameworks remain more flexible and responsive to context.[297] However, the very act of determining which areas are immutable is itself subject to juristic power and ideological positioning.

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[296] J Griffiths, 'What Is Legal Pluralism?' (1986) 24 *Journal of Legal Pluralism and Unofficial Law* 1
[297] K Vallier, 'Human Rights and Divine Holiness' (2023) 60 *Religious Studies* 667

This clearly indicates that the Shari'ah framework encompasses not only legal rules but also a broad framework of morality and ethics, so in practical terms, the legal provisions concerning WWD are inseparably tied to this broad framework, which requires a comprehensive moral legal framework where worldly justice and spiritual aims are unified.

However, there are ongoing debates in Qatar about the compatibility of Shari'ah law norms and international legal standards regarding gender equity, freedom of religion, and minority rights. The unresolved tension between divine moral authority and universalist human rights norms illuminates the broader theoretical problem at the heart of the Shari'ah legal framework. How a system premised on transcendent normativity can coexist with secular modernity's demand for value-neutral law, and often turn on whether the moral authority of Shari'ah should override universalist human rights norms.[298]. It is within this contested space that the present analysis situates its inquiry into how Shari'ah's legal framework is structured, interpreted, and operationalised in both historical and contemporary contexts.

4.2.1 Legal Methodology (Usul al-Fiqh)

At the epistemic level, the Shari'ah legal framework is premised on the possibility of mediating between divine revelation and human cognition. Revelation establishes the ontological foundation of law, yet its application in temporal contexts depends on the interpretive action of the human intellect. This interplay forms the central problem of Islamic legal theory: how limited reasoning can access and instantiate infinite divine will. In matters concerning disability, this mediation becomes particularly salient. Many Qur'anic references to impairment are phrased in general or ethical terms rather than as legal injunctions, rendering their legal implications presumptive rather than definitive. As a result, juristic engagement with disability relies less on explicit textual commands and more on interpretive tools such as Qiyas, Istihsan, and Maslahah.

Within the procedure of classifying different types of evidence to resolve conflicts between texts, especially when the texts are not explicit, or when there's a conflict or ambiguity, Critiques argue on the prevalence of discriminatory attitudes and gender inequities towards issues related to Women and disability. Consequently, resulting in limitations to the interpretation or application of cases in areas such as divorce, inheritance, child

[298] MA Baderin, 'Islam and the Realization of Human Rights in the Muslim World' in S Joseph and A McBeth (eds), *Research Handbook on International Human Rights Law* (Edward Elgar 2010)

custody, and political participation.299. In addition to pre-Islamic and non-Islamic influences that affected the ideology of Muslim jurist conservatives, traditionalists upheld the status quo of pre-Islamic Arab society, endeavouring to justify their position. As noted, two significant challenges to all human rights and especially those of women in the 21st century will be the forces of religious extremism and economic globalisation.[300]. Al Rasheed, on the same note, argues that the tendency to universalise historically contingent gender norms reveals a tension between Islamic jurisprudence as a human interpretive enterprise and Shari'ah as a divine moral ideal.[301].

The epistemic commitments of the Hanbali use of Usul al-fiqh have significant implications for the legal treatment of WWD. By privileging transmitted authority and ethically constraining juristic discretion, Hanbali legal reasoning tends to approach disability through the lens of exception and accommodation rather than entitlement and inclusion.[302]. While this framework allows for dispensations that mitigate individual hardship, it simultaneously excludes the development of a systematic account of disability as a category of legal subjecthood. For WWD, legal agency is mediated by gendered assumptions about capacity and protection, resulting in double marginalisation. The absence of a robust theoretical framework limits the jurisprudential capacity to articulate disability justice, particularly when no explicit textual guidance exists.

4.2.2 Schools of Thought (Madahib): A Critical Overview

The multiplicity of schools of thought (Madhahib) and their divergent interpretations point to an inherent plurality within shari'ah law.[303] Each school of thought represents distinct juristic methodologies for interpreting shari'ah through its own use of reason, customs, and textualism, while sharing the same divine sources and ethical objectives. For instance, the Hanbali school of thought is one of the four primary Sunni Islamic schools of Islamic jurisprudence that strictly adheres to and emphasises the texts of the Qur'an and Sunnah closely, with minimal reliance on personal opinion (ra'y) or analogy, it avoids extensive speculative reasoning and prefers clear scriptural evidence compared to other schools like Hanafi which emphasizes reason and flexibility in legal interpretation. In

[299] Ibid
[300] H Charlesworth and C Chinkin, The Boundaries of International Law: A Feminist Analysis (Manchester University Press 2000) 249
[301] M Al-Rasheed, A Most Masculine State: Gender, Politics and Religion in Saudi Arabia (Cambridge University Press 2013) 102
[302] V Rispler-Chaim, Disability in Islamic Law (Springer 2007)
[303] A A Jamal, 'Authority and Plurality in Muslim Legal Traditions: The Case of Ismaili Law' (2018) CALS Working Paper Series CALS-WPS-1802

contrast, the Hanbali school emphasises strict adherence to the text and minimal rational discretion.

The diversification of schools of thought is operationalised in family law, finance, and criminal justice; it is essential to situate it within a broader framework of legal pluralism, postcolonial legal transformation, and contemporary Islamic political thought. The complex interplay between the divine and the institutional, the traditional and the reformist, renders Shari'ah a living and contested body of law.

Resembling the co-existing interpretive dynamic of Islamic thought tradition and historical practices. Yet, modern states often attempt to codify and centralise Shari'ah into a singular, enforceable framework. This act of legal centralisation reduces interpretive diversity and usually aligns Shari'ah with state power rather than community consensus. Scholars such as

Hallaq have argued that this transformation strips Shari'ah of its epistemic autonomy, turning it into a tool of modern statecraft rather than an organic moral-legal order.[304] And that constrains the interpretive space needed to address the intersecting concerns of gender and disability and to integrate them inclusively.

In this context, Shari'ah cannot be analysed in isolation, for doing so would overlook the complex interplay between jurisprudential plurality, socio-political structures, and the lived experiences of women and persons with disabilities.

4.3 Conceptual Framework of Disability in Shari'ah Law

The Qur'an's linguistic treatment of disability reveals a nuanced interplay between descriptive and moral language, reflecting broader theological assumptions about human difference, agency, and divine purpose. The predominant linguistic form utilised in the Qur'anic text is masculine; such usage is conventionally understood to serve as a universal or gender-neutral reference, except when context requires the specification of the feminine form. The linguistic structure of the verses in the Qur'an is gender-inclusive, as some verses employ gender-neutral pronouns or use both masculine and feminine forms, reflecting an egalitarian rhetorical strategy.[305]. The masculine forms function as

[304] W B Hallaq, Sharīʿa: Theory, Practice, Transformations (Cambridge University Press 2009)
[305] A Fitriyah and G Rahman, 'Reinterpreting Gender in the Qur'an: Realizing Inclusive Interpretation in the Modern Era' (2024) 17 An-Nisa: Jurnal Kajian Perempuan dan Keislaman 117

linguistic vehicles rather than markers of a gender hierarchy, and the divine message is addressed equally to all.

Qur'anic terms differ; they are used in descriptive, non-pejorative ways and acknowledge physical and sensory impairments. The key terms outlined in various verses (Qur'an *2:18, 6:39, 11:24)* are: Blind (Aʿmā), Deaf (Aṣamm), Unable to speak (Abkam), Lame/physically impaired (Araj), General Weakness (Ḍaʿf), Sick (Marad). These terms are embedded in verses that often frame the disabled person as equally accountable before God, except where physical inability creates genuine hardship. Although when interpreting these verses, it sets a significant remark in liberating human beings from tribalism, traditionalism, sexism, racism, and discrimination on all notions. However, practical reasoning in this matter usually treats disability as an exception rather than as fully encompassed by the standard legal framework. Instead of being understood as a general legal category, disability is described through specific physical conditions, as explained in the previous paragraph, and each condition is given a minimal legal effect. Because these conditions are treated separately, and scholars rarely develop broader reasoning that applies across different types of disability. This reinforces the assumption that the "normal" legal subject is able-bodied, while disability remains something outside the norm.

4.3.1 The Qur'anic framework for disability

The Qur'an presents disability in a multifaceted manner, addressing not only physical and sensory impairments but also the ethical, social, and spiritual dimensions of human difference. Its language and narratives emphasise moral responsibility, social inclusion, and the intrinsic dignity of every individual, framing disability as both a lived reality and a site for ethical reflection.

4.3.1.1 Dignity

The Qur'an acknowledged disability with dignity (Karama), compassion, and a focus on spiritual equality. While it does not contain a systematic theology of disability, it includes verses and stories that reflect a respectful and inclusive attitude towards disability. This is consistent with broader Islamic legal maxims such as hardship begets ease "*al-mashaqqah tajlib al-taysir*), which has informed exemptions in acts of worship (ʿibādāt) and other obligations for persons with disabilities. For example, blindness was mentioned as a physical condition and in the legal aspect of an individual's religious duties. "There is no blame upon the blind…." Surah An-Nur (24:16) was revealed in Medina, at a time when social customs around eating, visiting, and inclusion were being refined. Some

attendants hesitated to eat with a disabled person, thinking it might burden them or violate etiquette. The reveal of this verse affirmed that there should be no social exclusion of those who are disabled and encourages the social cohesion of all members within society. It also indicates early Qur'anic attention to disability within communal and domestic contexts, anticipating later juristic discussions about inclusion and access to shared resources.

4.3.1.2 Legal accommodation

The same verse Surah An-Nur (24:16), emphasised on ethical responsibility and inclusion "…nor is there any restriction upon the sick, nor upon yourselves that you eat from your own houses, or the houses of your fathers, or your mothers..." this lifts restriction on the disabled weather in mobility, meal sharing or entering homes of relatives which are essential Islamic values. Ibn Kathir[306] emphasised that this matter falls under the doctrine of Imam Abu Hanifa and Imam Ahmed ibn Hanbal, highlighting that PWD requires support from relatives without discrimination. Such interpretations reflect an early doctrinal consensus that familial and social support are not merely ethical but also carry implied legal weight in Islamic jurisprudence, particularly with respect to obligations such as financial maintenance (Nafaqa). Ibn Kathir's interpretation coexists with a plurality of scholarly perspectives, illustrating that Shari'ah's engagement with disability is not monolithic but somewhat negotiable within broader frameworks of legal reasoning and social ethics. In this way, the verse not only supports social inclusion but also lays a foundation for formal accommodations that mitigate stigma and promote equitable participation in communal life.

4.3.1.3 Inclusion

Classical legal sources often lacked provisions for the independent participation of PWD in public life, despite the Qur'an's inclusive tone. For example, while being exempted from combat or fasting may demonstrate flexibility, the underlying legal discourse has not always actively promoted access to justice, political voice, or education for PWD. Surah ʿAbasa (80:1–2) "He frowned and turns away because there came the blind man" refers to a moment in the life of the Prophet Muhammad **(**PBUP), when he was engaged in a conversation with Qurayshi leaders in hopes of guiding them to Islam., the exact moment, a blind man ʿAbdullah ibn Umm Maktoum approached the Prophet seeking guidance and knowledge. In that situation, the prophets sought to focus on the leaders, as they may

[306] Qur'an 4:1; Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm* vol 4 (Dār Ṭayyibah 1999) 140; *Musnad Aḥmad* no 23489, graded ṣaḥīḥ by Shuʿayb al-Arnaʾūṭ.

have influenced many others to follow them. They frowned briefly and turned away from Abdullah Ibn Umm Maktoum, not out of arrogance but under the pressure of the situation. Immediately, the release of this verse came in to correct this behaviour and to honour the dignity of the blind man. The interpretations of Ibn Kathir and Al-Qurtubi collectively emphasised the recognition of blind people by name and situation, affirming their dignity and inclusion, while disregarding social stigma. This moment also demonstrates a corrective function of revelation in reshaping normative expectations regarding engagement with PWD. From a legal perspective, it reinforces the view that moral and social obligations toward individuals with disabilities are subject to divine scrutiny rather than left to personal discretion.

4.3.2 Prophetic Practice and Qur'anic Verses

In many pre-Islamic Arabian social contexts, persons with disabilities were often marginalised and, in some cases, associated with social stigma. Qur'anic discourse engaged with this context by articulating normative principles and practical guidance emphasising dignity, protection, and social inclusion for persons with disabilities, including women with disabilities. "*O you who have believed, let not a people ridicule [another] people, …And do not insult one another and do not call each other by [offensive] nicknames…*" (Quran 49:11). The Quran included multiple verses warning and guiding over wrongful societal behaviours such as arrogance etc, verses related to racism and discrimination, endorsement of justice between all people without any discrimination of their ability, either mentally or physically, gender, ethnicity, colour... 'O humanity! Indeed, we created you from a male and female, and made you into peoples and tribes so that you may 'get to' know one another. Undoubtedly, the most noble of you in the sight of Allah is the most righteous among you. Allah is truly all-knowing and all-aware' (Quran 49:13).

While the Qur'an contains relatively few verses concerning individuals with disabilities, there is hardly any direct reference to PWD except in the context of Spiritual obligations; its overall approach treats disability as a neutral and natural aspect of human existence.[307]. However, in practice, persons with disabilities often face systemic discrimination, both socially and legally, particularly within domestic legal systems that operate under or are influenced by interpretations of Shari'ah law. There is significant

[307] M Miles, 'Disability in an Islamic Context: Thinking through Beliefs and Practices' (2002) 17 *Disability & Society* 23.

uncertainty surrounding this issue, particularly as attention shifts from a disability rights framework focused on legal equality and access to a broader disability justice approach that emphasises intersectionality, collective liberation, and the lived experiences of people with disabilities. Despite the egalitarian spirit of the Quran, Islamic legal systems have historically struggled to translate its inclusive ethos into robust legal protections for PWD.[308] While Qur'anic verses provide a normative foundation against discrimination and respect for human dignity, their jurisprudential interpretation and application in formal legal systems, particularly in jurisdictions that derive their personal status laws or civil codes from Shari'ah principles, have often failed to articulate a coherent framework for disability rights.[309] This shortfall is not merely theoretical; it manifests in tangible legal consequences, including limited legal capacity, exclusion from full procedural standing, and the absence of enforceable entitlements to essential services, education, and accessibility.

4.4 Rights of WWD under Shari'ah Law

4.4.1 Equality rights

The Shari'ah addressed essential matters of equality for WWD in various fields, including access to education, the right to nationality, the right to work, the right to healthcare, and equal representation in legal and judicial systems. Similarly, to the concepts of rights found in international instruments. The foundation of equality in Shari'ah is based on the belief that all individuals are equal in terms of their origin and creation (Quran 4:1). The emphasis on equality is reiterated throughout the texts of the Prophet (Pbuh) [310] "*O people, your Lord is one, and your father Adam is one. There is no favour of an Arab over a foreigner, nor a foreigner over an Arab, and neither white skin over black skin, nor black skin over white skin, except by righteousness…*" establishing a clear framework on principles of equality, non-discrimination, or favouritism on any sort, either on gender or race, a foundational articulation of the principle of equal treatment under the law and explicitly rejects any form of racial, ethnic, or national superiority, aligning with modern human rights instruments. The principle of equality rights is firmly embedded and well recognised within Shari'ah law; however, common misconceptions arise when individuals assume that Shari'ah upholds absolute equality under all circumstances. The interpretation overlooks the distinction between justice and equity,

[308] L Oweidat, 'Islamic Ethos: Examining Sources of Authority' (2019) 8 *Humanities* 170.
[309] A Yaqin and K Khariri, 'Capacity of Persons with Disabilities as Legal Subjects in Islamic Law' (2022) *International Journal of Social Science and Religion* 199.
[310] *Musnad Aḥmad no 23489, graded ṣaḥīḥ by Shuʿayb al-Arnaʿūṭ*

a foundational concept in Islamic jurisprudence. Bin Uthaymeen adjudicates on this issue that “There is not a single letter in the Qur’an that calls for equality at all, but instead prompts justice, it is a combination of the equal and the differentiation between the disunited, rather than absolute equality.[311]” he supports these statements, stating that Shari’ah recognises the principle of equal, not equivalent, by Surah Aal Imran (3:36) “And the male is not like the female.

4.4.2 Gender Equality

Gender equality is an integral part of Human rights and women's rights under the UDHR. However, the issue of Gender within Sharia law is one of its most debated and ideologically charged dimensions, particularly when examined through the lens of contemporary legal and moral theory. While Islamic jurisprudence articulates differentiated roles for men and women, it does so within a normative structure that claims to be rooted in the principle of functional justice (‘adl), rather than hierarchical valuation.[312] The internal framing in which roles are defined by taklif (legal and moral responsibility) and justified through Maslahah (public interest) warrants critical interrogation rather than uncritical acceptance.[313]

The concept of gender equality comes from the origin of human creation, “O humanity! Be mindful of your lord who created you from a single soul, and he created its mate” (Quran 4:2). It is recognised in the form of the origin of the legal discourse in Shari’ah, which governs people and society. Scholars have noted that Shari’ah does not differentiate between genders unless there is an impediment; in such cases, the distinction is either permanent or temporary, with no stipulation in favour of either. A closer examination reveals four conditions under which this differentiation is applied; the first case is Legal: “the origin of the legal discourse,” appointment by Shari’ah, and actual legislation; it is based only on wisdom or a significant reason. The second case is the origin of creation “Mani` al-Jabali[314]” (legal duties) due to the origin of creation and the established biological differences in the creation of a man and a woman; these differences are established based on physical, psychological, and mental formation, as well as

[311] Abu ʿAbd Allah Muhammad ibn Ṣāliḥ ibn Muhammad ibn al-ʿUthaymīn, Kitab al-Tawhid (Dar al-Salam 2000)
[312] N Damyanti, SA Nurazizah, RA Fitriansyah and AA Muhyi, ‘The Concept of Human Rights from the Qur’an Perspective’ (2024) 2 *Bulletin of Islamic Research* 17.
[313] E Safudin and U Khasanah, ‘Principles of Maslahah Mursalah on Women’s Equality and Justice’ (2022) 16 *Kodifikasia: Jurnal Penelitian Islam* 1.
[314] S Fatlāwī, *Mawsūʿat al-Qānūn al-Duwalī al-Islāmī* (Dār al-Thaqāfah lil-Nashr wa-al-Tawzīʿ 2014) 167.

considering the fluctuations of time and changing conditions[315]. The third case is “social, primarily based on what positively impacts society or has reasonable meanings. Factors to be considered include what society is accustomed to in terms of customs, which one must eventually adapt to and address.[316] The final case is “political”: conditions that affect the nation’s policy and require the abolition of the principle of equality between classes or individuals, or, in exceptional cases, the consideration of the country's interests.

Correspondingly, the Quran has various acknowledgements and provisions for differences between men and women. Regardless of those provisions and acknowledgements, such differences erect an elaborate structure of individual and social rights and obligations, which sometimes appear inequitable on the surface. Yet, examination in-depth reveals a more profound logic and reasonableness. (Quran 4:34) discusses the implications on gender roles, responsibility, and marital relations. Where men are the caretakers of women being provisioned by Allah over women and tasked with supporting them financially, and righteous women are devoutly obedient and, when alone, protective of what Allah has entrusted them with. This verse has been interpreted by some scholars as evidence that Shari’ah law favours men over women; however, such readings do not always take into account the contextual, conditional, and interpretive frameworks within which women’s legal and moral status is articulated in Islamic sources. Such readings overlook the nuanced framework within Islamic legal theory, in which gender-specific rulings are tied to particular social, economic, and physiological considerations rather than reflecting an absolute hierarchy. Classical jurists and modern scholars alike have debated the scope and applicability of such verses, emphasising the need for contextualised exegesis (tafsir maslahi) that aligns with Maqasid al-shari’ah.

4.4.3 Marriage and Family Law

The right to marry is a fundamental right for all humans around the world, as stated in CRPD Article 23, UDHR Article 16 and Shari’ah law of many Qur'anic verses like Surah An-Nur (24:32); however, WWD still face significant barriers and limitations to this right. Intersectionality certainly compounds these dynamics under Shari’ah law, as the decision to enter a marriage is limited based on the type of disability. For a woman with mental disability that impairs her capacity to understand the marriage contract and give informed

[315] D Al-Sabahi, ‘Appropriateness of the Religious Duties to the Duty Bearer and the Aspects of Its Mercy’ (2016) 22 *Journal of Social Studies* 1 (English trans).
[316] Ibn ʿĀshūr, *Maqāṣid al-Sharīʿah al-Islāmiyyah* (Ministry of Endowments and Islamic Affairs, Qatar 2004) 29.

consent, the guardian often exercises the right to consent on her behalf, although the justification behind this is to prevent harm; however, it can lead to complex questions on the autonomy of exercising one's rights.[317] Another type of consent is forced consent (Ijbar), where a guardian has the right to arrange a marriage without the explicit permission of the woman, often discussed in the context of women who are considered "mentally deficient" or unable to decide for themselves[318]. The Hanbali school affirms the right to marry for women with disabilities, including those with physical or sensory impairments. However, the role of a guardian becomes central when mental incapacity affects the woman's ability to give informed consent. In Shari'ah law, this legal approach reflects a deliberate balance between individual autonomy, protective oversight, and the overarching objective of welfare (*maslahah*), ensuring that marriage serves the best interests of all parties involved.

4.4.4 Inheritance and Financial Rights

Disregarding mental or physical disability, WWD have equal inheritance rights under the Hanbali school and broader Shari'ah law; they can administer their assets with complete autonomy. However, a guardian is appointed by the Court to act in her best interest if needed but does not have the right to acquire her share; it is conducted under fiduciary responsibilities. While the Hanbali school affirms the equality of WWD in inheritance rights, this equality operates within the strict framework of Shari'ah's predetermined inheritance shares, which are dictated by fixed Quranic formulas.[319] These formulas apply equally to WWD without diminution due to physical or mental disability, reflecting the Shari'ah's principle that such conditions do not affect the right to inherit.

Nonetheless, the rigid inheritance schema does not provide for differential treatment that accounts for the specific economic or support needs that WWD might face due to disability.[320] The inheritance shares prescribed in the Quran and expounded by Hanbali jurists remain uniform regardless of these factors, and there is no explicit legal provision allowing adjustments or compensation for disability-related expenses or vulnerabilities.

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[317] I Sharma, K Reddy and R Kamath, 'Marriage, Mental Illness and Law' (2015) 57 *Indian Journal of Psychiatry* 339.
[318] Ibn Qudāmah, *al-Mughnī* vol 7 (Dār al-Fikr 1984).
[319] F Fadllurrohman, 'Islamic Law Criticism of Mental Disabilities Marriage' (2022) 2 *Eduvest – Journal of Universal Studies* 2485.
[320] MZ Qadafi, 'The Contemporary Discussion on Women's Inheritance (a Study on Nasr Hamid Abu Zayd's Interpretation and Its Implication)' (2011) 12 *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 289.

This raises important questions about the sufficiency of Shari'ah inheritance laws in addressing the practical realities of WWD's financial well-being.

Furthermore, WWD retain the unrestricted right to independently engage in financial transactions, including investment, gifting, or liquidation of inherited assets, consistent with the broader Shari'ah principle of economic autonomy for all adult individuals. The intersection of WWD's inheritance rights with Shari'ah's principles of financial independence thus creates a legal environment that upholds formal equality. However, the absence of legal mechanisms tailored to the unique challenges faced by WWD, such as additional healthcare costs or potential limitations in financial management, suggests a gap between doctrinal equality and practical equity.[321] This gap necessitates critical scholarly reflection on whether the classical inheritance rules fully serve the objectives of justice and welfare that underpin Shari'ah law.

Consequently, while the Hanbali school's approach to inheritance and financial rights embodies an egalitarian legal vision on paper, a comprehensive application requires integrating interpretative flexibility and contemporary social realities to ensure that WWD's rights translate into meaningful financial security and empowerment.

4.4.5 Access to Education, Work, and Public Life

A recurring theme in the Qur'an is the treatment of people with fairness and respect, and the provision of equal opportunities, irrespective of individuals' backgrounds. This includes WWD without feeling an inferiority complex or feeling like a burden on society. Inclusion and access to education are fundamental rights, as in Shari'ah, including the pursuit of knowledge (*talab al-'ilm*). Prophet Muhammad said, "Seeking knowledge is an obligation upon every Muslim." In the current modern setting, infrastructural neglect and social stigma restrict access for people with WWD, and a misinterpretation of or lack of understanding may be used to justify denying them rights to education and full inclusivity in society.[322] Under Shari'ah, WWD are permitted to work and earn money; there is no textual basis for preventing a disabled woman from employment if she is competent, as it serves a personal or communal welfare.

Participation in public and civil life is an integral part of the rights mentioned in Shari'ah law for WWD, Nusaybah bint Kaʿb al-Māzinīyyah, who participated in public religious life

[321] B Göktaş and others, 'Challenges and Innovations with Enhancing Healthcare Access for People with Disabilities' [2025] *The Palgrave Encyclopedia of Disability* 1.
[322] Qadafi (n 4) 292.

by attending prayers and even battles. She questioned the Prophet about why women were not explicitly addressed in certain Qur'anic verses. As a result, the verse (Quran 33:35) was revealed[323], affirming equality in spiritual and moral accountability. While Nusaybah bint Kaʿb was not disabled, she set an excellent example for disabled women having access and the right to public life; her public participation refutes the idea that women are restricted to the private domain in Islam. She emphasises that capability, rather than gender or physical state, defines participation under Shari'ah law.

While Shari'ah fundamentally endorses the rights of women and girls to education, employment, and public participation, the implementation of these rights reveals persistent gaps between normative principles and lived realities. The foundational Islamic emphasis on ṭalab al-'ilm (seeking knowledge) as a mandatory duty for every Muslim inherently includes WWD, establishing a clear doctrinal basis for their educational inclusion.[324] Nonetheless, contemporary barriers, such as inadequate infrastructure, inaccessible educational facilities, and entrenched social stigma, systematically impede WWD's effective access to learning opportunities, undermining this Qur'anic imperative.[325]

From a jurisprudential perspective, there exists no textual or legal prohibition within Shari'ah against WWD engaging in gainful employment, provided they possess the requisite competence. This aligns with the maqāṣid al-sharīʿa principle of maṣlaḥah (public and personal welfare), which supports individual and communal wellbeing. Yet, practical obstacles arise from societal attitudes and interpretive conservatism that may unjustifiably restrict WWD's labour market participation or limit their economic agency, thereby contradicting Shari'ah's inherent promotion of productive engagement and self-sufficiency.[326]

It can be argued that while Shari'ah law provides a sound doctrinal foundation affirming WWD's access to education, work, and public life, realising these rights in practice demands overcoming infrastructural deficits, combating social stigma, and developing

[323] A Sayeed, Women and the Transmission of Religious Knowledge in Islam (Cambridge University Press 2013) 27–30
[324] Z Yasin and others, 'The Importance of Seeking Knowledge in Islam: A Literature Review' (2023) 6 *International Journal of Social Science and Human Research* 1.
[325] A Ali and G Codina, 'Representations of Disability in Qur'anic Narratives' (2024) 29 *Journal of Disability & Religion* 1.
[326] A M Medabesh et al, 'Employment Scenario for People with Disabilities (PwDs) in Saudi Arabia: Challenges and Opportunities' (2024) 3 Journal of Disability Research 1

jurisprudential interpretations that explicitly incorporate disability considerations. Such efforts are essential to bridge the gap between the ideals of Shari'ah and the lived experiences of women and girls, fostering genuine inclusion and empowerment.

4.4.6 Testimony

Legal testimony is a critical subject in Islamic jurisprudence; gender and physical/mental ability are fundamental factors that affect the legal weight of a person's testimony. Physical disabilities without mental impairment do not generally diminish the validity of testimony. The validity of a testimony hinges on an individual's sound mind and comprehension; physical disabilities do not detract from the credibility or acceptance of a testimony. Specific rules across schools of thought may differ. The Hanafi, Maliki, Shafi'i, and Hanbali schools vary slightly in detail, but all emphasise mental competence. For instance, Hanafi jurisprudence tends to allow women to testify in commercial cases where they are competent; other schools may require additional corroboration for testimonies by persons whose mental capacity is impaired. According to both Ibn Taymiyya and his student, Ibn al-Qayyim, in specific domains such as childbirth or domestic matters, a woman's testimony can carry the same legal weight as a man's. Ibn Taymiyya argued that women's testimony should not automatically be seen as half that of a man; where there is no habitual error, it should be treated as entirely credible.[327]. These positions demonstrate that, even within classical jurisprudence, there were frameworks through which gender-specific rulings could be re-evaluated in light of context, necessity, and principles of justice essential to modern reinterpretations of women's rights under Shari'ah, particularly for WWD, who often face compounded exclusion.

While Shari'ah law upholds the principles of justice and the dignity of all individuals, the practical application of testimony, especially in WWD cases, often reveals complex intersections of legal interpretation, cultural norms, and societal attitudes. Disabled women may face not only structural barriers but also deep-rooted stigmas that challenge the credibility and weight of their voices in legal settings. As a result, some jurists differentiate between permanent and temporary mental incapacities, affecting how testimony is evaluated.

[327] Ibn Taymiyyah, *Majmūʿ al-Fatāwā* vol 5 (commentary by Ibn al-Qayyim, n.d.) 123.

4.4.7 Blood money (Diya)

Blood money in classic Islamic jurisprudence did not mention disability as a factor; however, it differentiated between genders and minors in this sense. The views of the Hanbali and Maliki schools suggest that a woman would receive less than one-third of the total Diya, as these schools introduce a threshold of equality at one-third, then at half. On the other hand, the Hanafi and Sahafi schools' opinions that a woman's compensation will be equivalent to half of a man's. We find substantial divergence between the parties in their underlying reasoning and in how classical scholars interpreted Islamic sources such as hadith and early case rulings. This differentiation is based on their legal reasoning (Ijtihad) regarding equity, financial responsibility, and social roles at the time. Noting that contemporary scholars and modern legal systems, such as those in Qatar, do not follow these rulings, in which men and women are treated equally under the law. 19 of 2008[328].

4.4.8 Property rights

In contrast to many other areas of Shari'ah law, there is no differentiation between the sexes in terms of buying, selling, investing, or lending, regardless of the type of property (e.g. land, real estate, or money)[329]. Despite the commendable rights that Shari'ah accords to women, a critical examination reveals significant gaps between normative principles and practical realities that affect WWD, as well as persistent tensions within the legal framework itself.[330] Disabled women possess full legal ownership of property and earnings; their ability to exercise these rights is independent of any third party. In the case of a disabled woman, legal capacity plays a critical role in which it exerts informal pressure to relinquish control or share wealth with male relatives.[331] Under the Hanbali madhhab, a woman's property is her own, regardless of marital status, disability status, or her guardian's opinion, as Ibn Qudāmah (*al-Mughnī*) states, "A free, sane woman, whether married or not, has complete authority over her wealth; no one may dispose of it without her consent." The only constraint is a woman's mental capacity, which, in this case, will prevent her from exercising this; in such cases, a Judge shall appoint a guardian. Ibn Taymiyyah states on this, "The guardian is entrusted to manage the wealth of the

[328] Law No 19 of 2008 (Qatar) on Determining the Amount of Blood Money (Diyah) for Manslaughter
[329] B G Bishin and F M Cherif, 'Women, Property Rights, and Islam' (2017) 49 Comparative Politics 501
[330] S A Cheema, 'Women's Status in Islam: An Analysis from the Perspective of Private and Public Spheres' [2022] Asian Yearbook of Human Rights and Humanitarian Law 106
[331] A M Agustina, 'Protecting Women's Rights in Exogamous Society: Mahram in Minangkabau Customs' (2024) 17 Al-Ahwal: Jurnal Hukum Keluarga Islam 205

incapable person for her welfare, not to possess it. If he transgresses, he must compensate her fully."

Overall, Ibn Taymiyyah explains that the ownership rights of disabled women are lawful and do not cease by incapacity, because incapacity concerns management, not possession. He emphasised in his writings that the judge's duty and Judicial oversight are part of Shari'ah-based governance, and that the judge is responsible for upholding justice in practical matters.[332] To reinstate a protective legal framework for WWD.

4.4.9 Legal Capacity and Guardianship

The capacity to acquire rights and duties (Ahliyyah al-wujub) and the capacity to perform or act, meaning the capacity to enter into contracts, marriage, etc (Ahliyyah al-'ada), are two related but distinct concepts of legal capacity (*ahliyyah al-ahkam*) that are contingent upon both mental competence and the attainment of a certain age, criteria that carry profound implications for WWD under Shari'ah jurisprudence. Juristic doctrine typically presumes that full participation in legal transactions requires rational discernment (*'aql*) and maturity (*bulugh*), conditions that may not be fully met in women with cognitive or developmental impairments. As a result, such individuals are often afforded only limited legal recognition, restricted, for instance, in their ability to enter into contracts, manage property, or provide autonomous consent in matters of personal status. These limitations are not merely procedural; they reflect an underlying epistemic and moral framework in which capacity is closely tied to cognitive competence and to normative expectations of adulthood. Consequently, WWD predominantly occupy a legal space characterised by partial agency. Their rights and obligations are recognised selectively, yet they remain structurally dependent on guardianship or representation. This dynamic exposes the tension between Shari'ah's moral-legal ideals and the practical realities of inclusivity and equality.

4.5 International law between Shari'ah, Universality and Relativism

Islamic jurists and scholars often face a challenge posed by the dichotomy between human rights and international law as they navigate frameworks rooted in divergent epistemologies. Adopting either extreme strict universalism or cultural relativism can conflict with the foundational principles of Islamic theology (ʿAqidah). As such, some contemporary Islamic legal theorists have advocated for a third path: **"**Islamic

[332] Ibn Taymiyyah, al-Siyāsah al-Sharʿiyyah fī Iṣlāḥ al-Rāʿī wa-l-Raʿiyyah, ed ʿAlī ibn Muhammad al-ʿImrān (Dār ʿĀlam al-Kutub 1998) 23–24

universalism”[333], a framework that aims to reconcile Islamic jurisprudence with global human rights standards while remaining grounded in Islamic theological principles. The central concept of Islamic universalism is that Islam's core message of submission to the will of God is intended for all people, transcending geographical, racial, and ethnic boundaries. There is no superiority of one race or culture, or gender over another, and all Muslims are considered equal brethren. This idea is based on the Quranic teaching that the only measure of a person's worth is their piety (*Taqwa*). This approach derives legitimacy from within the Islamic tradition itself, particularly through the principle of *Maṣlaḥa.* [334], which underpins the broader objectives of shari’ah law (Maqaṣid al-shari’ah)[335]. These objectives include the preservation of religion, life, intellect, lineage, and property, and provide a normative basis for promoting universal human dignity while remaining faithful to Islamic jurisprudential frameworks. This reconciliation model not only challenges the binary framing of universalism versus relativism but also provides a culturally embedded alternative for advancing the rights of vulnerable populations, including women and WWD in particular.

Despite its rhetorical promise, the framework of Islamic universalism, underpinned by *Maṣlaḥa* and *Maqasid al-shari’ah*, often functions as a site of contested power rather than a vehicle for emancipatory progress. The indeterminacy of “public interest” allows dominant religious and political actors to appropriate *Maslaha* selectively, privileging conservative interpretations that sustain patriarchal and ableist hierarchies.[336] In practice, *Maṣlaha* becomes a malleable justification for limiting the rights of marginalised groups, particularly WWD, rather than a principled foundation for their empowerment. It might be claimed that the selective deployment reveals a fundamental contradiction: the claim to universal human dignity is subverted by entrenched normative biases that reify social exclusion under the guise of religious fidelity.

Furthermore, the invocation of Maqasid al-shari’ah to reconcile shari’ah law with international human rights obscures the persistent juridical fragmentation within states

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[333] M Fadel, ‘Islamic Law and Human Rights: The Role of the Universal in Islamic Legal Thought’ in M A Baderin (ed), International Human Rights and Islamic Law (Oxford University Press 2003) 33–60

[334]S L Rifai, ‘The Concept of Public Interest in Islamic Law (Maslaha) and Its Modern Implications’ (SSRN Working Paper, 18 February 2021)

[335] BP Misno, Abdurrahman and RP Wijaya, ‘The Implementation of Maqāṣid al-Sharīʿah as the Tool of Data Analysis in Islamic Economic Law Research’ (2018) 2 *Al-Iktisab: Journal of Islamic Economic Law* 59.

[336] D Iner and M Cufurovic, ‘Moving beyond Binary Discourses: Islamic Universalism from an Islamic Revivalist Movement’s Point of View’ (2022) 13 *Religions* 821.

that operate under shari'ah law.[337] Competing religious authorities and political interests exploit the pluralistic nature of Islamic jurisprudence to resist uniform rights guarantees, creating legal uncertainty that disproportionately harms WWD, who rely on consistent recognition of their autonomy and capacity.[338] The lack of centralised interpretative authority undermines the normative coherence necessary for transforming Islamic universalism into a robust and enforceable framework.

Critically, Islamic universalism's ambition to transcend the universalism-relativism binary fails to confront the structural inequalities embedded within both Islamic legal traditions and global human rights regimes.[339] By framing reform as a theological reconciliation, it risks depoliticising struggles for equality and masking the need for substantive institutional reforms. Without explicit engagement with power asymmetries, legal pluralism, and the socio-economic marginalisation of WWD, the approach remains complicit in perpetuating systemic injustice. Thus, the discourse of Islamic universalism and *Maslaha*, while theoretically compelling, requires rigorous interrogation and transformative praxis to avoid reproducing the very exclusions it purports to dismantle.

4.6 Areas of Normative Tension between Shari'ah law and UDHR

The UDHR has been the foundational international human rights instrument since its adoption in 1948. However Qatar and other Arab countries expressed legal reservations about the UDHR's universality, reflecting substantive divergences between the document's provisions and the normative framework of Shari'ah.[340] This critique extends beyond cultural or philosophical debates, grounding itself in specific legal principles, constitutional provisions, treaty reservations, and judicial interpretations that reveal areas of normative tensions in the legal reception and application of the UDHR in Islamic legal contexts.

These tensions do not arise at the level of Islam's ethical aspirations but emerge most clearly in relation to specific rights when abstract principles are translated into positive legal norms.

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[337] U S Duguri et al, 'The Application of Maqāṣid al-Sharīʿah in the Foreign Policy of Islamic States' (2021) 11 International Journal of Academic Research in Business and Social Sciences 1

[338] I Yilmaz and DP Sokolova-Shipoli, 'Shariʿa, Muslims, and Legal Pluralism in the West' in *Muslim Legal Pluralism in the West* (2024) 191.

[339] S Kanwal and H Hassan, 'The Qur'an, Human Rights, and the Muslim World: Between Text and Context' (2025) 4 Journal of Religion and Society 96

[340] A Mohiuddin, 'Human Rights Law in Muslim Majority Countries: An Assessment' [2024] Political Economy of Islam 35

Firstly, the legal foundations of Islamic states generally place Shari'ah as the supreme or principal source of law. For example, the constitutions of Qatar and Gulf Council Countries (GCC), such as the Kingdom of Saudi Arabia (Basic Law, Article 1), the United Arab Emirates (Federal Constitution, Article 7), and Qatar (Constitution, Article 1), explicitly affirm Islam as the state religion and Shari'ah as the source or principal source of legislation. This constitutional positioning establishes a legal hierarchy in which international treaties, such as the UDHR, cannot supersede Shari'ah principles. Consequently, many of these states enter reservations to international human rights treaties, including those related to the UDHR, because specific provisions conflict with Shari'ah law.[341] Such reservations are legally valid under Article 19 of the Vienna Convention on the Law of Treaties, which permits reservations unless they are incompatible with the object and purpose of the treaty.[342]

A highly debated area of divergence is stance on inhumane treatment concerning Article 5 of the UDHR and Hudud in shari'ah law. Where classical Shari'ah jurisprudence recognises the fixed punishments of Hudud derived from scriptural sources and developed within particular historical and social contexts, in perspective of contemporary international human rights law, such punishments are evaluated through standards centred on bodily integrity and evolving conceptions of human dignity.

On the same note highly significant where tension emerges is Article 18 of the UDHR, which protects freedom of religion. In all the classical schools of Sunni the punishment for a Muslim apostate (Murtadd) was death. Classical Shari'ah jurisprudence addresses it within a legal paradigm that views religious affiliation as inseparable from communal membership and political loyalty in the early Islamic polity. Muslim scholars agreed that authorities should only concern themselves with external expressions of apostasy, not people's private religious practice[343]. However, disagreements fell in other details of apostasy. The Hanafi school differs with the other schools of law in holding that women apostates are not killed but only imprisoned. They base this on a Hadith considered reliable by Hanafis in which the Prophet banned killing women who left Islam[344]. The

[341] A Sawad, '"Islamic Reservations" to Human Rights Treaties and the Universality of Human Rights within the Cultural Relativist Paradigm' (2017) 12 Journal of Human Rights 101
[342] A Augustauskaitė-Keršienė, 'Reservations to UN Human Rights Treaties: Sovereign States Seeking to Avoid Their Obligations?' (2020) 6 International Comparative Jurisprudence 118
[343] J Brown, The Issue of Apostasy in Islam (Yaqeen Institute for Islamic Research, 5 July 2017, updated 15 December 2025) <https://yaqeeninstitute.org/read/paper/the-issue-of-apostasy-in-islam> accessed 31 December 2025
[344] Ibid.

majority of Muslim scholars, however, consider this Hadith to be unreliable and instead follow the principle that men and women are treated equally in Hudud punishments and In relation to Hudud punished for PWD the type of disability does not prevent instead alternative legal responses are used instead. In sum both disabilities and gender-related physical conditions are treated not as exemptions from accountability per se, but as factors requiring flexible, compassionate application of the law.

Another concrete example is the reservation to Article 16 of the UDHR on marriage, which guarantees the right to marry and establish a family with the free and full consent of both spouses.[345] In many Islamic legal systems, marriage is regulated by personal status laws grounded in Shari'ah that prescribe specific requirements for marriage, including guardianship over women, minimum age, and restrictions on interfaith marriage.[346] Qatar and other (GCC) states have explicitly reserved the right to regulate marriage according to Islamic principles. This reservation is not merely a cultural preference, but a legal position reflected in domestic family codes and court rulings that enforce these restrictions. Thus, the legal implementation of the UDHR's marriage provisions is expressly limited by Shari'ah-based family law.

The legal tension is compounded by the principle of public order embedded in Islamic legal systems. Many Muslim-majority states apply this principle to justify legal limitations on rights recognised by the UDHR, particularly those related to gender equality and disability rights. For example, in the UAE, the Federal Law on the Rights of Persons with Disabilities (Federal Law No. 29 of 2006) affirms protections. However, it operates alongside personal status laws that still impose guardianship and restrict autonomy for women and persons with disabilities.

This legal duality reflects an ongoing negotiation between international treaty commitments and Islamic legal doctrines. Courts and legislatures often invoke Shari'ah principles as a legal basis for interpreting, limiting, or conditioning rights that otherwise appear universal under international law.[347] Furthermore, the critique extends to the legal validity and scope of international human rights instruments themselves in Islamic contexts. Many Muslim-majority states assert the principles of sovereignty and non-

[345] A Mehmood and A Saeed, 'The Selection of Spouse with Free and Full Consent: A Comparison between Islam and UDHR Article 16 (A Comparative Study)' (2023) 8 Al-Irfan 57
[346] P Tahir and M Muslih, 'Islamic Family Law: The Legality of Interfaith Marriage from the Perspective of Islamic Law and Law No 16 of 2019 Concerning Marriage' (2024) KnE Social Sciences
[347] A M Emon, 'Sharīʿa as Rule of Law' in (ed), Religious Pluralism and Islamic Law (2012) 167

interference, as enshrined in the UN Charter and customary international law, to justify selectively adopting or modifying international norms.[348] This principle is legally reinforced by domestic constitutional provisions that prioritise Islamic law over international law in cases of conflict. For instance, Kuwait's Constitution (Article 2) states that Islam is the religion of the state, and Islamic law is a primary source of legislation, thereby legally limiting the enforceability of any international human rights norms that are inconsistent with Shari'ah.

Muslim majority states often legally distinguish between "human rights" and "Islamic rights" (huquq al-insan wa al-Islam), asserting that rights must be consistent with Islamic principles.[349] This distinction is enshrined in declarations such as the Cairo Declaration on Human Rights in Islam (CDHRI), 1990, which, while affirming many rights, expressly conditions them on compliance with Shari'ah.[350] Legally, the CDHRI has been used by Muslim-majority states to frame their human rights obligations within Islamic law, sometimes limiting the application of universal standards like the UDHR.[351] This legal positioning underscores the limitations on the UDHR's legal universality in contexts where Shari'ah is constitutionally entrenched.

That said, the enforcement mechanisms of the UDHR are significantly weakened in Islamic legal contexts due to the absence of domestic incorporation and the lack of judicial enforceability of UDHR provisions. Many Muslim-majority states have not fully incorporated the UDHR or its related treaties into domestic law, or they have done so with reservations and qualifications aligned with Islamic law.[352] For example, Saudi Arabia, a key GCC state, has neither ratified the ICCPR nor the ICESCR, both of which are pivotal to the UDHR's implementation framework.[353] This legal choice reflects constitutional and political realities that prioritise Shari'ah-compliant legal frameworks over international human rights obligations.

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[348] J E Linter, 'Humanitarian Intervention: Legitimising the Illegal?' (2005) 5 Defence Studies 271
[349] H R Ezzat, 'Women and Ijtihad: Towards a New Islamic Discourse' (2019) 12 Al-Raida 12–33
[350] L Abid, 'Islamic Human Rights Instruments in the Wider Context of Human Rights Discourses' (2025) 4 Philosophy of Law 23
[351] M Almahfali and H Avery, 'Human Rights from an Islamic Perspective: A Critical Review of Arabic Peer-Reviewed Articles' (2023) 12 Social Sciences 106
[352] F B Hakeem, M R Haberfeld and A Verma, 'Human Rights and Islamic Law' in Policing Muslim Communities: Comparative International Context (Springer 2012) 41
[353] A A Al Hargan, 'Saudi Arabia and the International Covenant on Civil and Political Rights 1966: A Stalemate Situation' (2005) 9 The International Journal of Human Rights 491–505

Even where UDHR-related treaties have been ratified, courts often apply Shari'ah principles as a primary interpretative tool, limiting the direct effect of UDHR standards on individuals.[354] For WWD, this means that judicial remedies for discrimination or denial of rights are often grounded in Shari'ah-informed family or disability laws rather than international human rights law. Consequently, legal protection for WWD under international standards remains uneven and contingent upon national legal reforms that reconcile Shari'ah with international law.

Finally, the legal pluralism evident in Muslim-majority states challenges the UDHR's one-size-fits-all approach.[355] Qatar maintains a multi-legal system, with a parallel civil-law system for commercial matters, Shari'ah for personal status, and administrative law for governance. The coexistence of these systems legally complicates the application of the UDHR's rights, as legal rights may vary drastically depending on the applicable legal regime. For instance, legal protections for WWD may be stronger under administrative or labour law than under personal status law, revealing the fragmented legal landscape that complicates the realisation of universal human rights.

It may be argued that the Islamic legal critique of the UDHR's universality rests on the constitutional supremacy of Shari'ah, where Shari'ah plays a dominant part in its legal framework, treaty reservations grounded in Shari'ah law, the primacy of public interest and morality principles, and limited domestic incorporation and judicial enforcement of international human rights norms. These legal factors collectively circumscribe the practical application of the UDHR in Islamic contexts, particularly for women with disabilities who face intersecting legal and social barriers. The challenge remains to reconcile international human rights obligations with constitutional and legal commitments to Shari'ah. Taking into consideration the conceptual divergence which fundamentally reflects different understandings of the relationship between religion, law, and the state, and remains one of the most challenging obstacles to normative balance between Shari'ah and the UDHR. As this task demands careful legal reform grounded in both Islamic legal principles and international law.

[354] M A Ghazi, 'Constitutional Human Rights: Saudi Perspective' (2010) 4(3) Journal of Middle Eastern and Islamic Studies (in Asia) 28–46

[355] A S Garba, 'The Prospects and Problems of the Marrakesh Declaration on the Rights of Religious Minority Communities' (2018) 16(4) The Review of Faith & International Affairs 47–59

4.7 Classic and Contemporary Reinterpretations

Building on the preceding discussion of Shari'ah law framework on disability and its interaction with international law, this section examines the role of interpretation and reform, particularly through classic and contemporary understandings of reinterpretation and ijtihad.

Ibn Taymiyya (1263–1328), a prominent Islamic scholar of the Hanbali school, although he is not a contemporary Jurist, has had his interpretations widely invoked in modern Islamic legal thought to justify context-sensitive reinterpretations of the Shari'ah. His work reshaped legal thinking, grounded rulings in scripture, and expanded the role of reasoning in the application of Islamic law. He held a range of views on women that reflected both his deep commitment to Islamic scripture and the cultural context of his time. His writings on women are scattered throughout his works and address topics such as women's roles in society, worship, marriage, and legal status. This is critical as shaping women's rights, and in particular WWD relay heavily on the work of Islamic scholars to contribute to legal reforms and movements.

On the other hand, Yousef Al-Qaradawi (1926-2022) was a leading voice in the Muslim world, both in religious and political spheres. He represents the contemporary articulation of Maqsid-based ijtihad, particularly relevant to the legal status of disabled women. His emphasis on Fiqh al-wāqiʿ and the removal of hardship supports an understanding of disability as a condition requiring facilitation and inclusion rather than exclusion or paternalistic protection, by rejecting rigid classifications of legal incapacity and emphasising individual assessment.

Although he did not hold an official position in the Qatari government, he is deeply involved with various entities that promote Qatar's policy. In his work, Al-Qaradawi developed a principal theory in contemporary Islam, from which all his views and stances emanate, widening its appeal and marginalising its opponents. This is the principle of Islamic Wasatiyya, inspired by the verse (2:43) from this wasati viewpoint. He presents all his ijtihads in all aspects of Islamic thought. Al-Qaradawi's written style was highly accessible, as he avoided the relatively obscure language of premodern Islamic legal manuals and wrote a book that could be read and understood by lay readers.

4.7.1 Ibn Taymiyya and Disability Rights

Shari'ah law provides nuanced jurisprudence on issues such as legal capacity, public participation, and personal rights for persons with disabilities, with differences across

Sunni and Shia schools. However, Ibn Taymiyya stated that the principles of Sharia, in all their provisions, distinguish between the capable and the incapable, the excessive and the transgressor. He emphasised that Sharia omits some mandated provisions for people with disabilities, consistently attending to their weakness and adjusting legal requirements according to the individual's capacity. He supported the foundational maxim that hardship brings about ease, observing that religious obligations, including ritual acts and social obligations, are eased according to a person's ability.

Ibn Taymiyyah advocated the view that, when a person with a disability cannot perform obligatory acts in the standard manner due to their condition, Sharia law provides alternative forms or assistance, reflecting justice and compassion toward people with disabilities. He cited the Qur'anic verse: "Allah charges no soul except to its capacity. For it is what it has earned, and against it what it has gained" (Al-Baqarah 2:286), and linked this with the Prophet Muhammad's teaching: "If I command you to do something, do as much of it as you can." Overall, Ibn Taymiyyah's approach affirms the adaptability and flexibility of Sharia in response to the needs of disabled individuals, while consistently prioritising their dignity and equitable treatment.

4.7.2 Ibn Taymiyya and Women rights

The legal thought of Ibn Taymiyya presented a foundational framework for enhancing women's rights within the Islamic tradition, particularly through the mechanisms of *ijtihad* (independent reasoning) and the higher objectives of Islamic law. He advocated for a dynamic and context-sensitive application of Shari'ah that aligns with justice, public welfare, and individual capacity. His jurisprudence reflects progressive views on women's active participation in society, affirming their legal capacity, their right to education, and their roles in public and familial spheres. He emphasised mutual rights and responsibilities in marriage, advocated for fair treatment within traditional gender roles, and upheld women's autonomy in legal and financial matters. In his legal opinions (fatwas), Ibn Taymiyya took positions that were often more protective of women's rights than some of his contemporaries. *Consent to marriage*: He held that a woman's consent is essential for a valid marriage, rejecting forced marriages. *Divorce:* He argued that a woman could seek divorce (khul') under valid circumstances, and he acknowledged women suffering in abusive or unjust marriages. *Polygamy:* He permitted it, as Shari'ah law permits up to four wives, but stressed justice among wives. Additionally, some reports suggest that he

allowed women to lead prayers in private settings when they were more knowledgeable than male attendees, provided modesty guidelines were observed.

While Ibn Taymiyya's jurisprudence offers interpretative flexibility, its invocation as a basis for advancing women's rights, particularly for women with disabilities, requires a critical interrogation of its limitations and practical application.[356] Notably, his framework does not inherently dismantle patriarchal structures embedded within traditional Islamic legal discourse but instead operates within them. The reliance on ijtihād presumes juristic freedom; yet, in reality, such freedom is circumscribed by entrenched doctrinal orthodoxies that privilege male authority and restrict transformative reinterpretation.[357] Consequently, invoking Ibn Taymiyya as a reformist authority risks legitimising selective readings that preserve systemic exclusion under the guise of religious fidelity.

4.7.3 Al-Qaradawi and Disability Rights

Al-Qaradawi's legal analysis of disability is grounded in core Islamic values, including dignity, inclusion, and compassion for PWD. His writings emphasise both the protection and advocacy for the social integration and esteem of this marginalised group, framing disability within the broader framework of Islamic law and ethics. He explains the Muslim community's duty to improve the conditions of people with disabilities. At the same time, his writings provide a comprehensive legal framework for the status and rights of PWD, it is notable that intersectional dimensions such as gender were not specifically addresses in his analyses on disability, however he consistently referenced historical figures, such as Atta Ibn Abi Rabah a prominent scholar who was paralyzed yet attained leadership roles based on his expertise and knowledge to illustrate that physical disability does not diminish an individual's entitlement to social or religious respect and recognition. In a notable 1998 interview with Al Jazeera, he discussed the Muslim perspective on disability and the objectives of Islamic law in alleviating the burden on the disabled. The terminology used for disability and disabled people advocates for precise language in legal and social discourse. He emphasised the need to distinguish between Congenital and acquired disabilities as a result of an accident, medical error or war crimes, as differentiating these legal categories highlights the necessity for tailored social and legal responses.

[356] I J Jalili et al, 'Ibn Taymiyya's Vision on Public Interest and Societal Prosperity within Islamic Law' (2024) Ulul Albab: Jurnal Studi Islam 25
[357] H R Ezzat, 'Women and Ijtihad: Towards a New Islamic Discourse' (2015–2016) Al-Raida 148–150

4.7.4 Al-Qaradawi and Women rights

Al-Qaradawi positioned himself at the intersection of reformist and traditionalist thought. While his views retained a measure of conservatism rooted in scriptural literalism, his willingness to challenge restrictive interpretations signified a transformative impulse within contemporary Islamic scholarship, one that sought to legitimise women's empowerment without contravening the normative framework of Sharia. He engaged with the discourse on women's rights, reflecting a nuanced attempt to reconcile Islamic jurisprudence with contemporary socio-political realities. He defended women's participation in public and professional spheres, such as serving as judges or heads of government, which demonstrates efforts to expand the interpretive boundaries of classical Fiqh.

Al-Qaradawi issued progressive Fatwas on some scientific issues related to the family and the human right to live the stage of motherhood or fatherhood in life, even after infection with malignant tumours that prevent fertility. He wrote and spoke about the right to organ transplantation and the right to fertilisation banks. Contemporary issues, including the right of (Muslim) women to store eggs in private banks for later use, especially women who do not marry at an early age, or who develop a tumour or cancer that may prevent them from having children after surgeries that aim to cure them. In that sense, Al-Qaradawi redefined the parameters of contemporary Islamic thought and offered a framework for reconciling tradition with modernity. As Badran[358] views this type of reformist engagement as exemplifying the broader movement of Islamic feminism, which seeks to achieve gender justice through reinterpretation rather than by rejecting religious texts.

4.8 Legal Reforms: Towards reconstructing Ijtihad on advancing WWD rights

Ezzat[359] identifies a phenomenon of extreme polarisation between the Islamist and secular camps, characterising an intellectual scene on social, economic and political issues in the Muslim majority states like Qatar, particularly on issues related to women. Consequently, this polarisation affects women's rights, determining whether WWD rights are realised through state/legal reform, activism, or theological renewal.

Reconstructing a more inclusive interpretive framework in the contemporary context concerning WWD is imperative to shape the drafting of WWD rights, their legal and socio-

[358] M Badran, Feminism in Islam: Secular and Religious Convergences (Oneworld Publications 2009)
[359] H R Ezzat, 'Women and Ijtihad: Towards a New Islamic Discourse' (2015–2016) 40 Al-Raida 12

political status, and redefine their roles and duties within society. The persistence of gendered and ableist interpretations within Shari'ah-inspired legal frameworks reveals a critical fault line: the conflation of cultural patriarchy with religious mandate.[360] This conflation obscures the potential within Islamic jurisprudence for emancipatory reinterpretation, thereby naturalising discriminatory practices as divinely ordained. A legal framework that fails to disentangle culture from religion risks ossifying systemic inequalities and obstructing the realisation of WWD's rights. The invocation of Maqasid al-shari'ah with its emphasis on justice, welfare, and human dignity, offers a theoretical counterweight; however, its practical application often remains superficial, constrained by conservative jurisprudential gatekeeping that resists substantive reinterpretation. Thus, despite the existence of principles that could advance equality, entrenched power dynamics within religious legal institutions serve as a formidable barrier to meaningful reform.

Critics argue that the spread of religion in the Arab part of the world is challenged by social customs that are not mandated by Shari'ah but have arisen from cultural influences. The ancient and present struggles of Arab societies are partly due to the nature of the post-colonial state. As a result, Gender discrimination and discrimination against disability still exist in the majority of these states, which is often attributed to religious or patriarchal norms and structures. In addition to religious norms, specifically those that come from interpretations that perpetuate gender inequality by prescribing different treatment for men and women,[361], which fosters systemic disparities that disproportionately affect WWD.

Moreover, the principle of "difficulty attracts convenience," while appearing compassionate, paradoxically entrenches a paternalistic legal stance that frames disability as a deficit necessitating exception rather than inclusion. This framing reinforces legal marginalisation by positioning WWD as objects of charity or protection rather than autonomous rights holders.[362] It echoes a medical model of disability rather than a social or rights-based model endorsed by international law, such as the CRPD. Consequently, legal accommodations risk being conditional and exceptional, rather

[360] M Charles, R Friedland, J Afary and R Yang, 'Complicating Patriarchy: Gender Beliefs of Muslim Facebook Users in the Middle East, North Africa, and South Asia' (2023) 37 Gender & Society 91
[361]N Mazid, 'Globalization, Gender, and Religion: The Politics of Women's Rights in Catholic and Muslim Contexts' (2002) 19(4) American Journal of Islam and Society 100
[362] M Billah et al, 'Islamic Law Perspectives and Social Experiences on Stigma toward Disabled People in Indonesia' (2025) 10 Frontiers in Sociology

than universal and integrative. This limitation highlights the need for a jurisprudential shift that reconfigures disability within Shari'ah discourse not as a deficiency, but as an aspect of human diversity that demands equitable participation and full legal capacity.

In this context, a critical clarification of disability-related terminology within the framework of Shari'ah is essential, as it directly influences the construction of legal capacity and, consequently, the socio-legal positioning of WWD. Yaqin & Khariri[363] agree that classical Fiqh often relies on the basic principle of "difficulty attracts convenience" in formulating rules governing disability. While this principle ostensibly aims to accommodate individuals facing difficulties, it often frames disability predominantly through a lens of vulnerability. This interpretive tendency can inadvertently confer various legal conveniences or exemptions upon individuals with disabilities yet simultaneously reinforce socio-cultural biases. When filtered through patriarchal readings of religious texts, such interpretations risk portraying WWD as inherently limited or burdensome, thereby diminishing their perceived agency and social worth. Consequently, these normative constructions contribute to the marginalisation of WWD, manifesting as restricted access to education and healthcare and limited active participation in the public sphere.[364]

Fundamentally, the re-interpretive framework must grapple with the intersectionality of gender and disability, recognising that WWD confront unique and compounded barriers that singular legal categories inadequately address. This requires moving beyond fragmented jurisprudential responses towards an integrated legal framework that synthesises maqāṣid al-sharīʿa with contemporary human rights norms. Such synthesis demands rigorous doctrinal innovation capable of challenging normative assumptions about autonomy, capacity, and dignity. Without this, legal reforms risk perpetuating symbolic gestures rather than securing substantive rights. Ultimately, the legitimacy of Shari'ah-based reform for WWD hinges on its capacity to reconcile tradition with evolving conceptions of equality and justice, ensuring that legal empowerment transcends mere textual reinterpretation and manifests in lived social realities.

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[363] A Yaqin and K Khariri, 'Capacity of Persons with Disabilities as Legal Subjects in Islamic Law' (2022) 3(3) International Journal of Social Science and Religion (IJSSR) 199

[364] E H Pane, N H A Nasution, Y Harahap and A S Pulungan, 'The Impact of Islamic Family Law on Women's Rights: A Comparative Study of the Shariʿah and Modern Family Laws' (2024) 3(1) International Journal of Educational Research Excellence 3213(1) *International Journal of Educational Research Excellence* 321

4.9 Final Observations

Framing Islamic views on disability in both historical and modern terms demonstrates linguistic and conceptual sophistication in premodern Islamic thought on disability. It supports the idea that Islamic theology does not stigmatise disability, but modern interpretation must distinguish between Metaphor and literal meaning, as well as cultural and religious expression.

Interpretations of Islamic law, within traditional jurisprudential schools (e.g., Hanbali or Shafi'i), on disability, particularly mental or cognitive impairments, can affect a person's legal capacity. WWD may be deemed legally incapacitated and therefore placed under guardianship, even in cases where the disability does not prevent rational decision-making.[365] This broad classification can result in WWD being denied the right to consent to marriage, inherit property, or manage their legal affairs, reinforcing gendered and ableist assumptions. From a universalist perspective, such practices directly contravene international legal norms, most notably the CRPD, which emphasises autonomy, equality before the law, and non-discrimination. Under Article 12 of the CRPD, States Parties are obligated to recognise that persons with disabilities enjoy legal capacity on an equal basis with others and must provide access to necessary support in exercising that capacity. These obligations are echoed in other human rights instruments, such as CEDAW and the UDHR, which emphasise the indivisibility and universality of women's rights, regardless of cultural or religious context. However, when viewed through the lens of Islamic universalism harmonising approach is possible.

Jurists invoking maqaṣid al-shari'ah argue that legal rules must serve justice, human dignity, and the welfare of all individuals, including vulnerable groups. The preservation of life, intellect, and dignity constitutes the core objectives of the Maqasid framework, which can be employed to support reform-oriented interpretations of legal capacity for WWD. Contemporary scholarship emphasises that Islamic jurisprudence is not static: Ijtihad functions as a dynamic interpretive tool capable of adapting Shari'ah to modern realities. At the same time, a rights-based reinterpretation of Shari'ah is both theologically defensible and socially necessary.[366]

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[365] S A Khadri, K Al Ali and P Cuenca Gomez, 'Islamic Perspectives on Legal Capacity in Healthcare for People with Disabilities' (2018) Qatar Foundation Annual Research Conference Proceedings SSAHPD1048

[366] M H Kamali, Shariʾah Law: An Introduction (Oneworld 2008)

Legal reform in several Muslim-majority states jurisdictions reflects this interpretive shift. For example, in Indonesia, recent legislative efforts have attempted to reconcile Islamic law with human rights norms, expanding rights for disabled persons, including women. Major Islamic organisations in Indonesia, such as *Nahdlatul Ulama* and *Muhammadiyah,* have issued fatwas acknowledging the rights of WWD and encouraging their inclusion.[367] However, scholarly analysis highlights that these texts often rely on rukhṣah (conditional dispensations) and remain limited in their ability to address gender equity comprehensively.[368] Building on the nuanced interplay among cultural, religious, and international legal norms, the application of legal capacity and rights to WWD warrants further interrogation through the lens of structural legal barriers and the persistent tension between formal legislative reform and lived realities. While constitutional commitments and international treaty obligations, notably the CRPD, have catalysed statutory amendments in various Muslim-majority jurisdictions, these changes often remain superficial or selectively implemented, resulting in a disjuncture between legal theory and practice that disproportionately affects WWD.[369]

Critically, the mere incorporation of international human rights principles into domestic law does not guarantee effective enjoyment of rights by WWD, especially where deeply entrenched patriarchal and ableist socio-legal norms prevail. Legal capacity, as a concept, extends beyond formal recognition; it implicates substantive access to justice mechanisms, decision-making supports, and protection against substituted decision-making regimes that override individual autonomy. Scholars such as Arstein-Kerslake and Flynn have emphasised that formal legal reforms must be complemented by procedural safeguards that ensure autonomy is not an abstract entitlement but a lived reality.[370] In many Muslim-majority states, however, guardianship or custody systems remain pervasive and unregulated, thereby perpetuating paternalistic control over WWD's legal and personal affairs despite legislative promises to the contrary.

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[367] A An-Naʿim, Islam and the Secular State: Negotiating the Future of Shariʿa (Harvard University Press 2008)

[368] N Khan, T Alkiek and S Chowdhury, Women in Islamic Law: Examining Five Prevalent Myths (Yaqeen Institute for Islamic Research, July 2019) <https://yaqeeninstitute.org/wp-content/uploads/2018/04/FINAL-Women-in-Islamic-Law_-Examining-Five-Prevalent-Myths.pdf> accessed 16 July 2025

[369] S Hasan (ed), Human Security and Philanthropy: Islamic Perspectives and Muslim Majority Country Practices (Springer 2015) 1–14, "Muslim Majority Countries' Ratification of the International Human Rights Instruments: Possible Causes and Consequences of the Variations" <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3010056> accessed 16 July 2025

[370] E Flynn and A Arstein-Kerslake, 'Legislating Personhood: Realising the Right to Support in Exercising Legal Capacity' (2014) 10 International Journal of Law in Context 81

Moreover, the intersectional marginalisation faced by WWD compounds the impact of these legal inadequacies. The interaction of gender and disability renders WWD vulnerable to multiple forms of discrimination that statutory reforms alone cannot dismantle. The gap between law and practice is often widened by social stigma, lack of awareness, and institutional inertia within the judiciary, law enforcement, and administrative bodies. The compartmentalisation of disability within Islamic jurisprudence exposes a normative fragmentation that weakens the legal protection of women with disabilities.[371] The legal system's failure to integrate disability rights substantively into personal status or family law regimes means WWD remain vulnerable to intersecting forms of discrimination.

In addition, the invocation of Maqasid al-shari'ah to support legal reform, while promising in theory, is constrained in practice by its interpretative plurality and institutional authority. The flexibility of Maqasid jurisprudence depends primarily on who exercises interpretive authority and their willingness to prioritise human dignity and equality over traditionalist or conservative readings.[372] In many jurisdictions, the judiciary and religious authorities retain significant autonomy to resist reformist interpretations, thereby limiting the transformative potential of Maqasid -based arguments.[373]

This tension highlights the broader issue of legal pluralism, in which multiple normative orders coexist, and the supremacy of human rights law remains contested. Consequently, legal reforms grounded in international norms are often undermined by competing normative claims, thereby reducing their efficacy in enhancing the lived experiences of WWD.[374]

Furthermore, the reliance on rukhṣah (dispensations) in progressive fatwas and legislative reforms raises critical questions about the permanence and universality of rights for WWD. Conditional dispensations, by their nature, imply exceptions rather than fundamental rights and may be revoked or limited in scope based on contextual or political

[371] M Ghaly, Islam and Disability: Perspectives in Theology and Jurisprudence (Routledge 2009)
[372] M Arafat and A Asmuni, 'Implementation of Maqāṣid al-Sharīʿa in Islamic Criminal Law in Muslim Countries: A Comparative Study of Saudi Arabia, Iran, Malaysia, and Indonesia' (2025) 14 Al Sulthaniyah 45
[373]F Zacky and A Abdulgani Serang, 'Legislating Modesty: Classical and Contemporary Debates on State-Enforced Hijab in Islamic Governance' (2025) 3(3) MAQOLAT: Journal of Islamic Studies 285
[374] L Zimmermann et al, 'International Norm Disputes' [2023] International Norm Disputes 244

considerations.[375] This legal conditionality contrasts sharply with the universalist human rights framework, which demands rights be guaranteed without discrimination or exception. The conditional nature of rukhṣah-based reforms risks entrenching a two-tiered system of rights in which WWD's entitlements are contingent and negotiable, thereby undermining the principles of equal legal capacity and non-discrimination.[376] This issue is further compounded by the absence of robust enforcement mechanisms and accountability frameworks, which are critical to ensuring that legislative and religious pronouncements translate into practical gains for WWD.

The issue of access to justice further exacerbates the complexity of these challenges. Procedural barriers, including a lack of reasonable accommodation, inadequate legal aid, and limited access to information, significantly impede WWD from asserting their rights.[377] In many Muslim-majority countries, legal aid services remain under-resourced and often fail to address the specific needs of persons with disabilities, let alone WWD. Moreover, cultural norms that discourage women's participation in public and legal spheres further marginalise WWD, reducing their capacity to seek redress. This systemic exclusion not only violates principles enshrined in international human rights law but also perpetuates a cycle of invisibility and disenfranchisement that statutory reform alone cannot resolve.

In sum, the legal recognition of WWD in Muslim-majority contexts demands a multidimensional approach that transcends legislative amendments to confront entrenched social, institutional, and normative barriers. A critical engagement with both international human rights law and indigenous legal traditions must prioritise procedural justice, enforcement mechanisms, and participatory reforms to ensure that WWD's legal capacity is realised not merely on paper but in everyday life. Without such comprehensive efforts, the aspirational promises of reform risk remaining aspirational, perpetuating systemic injustice at the intersection of gender, disability, and culture.

4.10 Conclusion

This chapter critically evaluates how the Hanbali school of jurisprudence conceptualises gender and disability, with particular attention to the doctrine of legal capacity. Drawing

[375] F Pou Giménez, L Clérico and E Restrepo Saldarriaga, 'Proportionality in Social Rights and Equality-Based Adjudication' in Proportionality and Transformation: Theory and Practice from Latin America (Cambridge University Press 2022) 135

[376] A Hakim, 'Reasons for Polygamy and Its Impact on Muslim Family Life: Experiences of Polygamous Perpetrators in Babat, Lamongan, Indonesia' (2022) 3(1) JIL: Journal of Islamic Law 34

[377] W Holness and S Rule, 'Barriers to Advocacy and Litigation in the Equality Courts for Persons with Disabilities' (2014) 17(5) Potchefstroom Electronic Law Journal 1907

on both classical sources and contemporary human rights frameworks, it argues that while Shari'ah law affirms basic protections for persons with disabilities, entrenched guardianship norms continue to undermine women's autonomy, particularly in contexts of marriage, inheritance, and public participation. The complex interpretations and positions on WWD rights are shaped and promoted by various actors, including religious authorities, state institutions, legal scholars, and international bodies, operating in different historical, social, and political contexts. It can be argued that the limitations of WWD arise under both political and specific Islamic interpretations, as well as within international legal systems, each with its own circumstances and justifications. Limitations to WWD rights are not exclusive to either Islamic or international frameworks. Some limitations arise from traditional or conservative interpretations of Shari'ah that may, for example, deny full legal capacity, restrict guardianship rights, or marginalise disabled women in family law. From an international context, despite international human rights commitments (such as the CRPD or CEDAW), limitations persist due to weak enforcement, cultural resistance, or political factors, especially in countries that have ratified such treaties but have failed to implement them meaningfully. In Conclusion, both systems have their limitations and failures, even if their justifications differ. Islamic frameworks may appeal to religious authority or legal precedent, whereas international actors may cite resource constraints, cultural sensitivity, or state sovereignty.

Violation of Human rights has been widely used as a political tool not just by legislators or policymakers, contradicting the essence and the principle of it. This includes violation on WWD rights, which applies inter alia to the UN and its target on protecting women's rights, as in the case of violations against women and minorities in war crimes.[378] (Quran 9:34) based on the lectures and teachings by Prof. 'Abd al-salam maqbil al-majidi at Qatar univeristy[379] can be understood to include a moral imperative for ethical financial conduct in contemporary contexts, as this verse addresses people in positions and power in how they interpret for their desires and misleading people about the call of the prophet, using it as a tool or trade instead of using it correctly as a mission and a message preserve "fatwas" and legislations that are compatible with authority at all prices. The same is

[378] J Mertus, Book Review of Kelly Dawn Askew, War Crimes Against Women: Prosecution in International War Crimes Tribunals (1997) (1999) 93 American Journal of International Law 740
[379] ʿAbd al-Salām M al-Majīdī, personal communication, Qatar University

suggested by Uddin et al, as mentioned in the article “If Islamic law is seen as beyond human interpretation, that is, as a set of absolutes rather than dependent on particular circumstances, it will remain unchallenged, regardless of how inadequate the provisions become in the context of Muslims’ lived experience”.

5 - Disabled women rights and Qatar's legal framework

5.1 Introduction

This chapter examines the legal position of WWD within Qatar's legal framework, adopting an intersectional approach that recognises the compounded discrimination arising from the interaction of gender and disability. Rather than providing a general discussion of women's rights or disability law, the chapter focuses specifically on how Qatar's domestic legal system regulates the rights, autonomy, and legal capacity of WWD, and whether these regulations comply with Qatar's international human rights obligations.

Qatar's legal framework is characterised by legal pluralism, combining Islamic Shari'ah, civil law traditions influenced by European models, and international human rights law. While this structure is often portrayed as compatible with equality principles, its practical operation raises significant concerns when applied to women with disabilities, particularly in areas governed by personal status law, guardianship, and social protection. This chapter, therefore, examines selected areas of law, including family law, marriage, divorce, custody, inheritance, criminal law, labour law, healthcare, and social protection, only insofar as they affect WWD.

The analysis is grounded in international legal standards, with particular emphasis on the CRPD, especially Article 6, which recognises the multiple and intersecting forms of discrimination faced by women with disabilities. By assessing the extent to which international norms are reflected in domestic legislation and practice, this chapter evaluates whether Qatar's legal framework provides substantive equality for WWD or perpetuates structural exclusion under the guise of formal legal protection.

5.2 Qatar's School of Thought

The development of the legal system in Qatar has proceeded in three stages, beginning with tribal law in the early 17th century, when Qatar was composed of the Badu and Hadar tribes. Tribal law was used to resolve conflicts between tribes and among pearl fishermen. Qatari society has always been based on traditional systems of beliefs and behaviours inherited from ancestors, with a symbolic and special significance with origins of the past, including social governance, customs, which are considered the oldest source of law because they have shaped the legal systems in traditional societies such as the Arab Gulf states. Scholars are almost unanimous in holding that customs are not only the oldest but

also the most important source of law, given their role in shaping legal systems in traditional societies.

The second phase of development in Qatar's legal system began with the enactment of a law in the mid-19th century. Under Ottoman rule, a justice system was established based on the teachings of the Hanafi school of Islamic Law. Over time, a gradual shift toward the Hanbali school of Islamic law has occurred, driven by the Kingdom of Saudi Arabia's emerging regional power. The introduction of shari'ah law led to the abolition of several tribal practices that contravened shari'ah. The customary law of the Bedouins and other tribal groups is called '*urf* ,which translates as "what is commonly known and accepted" and describes the judicial process based on legal narratives and analogies among tribal groups.

The third phase began when Britain and Qatar signed a treaty in 1916, and Qatar became a British protectorate. Great Britain established their courts enforcing English statutes, while local courts continued administering their justice under 'ah principles. However, despite the termination of British protection and jurisprudence in 1971, the practice of Western laws remains. The growth of the oil market has accelerated globalisation and expanded the labour market as a result of the high proportion of migrant labour in Qatar, creating difficult situations in legal matters for expats and non-Muslims in the country. Therefore, the Adlia courts emerged as an independent judicial structure established to resolve the affairs of civilians and residents of Qatar, irrespective of their differences. The Adlia court is a body whose legal procedures and operations are not subject to the influence of the Emir or his ministers at the time and proceed strictly in accordance with the state's laws and regulations. This practice engendered the dual court system that has prevailed in Qatar until recently.

Muslims in Qatar are divided into two sects, namely, the Sunnis and Shias, each following a different school of thought and interpretation. However, Qatar's primary source of Islamic jurisprudence is the Sunnah madhab. In addition, in 2005, a judicial division was established for Shia Muslims to resolve family-law disputes; previously, they relied on shari'ah courts that follow the Sunnah.

There are various schools of thought in Islam. However, all follow the same path; they differ in their methods of interpretation, with differences arising from different sources. We find that the Hanafi interpretation previously practised in Qatar and commonly practised

in Turkey, Central Asia, and the Indian subcontinent is less conservative than that of other schools of thought. Interpretation that relies on customs, Qiyas, Ijma 'and Ist-hsan, unlike the Hanbali school, which is the current practice followed in Qatar and prominent in Saudi Arabia, is more of a strict interpretation that relies on the Quran and Sunnah. In this context, it should be noted that Muslim scholars seek Ijtihad when the Quran and Sunnah leave an unresolved issue. In this case, there is greater freedom to choose the interpretation that is most convincing and appropriate for whom, perhaps in that position, as Al-hibri suggests.[380] Most ijtihads are influenced by the patriarchal customs and beliefs of their surroundings. As a result, we still face issues with women's rights in Islamic countries.

5.3 Constitution and Shari'ah

The State of Qatar is an independent, sovereign state in complete and exclusive control of all persons and property within its territory. In other words, one state cannot demand that another take any particular internal action, as stated in Art. 5 of the Qatari Constitution: "The State shall preserve its independence, sovereignty, territorial safety and integrity, security and stability, and shall defend itself against aggression." Nevertheless, the State of Qatar enacted its provisional constitution before its independence from the United Kingdom in 1971, which embodied Qatar's first provisional fundamental law of governance. A year after Qatar's national independence, the provisional constitution was amended to align with the requirements and responsibilities of this new era; the final amendment was made in 2004. Dualism is a key feature of the Qatari legal system because it governs the relationship between national and international law in treaties and conventions that are not self-executing and must be implemented in Qatari legislation, as provided in Article 6 of the Constitution. The statutes on which Qatar's legal system is based include the Shari'ah and Western civil law, the latter rooted mainly in the Napoleonic Code adopted by Egypt for the Middle East.

Shari'ah influences the constitutional text governing civil law in various matters; when the ordinary legislator enacts civil legislation, it is impermissible to contravene Islamic law because of the supremacy of the constitutional text over ordinary legislation. This effect is evident in future matters, as the legislator must not enact legislation that contradicts this constitutional text. Owing to unconstitutionality, the Qatari legislator issued Law No.

[380] A al-Hibri, 'An Introduction to Muslim Women's Rights' in Gisela Webb (ed), Windows of Faith: Muslim Women Scholar-Activists in North America (Syracuse University Press 1997) 52

12 of 2008 in the Supreme Constitutional Court, whereby the law of this court allows the judge to suspend the adjudication of a case if it appears to them that a provision in a law or regulation is contrary to the law. However, this law has not been activated in practice, and the court has not yet convened. Unconstitutionality may challenge all laws and regulations not covered by civil law that violate Islamic law. The constitutional legislator has designated Islamic law as the primary source of all legislation issued in the State of Qatar, which means that the constitutional text's scope of application extends beyond civil law to encompass all branches of law. The impact of Shari'ah law on Qatari law appears to arise from two directions: the first is in terms of the constitutional text, and the second is in terms of the text of the first article in the civil law No. 22 of 2004, which states that:

> *"Legislative texts shall apply to the matters dealt with in these texts, in terms of their verbal or meaningfulness.*
>
> *"If there is no legislative text, the judge shall rule according to Islamic law; if he does not find it, he shall rule according to custom, otherwise, according to the rules of justice.*

The Qatari text is identical to the Arab legislation in Kuwait, Jordan, the United Arab Emirates, and Algeria. However, it differs from civil legislation in Egypt and the Kingdom of Bahrain, which rank the principles of Islamic law third, after legislation and custom. This is also what was in place in the State of Qatar before the issuance of the current civil law. In this case, the text of Islamic law is considered a secondary source to legislation and may be consulted when a judge does not find an applicable provision in the bill. An aspect of jurisprudence holds that, in most Arab countries, where the legislator has accorded Islamic law special importance by designating it as one of the official sources of law, its effect may appear limited. Moreover, Article 1 of Qatar's 2004 Constitution aligns with many Arab constitutional texts, including the constitutions of Kuwait, the United Arab Emirates, and Bahrain, as well as the cancelled 1971 Egyptian Constitution. The difference is that the latter was initially formulated in conformity with all the Arab constitutions to which it referred. However, in 1980, the article was amended to read "Islamic law is the main source of legislation," and this was later included in the Egyptian Constitutional Declaration for 2011. By comparing the Qatari text with the corresponding texts in Arab legislations, we conclude the following:

The application of Islamic law is based on a set of rules that apply in matters of personal status, or the rules by which the legislator has regulated the provisions of inheritance, wills, endowments, and guardianship over money, as the regulation of these issues is implemented by the legislator in the form of written legal texts. Therefore, the legislation is considered the primary source of these rules. The Qatari legislator has followed this practice in the context of the current Qatari family law (QFL), which regulates these issues through written and legal texts. Hence, the source here is the legislation, not Islamic law, although these legislative texts derive from Islamic law.

The comprehensibility of Islamic law in this context is grounded in the fundamental principles of Qatari law. In the absence of these detailed principles, which do not differ across schools of thought, Islamic law is considered an official reserve source of Qatari law, which the judge may resort to only when no legislative text is available. When the judge applies Islamic law, he does so not as a religious rule but as a legal rule, as is the case with legislation when it exists. This text is essential; it provides the judge with a solution in the absence of a legislative text governing the dispute. The effect of the text is limited to the pretext of the spread of legislation, where it cannot be invoked.

The role of Islamic law in guiding the judge's ruling in a dispute underscores the importance of this text. Regardless of legislators' power, they will not be informed of all issues brought before the judiciary.

The Qatari legislator used the term Islamic law, rather than Islamic jurisprudence, as some comparative Arab legislations have, such as the Jordanian, Kuwaiti, and United Arab Emirates legislations. We have explained the difference between the two. The Qatari legislator prefers to formulate these Arab laws because it gives the judge the freedom to refer to general principles to render a legal ruling without being constrained by a specific doctrine. Generally, the referral was not limited by principles or provisions, as in the case of Egyptian and Algerian legislators. In comparison, the general formulation based on Islamic law was preferable; it allowed judges to refer to it freely without being constrained by provisions that some jurists classify as principles or rulings.

The Qatari legislator placed Islamic law second, without a legislative text, and ranked custom third. The abolition of the Qatari civil and commercial articles law relegated custom to second and third place, as in Egyptian and Algerian legislation. Some argue that prioritising customs from Islamic jurisprudence is unimportant because Islamic

jurisprudence itself orders the implementation of customs. Hence, its violation of public order makes it inconceivable that there is a custom that contradicts the Shari'ah. Therefore, it is more appropriate to formulate the matter as follows: the considered custom follows the legislation, with the preceding as a backup source, resulting in legislation compatible with Shari'ah.

However, Shari'ah is not an independent branch of knowledge, nor does it involve the creation of legal scholars or secular institutions. Nonetheless, it is a religious system; its two primary sources are the Quran and the Sunnah, which embody the teachings of the Prophet Muhammad, and it is the current basis of legal practice in Qatar. What distinguishes Shari'ah from other legal systems is that it does not separate religion and state; it encompasses both a religious framework and a path to follow. Hence, regulating social relations among members of society at all levels is central, in contrast to Western laws that distinguish between civil and religious obligations.

The clash between Shari'ah law and human rights has been widely debated in recent years, as the two sets of principles differ significantly in their backgrounds, norms, and mechanisms. Scholars have argued that Islamic law is incompatible with the rights articulated in the UDHR, as these rights are at odds with traditional practices and norms in non-Western societies. A significant challenge related to human rights in this era stems from differences between Islamic nations and the West, highlighting divergent perceptions of human rights and divergent interpretations of international conventions within Western legal systems, as well as the specificity of those rights for each nation.

The fact that Islamic law is not only practiced in the Middle East, but also enacted in some European territories such as Greece, Republic of Russia Chechnya, and the United Kingdom makes it more complex as the relationship between religion/culture and human rights, according to this law, is not in compliance with the European Convention on Human Rights (ECHR) On the issue, the Parliamentary Assembly of the Council of Europe (PACE) has stated that it is *"greatly concerned about the fact that law – including provisions which are in clear contradiction with the Convention – is applied, either officially or unofficially, in several Council of Europe, or parts thereof"*, Balancing law with human rights is still widely discussed in Europe in the context of conflicts between, the Cairo Declaration, and the ECHR.

Even though many Islamic countries have ratified various core treaties of human rights, many of them have reservations, based on Shari'ah, that these are contrary to the beliefs and principles of Islam. For instance, in relation to Article 16 of CEDAW"equality of men and women in all matters relating to marriage and family relations," Egypt and the Kingdom of Saudi Arabia made a reservation as the provisions of the Shari'ah to "*lay down that the husband shall pay bridal money to the wife and maintain her fully*," and "*restrict the wife's rights to divorce, whereas no restriction is laid down in the case of the husband*." Saudi Arabia affirmed that "*in case of contradiction between any term of the Convention and the norms of Islamic law, the Kingdom is not obligated to observe the contradictory terms of the Convention*." According to their view, certain rights fall outside the normal scope of human rights and threaten traditional family structures, gender roles, and values. The evolution and diversity of ethnicities, cultures, and religions worldwide complicate the freedom of religion and practice, particularly in relation to minority rights, including those of women. This conflict remains unresolved because it requires deeper analysis that considers the principle of cultural relativism rather than treating it as a product of political history and the result of attempted cultural imperialism.

5.4 Judicial System

The Litigation procedures in Qatar Judiciary Law No. 10 of 2003 came into force in October 2004, unified the Justice and judicial entities into one authority, namely the courts, specifically, the Court of Cassation, the Court of Appeal, and the Court of First Instance, each having the jurisdiction to consider and decide upon the matters referred to it under the law. The litigation procedures in Qatar include Civil and Commercial, family and inheritance, Administrative and Appeal of judgments issued in rental cases by rental dispute settlement committees.

However, Shari'ah law is dominant in personal status and family matters in Qatar; for example, Law 22 of 2006, which was codified in the same year and comprises 301 articles covering divorce, marriage, alimony, custody, and inheritance. These laws are based on religion, custom, and tradition, and cultural and ethnic identities are also vested in family law, as set out in Qatar's Constitution. As defined in the State of Qatar report, Qatar adopts the Hanbali school of Law as the primary reference; if a reference cannot be found in the Hanbali school, the other four schools of Islamic law or jurisprudence are consulted as alternatives. If the Hanbali school is not adhered to, the presiding judge must follow the chosen pattern to extrapolate family law. Moreover, family law in Qatar allows for

interpretation, and the presiding judge primarily bases decisions on it. Many articles of the law also refer to Qatari customs and rules. Interviews with several family lawyers and social welfare experts reveal that this "interpretative space" allows for subjectivity and individual bias in the courts of Qatar.

In contrast, other disputes, such as those related to civil, commercial, and administrative matters, are subject to the inclusion of Western civil law, as the rules of conflict of jurisdiction may specify its application. According to Art. 28 of the Qatari Civil Code, foreign law applies to the work relationship that is carried out in Qatar by the notion that “Employment contracts concluded by employers with their workers and employees shall be governed by the law of the state in which the Centre of management of these businesses is located”.

5.5 Women’s Rights in Qatar’s Legal Framework

Women’s rights are often violated in the name of religion, on a regional and international basis, as religious freedom is frequently used as an excuse to deny women and girls equal protection under the law and to permit religious, spiritual, or cultural institutions to perpetuate gender discrimination. Religious reservations, however, are sometimes so general or vague that the entire treaty is undermined, as compliance with human rights law becomes a matter of political discretion. Religious reservations are divided into two subcategories: religious reservations to the right to freedom of religion or belief, and religious reservations to equality rights. Qatar’s religious reservations are considered in the second category, i.e., religious reservations to equality rights. However, several domestic policies promote measures to improve women's rights in Qatar, although these measures have not yet been sufficiently developed. However, Qatar is committed to protecting women's rights in accordance with its international and regional obligations, consistent with the principle of equality between men and women. Initiatives to fulfil these commitments include ‘Qatarisation ’and the Qatar National Vision 2030. Despite these changes, there remain limitations to the enforcement of women’s rights under Qatari legislation. Human rights reports on Qatar suggest that women in Qatar are being discriminated against owing to ’ah law practices; the focus is mostly on acts against women, which were reported and investigated, as a consequence of poor male guardianship rules and practices. Cases of discrimination against women include those related to employment and citizenship, as women are denied the right to pass on their citizenship to their children on the same basis as men. Family laws discriminate against

women in issues related to marriage, divorce, custody, and inheritance and, finally, the penal code does not criminalise domestic violence or marital rape.

5.5.1 Family Law

The Qatari Family Law (QFL) of 2006 illustrates a fundamental tension between observing Shari'ah principles and aligning with international human rights norms, especially those concerning the rights of WWD. Although Qatar has accepted international treaties, including the CRPD and CEDAW, its family law contains stipulations that restrict women's legal rights.[381] This establishes a legal contradiction in which Qatar officially recognises international obligations regarding gender and disability rights while concurrently implementing local legislation that sustains structural inequality.

A significant concern is the stipulation of a male guardian (Wali) for a woman's marriage, as mandated by Article 26 of the QFL (see further under 5.3.2).[382] This rule presupposes that women are incapable of autonomously consenting to marriage and need male supervision in marital decisions. This need is especially problematic for WWD, as it promotes dependence on male authority figures, thereby denying them personal autonomy and self-determination.[383] The CRPD advocates for the acknowledgement of complete legal competence for individuals with disabilities in all facets of life, including marriage, and repudiates paternalistic legal structures that presume such individuals necessitate external oversight of their personal choices.[384] By maintaining the necessity of a Wali, Qatari law contravenes these values and legitimises a society that regards women, particularly those with disabilities, as permanent legal minors.

Moreover, Qatari family law lacks sufficient protections against coercion, fostering a milieu in which forced or planned marriages may transpire without viable legal remedies. Although the QFL formally requires the woman's consent to marriage, the wali's authority is paramount, particularly for WWD, whose capacity to voice dissent may be further constrained by societal shame, familial pressure, or communication barriers. Conversely, international human rights standards underscore the necessity for clear legislative safeguards that guarantee all persons, including those with disabilities, can exercise free

[381] MR Arakelian and AV Lutsan, 'Protecting Women's Rights in Qatar: Legislation, Progress and Challenges' (2023) State and Regions. Series: Law 282
[382] HN Fouad, 'Closing the Divide: Women Empowerment in Qatar between Rhetoric and Reality' (2023) Gulf Studies 135
[383] N Alotaibi, S Dasuki and E Zamani, 'M-Government, Wilaya, and Women Empowerment in Saudi Arabia' (2021) 1 *Implications of Information and Digital Technologies for Development* 487
[384] KB Glen, 'Supported Decision-Making and the Human Right of Legal Capacity' (2015) 3 *Inclusion* 2

and informed consent.[385] The lack of such protections in Qatari law not only contravenes international legal obligations but also subjects WWD to increased dangers of exploitation and abuse within the institution of marriage.

The selective incorporation of several Islamic legal schools inside the QFL exacerbates these issues. The legislation integrates aspects from the Hanbali and Maliki schools of thought; nevertheless, this flexibility has not been utilised to improve WWD's rights.[386] Article 8 of the QFL adheres to Maliki jurisprudence by permitting the restitution of engagement gifts upon termination of the engagement.[387] This selective adoption does not encompass more progressive interpretations of Shari'ah that might enhance legal competence for women, especially those with impairments.

The influence of the Muscat document, which provided a guiding framework for Gulf states' family laws, further underscores the limitations of Qatari family law.[388] While the document was instrumental in standardising aspects of personal status laws across the region, it did not address the intersection of gender and disability, leaving legal systems like Qatar's without a clear strategy for addressing these specific vulnerabilities. Consequently, Qatari law has not evolved to accommodate the rights of WWD, thereby maintaining the existing legal structure.

Qatari family law reinforces systemic discrimination against WWD by failing to provide legal mechanisms that protect their rights in marriage, divorce, and family life. The state's approach to family law remains rooted in a patriarchal framework that limits women's autonomy while disregarding international human rights obligations.[389] The retention of the wali system, the inequality in divorce rights, and the absence of specific legal protections for WWD collectively indicate a legal structure that not only fails to promote equality but also actively entrenches existing disparities. This contradiction between Qatar's international commitments and domestic legal framework underscores the urgent need for legal reform. Without significant legislative changes to ensure full legal capacity

[385] R Lang, 'The United Nations Convention on the Right and Dignities for Persons with Disability: A Panacea for Ending Disability Discrimination?' (2009) 3 *Alter* 266
[386] M Samadi, 'The Legal Status of Women: An Introduction' (2021) *Advancing the Legal Status of Women in Islamic Law* 1
[387] A Emon and U Khaliq, 'Jurisdictional Exceptionalisms: Islamic Law, International Law and Parental Child Abduction' (2021) *Cambridge University Press* 145
[388] L Welchman, 'Musawah, CEDAW, and Muslim Family Laws in the 21st Century' (2012) *Islamic Law and International Human Rights Law* 309
[389] R Naguib and A Aref, 'Empowering Women through Public Sector Employment in Qatar: Challenges and Opportunities' (2023) *Gulf Studies* 75

and autonomy for WWD, Qatar will continue to violate fundamental human rights principles and perpetuate a system that systematically excludes some of the most vulnerable members of society.

5.5.2 Marriage

The freedom to marry is safeguarded by international human rights legislation, particularly the CRPD.[390] And CEDAW. As mentioned, Qatari legislation mandates male guardianship (wali) for women entering into marriage, irrespective of disability status. Article 12 QFL mandates that a lawful marriage requires the eligibility of both parties, the absence of legal obstacles, and the appropriate exchange of offer and acceptance. Article 26 explicitly prohibits a woman from entering into marriage without a male guardian—usually her father or another male relative acting on her behalf. If a guardian's permission is refused without valid reasoning, the woman may pursue court authorisation under Article 30. This criterion complicates matters for WWD, who are frequently viewed as incapable of making educated marital decisions. Despite the possibility of court involvement, legal procedures may remain unavailable to WWD owing to physical, communicative, and procedural obstacles, hindering their ability to contest a guardian's decision successfully.

Beyond guardianship, WWD face an increased risk of forced marriage.[391] Families may arrange marriages for them based on financial or social considerations rather than personal choice.[392] While Qatari law requires a clear offer and acceptance for a marriage to be valid, practical enforcement remains weak, and WWD often lack the resources or support to challenge forced marriages. The absence of robust legal protections against coercion exacerbates their vulnerability, as they may be pressured into marriage under the assumption that they require a husband to provide lifelong care.

Upon marriage, WWDs face heightened legal and societal challenges in establishing their rights within the union.[393] Qatar's family law designates the husband as the household's authority, positioning women in a state of legal and economic subordination. WWDs may

[390] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 art 23
[391] R Clawson and R Fyson, 'Forced Marriage of People with Learning Disabilities: A Human Rights Issue' (2017) 32 *Disability & Society* 810
[392] R Clawson, 'Safeguarding People with Learning Disabilities at Risk of Forced Marriage' (2013) 16 *Social Work and Social Sciences Review* 20
[393] PD Pohekar, 'Marriage of Physically Challenged Women: Status and Issues' (2020) 8 *Socrates* 43

encounter difficulties obtaining financial resources, healthcare, and mobility support, particularly if their spouses or in-laws limit their autonomy.

Qatari family law lacks specific protections for WWD in marriage, requiring them to rely on general legal principles that often do not meet their particular needs. Although Islamic legal traditions encompass interpretations that grant women greater autonomy in marriage, including the capacity to marry without a guardian under specific conditions, these interpretations are not reflected in Qatari statutory law. The stringent enforcement of guardianship regulations and the absence of procedural adjustments for WWD create a legal environment that considerably limits their capacity to assert their rights.

5.5.3 Divorce

The convergence of Qatari divorce legislation with the rights of WWD reveals substantial legal and societal obstacles that impede their capacity to pursue and secure divorce on equitable grounds. The QFL provides a framework for divorce, although its provisions are insufficiently addressed, the distinct issues encountered by WWD, resulting in systemic disadvantages that hinder their access to justice and financial stability.

Qatari divorce law bestows upon males the exclusive authority to initiate divorce via talaq. At the same time, women are required to traverse intricate legal processes to get khula (wife-initiated divorce) or faskh (annulment owing to injury or legal faults).[394] These processes sometimes necessitate that women furnish proof of maltreatment or reasonable cause, imposing an extra-legal burden on them that is not required of males. For WWD, this burden is intensified by communication obstacles, limited access to legal resources, and dependence on family members who may want to obstruct divorce.

WWD may encounter difficulties in presenting legally admissible proof of injury, so compromising their capacity to get a divorce. The CRPD and the CEDAW promote equitable treatment in marriage and divorce; nonetheless, Qatari divorce law persists in functioning on a fundamentally inequitable foundation, resulting in gender and disability-related disadvantages.[395] The economic reliance of WWD further constrains their capacity to pursue divorce. Article 67 of the QFL stipulates that husbands must offer

[394] N Lari and M Al-Thani, 'Divorce Legislation in the Arab Gulf: Trends and Educational Differentials' (2021) 11 *Journal of Arabian Studies* 289

[395] P Cuenca Gomez and others, 'The Impact of Article 12 of the Convention on the Rights of Persons with Disabilities on Qatar's Private Law' (2017) The Age of Human Rights Journal 81

financial assistance throughout marriage; nevertheless, it does not provide long-term economic security for women post-divorce.

Divorced women are entitled to financial help during the iddah (waiting period), but there are no provisions for continuous financial aid after this period.[396] This deficiency in financial security disproportionately impacts WWD, who may necessitate continuous medical care, assistive equipment, or personal support services. In contrast to legal systems that include disability-related expenditures in financial settlements, Qatari law does not explicitly require alimony or financial compensation for the increased cost of living with a handicap.[397]

Consequently, women with dependents have a heightened risk of financial distress following divorce, especially if they lack independent income or familial assistance. The legal and societal obstacles encountered by WWD in Qatari divorce procedures highlight the necessity for specific legislative reforms. Resolving these difficulties necessitates legislative modifications that eliminate structural disparities, provide accessible legal services, and implement economic safeguards designed explicitly for disabled women following divorce. In the absence of these measures, WWD in Qatar would persistently encounter significant obstacles in exercising their right to divorce and achieving financial autonomy.

5.5.4 Custody

The QFL delineates a separate separation between physical custody and legal guardianship; yet, its implementation frequently disadvantaged women, especially those with impairments. Articles 165 and 188 QFL pertain to child custody, underscoring the notion of the "best interests of the child." In fact, the legislation systematically favours dads, perpetuating gender inequities and inadequately safeguarding the rights of WWD in custody conflicts.[398]

According to Article 165, mothers are awarded custody of their boys until the age of 13 and daughters until 15, with the potential for extension until the son turns 18 or the

[396] NA Muslim, A Taeali and FS Renaldi, 'Reinterpreting Iddah for Career Women: Najmuddin Tufi's Maqashid Sharia Approach' (2024) 8 *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 65
[397] W Abu-Ras and others, 'Gendered Citizenship, Inequality, and Well-Being: The Experience of Cross-National Families in Qatar during the Gulf Cooperation Council Crisis (2017–2021)' (2022) 19 International Journal of Environmental Research and Public Health 6638
[398] LM Kassem**,** 'Qatari Family Law, When Custom Meets Shariʿa' in Adrien K Wing and Hisham A Kassim (eds), *Family Law and Gender in the Middle East and North Africa* (Cambridge University Press 2023) 187

daughter marries, contingent upon the judge's discretion.[399] The presumption that a mother with a disability is incapable of adequately caring for a child because of her impairment reinforces prejudice as it disregards the presence of support networks and assistive resources that facilitate good parenting.[400] A significant obstacle for WWD is the biased treatment in custody determinations about remarriage.

This disparity disproportionately impacts WWD, as it further constrains their autonomy and forces them to perpetual reliance on their former in-laws or the child's father to retain custody. The underlying presumption that a stepfather poses an intrinsic danger to a child's welfare, whilst a stepmother does not, exposes the gendered bias of the law, perpetuating patriarchal dominance in child-rearing practices.

The United Arab Emirates (UAE) has implemented more progressive legal changes than Qatar, especially with child custody and parental rights. In 2020, the UAE revised its Personal Status Law to enhance maternal custody rights, permitting mothers to maintain custody of their children until the age of 18, irrespective of gender.[401] Previously, custody was restricted to boys up to the age of 11 and females up to the age of 13. Furthermore, minors aged 15 and older has the legal authority to select their preferred custodial parent, so enhancing their autonomy in custody matters.

These amendments establish a more adaptable legal framework that can advantage women, especially those with disabilities, by emphasising the child's best interests instead of conforming to inflexible gender-based assumptions. Conversely, Qatar's QFL upholds conventional custody regulations that predominantly favour men after specific age limits, resulting in mothers losing custody of sons at 13 and daughters at 15, unless a court permits an extension. Furthermore, Qatar's legislative framework does not require accessible provisions in court processes, further marginalising WWD. These distinctions underscore the UAE's progress toward more equitable custody arrangements, whereas Qatar's structure remains more rigid and less flexible.

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[399] Andrea Büchler and others (eds), Electronic Journal of Islamic and Middle Eastern Law (EJIMEL): Special Issue (Carl Grossmann Verlag 2023) <https://doi.org/10.24921/2023.94115964>

[400] Pía Rodríguez-Garrido and others, 'Women with Disabilities and the Loss of Custody of Their Children: "Carers, but Not Mothers"' (2024) Feminism & Psychology <https://doi.org/10.1177/09593535241294149>

[401] OECD, *Development Co-operation Report 2024: Tackling Poverty and Inequalities through the Green Transition* (OECD Publishing 2024) https://doi.org/10.1787/357b63f7-en

5.5.5 Inheritance

The convergence of inheritance rights, Qatari legislation, and the realities of WWD constitutes a multifaceted legal and social dilemma. QFL further mandates that inheritance adhere to Islamic principles, as outlined in Articles 252-267, which delineate gender-specific inheritance rules. Women typically inherit 50% of what their male counterparts receive, with variations influenced by familial circumstances, including widowhood, widowerhood, and sibling status.[402] This framework, although justified in Islamic jurisprudence as a means of balancing rights and duties, inadequately addresses the specific vulnerabilities of WWD, necessitating a critical evaluation of the adequacy of legal protections for their financial security and independence.

The justification for gender-based inheritance differences in Islamic law is frequently upheld due to men's greater financial responsibilities, particularly the need to provide for female relatives.[403] Surah Al-Baqarah (2:15) of the Quran underscores the obligation of a man to support his parents, siblings, and dependents, and this view presupposes that male relatives are willing and financially able to meet these commitments. This presumption is especially troublesome for WWD, who may require lifetime financial assistance and specialised care. In contrast to their non-disabled peers, WWD frequently encounter systemic obstacles to work, hence intensifying their need for inheritance for financial stability. However, QFL lacks clear measures to augment female inheritance rights, rendering them vulnerable to economic marginalisation when male relatives neglect or decline to fulfil their financial obligations.

A significant deficiency of the Qatari inheritance system is its inability to distinguish among women based on their socioeconomic vulnerabilities. The law guarantees that a woman, irrespective of her capabilities, gets a share of her family's fortune; yet, it fails to account for the extra financial burden associated with living with a disability. A disabled woman inheriting half of her male counterpart's assets may nonetheless face elevated medical, caring, and accessibility expenses.[404] Furthermore, dependence on male guardianship systems, in which financial authority predominantly resides with male relatives, can render disabled women vulnerable to economic dependency and potential exploitation.

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[402] G Quer and others, 'Qatar' (2019) 1 Legislating for Equality 121

[403] Z Windani, 'Gender Equality in Inheritance Distribution Reviewed from the Perspective of Islamic Inheritance Law' (2024) 5 *Journal of Gender and Social Inclusion in Muslim Societies* 13

[404] S Mitra and others, 'Extra Costs of Living with a Disability: A Review and Agenda for Research' (2017) 10 Disability and Health Journal 475

This issue exposes a deficiency in the law's capacity to meet the distinct requirements of WWD within the overarching gendered context of inheritance.

A crucial element to analyse is the function of judicial discretion in alleviating the adverse effects of gender-based inheritance inequalities. Qatari courts have the authority to interpret inheritance rules in a manner that takes into account individual circumstances.[405] Nonetheless, in the absence of specific legislative measures that prioritise WWD's financial stability, judicial discretion remains an unreliable safeguard. Legal precedents in jurisdictions with Islamic inheritance frameworks, such as Tunisia and Morocco, illustrate the viability of progressive reforms, as courts have progressively acknowledged the financial vulnerabilities of women, including those with disabilities, and have modified inheritance regulations accordingly.[406] Qatar might adopt a comparable strategy by enacting legislation that permits reassessment of inheritance allocations when a woman's impairment substantially affects her financial autonomy.

Moreover, in addition to judicial discretion, governmental measures are essential to tackle the economic vulnerability experienced by disabled women in inheritance issues. One strategy may involve establishing a state-administered financial assistance program to improve the lives of women with disabilities, ensuring they have sufficient funds tailored to their needs.[407] Furthermore, public awareness initiatives and legal literacy programs must be established to inform women, particularly those with disabilities, about their inheritance rights and the avenues available to contest financial neglect by male relatives.

Qatari inheritance law adheres to an Islamic framework that specifies distinct privileges for men and women, yet it fails to address the compounded vulnerabilities experienced by WWD adequately. The assumption that male relatives would meet their financial responsibilities to disabled female heirs is both legally and practically inadequate, especially considering the economic and social obstacles these women encounter. To fulfil its obligations under international human rights law and to provide equitable financial rights, Qatar must consider legal amendments that provide enhanced protections for

[405] A Alahbabi, 'The Emergence of the Administrative Judiciary: An Applied Study Comparing the Similarities and Differences between Qatar and Britain' (2024) 12 *Journal of Law and Sustainable Development* 1

[406] OECD, *Changing Laws and Breaking Barriers for Women's Economic Empowerment in Egypt, Jordan, Morocco and Tunisia* (OECD 2020)

[407] A Saran and others, 'Protocol: Effectiveness of Interventions for Improving Social Inclusion Outcomes for People with Disabilities in Low- and Middle-Income Countries: A Systematic Review' (2021) 17 Campbell Systematic Reviews e1191

WWD in inheritance matters. This may involve amending inheritance laws to permit larger allocations in cases of evident financial necessity, refining judicial interpretations to align with contemporary socio-economic conditions, and implementing policy measures to ensure the economic security of disabled women beyond their inheritance entitlements. In the absence of these reforms, WWD would continue to face significant disadvantages in Qatar's inheritance system, therefore perpetuating cycles of financial reliance and legal inequity.

5.5.6 Criminal Law

Qatar's criminal law does not include specific legislation addressing domestic violence or marital rape, creating significant legal gaps, particularly for WWD who may face heightened vulnerabilities in such situations. Law No. 11 of 2004 (the Penal Code) provides general prohibitions on offences related to adultery and crimes of honour under Articles 279–289, but these provisions do not explicitly criminalise marital rape. Due to the obedience requirement embedded in Qatar's family law, cases of spousal rape are not prosecuted, leaving women, including those with disabilities, without legal recourse.[408]

Furthermore, the Penal Code law No.19 of 2008, commonly referred to as Diyah, "blood money," is a financial compensation paid by an offender to the victim/victims' heir in case of death or injury. By Qatar law, the standard is set for 200,000 Qatari riyals for both male and female victims, with oversight of the Shari'ah courts. However, the penal code sentence allows reductions in cases where the victim or their guardian forgives the perpetrator or accepts financial compensation. This provision disproportionately affects WWD, whose family members or caretakers may be pressured to accept compensation rather than seek justice. The reliance on guardianship structures can further limit WWD's autonomy, reducing their ability to report crimes or challenge legal outcomes. Additionally, there are no established mechanisms to ensure accessible legal and support services for WWD who experience domestic or sexual violence.

In cases of sexual violence, abortion remains illegal for rape survivors and under Qatari law, abortion is generally prohibited unless it is deemed necessary to save the life of the

[408] LM Kassem, 'Qatari Family Law: When Custom Meets Shariʿa' in Annelies Moors and Mirjam Künkler (eds), Family Law and Gender in the Middle East and North Africa (Cambridge University Press 2023) 187

woman.[409] This restriction particularly impacts WWD, who may face additional health risks during pregnancy due to pre-existing medical conditions. The lack of legal access to abortion for rape survivors reflects broader systemic barriers in reproductive healthcare, which disproportionately affect WWD by limiting their control over their own bodies.[410]

Despite these gaps, the Penal Code criminalises sexual harassment under Article 291, offering some protection against gender-based violence.[411] However, enforcement mechanisms remain weak, and WWD may struggle to access justice due to physical inaccessibility in police stations, inadequate accommodations in legal proceedings, and societal stigma. Additionally, Qatar has taken steps to address human trafficking, adopting a comprehensive anti-trafficking law in 2011.[412] While this legislation protects victims, including WWD, implementation remains a challenge, particularly in ensuring that vulnerable populations receive the necessary support services.

The absence of explicit legal provisions addressing these issues, combined with structural barriers in accessing justice and support, leaves WWD particularly vulnerable. Strengthening legal protections, ensuring accessibility in legal processes, and enhancing support services tailored to the needs of WWD are essential steps toward improving their safety and rights under Qatari law.

5.5.7 Labour Law

Qatari legislation guarantees women's right to public employment, as stipulated in Article 93 of the Labour Law, which mandates equal remuneration for women and men engaged in identical roles and equitable access to training and professional development opportunities.[413] The article aims to ensure formal equality but fails to address the additional obstacles faced by WWD, including workplace accessibility, reasonable accommodations, and employment quotas that facilitate their participation in the labour market. In the absence of clear mandates for companies to accommodate disabled

[409] I Maffi and L Tønnessen, 'The Limits of the Law: Abortion in the Middle East and North Africa' (2019) 21 Health and Human Rights Journal 1
[410] L Hessini, 'Abortion and Islam: Policies and Practice in the Middle East and North Africa' (2007) 15 Reproductive Health Matters 75
[411] K Al-Ghanim, 'Violence Against Women in Qatari Society' (2009) 5 *Journal of Middle East Women's Studies* 80
[412] Law No. 15 of 2011 on Combating Trafficking in Human Beings (Qatar)
[413] R Naguib and A Aref, 'Empowering Women through Public Sector Employment in Qatar: Challenges and Opportunities' in Naguib R (ed), *Women's Empowerment and Public Policy in the Arab Gulf States* (Springer Singapore 2024) 75

women, these individuals may encounter systemic barriers to meaningful work possibilities.

Additionally, Qatari legislation includes provisions that recognise maternity-related entitlements for female employees. Articles 96 and 97 of the Labour Law delineate maternity leave benefits, guaranteeing women sufficient time for childbirth and recuperation. Nevertheless, for WWD, the convergence of gender and disability-related requirements is frequently neglected. For example, WWD may necessitate supplementary medical leave due to disability-related health issues; however, the legislation does not explicitly provide for extended maternity or medical leave on these grounds.[414] The absence of disability-specific regulations governing maternity rights may pose additional challenges for WWD in managing employment while balancing their health and caregiving duties.

While Qatari labour legislation does not explicitly discriminate based on gender in recruitment, it lacks positive discrimination measures that could support women with disabilities in accessing employment. Without targeted policies or incentives, WWD face structural barriers that limit their professional opportunities and the absence of affirmative action programs, such as quotas, targeted training, or workplace accommodations, means that WWD must compete on an uneven playing field.[415]

Although general labour laws may aim to protect workers, they do not address the unique challenges faced by WWD, who often require tailored support to ensure equal participation in the workforce. Without proactive measures, employers may overlook qualified WWD, either due to misconceptions about their capabilities or a lack of workplace accessibility. The failure to implement favourable discrimination policies ultimately reinforces employment disparities, making it harder for WWD to secure and retain jobs despite their qualifications and willingness to work.

The comprehensive legislative framework in Qatar lacks affirmative action laws or quotas designed to enhance the employment participation of WWD. In contrast to jurisdictions that have established required employment quotas for individuals with impairments, Qatar does not provide a systematic framework to guarantee equitable job opportunities for

[414] M Heideveld-Gerritsen and others, 'Maternity Care Experiences of Women with Physical Disabilities: A Systematic Review' (2021) 96 Midwifery 102938
[415] BM Alkuwari, 'Human Rights of Women: Intersectionality and the CEDAW' (2022) 11 International Review of Law 223

WWD. Article 49 of Law No. 2 of 2004 concerning Persons with Special Needs mandates that individuals with disabilities have access to employment; however, there are insufficient enforcement mechanisms to ensure compliance by private-sector companies. The lack of tailored programs places WWD at increased risk of economic marginalisation, further constraining their financial independence and social mobility.

5.5.8 Healthcare

Health law in Qatar cannot be understood merely as a regulatory framework governing medical services; instead, it functions as a critical site through which legal capacity, bodily autonomy, and social worth are constructed and contested. For WWD, health law operates at the intersection of gendered norms, medical authority, and state governance, producing a legal environment in which access to healthcare is formally guaranteed yet substantively constrained.[416] This tension reveals the limits of Qatar's rights-based commitments and exposes the structural inadequacy of health law as a mechanism for achieving substantive equality.

Unlike family law or labour law, health law in Qatar remains largely under-theorised and under-legislated. Constitutional recognition of the right to health under Article 23 establishes a broad state obligation but lacks doctrinal elaboration concerning autonomy, informed consent, accessibility, or non-discrimination. This absence is not legally neutral. Instead, it enables the continued dominance of a medicalised and paternalistic model of disability that situates disabled women as objects of care rather than subjects of rights.[417] In this framework, healthcare decision-making authority is frequently displaced from the individual to families, medical professionals, or guardians, particularly where disability intersects with gendered assumptions about dependency and incapacity.[418]

From a critical disability law perspective, this reflects the persistence of the medical model of disability within Qatari health governance. Disability is constructed as an individual pathology to be managed, rehabilitated, or corrected, rather than as a socially mediated condition shaped by legal and institutional barriers.[419] This approach is profoundly incompatible with the normative foundations of international health and human rights law,

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[416] C Newman and others, 'Systemic Structural Gender Discrimination and Inequality in the Health Workforce: Theoretical Lenses for Gender Analysis, Multi-Country Evidence and Implications for Implementation and HRH Policy' (2023) 21 Human Resources for Health.
[417] S Shaban, 'Disability Policymaking in the Arab Gulf States: An Uncharted Space' [2025] Gulf Studies 137.
[418] AB Brik, 'Public Health Policy in Qatar' [2025] Gulf Studies 119.
[419] S Goering, 'Rethinking Disability: The Social Model of Disability and Chronic Disease' (2015) 8 Current Reviews in Musculoskeletal Medicine 134.

particularly the CRPD, which explicitly rejects medical paternalism in favour of autonomy, dignity, and supported decision-making.[420] For WWD, the consequences are profound: exclusion from reproductive healthcare, marginalisation within mental health services, and systematic denial of sexual and reproductive agency.

The legal invisibility of WWD within Qatar's health law framework is not accidental but structurally produced, and health legislation and policy operate through ostensibly neutral categories that obscure intersectional disadvantage.[421] Gender neutrality in health law, much like disability neutrality in gender law, functions as a mechanism of exclusion. By failing to recognise the compounded vulnerabilities faced by disabled women, the legal framework reproduces inequality while maintaining the appearance of formal compliance with international standards.

This structural deficiency is particularly evident in reproductive and sexual healthcare. While healthcare services are formally available, access is mediated through social norms that deny disabled women sexual subjectivity and reproductive agency. The absence of explicit legal protections for informed consent, confidentiality, and autonomy in reproductive healthcare enables discretionary practices that undermine the rights of WWD. Health law thus becomes a conduit through which broader systems of gender control and ableist assumptions are legally normalised.

Mental health law further illustrates the coercive potential of health governance. In the absence of robust procedural safeguards, disabled women, particularly those with psychosocial disabilities, are vulnerable to substituted decision-making and involuntary treatment.[422] These practices are legitimised through legal silence rather than explicit authorisation, revealing how omission operates as a robust regulatory technique. From a critical legal standpoint, this silence constitutes a failure of jurisdictional responsibility, allowing medical authority to supplant legal accountability.

International health law has increasingly incorporated disability within its normative architecture, particularly through the CRPD and the evolving framework of global health

[420] P McCusker and others, 'The United Nations Convention on the Rights of Persons with Disabilities and Social Work: Evidence for Impact?' (2023) 20 International Journal of Environmental Research and Public Health 6927.
[421] O Wadoo and others, 'Policy and Legislation for the Treatment of Mental Health and Substance Use Disorders in Qatar' (2023) 79 Asian Journal of Psychiatry 103368.
[422] E Hassanein, 'Women with Disabilities in the State of Qatar: Human Rights, Challenges and Means of Empowerment' (2017) 32 International Jounral of Special Education 507.

governance promoted by institutions such as the World Health Organisation.[423] However, for women with disabilities, the effectiveness of these norms remains contingent upon domestic legal translation and political willingness. The gap between international articulation and national realisation is especially pronounced in states such as Qatar, where international health obligations coexist with strong assertions of legal sovereignty and cultural specificity.

While Article 25 of the CRPD establishes a clear obligation to provide persons with disabilities with non-discriminatory access to healthcare, including sexual and reproductive health services, international health law lacks robust enforcement mechanisms.[424] This structural weakness enables states to engage in what may be characterised as normative compliance without structural transformation. Qatar's ratification of health-related human rights instruments functions primarily as a legitimising gesture within the international legal order, rather than as a catalyst for systemic reform in domestic health governance.[425]

From a critical international law perspective, this reflects a broader limitation within global health law: the privileging of state consent and formal ratification over substantive accountability. Health rights remain largely programmatic rather than justiciable, and disability-specific health obligations are often relegated to policy discourse rather than embedded within enforceable legal frameworks.[426] For WWD, this means that international health norms operate symbolically, offering rhetorical protection without altering the material conditions under which healthcare decisions are made.

Moreover, international health law has historically prioritised population-level health outcomes over individual autonomy. This public-health orientation can conflict with disability rights principles when efficiency, risk management, or cost containment override individual consent and dignity. Disabled women are disproportionately affected by this tension, particularly in contexts where reproductive capacity, mental health, or perceived dependency are framed as public concerns rather than personal rights. As such, international health law, while progressive in principle, remains structurally ill-equipped to

[423] J Schuster and N Kolleck, 'Disability as a "New" Global Social Theme: The Role of International Organizations in an Expanding Global Policy Field' [2021] Global Dynamics of Social Policy 207.
[424] P Weller, 'Health' [2018] The UN Convention on the Rights of Persons with Disabilities 705.
[425] MM Rahman, S Umar and S Awad Almarri, 'Healthcare Provisions for Migrant Workers in Qatar' (2023) 2023 Health & Social Care in the Community 1.
[426] K Ntinda and B Reed, 'Community Social Well-Being Inclusivity with Disability' [2024] Handbook of Concepts in Health, Health Behavior and Environmental Health 1.

address the intersectional realities faced by WWD unless accompanied by domestic legal reform.

Health law is not merely a technical field but a political space in which disability identities are constructed, regulated, and contested. The governance of health in Qatar reflects dominant disability narratives that privilege normalisation, dependency, and familial control, marginalising alternative understandings of disability grounded in autonomy and self-representation. For WWD, these narratives intersect with patriarchal gender norms, producing a legal and social environment in which bodily autonomy is systematically constrained.[427]

Disability politics challenges the assumption that healthcare interventions are inherently benevolent.[428] Feminist disability scholarship has long argued that medical authority can operate as a form of social control, particularly over women's bodies. In the Qatari context, this is evident in healthcare practices that infantilise disabled women, deny their sexual and reproductive agency, and prioritise familial or societal interests over individual choice. Health law, by failing to contest these practices, becomes complicit in their reproduction.

Critically, the persistence of the medical model within health law limits the transformative potential of disability rights. By framing disability as a deviation from the norm, health governance legitimises interventions aimed at correction rather than accommodation. For WWD, this often translates into coerced treatment, denial of reproductive choices, and restricted access to mental health services on their own terms. A rights-based health law framework would require a fundamental reorientation away from control toward autonomy, an approach that is largely absent in Qatar.

5.6 Qatar's Legal Framework and International Law

5.6.1 Rule of law

Respect for human rights requires the establishment of the rule of law at the national and international levels. Over several years, the State of Qatar has progressively developed its judicial system, making the rule of law a central concern to enhance individual participation and rights. *The rule of law is a principle under which all persons, institutions,*

[427] Ankit, 'Gender and Justice: Addressing the Unique Challenges Faced by Women with Disability in Marginalized Communities' (2025) 13(7) International Journal of Creative Research Thoughts g626–g635 <http://www.ijcrt.org/papers/IJCRT2507762.pdf> accessed 31 December 2025

[428] R Lang, 'The United Nations Convention on the Right and Dignities for Persons with Disability: A Panacea for Ending Disability Discrimination?' (2009) 3 Alter 266.

and entities are accountable to publicly promulgated laws, equally enforced, independently adjudicated, and consistent with international human rights principles. The courts play an integral role in maintaining the rule of law, particularly when they hear grievances from minority groups or from individuals holding minority opinions.

Accordingly, in 2009, Qatar hosted the "Qatar Law Forum," where legal representatives from 60 countries discussed the issues and obligations related to the rule of law, bearing in mind that the rule of law is a central issue for individuals regarding their governments in terms of ensuring that they fulfil their obligations and duties in relation to the principles of human rights. The law prevails when individuals and companies have access to effective mechanisms and justice, and all are equal before the law. Through this means, public authority is bound by, and accountable to, existing, clear, and known laws that protect human rights. In 2011, Qatar opened the Rule of Law and Anti-Corruption Centre in partnership with the United Nations, and, in 2012, Qatar began working with the United Nations Development Programme to establish and support a regional centre in Doha for training and research on the rule of law and anti-corruption.

In January 2014, in response to Qatar's efforts to develop the rule of law, the United Nations Special Rapporteur on the independence of judges and lawyers paid an official visit to Qatar to review its achievements and challenges in this regard. The UN Special Rapporteur recognises that Qatar has come a long way, in a short time, in developing its justice system. One of the most important developments is the Criminal Procedure Code, as Shari'ah significantly shapes the penal code, thereby fostering a supportive judicial environment that ensures the practical application of Islamic criminal law. The code entered into force in 2004, with significant influence from its French and Egyptian traditional counterparts, without compromising its Islamic origin. The Qatari penal code seeks to achieve the long-sought goal of balancing stability and development. It has encouraged development by formulating a contemporary, positive criminal law that encompasses conventional crimes and addresses society's evolving needs. Further amendments included another vital aspect: a harsh stance toward Qatar and its treatment of migrant labour.

The H.E. Minister of State of Foreign Affairs, Sultan bin Saad Al Muraikhi, pointed out that, in recent years, Qatar has implemented major legislative reforms "one of the most important of them has been the amendment of the legal framework regulating the right of expatriate workers." This resulted from the strong influence of international law, recalling

the issues of migrant labour and the kafala system, and from pressure from the ILO to guarantee the protection of labour rights and advance social and economic justice by setting international labour standards. In response, Qatar issued several laws, including Law No. 1 of 2015, which amended specific provisions of the Labour Act No. 14 of 2004's wage protection system, and Law No. 21 of 2015, which regulates the Entry, Exit, and Residency of foreign nationals and abolishes the sponsorship system known as "kafala." Law No. 15 of 2017 on domestic workers and its implementing decisions, consistent with the provisions of ILO Convention No. 189 on Decent Work for Domestic Workers, extend beyond this scope, as the impact of international law and human rights principles has gained increasing prominence in Qatar’s law.

Fundamental freedoms play a significant role in the Qatari Constitution and legislation; human rights are central to constitutional, political, economic, social, and cultural reforms, a concern reflected in measures to develop and strengthen the human rights infrastructure at the legislative and institutional levels. Part III of the Constitution (Arts. 34–58) is devoted to fundamental rights and freedoms and adopts universal, interrelated, interdependent, and indivisible principles. It thus guarantees equal economic, social, cultural, civil, and political rights. These include rights to compulsory education and housing; laws related to youth; social security; Law No. 22 of 2006 issuing the family law; Civil Law No. 22 of 2005 and its amendments; Law No. 11 of 2004 issuing the penal code; and Law No. 2 of 2004 in respect to people with special needs and disabilities, which includes health, education, work, and access to housing for individuals regardless of their disabilities, and prohibits the employment, training, and participation of children in camel races, migrant workers (kafala system).

The goal of achieving social justice is prominent throughout the State of Qatar's permanent constitution. The Constitution provides a fundamental framework for Qatar's legal, economic, social, and human development goals. Article (18) states that Qatari society is based on justice, benevolence, freedom, equality, and good morals. Articles 19 and 34 of the Qatari Constitution of 2004 affirm the principle of equal opportunities for all citizens, regardless of gender, and guarantee their protection from all forms of discrimination. Accordingly, Articles 21 and 22 address adequate social security, while Articles 22, 24, and 25 affirm the state's obligation to improve education. In Article 23, the state undertakes to improve health. Articles 28 and 30 stipulate that social justice is the basis for organising economic institutions and relations between employer and worker. In

Article 33, the state commits to preserving the environment and its natural balance, to achieve comprehensive and sustainable development for all generations.

5.6.2 ICCPR

Qatar's accession to the ICCPR in 2018 marked a significant legal milestone, formally aligning the state with key international human rights instruments. However, a closer examination reveals that this alignment is more formalistic than transformative, serving as a symbolic gesture of compliance while maintaining deeply entrenched domestic legal and sociopolitical hierarchies. The extensive reservations submitted by Qatar, particularly to Articles 3, 18, and 23(4), reflect a strategic use of international legal participation to preserve national sovereignty and religious doctrine, rather than to internalise the normative commitments of the covenant fully[429].

Qatar's reservations to Article 3, which guarantees equal rights for men and women, Article 23(4), which promotes equality in marriage and its dissolution and Article 18, which guarantees religious freedom, underscore the tension between universal human rights standards and Qatar's interpretations of Islamic law.[430]. By prioritising Shari'ah principles in these areas, Qatar effectively places religious doctrine above international gender equality norms, limiting the practical reach of ICCPR obligations. Shelton states that this clearly demonstrates Qatar's distinctive approach to international law as a negotiated commitment rather than an unqualified one.[431], for WWD, this reservation exacerbates marginalisation by narrowing the scope of protected freedoms and reinforcing the legal authority of patriarchal religious norms[432].

21 UN member states raised their objections to Qatar's reservations that are not merely procedural but signal a collective disapproval of what is perceived as selective compliance[433]. As these reservations undermine the object and purpose of the treaty and challenge the legitimacy of its ratification[434]. Which raises a crucial question: To what

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[429] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); UN Treaty Collection, 'Status of Treaties: International Covenant on Civil and Political Rights' <https://treaties.un.org> accessed 20 May 2025

[430] UN Human Rights Committee, *General Comment No 28: Equality of rights between men and women (Article 3)***,** UN Doc CCPR/C/21/Rev.1/Add.10 (2000)

[431] Dinah Shelton, *International Law and Domestic Legal Systems: Incorporation, Transformation, and Persuasion* (OUP 2011) 67

[432] Anna Lawson, 'Disability and Equality Law: The Role of Reasonable Adjustment' (2008) 30 *Sydney Law Review* 27

[433]U UN Treaty Body Database, 'ICCPR: Objections to Qatar's Reservations' <https://tbinternet.ohchr.org> accessed 20 May 2025

[434]*Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 art 19*

extent can a state claim to uphold international human rights while exempting itself from their core principles?

The shadow report on Qatar's initial implementation of the ICCPR further underscores the gap between formal accession and practical enforcement. Key legal concerns highlighted include Qatar's nationality law No. 38 of 2005, which permits only 50 annual naturalisations and prohibits Qatari women from conferring citizenship on children of non-Qatari spouses, as well as Law No. 2 of 2007, which limits access to housing for widows and divorcees.

While these provisions already reflect gender-based inequality, their impact is disproportionately severe for women with disabilities, who often face additional structural barriers such as limited access to legal support, economic dependence, and social stigma. These compounded disadvantages restrict their ability to challenge or navigate citizenship laws and to obtain housing rights and a decent standard of living, thereby reinforcing their marginalisation in both public and private spheres. For women with disabilities, the inability to transmit nationality to their children may also mean restricted access to healthcare, education, and housing benefits tied to citizenship, aggravating their social and legal exclusion through intersecting forms of discrimination.

The shadow report highlighted the symbolic progress made by Qatar in the appointment of four women to the Shura Council and the enactment of Law No. 6 of 2021[435] On the electoral system, yet structural barriers remain. The electoral law is formally gender-neutral and lacks affirmative measures to ensure meaningful participation for women and women with disabilities (WWD). The eligibility criteria for election omit reference to gender or disability, indicating an absence of substantive equality provisions, which aligns with a broader legal pattern: rights are recognised in principle but rarely operationalised in law.

From a legal analysis standpoint, Qatar's engagement with the ICCPR exemplifies a model of managed legal compliance, whereby international treaties are ratified to project legitimacy, yet implemented in a way that preserves existing legal hierarchies and ideological priorities.[436].

[435]Law No 6 of 2021 on the Issuance of the Shura Council's Electoral System Law (Qatar)
[436]B Simma and A Paulus, 'The Responsibility of Individuals for Human Rights Abuses in Internal Conflicts: A Positivist View' (1999) 93 *American Journal of International Law* 302

Qatar's approach to the ICCPR and its reservations exemplifies the engagement with international law and how formal legal adherence can coexist with substantive legal resistance. It reflects a legal formalism rather than a commitment to legislative and policy change and to the inclusion of WWD, as it reinforces systemic discrimination rather than dismantling it.

5.6.3 ICESCR

Qatar ratified the ICESCR in the same year as the ICCPR, with both accessions being delayed by approximately three months. Upon accession, Qatar issued an explicit reservation to Article 3, which affirms the equal right of men and women to the enjoyment of all economic, social, and cultural rights under the Covenant. This reservation was justified on the grounds of incompatibility with Islamic Shari'ah law, which the state claims as a foundational source of its legal system. The same justification on religious and cultural interpretations of gender roles and equality applies to Qatar's reservations to the ICCPR, the CRC Articles 2 and 14, and several provisions of CEDAW.

The consistent pattern of reservations made Qatar of interest to many researchers and scholars, who raised doubts about the extent of Qatar's fulfilment of its obligations under core human rights treaties, as the reservation on Article 3 reflects the main idea of the ICESCR. Furthermore, these reservations have been repeatedly objected to by state parties, primarily non-Muslim countries, which raises a deeper question about the universality of human rights and the contested meanings of "rights" and "equality" across cultural and legal systems. From an analytical perspective, this tension reflects the long-standing debate between universalist approaches to human rights and cultural relativist claims rooted in religious or traditional norms. Qatar's stance exemplifies a legal pluralist approach, asserting that Shari'ah principles take precedence over treaty obligations where contradictions arise. This position not only fragments the normative coherence of the ICESCR but also reveals the limits of enforceability within the international human rights framework.

In the context of intersectionality, these reservations have a disproportionate impact on WWD. The denial of equal access to education, employment, and healthcare is restricted based on gender and exacerbated by the absence of disability-specific provisions and enforcement mechanisms. The structural barriers faced by WWD are thus not merely a function of poor implementation, but the direct result of legal reservations that limit the scope of state responsibility. In this light, Qatar's reservation to Article 3 does not just

reflect a theoretical divergence in legal interpretation; it materially contributes to the marginalisation of those at the intersection of multiple vulnerabilities.

Qatar's national strategies lack substantive mechanisms to address the unique challenges faced by WWD. The Education and Training Strategy 2011–2016 employs vague language, such as 'capabilities of each person', without concrete provisions to ensure accessibility and inclusivity.[437] The term 'capabilities of each person' is imprecise in its reference. In the strategy's summary, the terms 'citizens' and 'people' are used without reference to disabled people. This group is segregated from society, as outlined in the strategy, which aims to provide a specialised system to ensure a high quality of life for disabled people, with the target of increasing the capacity of specialised institutions in this field.

This ambiguity allows for continued segregationist policies that hinder access to education and employment, reinforcing structural exclusion rather than dismantling it. The Qatar National Development Strategy, which sets a 2% employment quota for persons with disabilities, fails to recognise the additional socio-cultural barriers that prevent WWD from accessing meaningful economic opportunities. Without gender-sensitive disability policies, this quota remains a superficial target rather than an effective means of integration into the workforce.

Overall, the gap between policy rhetoric and implementation is evident in Qatar's broader approach to social and economic inclusion. While there have been general efforts to integrate marginalised groups into the workforce, the absence of targeted measures for WWD suggests a lack of political will to address their specific needs. This exclusion raises serious concerns about Qatar's adherence to the ICESCR's fundamental principles, particularly with respect to the full realisation of all economic, social, and cultural rights.

By failing to incorporate intersectional perspectives into policy frameworks, Qatar reinforces the structural disadvantages faced by WWD rather than mitigating them. The continued prioritisation of a conservative social model over a rights-based approach not only undermines Qatar's obligations under ICESCR but also perpetuates a system in which WWD remain economically and socially disenfranchised. Without substantive legal

[437] SH BH Al Thani, Education and Training Sector Strategy 2011–2016 (Qatar Supreme Education Council 2011)

reforms and targeted inclusion strategies, Qatar's commitment to economic and social rights will remain rhetorical rather than transformative.

5.6.4 CEDAW

Qatar ratified CEDAW in March 2009; this ratification was accompanied by a series of reservations and declarations that significantly undermined the scope of its legal commitments. The state submitted reservations to Articles 2(a) elimination of discrimination in legal and constitutional structures, 9(2) women's right to confer nationality to their children, 15(1) and 15(4) Equality before the law and freedom of movement, and 16(1)(a), (c), and (f) equality in marriage, parenting, and guardianship. Additionally, Qatar made a reservation to Article 29, Paragraph 2, which excludes the possibility of arbitration in disputes between the states parties. Beyond these reservations, Qatar also issued interpretative declarations regarding Article 1, which defines discrimination, and Article 5(a), which calls on states to eliminate gender stereotypes. Qatar justified these reservations and declarations because the relevant provisions conflict with Islamic Shari'ah law and traditional Qatari social values, particularly with respect to family structure, inheritance, guardianship, and the role of women in child-rearing and motherhood.

This framing positions gender equality not as a matter of legal entitlement but as a negotiable principle subject to religious and cultural boundaries. The reservations raise legal concerns regarding compliance with the object and purpose of the Convention, as defined under Article 28(2) of CEDAW and Article 19(c) of the Vienna Convention on the Law of Treaties. Key aspects are the effective complete legal exclusion of women and legal equality in areas of personal status law, precisely where many women experience entrenched forms of discrimination. The impact of Qatar's reservations is particularly acute for WWD; legal restrictions rooted in gendered norms often intersect with ableist assumptions about the capacity of disabled women to act as independent legal persons, parents, or rights-holders.

Taking into consideration that Qatar and other Gulf countries have not ratified the protocol or the original ICCPR. Therefore, women cannot access a legitimate complaint system before the Commission has filed a complaint regarding rights violations. However, the first Qatari CEDAW report, presented in 2011, described shari'ah law as an advocate of 'gender equality' and found that, in accordance with its constitution and enlightened

political views, the state promotes equality by generally adopting a gradual approach.[438] It adopts an approach that balances the lofty goals of shari'ah law with the need for an open development policy. Including women as actors and beneficiaries of development has become a national priority, followed by a comprehensive periodic review of its human rights obligations to the United Nations Human Rights Council. As a result, the Council made several observations and recommendations on the review that must be followed up on.[439] After reviewing Qatar's early 2014 periodic report on CEDAW, the Convention Committee recommended that Qatar establish a central government body equipped with sufficient human and financial powers and resources to coordinate a national mechanism to empower women to ensure the systematic implementation of the provisions of the Convention in the State of Qatar, as a state party to the Convention. The importance of these recommendations increases as women's issues, which were the prerogative of the Supreme Council for Family Affairs, were transferred to the Ministry of Labour and Social Affairs. In early 2014, Qatar raised compliance concerns regarding the CEDAW Convention, arguing that specific articles and declarations are inconsistent with Islamic law (Shari'ah).[440]

Furthermore, Qatar examined this report in detail to ensure that prevailing conditions concerning women were more a result of 'neighbourhood culture' and were therefore expected to change gradually. Qatar believed there were negative perceptions of women's cultural and social status. These views are held by individuals and within neighbourhood culture, exceeding the genuine improvement established in the Shari'ah. Shenyi implies that religion may not necessarily be a primary cause of radicalisation; however, it may have implications.

Qatar's adoption of CEDAW indicates progress in the recognition of women's rights; however, its effectiveness is significantly undermined by the state's extensive reservations and the absence of robust enforcement mechanisms. By declining to ratify the Optional Protocol, Qatar denies women, especially those with disabilities, substantial access to justice, perpetuating a framework in which discrimination is both legally and socially entrenched. The reliance on a purported 'gradual approach' to gender equality,

[438] Melissa Deehring, 'The Emerging Legal Profession in Qatar: Diversity Realities and Challenges' (2020) 27 International Journal of the Legal Profession 219
[439] Qatar Fourth Human Development Report, Realizing Qatar National Vision 2030, The Right to Development, June 2015
[440] UNTC, n.d.

contextualised within Islamic law and cultural conventions, serves as a convenient rationale for delaying adherence to international legal requirements rather than reflecting a sincere commitment to reform. This strategy enables Qatar to preserve structural inequities while masquerading as culturally sensitive, subverting the fundamental values CEDAW aims to safeguard.

The lack of appropriate statutory protections intensifies the marginalisation of WWD. Although family protection programs recognise the necessity of support structures, they lack adequate legal safeguards, leaving these women more susceptible to marginalisation and maltreatment. Qatar's effort to ascribe oppressive gender standards to 'neighbourhood culture' instead of Shari'ah legislation constitutes a calculated avoidance of responsibility. This narrative enables the state to evade accountability for upholding legislative and structural obstacles that hinder authentic gender and disability inclusion. In the absence of substantial legal reforms and a departure from a charity-oriented concept of disability, women particularly those with disabilities, will continue to be systematically disenfranchised, rendering CEDAW only a verbal pledge rather than a tool for meaningful legal protection.

5.6.5 CRPD

Qatar's ratification of the CRPD and its optional protocol marks a significant commitment to advancing the rights of persons with disabilities, including WWD. However, a critical assessment reveals that Qatar's legal and social framework remains inadequate in addressing the intersecting forms of discrimination faced by WWD. This ratification imposes an obligation on Qatar to submit periodic reports detailing the progress made in implementing the Convention. To date, only one report has been submitted, in June 2018. This report assessed Qatar's efforts towards legal recognition of disability rights, particularly concerning women. The report identified several national studies that highlight the increasing recognition of human rights within the legal landscape, the gradual integration of CRPD provisions into national legislation, and the Convention's overall impact on Qatar's internal legal framework.[441].

The CRPD Committee has repeatedly raised concerns about the multiple barriers that hinder the full participation of women and girls with disabilities in Qatari society. Yet, the state's response remains largely superficial. The absence of an explicit constitutional

[441] Committee on the Rights of Persons with Disabilities, 'Initial Report Submitted by Qatar Under Article 35 of the Convention' (2018) UN Doc CRPD/C/QAT/1

recognition of disability, coupled with the persistence of a medical and charity-based model of disability, contributes to the continued marginalisation of WWD in critical areas such as education, employment, healthcare, and political participation.

The CRPD adopts a twofold approach to the protection of human rights, combining the mainstreaming of disability considerations across all sectors with targeted measures for specific vulnerable groups. In particular, Article 6 focuses on women with disabilities, while Article 7 addresses the rights of children with disabilities. This approach recognises that while the general promotion of human rights is essential, particular attention must be given to those who experience multiple and intersecting forms of discrimination. For women with disabilities, this means acknowledging both gender-based and disability-related barriers to full societal participation and equality. Article 6 explicitly obliges state parties to undertake all appropriate measures to ensure the full development, advancement, and empowerment of women and girls with disabilities, thereby enabling them to exercise and enjoy their human rights and fundamental freedoms on an equal basis with others. Furthermore, the principles of equality and non-discrimination, though espoused in Qatari law, are interpreted primarily through a formalistic lens. The UN Economic and Social Council (ECOSOC) has emphasised that true non-discrimination requires proactive and structural measures, rather than reliance on generalised equality provisions. In Qatar, however, this conceptualisation remains underdeveloped, with legal equality being understood more in terms of abstract guarantees than practical outcomes. Consequently, the legal protections available to women with disabilities often lack the specificity and enforceability required under international standards (ECOSOC, General Comment No. 20, Non-discrimination in Economic, Social and Cultural Rights, E/C.12/GC/20, 2009).

The constitutions of some Arab countries mention the rights of persons with disabilities. Saudi Arabia's 1992 Basic Law of Governance states in Article. 27 that the 'state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and old age; it supports the system of social security and encourages institutions and individuals to contribute to acts of charity*'.* There are also references to disability in the Article. 81 of the 2014 Egyptian Constitution of 2014, in Article. 48 of the Tunisian Constitution, in Article. 32 of the 2005 Iraqi Constitution and in Article. 12 of the 1996 Basic Law of the Sultanate of Oman. However, Qatar, Mauritania, Morocco, Algeria, Lebanon, Jordan and Turkey do not explicitly reference disability in their constitutions.

The Qatari constitution states equal rights for citizens and prohibits discrimination on race, gender, language or religion, but does not explicitly mention disability.

We encounter the same issue within the international framework, beginning with the preamble to the United Nations Charter, which addresses the human person. Still, in non-discrimination contexts, it addresses persons with disabilities, provided that the description of the human being applies to them. In recounting the reasons for non-discrimination, it does not mention disability or any indication of this matter. This is also true of the ICCPR, ICESCR and UDHR, although these treaties contain several references to human rights. However, it seems vague to outline the principles without elaboration, including a comprehensive system that addresses human rights, and not to have a definition of the rights that must be respected and protected by states. These remarks come from the accepted norm that defines persons with disabilities. Law No. 2 of the 2004 Qatar Constitution concerning people with special needs provides for the recognition of unique characteristics (special needs) and the importance of rehabilitation. This categorisation characterises it as a ‘charity case’ rather than a non-discriminatory, equality-based case. As a result, a segregation process is created through unique systems and specialised solutions, rather than by including PWD in existing social structures such as schools, workplaces, and local communities. A similar recommendation was made in Qatar's initial report to the CRPD concerning Article 6 (women with disabilities). 7 children with disabilities.

The incompatibility of Qatar's domestic legal system and constitution with various provisions of the CRPD makes it very challenging to implement the CRPD fully. The domestic legal system existing in Qatar is based on considering disabled people as a stereotype of the homogenous group without having any gender differences; it tends to adopt a gender-neutral approach to disability rights. While appearing equitable on the surface, it often fails to address the specific and heightened vulnerabilities faced by WWD as they frequently encounter obstacles in accessing basic services such as inclusive education, employment opportunities, and gender-sensitive healthcare, increased risk of gender-based violence and often lack access to effective legal remedies or institutional support. Meanwhile, the absence of comprehensive data and focused research on disabled women further exacerbates their marginalisation, hindering the development of targeted and evidence-based policies.

5.7 Qatar's Compliance with International Law on the Rights of Women with Disabilities

5.7.1 Alignment of Qatar's Policies with International Standards for WWD

Qatar has made significant progress in gender equality and disability rights, as evidenced by its legislative framework and a range of policy measures. Nonetheless, despite these initiatives, the nexus of gender and disability continues to be significantly overlooked, especially with WWD. The nation's strategy towards these matters is disjointed, with legislation tackling gender equality and disability rights in isolation, failing to sufficiently acknowledge the intersectional prejudice experienced by women who possess both identities.[442] Despite Qatar's ratification of the CRPD, which requires the integration of individuals with disabilities in all facets of society, the nation's inability to convert these international commitments into effective policies and practices reveals a significant deficiency in its human rights responsibilities.[443] The state report to the CRPD Committee (CRPD/C/QAT/1) underscores inevitable legislative progress; yet it frequently neglects the intricate and specific requirements of WWD, thereby intensifying their marginalisation.[444] The entrenched application of the medical model of disability in Qatar's legal and policy frameworks serves as a foundational barrier to the realisation of rights for women with disabilities WWD. This model, which frames disability as a personal or pathological deficit requiring correction or adaptation, shifts the burden of integration onto the individual rather than the state or society. In doing so, it obscures the structural and societal barriers that are central to the lived experiences of persons with disabilities, especially women who face compounded discrimination based on both gender and disability. This conceptualisation is deeply embedded in Qatari law. Notably, the Qatari Civil Code and Constitution reflect assumptions that conflate disability with incapacity. Articles 71, 81, 87, 157, and 372 reinforce a legal narrative that perceives persons with disabilities as inherently lacking legal capacity or rational agency. Moreover, the reliance on the medical model perpetuates societal stigma, reinforcing harmful stereotypes that WWD are dependent, asexual, or unfit for roles in family, work, or public service. This ideological stance not only violates the intersectional protections envisioned by Article 6 of the CRPD, which addresses the specific discrimination faced by women

[442] A Average and others, 'Gender Equality and Disability: Exploring Intersections and Promoting Inclusivity' (2023) 8 *International Journal of Novel Research and Development* 483
[443] R Roig and others, 'The Impact of the International Convention on the Rights of Persons with Disabilities on Qatari Domestic Legislation' (2017) 8 *The Age of Human Rights Journal* 1.
[444] Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Qatar* **(**2023) UN Doc CRPD/C/QAT/CO/1

and girls with disabilities, but also stunts the evolution of an inclusive legal culture in Qatar.

Likewise, in healthcare, the requirements of WWD are frequently overlooked. Qatar's healthcare system has improved in its provision of services for people with disabilities. However, it is insufficiently meeting the gender-specific healthcare requirements of women.[445] WWD may encounter obstacles in obtaining reproductive healthcare services, such as family planning, prenatal care, and sexual health services. These obstacles are not just physical but also psychological, since healthcare practitioners occasionally neglect to recognise that WWD possess sexual and reproductive rights.[446] The healthcare system fails to adopt a gender-sensitive strategy in treating the mental health needs of WWD, who face an elevated risk of psychological distress due to their compounded social exclusion and isolation.[447] The lack of customised healthcare services that incorporate both disability and gender considerations perpetuates the neglect of WWD, resulting in detrimental health outcomes and exacerbating their social isolation.

The work market in Qatar also highlights the unacknowledged twin obstacles encountered by WWD. Although Qatar has implemented regulations to enhance work possibilities for those with impairments, these initiatives sometimes overlook the specific problems faced by women. WWD encounter prejudice stemming from both their condition and their gender.[448] The workplace often fails to accommodate the demands of women with impairments, resulting in their exclusion from several areas. The neglect of the interaction between gender and disability in work regulations restricts professional options for women with impairments, hence exacerbating their economic dependency and social isolation.[449]

The distinction between gender and disability in policymaking is a considerable oversight and a breach of Qatar's international human rights commitments. The CRPD and CEDAW advocate for the inclusion of all individuals, including WWD, in all facets of public and

[445] M Alabdulla and others, 'Developing a Gender Sensitive Women's Mental Health Service in Qatar: A Rewarding Challenge' (2022) 68 *Asian Journal of Psychiatry* 102969
[446] UNFPA, *Disability in the Arab states: A Challenged Vulnerability*, vol *ICPD25* (UNFPA 2021)
[447] Meenu Anand, 'Gender and Mental Health' (2022) 38 Indian Journal of Social Psychiatry 108.
[448] M del C Barranco Avilés, K Al Ali, P Cuenca Gómez, R de Asís Roig and P Rodríguez del Pozo, 'Interdependence, Indivisibility and the Social Rights of Persons with Disabilities in the Law of Qatar' (2017) 9 The Age of Human Rights Journal 49
[449] XW Chan and K Hutchings, 'Exploring the Careers of WWD: A Systematic Review and Implications for Human Resource Management' (2024) Personnel Review

private life.[450] The lack of policies addressing both gender and disability concurrently hinders Qatar's capacity to meet these duties, resulting in the exclusion of WWD from essential social services, economic opportunities, and political engagement.

Although the state has advanced in some domains, such as the integration of individuals with disabilities in school and healthcare, these initiatives are inadequate since they do not acknowledge the additional layers of prejudice encountered by WWD. The lack of specialised programs for WWD indicates a deficiency in governmental commitment to the proper implementation of international human rights norms.[451]

The absence of a comprehensive, gender-sensitive disability policy in Qatar not only violates international human rights norms but also sustains systemic injustice and exclusion for WWD. The lack of a cohesive, intersectional strategy in policy formulation significantly affects these women's lives, obstructing their full civic engagement and perpetuating their ongoing social, economic, and political marginalisation.[452]

Addressing the structural marginalisation of women with disabilities in Qatar necessitates a fundamental transformation in policy development that comprehensively incorporates the intersections of gender and disability. Although legal initiatives have established a basis for inclusiveness, the omission of a gender-sensitive perspective in disability rights sustains institutional discrimination and social isolation. In the absence of specific measures to recognise and address the multifaceted obstacles faced by WWD, Qatar's obligations under international human rights treaties would essentially be illusory. An integrated, intersectional framework is crucial for deconstructing deep-rooted inequalities, guaranteeing equitable access to healthcare, employment, and civic engagement, and promoting a genuinely inclusive society.

5.7.2 Access to Social Protection for WWD

Despite Qatar's official commitments to social welfare and disability rights, the current social protection system is ill-equipped to address the specific challenges faced by WWD. While financial aid programs exist for individuals with disabilities, these initiatives frequently overlook the compounded economic vulnerabilities experienced by women,

[450] Theresia Degener, 'Disability in a Human Rights Context' (2016) 5 Laws 35
[451] Anna Lawson and Angharad Beckett, 'The Social and Human Rights Models of Disability: Towards a Complementarity Thesis' (2020) 25 The International Journal of Human Rights 348
[452] Noriko Sasaki, Megumi Rosenberg, Jung-ho Shin, Susumu Kunisawa and Yuichi Imanaka, 'Hidden Populations for Healthcare Financial Protection in the Super-Aging Society: Closing the Gap Between Policy and Practice' (2024) 52 Clinical Social Work Journal 310.

particularly those who are unemployed or lack familial support.[453] The prevailing welfare model in Qatar treats disability as a broad category, failing to incorporate gender-sensitive measures that acknowledge and respond to the distinct socio-economic disadvantages encountered by WWD.[454] This lack of targeted intervention results in an inequitable distribution of resources, with WWD often receiving inadequate support compared to their male counterparts.

One of the most pressing concerns within Qatar's social protection framework is the absence of economic empowerment initiatives tailored explicitly to the needs of WWD. Although the government provides financial allowances and benefits to individuals with disabilities, these support mechanisms do not sufficiently enable WWD to achieve long-term financial autonomy. The limited availability of vocational training programs designed to accommodate their specific needs and entrenched cultural prejudices that restrict economic participation exacerbate their dependence on either state assistance or familial financial support.[455] This dependency perpetuates cycles of economic marginalisation, as WWD are often left with few viable pathways toward sustainable employment and financial self-sufficiency.

Compared with jurisdictions in which disability benefits are integrated with proactive labour market policies, Qatar's system lacks critical linkages between social protection and economic inclusion. In many progressive frameworks, individuals with disabilities are encouraged and facilitated to participate in the labour market through structured employment incentives, specialised job training, and workplace accommodations.[456] However, Qatar's approach remains largely passive, offering financial aid without complementary measures to foster economic integration. Without strategic employment incentives and dedicated vocational programs, WWD are systematically excluded from professional opportunities, reinforcing their marginalisation within the workforce and broader society.

The structural gaps in Qatar's social protection system highlight the urgent need for a comprehensive and gender-responsive policy framework that adequately addresses the

[453] Asian Development Bank, *Gender Equality and Disability Inclusion*, vol 1 (ADB 2024)
[454] S Jiang and M Musa, 'Evolving Narratives of Gulf Press Representations of Women with Disabilities' (2024) 26 *Journal of International Women's Studies* 1
[455] A Alkahlout and N Aljomaa, 'People with Disabilities in Qatar' (2023) 10 Indonesian Journal of Disability Studies 1
[456] J Shaw and others, 'Achieving Disability Inclusive Employment – Are the Current Approaches Deep Enough?' (2022) 34 *Journal of International Development* 942

economic and social barriers confronting WWD. Introducing targeted vocational training programs, anti-discrimination labour policies, and inclusive hiring practices could significantly enhance economic participation among WWD.[457] Furthermore, integrating social protection measures with broader employment strategies would facilitate a more holistic approach to financial independence, reducing long-term reliance on welfare benefits.[458]

Additionally, cultural attitudes play a crucial role in shaping the economic realities of WWD. Societal norms that discourage the professional engagement of women, particularly those with disabilities, must be actively challenged through public awareness campaigns and policy interventions. By fostering a more inclusive and enabling environment, Qatar can move beyond a purely welfare-based model towards one that prioritises economic empowerment and social inclusion for WWD. In doing so, the nation would not only fulfil its international obligations under the CRPD but also promote a more equitable society in which all individuals, regardless of gender or ability, have the opportunity to achieve financial stability and personal independence.

An inclusive social protection system for women with disabilities in Qatar necessitates a significant transition from passive financial assistance to proactive economic empowerment. The current system's inability to incorporate gender-sensitive policies perpetuates financial dependence and systemic exclusion, thereby compromising the state's obligations under the CRPD. In the absence of specialised vocational training, job incentives, and anti-discrimination initiatives, women with disabilities will persist in experiencing economic marginalisation. Rectifying these structural weaknesses via a comprehensive, gender-responsive strategy will not only improve financial independence for women with disabilities but also promote greater social inclusion, ensuring that disability and gender cease to impede economic engagement and personal liberty. Notably, there is an absence of publicly available judicial decisions or administrative complaints in Qatar addressing discrimination against women with disabilities, particularly in employment, access to services, or protection from violence. This lack of legal precedent and enforcement practice indicates that existing disability legislation is not being operationalised through the courts or regulatory bodies, thereby limiting its

[457] R Mahasneh and others, 'Increasing Employer Willingness to Hire People with Disability: The Perspective of Disability Employment Service Providers' (2023) 13 *Journal of Social Marketing* 361
[458] LM Banks and others, 'Disability and Social Protection Programmes in Low- and Middle-Income Countries: A Systematic Review' (2016) 45 *Oxford Development Studies* 223

effectiveness and weakening Qatar's compliance with the enforcement obligations envisaged under the CRPD.

5.7.3 Final Observations

Qatar's ratification of the CRPD and subsequent legal reforms indicate a formal commitment to disability rights. However, the country's implementation strategies remain inadequate in addressing the needs of WWD. The first state report (CRPD/C/QAT/1) does not sufficiently elaborate on how these policies translate into tangible improvements for women. While Qatar has enacted Law No. 2 of 2004 on Persons with Special Needs and incorporated disability rights into the National Development Strategy, gender-specific disability policies remain absent. Institutions such as the Shafallah Centre for Persons with Disabilities provide essential services, yet their focus is mainly non-gendered, failing to acknowledge the unique vulnerabilities of WWD.[459] Employment policies, for instance, formally guarantee persons with disabilities the right to work, but high unemployment rates among WWD indicate significant barriers in practice. Discriminatory workplace policies, lack of reasonable accommodations, and social stigmatisation contribute to this disparity. Additionally, labour market reforms do not adequately address the intersectionality of gender and disability, further limiting economic participation.

Notwithstanding Qatar's statutory obligations, significant disparities remain in attaining genuine equality for WWD. The CRPD underscores the necessity of full engagement in political and public life; nonetheless, Qatar's legislative system lacks adequate mechanisms to empower its citizens.[460] Despite the recent enhancement of women's political participation, there have been no evident initiatives to incorporate WWD into decision-making processes. This exclusion contravenes international human rights commitments that mandate nations to guarantee the political participation of marginalised communities. Moreover, social protection measures rely on a welfare model instead of a rights-based strategy, neglecting to foster independence.[461] Despite Qatar's efforts to enhance accessibility, public infrastructure remains insufficient primarily. Government edifices, healthcare establishments, and educational institutions lack critical accommodations, including ramps, elevators, and sign language interpreting services.

[459] Shafallah Center for Persons with Disabilities, 'About Us' <http://www.shafallah.org.qa/en/about/18> accessed 13 March 2025
[460] C McClain-Nnlapo, 'Convention on the Rights of Persons with Disabilities' (2023) 8 *Journal of Law and Public Affairs*
[461] H Amin, K Sakbani and E Tok, 'State Aspirations for Social and Cultural Transformations in Qatar' (2024) 13 *Social Sciences* 359

These shortcomings violate Article 9 of the CRPD, which requires complete accessibility for those with impairments.

The lack of strong anti-discrimination laws specifically safeguarding WWD intensifies their marginalisation. Current disability rights legislation inadequately tackles intersectional discrimination, rendering WWD susceptible in work, healthcare, and education. Gender-based violence constitutes a significant concern that continues to be insufficiently addressed. Although national legislation forbids domestic abuse and sexual harassment, there is less evidence of targeted protections for WWD. Research indicates that they have an increased risk of abuse; nonetheless, specialised support options are limited. Shelters and legal assistance programs are frequently both physically and administratively inaccessible, therefore discouraging women with impairments from pursuing aid. These deficiencies underscore a systemic inability to synchronise national policies with international human rights commitments, especially those stipulated by the CRPD.

International human rights organisations have consistently condemned Qatar for its inability to establish adequate oversight systems to assess the effects of disability policy. Restricted access to disaggregated data on women with impairments impedes progress. Without precise data, evaluating policy efficacy and pinpointing areas for enhancement is challenging. Advocates have implored Qatar to implement a comprehensive strategy that tackles explicitly the issues encountered by WWD. This entails passing anti-discrimination laws that address gender and disability, ensuring inclusivity in gender equality policies, and executing targeted initiatives in education, employment, healthcare, and social services. Without rectifying these structural weaknesses, Qatar's adherence to international norms will remain predominantly symbolic, with few tangible effects. The absence of intersectionality in policy development sustains structural obstacles that hinder WWD from fully engaging with society. Despite advancements, substantial deficiencies persist, underscoring the need for immediate reforms to ensure compliance with international human rights commitments.

5.8 Chapter Conclusion

This chapter has analysed Qatar’s legal framework concerning WWD, focusing on the interaction between Shari’ah principles and international legal obligations. As Qatar’s legal system is fundamentally shaped by Islamic law, its provisions regarding women’s

rights, particularly in areas such as family law, inheritance, and guardianship, reflect religious and cultural considerations. However, Qatar has also ratified several international human rights treaties, including the CRPD, which impose obligations to ensure non-discrimination, accessibility, and equal participation for WWD. This dual legal structure creates both opportunities and challenges in safeguarding the rights of WWD, as laws derived from Shari'ah must be reconciled with broader international human rights standards.

A key challenge lies in the extent to which domestic law provides effective mechanisms for implementing international obligations. While Qatar has enacted laws aimed at supporting persons with disabilities, these legislative measures do not always translate into substantive equality due to existing structural and cultural barriers. For example, personal status laws, which govern matters such as marriage, divorce, and inheritance, remain grounded in Islamic jurisprudence, which may not always align with international principles of gender equality and non-discrimination. This raises questions about the effectiveness of Qatar's legal framework in addressing the specific vulnerabilities faced by WWD, particularly with respect to legal capacity, autonomy, and access to justice.

Another issue concerns enforcement and implementation. The existence of legal provisions that formally guarantee rights does not necessarily mean that these rights are fully realised in practice. Institutional frameworks, judicial interpretations, and societal attitudes play a significant role in determining how laws are applied. The reliance on Shari'ah-based legal interpretations means that WWD's rights may be subject to varying degrees of enforcement depending on the context, potentially limiting their ability to exercise them fully.

Overall, while Qatar has made progress in incorporating international legal principles into its domestic framework, gaps remain in ensuring the complete protection and realisation of the rights of WWD. Addressing these gaps requires not only legal reforms but also broader policy measures to enhance accessibility, legal awareness, and institutional support, ensuring that WWD can exercise their rights on an equal basis with others.

6 – Comparative analysis

6.1 Introduction

This chapter presents a comprehensive comparative analysis of the legal protections afforded to women with disabilities in Qatar, examining the interplay among international human rights law, Qatari domestic legislation, and Shari'ah-based legal principles. Building on the doctrinal analyses developed in the preceding chapters, it moves beyond descriptive evaluation to interrogate how these normative frameworks converge, diverge, and conflict in practice, and how their interaction shapes the lived legal realities of women with disabilities. The chapter is centrally concerned with the extent to which these legal systems collectively advance, constrain, or fragment substantive equality, autonomy, and social inclusion.

The comparative lens adopted in this chapter highlights the structural tensions between universality and particularity, rights-based norms and welfare-oriented approaches, and formal legal recognition and practical implementation. While international instruments such as the CRPD and CEDAW articulate comprehensive obligations grounded in equality and non-discrimination, their domestic realisation in Qatar is mediated by selective incorporation, policy-driven implementation, and interpretive hierarchies rooted in Shari'ah and socio-cultural norms. This chapter demonstrates that these dynamics do not operate neutrally but instead produce uneven and conditional protection, particularly at the intersection of gender and disability.

The analysis proceeds in three stages. First, it compares international human rights obligations with Qatari domestic law to assess the extent of normative alignment and practical enforceability. Second, it examines the relationship between Shari'ah law and domestic legislation, identifying how religious interpretation functions as both a source of legitimacy and a structural constraint on reform. Third, the chapter evaluates the strengths and weaknesses of the Qatari legal framework through regional comparison, before synthesising key findings and identifying broader implications for legal coherence, accountability, and reform. In doing so, this chapter provides the analytical bridge between diagnosis and prescription, laying the groundwork for the reform-oriented recommendations advanced in the following chapter.

6.2 International Law and Qatari Domestic Law

The comparative analysis of international law and Qatari domestic law reveals a structural incongruence that undermines the normative authority of international human rights

obligations within the domestic legal framework. As observed in the previous chapter, Qatar's accession to instruments such as the CRPD and the CEDAW illustrates two contrasting approaches to international obligations. On the one hand, the CRPD imposes wide-ranging commitments on accessibility, autonomy, and the participation of persons with disabilities in social, economic, and political life. Yet, in practice, these obligations remain only partially implemented. For instance, Qatar's Law No. 2 of 2004 on Persons with Special Needs predates the CRPD and largely frames disability rights in terms of welfare provisions such as allowances, healthcare, and educational support, without recognising enforceable rights to accessibility or independent living. Similarly, policy initiatives, such as the Qatar National Development Strategy and the Qatar National Vision 2030, reference the inclusion of persons with disabilities. Still, these remain aspirational policy statements rather than legally binding guarantees. As a result, while Qatar has accepted the CRPD obligations in full, the absence of comprehensive domestic codification limits the practical enforceability of these obligations, leaving rights at the level of policy rather than justiciable entitlements.

By contrast, Qatar's accession to the CEDAW is formally restricted through explicit reservations, particularly to provisions on equality in family relations, marriage, and inheritance, which are interpreted as conflicting with Islamic Shari'ah. These reservations, combined with the lack of legislative reform in areas such as guardianship and personal status law, demonstrate a deliberate constriction of gender equality protections. The impact of this selective engagement is especially acute for women with disabilities, who are subject to overlapping forms of exclusion: while the CRPD guarantees equal recognition before the law, accessibility, and protection from discrimination, the absence of enforceable domestic mechanisms means these standards remain aspirational. At the same time, CEDAW's diluted effect under reservations entrenches structural inequalities in family law, further undermining substantive equality.

The critical implication is that Qatar's ratification of international treaties creates a formal appearance of compliance without guaranteeing their effective domestication. Global norms are present in form but absent in effect, filtered through either incomplete translation into domestic law (as in the case of the CRPD) or explicit reservations grounded in religious doctrine (as with CEDAW). Moreover, the lack of jurisprudence directly applying international treaties, combined with the limited mandate of administrative agencies to operationalise treaty obligations, reinforces the symbolic rather

than substantive nature of these commitments. This dynamic reveals a broader tension between formal ratification and genuine compliance, raising questions about the capacity of treaty ratification to serve as a mechanism for legal and social transformation in Qatar.

From a regulatory perspective, Qatar's reliance on policy instruments rather than legally binding statutory provisions further diminishes the enforceability of rights.[462] While policies addressing education, employment, and social inclusion of women with disabilities indicate progress, their voluntary and non-justiciable nature fails to generate accountability. International law, particularly through the CRPD's monitoring and reporting mechanisms, emphasises enforceability and the duty of states to ensure substantive compliance.[463] Qatar's divergence in this regard constitutes a systematic gap between normative prescription and operational reality, which can be read as a deliberate strategic avoidance of legal obligations that might challenge entrenched social hierarchies or necessitate substantial institutional reform. Critical scrutiny reveals that such gaps are not accidental but reflect an intentional calibration of commitments to preserve domestic sociocultural structures, thereby showing an inherent conflict between the transformative ambitions of international human rights law and the conservative imperatives embedded in domestic governance.[464]

While Bahrain, Saudi Arabia, and the United Arab Emirates have undertaken comparatively systematic efforts to operationalise the CRPD within their domestic frameworks, Qatar's approach remains limited in both scope and practical enforceability. For example, Bahrain's Law No. 74 of 2006 establishes a structured legal framework addressing the welfare, habilitation, and employment of persons with disabilities, explicitly incorporating provisions for accessibility, the establishment of habilitation centres, and employment quotas, thereby reflecting a deliberate attempt to translate the normative prescriptions of the CRPD into concrete domestic measures.[465] Bahrain's National Strategy for the Rights of Persons with Disabilities further reinforces this commitment by targeting inclusive education, economic empowerment, and social integration. In contrast,

[462] ME Tok, LR Alkhater and LA Pal, 'Policy-Making in a Transformative State: The Case of Qatar' [2016] Policy-Making in a Transformative State 1.
[463] P Bartlett, 'Beyond the Liberal Subject: Challenges in Interpreting the CRPD, and the CRPD's Challenges to Human Rights' (2024) 25 Human Rights Law Review.
[464] Rodriguez Del Pozo P and others, 'The Convention on the Rights of Persons with Disabilities (CRPD) and Qatar's Domestic Legislation: The Potential Impact on the Main Legal Domains' [2017] The Age of Human Rights Journal 18.
[465] M Al-Khamaiseh, 'The Special Provisions for Employed Women in Labor Law in the Bahraini Private Sector: A Comparative Study' (2020) 8 Journal of Law and Criminal Justice 76

Qatar's legal framework, while formally codifying rights through Law No. 2 of 2004 on Persons with Special Needs and policy initiatives such as the National Development Strategy and National Vision 2030, remains predominantly welfare-oriented and largely aspirational. Unlike Bahrain, Qatar lacks institutional mechanisms such as dedicated habilitation centres with statutory mandates or enforceable employment quotas, and oversight structures remain weak, resulting in a gap between normative rights and the lived realities of persons with disabilities.[466] This comparison underscores that, despite formal ratification of the CRPD, Qatar does not operationalise accessibility or independent participation to the same degree, leaving women with disabilities particularly vulnerable to structural exclusion.

Similarly, Saudi Arabia's 2023 Law on the Rights of Persons with Disabilities incorporates the principles of accessibility, reasonable accommodation, and non-discrimination. It broadens the definition of disability to include a broader spectrum of conditions.[467] By recognising sign language as an official language and mandating accessibility in public spaces, the Saudi legal framework demonstrates a level of inclusivity and the operationalisation of rights that surpasses Qatar's primarily policy-driven approach.[468] While implementation challenges exist in Saudi Arabia due to regional variability and the nascent development of oversight mechanisms, the statutory recognition of accessibility, accommodation, and language rights contrasts sharply with Qatar, where public buildings, transport infrastructure, and educational facilities frequently fail to comply with CRPD standards. Administrative agencies lack the explicit mandate or procedural capacity to enforce obligations. The comparison reveals that Qatar's selective domestication of international norms, framed through policy rather than enforceable statutory instruments, results in a structural deficit that limits the transformative potential envisaged by the CRPD.

The United Arab Emirates presents another illustrative contrast. Having ratified the CRPD, the UAE has implemented multilayered policies across education, employment, and public accessibility, combining statutory protections with administrative initiatives to

[466] AM Fakhrou and KA Ahmed, 'The Effect of Vocational Rehabilitation Programs in Improvement of Self-Concept of Qatari Students with Special Needs' (2021) 91 al-Majalla al-Tarbawiyya li-Kulliyat al-Tarbiya bi-Suhaj 162

[467] MY Abobaker, 'Developing Saudi Arabia's Disability Rights Legislation in Compliance with the United Nations Convention on the Rights of Persons with Disabilities in Education System' (2024) 8 Journal of Infrastructure, Policy and Development 9343.

[468] MG Abed, LG Abed and TK Shackelford, 'A Qualitative, Small-Sample Study of Employment Challenges for People with Disabilities in Saudi Arabia' (2024) 12 Healthcare 346.

monitor, enforce, and institutionalise rights.[469] The UAE's approach includes anti-discrimination provisions in employment and education, formal obligations for inclusive housing and healthcare, and targeted programs to support women with disabilities, creating a more integrated domestic implementation of international commitments.[470] In Qatar, by comparison, while laws and policy statements articulate inclusion and accessibility, enforcement remains largely discretionary, monitoring mechanisms are minimal, and accountability for non-compliance is virtually absent. This absence of systematic oversight impedes substantive realisation of the rights to autonomy, participation, and equal recognition that the CRPD mandates, leaving formal commitments without practical effect.

When considering CEDAW, the divergence between Qatar and its regional counterparts is similarly pronounced. While Qatar maintains substantive reservations to key provisions in family law, guardianship, and inheritance, limiting the practical effect of gender equality protections, Bahrain, Saudi Arabia, and the UAE have undertaken varying degrees of reform to align domestic law with international gender equality standards, at least in relation to women with disabilities. In Bahrain, recent amendments to personal status and family law, although incomplete, provide more structured recognition of women's rights within marriage, inheritance, and guardianship than Qatar's largely static statutory framework.[471] Saudi Arabia's incremental reforms, including expanded legal recognition of women's decision-making capacities and targeted social programs, demonstrate a deliberate effort to integrate international standards. In contrast, Qatar continues to prioritise cultural and religious norms in ways that effectively curtail substantive equality.[472] The UAE similarly combines legal provisions with administrative programs promoting women's inclusion in education, employment, and civic participation, establishing mechanisms to monitor compliance and deliver services, an approach absent in Qatar. Across these states, while enforcement gaps remain, the presence of statutory obligations coupled with administrative oversight contrasts with Qatar's selective implementation and discretionary reliance on aspirational policies.

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[469] Centre Lebanese Studies (Economic and Social Commission for Western Asia 2019) rep.
[470] G Alturif and others, 'Enhancing Inclusive Social, Financial, and Health Services for Persons with Disabilities in Saudi Arabia: Insights from Caregivers' (2025) 13 Healthcare 1901.
[471] RF Al-Rabadi and AN Al-Rabadi, 'Between State and Women's Rights: Bahraini Dual Legal System in Focus' (2023) 14 Beijing Law Review 962.
[472] M Pilotti, E Abdulhadi and T Algouhi, ' The New and the Old: Responses to Change in the Kingdom of Saudi Arabia ' (2021) 22 Journal of International Women's Studies 341.

It can be argued that Qatar's engagement with international human rights law reveals a persistent gap between formal ratification and substantive implementation. While the CRPD and CEDAW establish clear obligations on accessibility, autonomy, and gender equality, Qatar's domestic framework and policy initiatives remain largely welfare-oriented, discretionary, and institutionally underdeveloped. Reservations to CEDAW and limited legislative reform in family and personal status law further restrict the practical effect of international standards, leaving women with disabilities particularly vulnerable.[473] Comparisons with neighbouring GCC states, where greater efforts have been made to operationalise international obligations, underscore Qatar's selective domestication of treaties. Ultimately, this demonstrates that formal ratification alone cannot ensure the transformative ambitions of international law, highlighting the structural and institutional barriers that constrain the realisation of enforceable rights.

6.3 Shari'ah Law vs. Qatari Domestic Law

While the preceding analysis highlighted Qatar's selective domestication of international treaties such as the CRPD and CEDAW, it is essential to examine the domestic sources of legal authority that shape the practical implementation of these obligations. Central among these is Shari'ah law, which, as a principal source of legislation under the Qatari Constitution, mediates the interpretation, enforcement, and scope of statutory rights.[474] Understanding the interplay between Shari'ah and domestic law reveals the structural mechanisms that constrain the realisation of international human rights norms, particularly for women with disabilities. It explains why formal codification alone fails to translate into substantive empowerment.

The integration of Shari'ah law within Qatari domestic law reveals a structural and normative tension that shapes the legal experience of women with disabilities, producing a hybrid legal framework in which rights are formally recognised yet practically constrained.[475] Qatar's constitutional framework establishes Shari'ah as a primary source of legislation, creating an interpretive hierarchy in which religious norms can supersede

[473] Doha International Family Institute, *Family Safety and Domestic Violence In Qatar* (Qatar Foundation 2024).
[474] Hassan Hussein Elbarawy, *Ta'thir al-Shariʿah al-Islamiyyah ʿala al-Qanun al-Madani al-Qatari: Dirasah Muqaranah*[*The Influence of Islamic Shari'a on Qatar's Civil Law: A Comparative Study*] (2013) *International Review of Law*2013/3, 2–21.
[475] N Bernard-Maugiron, 'Religious References in the Constitutions of the Arab World: Islamization of the Constitution or Constitutionalization of Religion?' [2021] Constitutional Review in the Middle East and North Africa 271.

statutory provisions or limit the scope of reform.[476] This hierarchy does not reflect a seamless or holistic application of Shari'ah but rather a selective domestication, whereby specific religious principles are operationalised to support state policy and legitimacy. At the same time, other elements are subordinated or strategically omitted. As a result, the legal landscape is characterised by an uneven application of rights, particularly in domains where Shari'ah principles intersect with gendered hierarchies, such as personal status, guardianship, inheritance, and family law.[477] For women with disabilities, this creates a condition in which formal protections exist on paper but are mediated through discretionary institutional practices and culturally entrenched norms, leaving substantive empowerment contingent on interpretive and administrative choices.

The hybridisation of Qatar's legal framework also illuminates the broader political and strategic dimensions of selective Shari'ah integration. Legal reforms, while formally advancing inclusion and rights, are calibrated to preserve socio-political conservatism, safeguard traditional hierarchies, and protect the state's domestic and international legitimacy. Symbolic reforms in employment and education bolster international standing by demonstrating alignment with global conventions, yet core restrictions in personal status law remain intact.[478] This calibration ensures that legal modernisation does not destabilise existing power structures, leaving women with disabilities in a system where statutory rights are both aspirational and operationally constrained. The hybrid legal order thus functions less as a vehicle for empowerment and more as a mechanism for managing tensions among modernisation, religious fidelity, and socio-political stability.

Critically, the selective domestication of Shari'ah constrains transformative potential in key areas of autonomy and agency. Although Shari'ah has doctrinal flexibility that could theoretically accommodate progressive interpretations, the political and cultural environment in Qatar limits adaptive application, particularly in matters of gender equality and disability rights.[479] Legal pluralism in this context functions as a mechanism to

[476] MS El Farag and T Rashed, 'The Impact of Maqasid Al Shariah (Objectives of Islamic Shari'ah) to Obtain Legal Protection of Humans; a Comparative and Analytical Study of the Qatari Laws' (2023) 11 Journal of Law and Sustainable Development.
[477] K Hashemi, 'Religious Legal Traditions, Muslim States and the Convention on the Rights of the Child: An Essay on the Relevant UN Documentation' (2007) 29 Human Rights Quarterly 194.
[478] LM Kassem and E Al-Muftah, 'The Qatari Family at the Intersection of Policies' [2016] Policy-Making in a Transformative State 213.
[479] E Polymenopoulou, 'Sharia and Human Rights Law in the Constitutional Framework of Gulf States' (2024) 46 Human Rights Quarterly 1.

balance competing normative orders rather than as a site of innovation.[480] Rights-based reforms in education, employment, and social policy exist alongside persistent limitations in guardianship, family law, and inheritance, producing a fragmented legal regime in which the operationalisation of rights is mediated by institutional discretion and religious interpretation.[481] Women with disabilities remain particularly vulnerable, experiencing inclusion and protection in limited spheres while enduring structural restrictions in domains central to autonomy and life-course decision-making.

The critical consequence of this hybrid system is that rights are conditional, contingent, and mediated by interpretive and institutional frameworks rather than guaranteed by law. Statutory measures and policy initiatives may appear to advance inclusion and empowerment. Still, the hierarchical influence of Shari'ah, discretionary enforcement, and socio-political conservatism circumscribes the practical exercise of these rights. The resulting legal environment produces a dichotomy between formal recognition and substantive empowerment, leaving women with disabilities exposed to systemic inequality in personal, social, and public spheres. Rights exist in principle, yet their operationalisation is uneven, variable, and contingent, reflecting the strategic deployment of Shari'ah to balance domestic conservatism with selective modernisation.

The integration of Shari'ah law into Qatari domestic legislation produces a hybrid legal order that is simultaneously progressive in appearance and conservative in effect. Statutory and policy reforms signal symbolic advancement for women with disabilities, yet interpretive discretion, entrenched gender hierarchies, and selective operationalisation constrain substantive empowerment. The structural effect is a fragmented, uneven legal regime where the transformative potential of rights-based reform is curtailed, and the realisation of autonomy, inclusion, and participation remains conditional. Shari'ah functions both as a structural constraint and a legitimising instrument, shaping legal outcomes in ways that allow the state to maintain socio-political stability while presenting a facade of rights protection. For women with disabilities, this results in a legal landscape where inclusion is partial, contingent, and institutionally mediated, reflecting the limits of reform in a context where religious law, statutory innovation, and socio-political conservatism intersect asymmetrically.

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[480] K Al-Farsi, 'Exploring Sharia Law in Islamic Jurisprudence' (2022) 2 Social Science Chronicle 1.
[481] S Bano, *Muslim Women and Shari'ah Councils: Transcending the Boundaries of Community and Law* (Palgrave Macmillan 2012).

6.4 Strengths and Weaknesses of Qatari Domestic Law

The assessment of Qatari domestic law, particularly in its treatment of women with disabilities, exposes a legal system in which structural, institutional, and normative weaknesses significantly outweigh the ostensible capacity for reform. Its hybrid character, situated at the intersection of Shari'ah principles and selective international legal obligations, produces an environment that permits incremental reform in some areas while simultaneously preserving restrictive hierarchies in others. The principal strength commonly identified is the adoption of statutory reforms across education, employment, and accessibility. These reforms nominally extend rights beyond traditional Shari'ah interpretations and, in certain respects, align with international standards such as the CRPD and CEDAW. Institutional mechanisms, including government agencies and formal policy initiatives, further suggest a structural framework through which implementation could theoretically occur.[482] These measures indicate a capacity for pragmatic reform, reflecting a legal culture that, in principle, can reconcile domestic cultural and religious constraints with international norms.

However, these strengths are superficial and are systematically undermined by weaknesses that pervade the Qatari legal system. The most salient deficiency is the persistent gap between statutory provisions and actual enforcement.[483] Rights exist in law, but institutional structures are insufficiently equipped to operationalise these rights consistently. Administrative bodies lack adequate resources, enforcement mechanisms, and legal expertise. As observed in the previous chapter, courts operate with broad discretion that allows conservative religious interpretations to predominate in areas such as family law, guardianship, and inheritance. Social stigma and entrenched gendered norms further constrain the practical application of law, particularly for women with disabilities. These structural limitations render formal statutory rights conditional and heavily dependent on administrative discretion, judicial interpretation, and societal tolerance. Consequently, while legal reforms signal nominal progress, they fail to generate substantive empowerment or challenge the underlying hierarchies that limit autonomy and agency.

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[482] C Renshaw and K Fitzpatrick, 'Building Human Rights in the Region through the Role of Horizontal Transnational Networks: The Role of the Asia Pacific Forum of National Human Rights Institutions' (2021) 27 Australian Journal of Human Rights 422.

[483] I Bogdanova, 'Reshaping the Law of Economic Sanctions for Human Rights Enforcement' [2021] The Prospects of Common Concern of Humankind in International Law 247.

The dual influence of Shari'ah and international law exacerbates inconsistencies in Qatari domestic law. Statutory reforms adopt rights-based protections in selective areas, yet these coexist with restrictive norms rooted in Shari'ah. Likewise, as previously observed, reservations to international instruments further underscore the predominance of weaknesses over strengths. Qatar's selective reservations to CEDAW, particularly concerning family law, significantly curtail the scope of domestic protections and insulate the legal system from the whole operation of international obligations.[484] These reservations generate a hierarchy in which domestic religious and cultural imperatives override binding international standards, producing a legal system in which rights are conditional and fragmented. This selective integration undermines normative coherence, creating an uneven landscape in which women with disabilities may experience protection in one legal domain but face substantial restrictions in another. The strategic domestication of international law allows the state to maintain the appearance of compliance without committing to comprehensive rights enforcement, ensuring that systemic inequalities remain intact while signalling alignment with global human rights discourse.

Critically, the hybrid legal order reinforces conditionality and inequality by institutionalising selective protection rather than holistic reform. Statutory rights exist as formal mechanisms but are operationally constrained by entrenched religious norms, administrative limitations, and socio-cultural factors. The reliance on policy measures, rather than binding statutory enforcement, further weakens the system, as such measures are largely nonjusticiable and subject to discretionary application. The cumulative effect is a legal environment in which formal reform does not equate to substantive protection, and where women with disabilities are exposed to systemic inequities despite nominal progress in specific areas.

The limitations of Qatar's legal framework in protecting women with disabilities become clearer when situated within a broader regional context. While previous sections highlighted the internal weaknesses of Qatar's hybrid system and made comparisons with Bahrain, Saudi Arabia, and the UAE, extending the analysis to other Gulf and MENA states reveals both parallel challenges and more innovative approaches. Such a comparative perspective does not merely catalogue differences; it underscores structural

[484] J Connors, 'Article 28' [2022] The UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol 784.

patterns across the region while exposing how institutional design, political will, and interpretive flexibility affect the realisation of rights.

Kuwait illustrates how institutional architecture can change the trajectory of disability rights. Its Law No. 8 of 2010 on the Rights of Persons with Disabilities goes beyond Qatar's welfare-oriented approach by establishing enforceable entitlements and creating the Public Authority for Disability Affairs.[485] This dedicated body oversees implementation and serves as a focal point for accountability. Although family law restrictions continue to limit the autonomy of women with disabilities, Kuwait demonstrates that statutory institutions can mitigate the gap between international obligation and domestic practice.[486] In contrast, Qatar's reliance on broad policy visions such as the National Vision 2030, without corresponding statutory agencies, leaves enforcement diffuse and discretionary.

In North Africa, Egypt exemplifies legislative boldness, though persistent enforcement deficits accompany it. The 2014 Constitution enshrined the rights of persons with disabilities, and Law No. 10 of 2018 introduced anti-discrimination provisions, employment quotas, and accessibility mandates.[487] Compared to Qatar, where disability remains mainly framed in terms of welfare, Egypt's statutory reforms recognise persons with disabilities as rights-holders entitled to substantive equality.[488] Nevertheless, women with disabilities continue to encounter restrictions in personal status law and social practice, revealing that constitutional entrenchment, while normatively powerful, does not guarantee lived equality.

Taken together, these comparisons highlight a key insight: while welfare approaches remain common, several states have institutionalised disability rights more systematically than Qatar. Kuwait's dedicated authority and Egypt's constitutional guarantees provide different pathways for operationalising international obligations. Qatar's reliance on policy

[485] A Khatlan, 'Role of Public Authority for Disability Affairs in Implementation of Innovative Ideas of Researches from Perspective of Its Leaders' (2022) 13 Journal of Education and Practice 10.
[486] R George, 'The Impact of International Human Rights Law Ratification on Local Discourses on Rights: The Case of CEDAW in Al-Anba Reporting in Kuwait' (2019) 21 Human Rights Review 43.
[487] MK Al-Sayyid, 'The Impact of the United Nations Human Rights Treaties on the Domestic Level in Egypt' [2024] The Impact of the United Nations Human Rights Treaties on the Domestic Level: Twenty Years On 355.
[488] H Abdelreheem Ead, 'Historical Perspectives on Disability in Egypt: Attitudes and Policies' (2024) 10 Athens Journal of Mediterranean Studies 119.

documents without corresponding enforcement mechanisms now appears not merely limited but exceptional in its lack of institutional depth.

For Qatar, these comparisons carry two critical lessons. First, institutional mechanisms matter as much as legal codification: without dedicated agencies or oversight bodies, statutory or policy commitments remain aspirational. Second, reforms limited to education and employment cannot meaningfully transform lived realities if personal status law continues to entrench dependency. The regional evidence suggests that selective reform, however progressive in isolated domains, cannot offset the structural exclusion that arises when family law remains unreformed.

In sum, the weaknesses of Qatari domestic law substantially outweigh its strengths. While the system exhibits some capacity for pragmatic statutory reform, policy institutionalisation, and selective alignment with international standards, these features are limited in scope, conditional in application, and insufficient to ensure comprehensive protection. Structural weaknesses, including gaps between statutory law and enforcement, hybrid inconsistencies between Shari'ah and statutory law, selective reservation of international obligations, judicial and administrative incapacity, and socio-cultural resistance, dominate the operational reality of the legal system. Women with disabilities experience rights as fragmented, contingent, and domain-specific, highlighting that the law's transformative potential remains heavily constrained. Despite isolated reforms, the Qatari legal framework prioritises religious, cultural, and political legitimacy over enforceable, universal, and indivisible rights, producing a system in which formal recognition exists alongside substantive limitation, and the overall balance of weaknesses far outweighs the system's strengths.

6.5 Comparative Findings

The comparative findings regarding the interplay among international law, Shari'ah principles, and Qatari domestic law reveal an overwhelmingly complex yet structurally deficient legal landscape in which weaknesses predominate over any observable strengths. This happens particularly in relation to the protection of women with disabilities, exposing a systemic incapacity to translate nominal legal recognition into substantive, enforceable rights, and demonstrating that incremental reforms or selective modernisation cannot adequately address entrenched inequalities, structural vulnerabilities, and the multifaceted barriers imposed by cultural, religious, and institutional constraints.

That said, the intentional reservation of key international provisions, often justified on religious or cultural grounds, results in a domestic legal framework in which aspirational benchmarks are mainly symbolic and fail to translate into practical protections.[489] This exposes women with disabilities to systemic vulnerabilities that are compounded by institutional inefficiencies, limited judicial capacity, and social barriers that persist alongside formal statutory or policy reforms. Shari'ah, as a principal source of legislation in Qatar, contains principles that, in theory, support justice, equity, and the protection of vulnerable populations. Yet, the prevailing conservative interpretations privilege traditional hierarchies, restrict autonomy, and perpetuate gendered dependencies, particularly in areas concerning guardianship, inheritance, and marital decision-making, which are critical to the agency and social participation of women with disabilities. In contrast, progressive interpretations of Shari'ah could potentially facilitate alignment with international norms.

However, political caution, social conservatism, and institutional inertia ensure that such interpretations are rarely operationalised, resulting in a selective and fragmented application of rights that undermines substantive equality. The interplay between universality and particularity illustrates the structural weaknesses in Qatar's hybrid legal system: international law demands uniform and enforceable protections across domains, while domestic law and Shari'ah mediate these demands through culturally and religiously specific lenses, producing inconsistencies, gaps, and fragmented protections that leave the enforcement of rights conditional on the social acceptability, institutional discretion, and interpretive stance of the actors involved, thereby creating systemic uncertainty and unpredictability for women with disabilities in accessing legal remedies, asserting autonomy, and participating fully in social, economic, and political life.

Conservative interpretations of Shari'ah, reinforced by discretionary domestic enforcement and socio-political considerations, continue to limit transformative potential, ensuring that statutory recognition of rights does not meaningfully enhance autonomy, participation, or agency for women with disabilities, and highlighting the systemic insufficiency of Qatar's legal framework in delivering substantive equality. The cumulative effect of these weaknesses is apparent in the persistent unpredictability of legal outcomes, the conditionality of rights protections, the fragmentation of legal safeguards

[489] E Kakoullis and Y Ikehara, 'Purpose' [2018] The UN Convention on the Rights of Persons with Disabilities 35.

across domains, and the structural dependence imposed on women with disabilities, which collectively confirm that any superficial or incremental reforms are insufficient to address entrenched inequalities, structural vulnerabilities, and intersectional marginalization, and that systemic weaknesses decisively outweigh any observable strengths in Qatar's domestic legal system.

Moreover, the lack of comprehensive national strategies to integrate women with disabilities into public, social, and economic life, coupled with limited capacity-building within judicial and administrative institutions, ensures that the transformative potential of law remains unrealised, rendering reforms largely rhetorical and symbolic rather than substantively empowering. The interplay of selective compliance, conservative religious interpretation, institutional fragility, socio-cultural resistance, and domain-specific fragmentation produces a legal system in which the protection of women with disabilities is conditional, partial, and context-dependent, exposing persistent vulnerabilities, reinforcing social and legal hierarchies, and limiting both autonomy and participation.

Even areas of nominal reform, such as employment or education, fail to counterbalance deficits in personal status, family law, and social inclusion, confirming that incremental reforms or selective engagement with international norms cannot rectify systemic structural weaknesses and highlighting the insufficiency of pragmatic legal flexibility in producing meaningful protection, equality, or empowerment. The evidence demonstrates that while theoretical pathways for reform exist within Shari'ah principles and international norms, the prevailing socio-political, institutional, and cultural dynamics inhibit their realisation, ensuring that systemic weaknesses predominate over any strengths and that women with disabilities remain structurally vulnerable, legally insecure, and dependent across multiple social, economic, and legal domains.

Furthermore, the absence of independent oversight, monitoring, and accountability mechanisms ensures that even nominal reforms are not effectively scrutinised, rendering the domestic legal framework largely reactive, symbolic, and contingent on policymakers' interests rather than responsive to the substantive needs of those most vulnerable. The symbolic adoption of international standards without systemic incorporation reinforces a hierarchy of rights, in which certain statutory protections exist in theory but remain inaccessible or unenforceable in practice, thereby demonstrating that the legal system prioritises appearance over substance. This selective pragmatism ultimately perpetuates dependency and reinforces entrenched socio-cultural hierarchies, limiting both the

agency and the societal participation of women with disabilities. Without comprehensive institutional reform, societal attitudinal change, and the establishment of robust mechanisms to harmonize international obligations with domestic law, these weaknesses will continue to dominate, confirming that the current legal framework is fundamentally insufficient for achieving substantive equality, protection, or empowerment, and that the ostensible strengths of Qatar's legal system are overshadowed by persistent structural, institutional, and social deficiencies that systematically disadvantage women with disabilities.

6.6 Practical Implications and Future Directions

The comparative findings outlined above reveal more than theoretical inconsistencies; they also point to urgent practical implications for women with disabilities in Qatar and offer a roadmap for potential future reforms. Understanding these implications requires recognising that law in Qatar operates less as a coherent rights system than as a patchwork of international commitments, statutory provisions, and Shari'ah-based rules, mediated through institutional discretion. This fragmented environment generates uncertainty, weakens enforceability, and leaves women with disabilities navigating legal and social barriers simultaneously.

The first implication concerns legal predictability. When rights are conditional on the interpretive stance of judges or administrative officials, claimants face unpredictable outcomes. This unpredictability discourages litigation and fosters reliance on family or community structures, which often reinforce dependency. For future reform, greater harmonisation between international obligations and domestic statutes is essential. Explicit incorporation of CRPD principles into Qatari legislation, combined with judicial training on progressive interpretations of Shari'ah, could reduce the uncertainty that currently undermines legal remedies.

A second implication lies in Qatar's international visibility. The country has positioned itself as a modernising state through projects such as the World Cup and the National Vision 2030. This international spotlight generates both pressure and opportunity: while reputational considerations incentivise symbolic reforms, they also provide leverage for advocacy groups to demand substantive change. To capitalise on this, Qatar could institutionalise independent monitoring mechanisms to assess compliance with its obligations under the CRPD and CEDAW. Without such bodies, reforms risk being limited

to rhetorical demonstrations for external audiences rather than delivering genuine domestic empowerment.

Civil society engagement further underscores the practical gap between recognition and realisation. Although tightly regulated, local organisations and advocacy groups represent an emerging force for disability rights. Their ability to participate in shadow reporting to treaty bodies or to influence public debate is essential for accountability. Supporting capacity-building for these groups, even within Qatar's constrained civil society environment, is a necessary step toward bridging the gap between formal commitments and lived experiences. The state's willingness to accommodate such participation will signal whether reforms are intended to be transformative or purely symbolic.

Interpretive flexibility within Shari'ah presents another avenue for future direction. The doctrinal tools of ijtihad and maqasid al-shari'ah provide scope for interpretations that prioritise justice, dignity, and welfare—principles directly relevant to the rights of women with disabilities. The challenge in Qatar is less doctrinal than institutional: religious authorities and courts have generally prioritised conservative readings that preserve existing hierarchies. A future-oriented strategy would require encouraging progressive scholarship and judicial engagement with these traditions, thereby reconciling religious legitimacy with substantive equality. Such a move would not only strengthen rights domestically but also position Qatar as a leader in harmonising Islamic law with international human rights standards.

Policy reform is equally crucial. Qatar's development strategies repeatedly reference inclusion but lack enforceable obligations. Translating policy into statutory mandates such as accessibility standards for public infrastructure, anti-discrimination provisions in employment, and quotas for women with disabilities would create concrete obligations subject to enforcement. Coupled with accountability mechanisms, these reforms could shift disability rights from aspirational goals to justiciable entitlements. Without this translation, National Vision 2030 risks becoming another example of symbolic modernisation without substantive inclusion.

International engagement through treaty monitoring also offers a pathway forward. Qatar's reporting to the CRPD and CEDAW committees can be leveraged to identify specific shortcomings and recommend reforms. For this process to be meaningful, domestic actors must contribute through alternative reports and advocacy. Future reforms

could therefore focus on creating participatory spaces for women with disabilities themselves to inform these processes, ensuring that their lived experiences shape both reporting and implementation.

Finally, any future direction must adopt an intersectional lens. Women with disabilities experience compounded marginalisation not only as women but also as persons with disabilities in a socially conservative environment. Practical empowerment, therefore, requires integration across domains: inclusive education must be connected to accessible transport; employment opportunities must be supported by healthcare and childcare; and family law reform must be aligned with broader anti-discrimination efforts. Partial reform in isolated domains will remain ineffective unless accompanied by holistic, intersectional strategies.

The practical implications of Qatar's current framework are stark: unpredictability, symbolic reform, and fragmented protection leave women with disabilities in a condition of legal and social dependency. Future directions demand harmonisation of international obligations with domestic law, institutionalisation of monitoring mechanisms, cultivation of progressive Shari'ah interpretations, and integration of intersectional policies. The pathway forward is not limited to statutory reform but requires political will, social transformation, and institutional innovation. Only through such multi-dimensional efforts can Qatar move beyond symbolic recognition and ensure substantive empowerment for women with disabilities.

6.7 Conclusion

This chapter presents a comparative examination of the legal position of women with disabilities in Qatar, analysing the interaction among international human rights law, Qatari domestic legislation, and Shari'ah-based legal principles. The discussion demonstrates that, rather than operating as a coherent and mutually reinforcing system, these normative frameworks intersect in ways that generate fragmentation, hierarchy, and conditional protection. While each framework contains principles capable of supporting substantive equality, their interaction within Qatar's legal and institutional context produces outcomes that fall short of meaningful empowerment for women with disabilities.

International human rights law, particularly through the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of All Forms of

Discrimination against Women, provides a detailed articulation of equality grounded in autonomy, legal capacity, accessibility, and participation.[490] These instruments conceptualise disability as a social and legal construct rather than a medical deficit and explicitly address the compounded discrimination faced by women with disabilities. However, the analysis in this thesis demonstrates that, in Qatar, international law occupies a peripheral rather than a constitutive role within the domestic legal order.[491] Ratification has not been accompanied by comprehensive legislative incorporation or consistent judicial engagement, resulting in a gap between normative commitment and operational effect.

This gap is further exacerbated by Qatar's selective engagement with international obligations. While the CRPD was ratified without reservations, its core principles have not been systematically translated into enforceable domestic rights.[492] Disability remains largely governed by pre-CRPD welfare legislation and policy instruments that emphasise care, protection, and social assistance rather than autonomy and legal entitlement. By contrast, Qatar's accession to CEDAW is accompanied by substantive reservations, particularly in areas relating to family relations, marriage, and inheritance.[493] These reservations significantly limit the treaty's domestic effect and entrench legal domains that remain insulated from international gender equality norms. The discussion shows that this selective engagement produces a hierarchy of rights in which social inclusion is rhetorically endorsed, while personal autonomy and legal capacity remain constrained.

Qatari domestic law occupies an intermediary position between international norms and Shari'ah principles, yet it does not function as a neutral bridge between these systems.[494] Instead, domestic law reflects a hybrid structure in which selective modernisation coexists with entrenched conservatism. Statutory and policy reforms in education, employment, and healthcare signal a willingness to engage with global inclusion discourse, particularly in contexts linked to national development and international visibility.[495] However, these reforms are predominantly policy-driven, discretionary, and weakly enforced. They rarely

[490] Chapter 3.4.
[491] Chapter 5.5.
[492] Chapter 5.5.1.
[493] Chapter 5.3.
[494] Chapter 5.4.
[495] Chapter 5.3.7.

articulate women with disabilities as autonomous rights-holders and do not systematically address the intersection of gender and disability as a distinct site of legal vulnerability.

Shari'ah law, constitutionally recognised as a principal source of legislation, plays a decisive role in shaping the scope and limits of reform. The analysis demonstrates that Shari'ah is neither monolithic nor inherently incompatible with disability or gender equality.[496] Islamic jurisprudence contains doctrinal principles emphasising justice, dignity, welfare, and the protection of vulnerable individuals. These principles could, in theory, support interpretations aligned with international human rights standards. In practice, however, Shari'ah is operationalised in Qatar through conservative interpretive practices that prioritise social stability, traditional gender roles, and familial hierarchy. This conservatism is particularly evident in personal status law, guardianship, inheritance, and legal capacity, all of which directly affect the autonomy and life choices of women with disabilities.

The interaction of these legal systems produces a fragmented legal landscape characterised by partial inclusion and structural dependency. Women with disabilities may experience access to education, healthcare, or employment opportunities, yet remain legally constrained in matters of marriage, consent, financial management, or family decision-making.[497] This fragmentation undermines the coherence of rights protection and reveals the limits of sector-specific reform. The discussion thus demonstrates that the central issue is not the absence of legal norms but the manner in which those norms are filtered through institutional discretion, interpretive hierarchy, and socio-political considerations.

Comparative analysis reinforces this conclusion. The examination of Bahrain, Saudi Arabia, the United Arab Emirates, Kuwait, and Egypt illustrates that legal systems operating within Islamic and culturally conservative contexts have adopted varying strategies to institutionalise disability rights more systematically than Qatar.[498] While none of these jurisdictions offers a perfect model, they demonstrate that enforceable legislation, institutional oversight, and clearer articulation of legal capacity are possible without abandoning religious foundations. Qatar's reliance on aspirational policy frameworks, by

[496] Chapter 4.2.
[497] Chapter 5.3.1.
[498] Chapter 6.5.

contrast, reflects a cautious approach to reform that prioritises symbolic alignment over structural transformation.

Ultimately, the discussion highlights that Qatar's hybrid legal framework functions as a mechanism of managed inclusion. International norms are selectively acknowledged, domestic law offers limited and conditional protections, and Shari'ah is deployed in ways that stabilise existing hierarchies. For women with disabilities, this results in a legal environment where rights exist in principle but remain contingent in practice, reinforcing dependency and limiting substantive equality.

6.7.1 Findings: Legal Challenges and Structural Constraints

The first key finding emerging from this analysis is that Qatar's legal framework exhibits a persistent disjunction between formal recognition and substantive enforcement. Although Qatar has ratified major international human rights instruments, these commitments have not been fully internalised within domestic law. The absence of comprehensive legislative incorporation of CRPD principles means that rights relating to accessibility, reasonable accommodation, independent living, and legal capacity lack clear legal status and enforceability.[499] For women with disabilities, this gap is magnified by the absence of gender-sensitive provisions that address their specific experiences of discrimination.

A second finding concerns the structural impact of treaty reservations, particularly in relation to CEDAW. Qatar's reservations to provisions governing family relations and personal status law significantly curtail the treaty's domestic effect.[500] These reservations operate not merely as abstract limitations on international obligations but as concrete legal barriers that preserve gendered dependency.[501] For women with disabilities, whose autonomy is already constrained by social and institutional factors, the insulation of family law from international scrutiny entrenches vulnerability and limits access to remedies in areas central to personal agency.

The comparative findings yield a third insight: the challenges facing women with disabilities in Qatar are not inherent to Islamic law or regional context but stem from institutional design and political prioritisation.[502] Other states examined in this thesis have

[499] Chapter 5.4.5.
[500] Chapter 5.3.
[501] Chapter 5.4.4.
[502] Chapter 4.8.

taken steps to formalise disability rights through legislation, oversight bodies, or administrative mandates. While implementation gaps remain across the region, these examples demonstrate that Qatar's predominantly welfare-oriented and policy-driven approach is not an inevitable model but a strategic choice that limits accountability and enforceability.

A fourth finding relates to the interpretive role of Shari'ah within the domestic legal system. The analysis reveals that conservative interpretations dominate judicial and administrative practice, particularly in areas affecting women's autonomy.[503] Despite the availability of doctrinal tools that could support more inclusive outcomes, these tools are rarely operationalised. As a result, legal outcomes remain unpredictable and heavily dependent on discretionary interpretation, reinforcing the conditional nature of rights protection for women with disabilities.

A further finding concerns the institutional invisibility of women with disabilities within legal and policy processes. Despite rhetorical commitments to inclusion, women with disabilities are rarely positioned as legal subjects whose experiences inform law-making, adjudication, or implementation. This exclusion undermines accountability and contributes to a cycle in which reforms remain abstract and disconnected from lived realities. At both national and international levels, the absence of meaningful participation weakens the transformative potential of legal norms.

These findings collectively demonstrate that the primary legal challenges confronting women with disabilities in Qatar are structural rather than technical. Rights are fragmented across legal domains, enforcement mechanisms are weak, and interpretive authority is exercised in ways that preserve existing hierarchies. While international and religious frameworks offer pathways for reform, these pathways remain underutilised within the current legal order.

6.7.2 Findings: Legal Challenges and Prospects for Reform

An additional finding emerging from the comparative analysis concerns the role of enforcement and accountability mechanisms in shaping the lived experience of rights. Across the legal systems examined, the presence or absence of institutional oversight appears to be a decisive factor in determining whether formal norms translate into

[503] Chapter 5.3.

practice.[504] In Qatar, the lack of independent monitoring bodies, specialised equality institutions, or robust complaint mechanisms means that even where protections exist, violations often remain unchallenged.[505] For women with disabilities, this institutional deficit compounds existing vulnerabilities by limiting access to remedies and reinforcing reliance on informal family structures, which frequently reproduce dependency rather than empowerment.

This finding is particularly significant when contrasted with jurisdictions that have adopted institutional frameworks capable of supervising implementation and generating accountability. Although such frameworks are not without shortcomings, their existence alters the legal environment by signalling that disability and gender equality are matters of enforceable obligation rather than discretionary benevolence. Qatar's absence of comparable structures contributes to a legal culture in which compliance is optional, outcomes are inconsistent, and claims of rights are discouraged. This reinforces the conclusion that structural weakness, rather than normative deficiency, lies at the core of the problem.

Another important finding relates to the compartmentalisation of reform. The analysis shows that where legal or policy progress has occurred in Qatar, it has tended to be confined to specific sectors, most notably education, employment, and healthcare.[506] While these domains are essential, their reform has not been accompanied by corresponding changes in personal status law or legal capacity regimes. This compartmentalisation produces a form of partial inclusion that fails to address the structural conditions shaping women's lives. Women with disabilities may gain access to public services while remaining legally dependent within the family, unable to exercise complete control over marriage, finances, or personal decisions.

This disjunction reveals a more profound structural inconsistency within Qatar's legal order. Rights are not conceived as indivisible or interdependent; instead, they are allocated selectively across domains deemed politically or culturally acceptable. As a result, the benefits of reform in one area are neutralised by restrictions in another. The findings thus confirm that sector-specific progress cannot substitute for systemic

[504] Chapter 6.2.
[505] Chapter 6.4.
[506] Chapter 6.4 para 4.

coherence and that equality cannot be realised where core aspects of legal personality remain constrained.

The comparative analysis also highlights the role of international visibility and reputational considerations in shaping reform trajectories. Qatar's engagement with international human rights law appears closely linked to its global positioning and development narrative. High-profile international events and policy initiatives have encouraged rhetorical commitments to inclusion, yet these commitments have not consistently translated into binding legal change. This finding suggests that international engagement functions as a catalyst for symbolic reform rather than as a driver of structural transformation. For women with disabilities, this dynamic reinforces the perception that inclusion is contingent on external scrutiny rather than grounded in domestic rights culture.

Finally, the findings reveal that the intersectional nature of discrimination experienced by women with disabilities remains insufficiently recognised within legal doctrine.[507] Disability and gender are often addressed as separate categories, resulting in legal blind spots that obscure compounded disadvantage. This analytical gap contributes to the marginalisation of women with disabilities within reform processes and reinforces their invisibility as a distinct legal constituency. The failure to integrate intersectionality into legal reasoning further weakens the capacity of law to respond effectively to lived realities.

Collectively, these findings underscore that the challenges confronting women with disabilities in Qatar are systemic, multi-layered, and mutually reinforcing. They arise from the interaction of selective international compliance, welfare-oriented domestic law, conservative religious interpretation, institutional fragility, and socio-cultural norms. While these challenges are deeply embedded, the analysis also reveals that they are neither inevitable nor immutable, but rather the product of legal and institutional choices.

6.7.3 Analytical Implications: Limits, Possibilities, and the Need for Coherence

The findings outlined above carry important analytical implications for understanding both the limitations and the latent possibilities within Qatar's legal framework. At a conceptual level, the analysis demonstrates that legal pluralism, when managed through hierarchy rather than integration, can entrench inequality rather than accommodate diversity. The coexistence of international law, domestic statutes, and Shari'ah does not automatically

[507] Chapter 2.4.

produce a richer or more protective legal environment. Instead, where one system is consistently privileged over others, pluralism becomes a mechanism for deflecting accountability and preserving the status quo.

One key implication concerns the nature of substantive equality. The analysis confirms that equality cannot be achieved through formal recognition alone. Where rights lack enforceability, clarity, and institutional support, they function as symbolic assurances rather than operative guarantees. For women with disabilities, substantive equality requires coherence across legal domains, ensuring that autonomy recognised in public life is not negated by dependency imposed in private or familial contexts. The fragmentation identified in this chapter demonstrates that partial inclusion may coexist with deep structural exclusion, undermining the transformative promise of rights-based discourse.

The findings also have implications for the role of Shari'ah within contemporary legal systems. The analysis challenges simplistic assumptions that frame Islamic law as either inherently oppressive or inherently liberatory. Instead, it reveals that outcomes depend on interpretive choice, institutional context, and political will. In Qatar, conservative interpretations have been prioritised in ways that limit women's autonomy, yet the doctrinal flexibility of Shari'ah remains largely untapped. This suggests that the primary constraint lies not in religious doctrine itself but in the governance structures that shape how doctrine is applied.

At the international level, the analysis highlights the limits of treaty-based reform in the absence of domestic incorporation and accountability. International human rights law provides a robust normative vocabulary, but its effectiveness depends on internal legal mechanisms that translate norms into practice. The Qatari case illustrates how states can comply formally while resisting substantive change, raising broader questions about the capacity of international law to address intersectional discrimination in hybrid legal systems.

Another implication concerns legal methodology. The failure to integrate intersectional analysis into legislative drafting, judicial reasoning, and policy design results in laws that are formally neutral yet substantively exclusionary. This methodological limitation reinforces invisibility and marginalisation, particularly for groups situated at the intersection of multiple axes of disadvantage. The analysis suggests that without an

explicit analytical framework capable of recognising compounded discrimination, legal reform risks reproducing inequality even when motivated by inclusion.

Importantly, these implications do not themselves dictate solutions. Instead, they clarify the parameters within which reform must operate to be effective. The analysis establishes that meaningful progress requires coherence, enforceability, and interpretive alignment across legal systems. It also demonstrates that reform must address the structural foundations rather than merely address surface-level symptoms.

6.7.4 Concluding Synthesis

This chapter has demonstrated that a complex and asymmetrical interaction between international human rights law, domestic legislation, and Shari'ah-based principles shapes the legal protection of women with disabilities in Qatar. While each framework contains elements capable of supporting substantive equality, their fragmented interaction produces conditional, uneven, and often unpredictable protection. The analysis confirms that the principal challenge is not the absence of legal norms, but the manner in which those norms are selectively adopted, interpreted, and enforced.

The findings reveal that women with disabilities experience rights as contingent rather than guaranteed, fragmented rather than holistic, and symbolic rather than enforceable. Sector-specific reforms coexist with structural dependency, reservations and limited domestication weaken international commitments, and religious interpretation is deployed in ways that stabilise existing hierarchies. These dynamics collectively constrain autonomy and reinforce vulnerability.

At the same time, the analysis identifies latent possibilities for reform embedded within all three legal systems examined. International law offers a comprehensive rights framework, Shari'ah provides doctrinal tools capable of supporting dignity and welfare, and domestic law demonstrates a capacity for pragmatic adaptation. The challenge lies in translating these possibilities into a coherent legal architecture that moves beyond symbolic compliance toward substantive equality.

By clearly identifying the structural, doctrinal, and institutional barriers that limit the protection afforded to women with disabilities, this chapter establishes the analytical foundation for the thesis's final chapter. Chapter 7 builds directly on these findings by articulating targeted recommendations designed to address the specific deficits identified here. In doing so, the thesis maintains a clear distinction between diagnosis and

prescription, ensuring that proposed reforms are firmly grounded in the comparative and analytical insights developed throughout the study.

7 - Recommendations

7.1 Introduction

The comparative analysis presented in Chapter 6 revealed that the structural, doctrinal, and institutional weaknesses within Qatar's hybrid legal framework create significant barriers to the realisation of substantive rights for women with disabilities. While international law offers detailed obligations, Shari'ah provides flexible interpretive tools, and domestic statutes contain pockets of progressive reform, the fragmented interaction of these systems results in inconsistent protections, unpredictable outcomes, and limited enforcement. The chapter also demonstrated that regional comparators, particularly Bahrain, Kuwait, Saudi Arabia, the UAE, and Egypt, have begun adopting mechanisms that translate rights into practice more effectively than Qatar's predominantly welfare-oriented and policy-driven model. These findings underscore the need for a comprehensive, coherent, and context-sensitive reform agenda that addresses the doctrinal gaps, institutional deficits, and intersectional challenges highlighted in the comparative analysis. Building on these insights, this chapter proposes a series of recommendations designed to operationalise equality, strengthen legal capacity, harmonise interpretive practices, and embed intersectional and Shari'ah-responsive principles into Qatar's legal order.

Recommendation 1: Establishing a Legislative Framework That Formally Recognises the Legal Capacity of Women with Disabilities

As observed in the previous chapter, the comparative review of Bahrain, Saudi Arabia, the UAE, Kuwait, and Egypt reveals that jurisdictions seeking to align disability governance with contemporary rights-based standards have increasingly enacted binding statutes affirming the legal capacity of persons with disabilities. Although the models adopted differ in their doctrinal foundations, they share an essential feature: the recognition that disability cannot serve as a lawful basis for denying an individual's capacity to make personal, familial, financial or civic decisions. These comparative insights demonstrate that autonomy is not merely a social aspiration but a principle requiring explicit legal articulation. Building on these observations, Qatar would significantly advance the rights of women with disabilities by adopting a comprehensive legislative instrument that unequivocally recognises their full legal capacity across all domains of life and embeds that recognition within a coherent statutory architecture.

The statute should extend beyond broad statements of equality. Instead, it must establish enforceable rights, supported by procedural guarantees, that enable women with disabilities to exercise decision-making authority in practice. A central element of this reform would be the explicit codification of a presumption of legal capacity applicable irrespective of disability status. This presumption should apply across civil, personal status, financial, and administrative contexts. It should be displaced only where clear and compelling evidence demonstrates that a woman is unable to express or communicate a decision, even with appropriate support. The law should therefore create a structured spectrum of decision-support mechanisms ranging from interpretive assistance to communication facilitation designed to reinforce autonomy rather than substitute for it. This reflects the comparative shifts identified in Chapter 6, in which certain states have begun moving away from guardianship-centric regimes toward supported decision-making models grounded in rights and autonomy.

In operationalising this framework, Qatar may draw inspiration from features noted in Bahrain and Kuwait. Bahrain's statutory approach, which integrates disability into the administrative logic of state service provision, demonstrates how legal recognition can influence institutional practice. Kuwait's centralised disability governance model similarly underscores the value of clear legislative mandates that define the status and entitlements of persons with disabilities. Adapting these lessons to Qatar requires a statutory regime that obliges ministries, courts, and private entities to treat women with disabilities as autonomous legal subjects whose decisions carry full legal effect, unless evidence-based justification requires otherwise. Such a regime would prevent administrative or judicial reliance on assumptions about disability and would encourage decision-makers to seek autonomy-preserving alternatives before considering more restrictive approaches.

To ensure doctrinal coherence, the statute should incorporate an interpretive clause affirming that recognition of legal capacity aligns with the higher objectives of Islamic law (maqāṣid al-sharīʿah), particularly the values of dignity, welfare and the removal of hardship. This does not introduce new substantive religious doctrine; instead, it provides a jurisprudential bridge linking the statutory framework with Qatar's constitutional and legal identity. Such an interpretive clause would promote judicial confidence in applying the presumption of capacity and mitigate concerns that capacity reform represents an externally imposed model incompatible with established legal principles.

By enacting a legislative framework that positions autonomy as the starting point, supported where necessary but never replaced absent compelling justification, Qatar would mark a decisive shift from discretionary accommodation toward rights-based governance. This reform would ensure that women with disabilities exercise genuine control over personal, familial and economic decisions and that their preferences are respected and given legal effect. It would also create a strong foundation for the subsequent recommendations in this chapter, each of which depends on the formal legal recognition of women with disabilities as autonomous individuals within the Qatari legal order.

Recommendation 2: Introducing an Interpretive Protocol for Family and Personal Status Cases Involving Women with Disabilities

It was observed that Bahrain, Saudi Arabia, the UAE, Kuwait, and Egypt demonstrate that meaningful reform in the field of family and personal status law often relies not solely on legislative change but also on the development of structured interpretive tools to guide the judicial application of existing norms. These jurisdictions illustrate that personal status courts frequently confront situations where disability and gender intersect in ways that are not expressly contemplated by statutory text. Rather than relying on ad hoc judicial discretion, several states have adopted interpretive practices or internal guidance mechanisms that assist courts in navigating these complexities. Drawing on these comparative insights, Qatar would benefit from introducing a formal interpretive protocol tailored explicitly to cases involving women with disabilities within the personal status system.

Such a protocol would not alter substantive family law provisions, nor would it impose constraints on judicial authority. Instead, it would provide a principled interpretive framework that ensures disability-related considerations are consistently and transparently addressed across courts. This protocol could take the form of a judicial circular issued by the Supreme Judicial Council, a legislative annexe to the Personal Status Law, or an officially endorsed interpretive guide. Its core purpose would be to articulate clear expectations regarding how issues such as marital consent, guardianship disputes, financial management, custody, inheritance, and personal autonomy should be approached when the woman concerned has a disability.

The protocol should incorporate several key interpretive presumptions. First, it should affirm that women with disabilities are presumed to possess the capacity to marry, consent, form intentions, manage financial affairs, and participate in family decision-making, unless compelling evidence demonstrates otherwise. This presumption guards against improper reliance on stereotypes or assumptions rooted in disability rather than individual capacity. Second, the protocol should subject requests for guardianship expansion or substituted decision-making to strict scrutiny, ensuring that such measures are not endorsed where autonomy can be maintained through less restrictive means, including supported decision-making. Third, the protocol should encourage judges to apply recognised principles of Islamic jurisprudence, such as rafʿ al-ḥaraj (removal of hardship), maslaḥa (public interest), and darʾ al-mafsada (prevention of harm), in ways that advance the welfare, dignity, and participation of women with disabilities. These principles have long served as flexible doctrinal tools allowing Shari'ah-based systems to respond to evolving social realities while maintaining fidelity to foundational values.

Importantly, the protocol should instruct courts to consider not only a woman's functional abilities but also the social, communication and structural supports available to her. This ensures that incapacity is not inferred where the real impediment arises from inaccessible procedures, communication barriers, or the lack of appropriate support mechanisms. By embedding this interpretive methodology, Qatar would ensure that personal status law is applied in a manner that recognises the agency of women with disabilities and avoids paternalistic assumptions that may inadvertently restrict their rights.

Introducing such a protocol would constitute a significant jurisprudential refinement within Qatar's personal status system. It would ensure that gaps in statutory text or inconsistencies in judicial reasoning do not disadvantage women with disabilities. Instead, they would be supported by an interpretive framework that is principled, transparent, and fully compatible with the constitutional primacy afforded to Shari'ah. In doing so, Qatar would take an important step toward ensuring that personal status adjudication reflects both doctrinal integrity and an inclusive vision of justice for women with disabilities.

Recommendation 3: Establishing an Independent National Authority for Equality, Disability and Inclusive Governance

As demonstrated in the previous chapter, several of the states examined, most notably the UAE, Bahrain, and Kuwait, have established institutional mechanisms to coordinate disability policy, monitor implementation, and ensure that state entities comply with their obligations toward persons with disabilities. While the structures and mandates of these bodies vary, their presence indicates broader regional recognition that disability governance requires more than dispersed ministerial initiatives or informal cooperation among agencies. Instead, it demands a dedicated, legally empowered institution capable of safeguarding the rights of persons with disabilities and ensuring that commitments made in legislation and policy are translated into practical outcomes. Building on these observations, Qatar would benefit from establishing an independent National Authority for Equality, Disability and Inclusive Governance, specifically mandated to address the intersecting forms of discrimination experienced by women with disabilities.

Such an authority should be established through statute and vested with robust regulatory and quasi-judicial powers. Its mandate would extend beyond general disability oversight by explicitly targeting gender-specific dimensions of discrimination, thereby addressing gaps that existing institutions are not structurally equipped to confront. This would include the authority to receive and investigate complaints, conduct inquiries into systemic patterns of exclusion, issue binding compliance notices, impose administrative sanctions for violations, and refer cases for criminal prosecution in instances of severe or persistent discriminatory conduct. By granting the institution these powers, Qatar would signal a transition from aspirational commitments to the protection of enforceable rights, ensuring that women with disabilities have a reliable, independent avenue to challenge discrimination or exclusion in employment, health, education, social services, family-related contexts, and administrative decision-making.

The institutional design should illustrate how independence, expertise, and accountability enhance the effectiveness of disability governance bodies. The authority should therefore be headed by a governing board composed of legal experts, policy specialists, scholars familiar with Shari'ah, individuals with lived experience of disability (including women with disabilities), and representatives of civil society. This composition would ensure doctrinal, technical and experiential legitimacy, while safeguarding against politicisation or administrative capture. The internal structure of the authority should include an

investigative division responsible for conducting audits, inspections and compliance reviews; a legal and advisory division empowered to issue guidance to ministries, courts and private entities; and a data and research unit tasked with monitoring implementation trends and identifying emerging challenges affecting women with disabilities.

A crucial component of this institutional model would be the development of a national database documenting accessibility standards, compliance records, complaint outcomes, and systemic patterns of discrimination. Such a database would enable evidence-based policy design and provide a foundation for evaluating the effectiveness of legislative and administrative reforms. In addition, the authority's founding statute should require periodic reporting to the Shura Council and the publication of annual public reports. These mechanisms would ensure transparency, strengthen public trust, and maintain momentum for continued legal and institutional reform.

Ultimately, the establishment of this independent authority would mark a significant evolution in Qatar’s approach to disability rights. It would ensure that women with disabilities are not left to navigate complex systems or assert their rights without institutional support. Instead, they would benefit from a structured, enforceable governance framework that monitors compliance, addresses violations, and coordinates sectoral reform. By moving beyond ad hoc or ministry-specific initiatives, Qatar would create a durable institutional architecture capable of safeguarding equality and inclusion in a principled, consistent and legally coherent manner.

Recommendation 4: Introducing a Statutory Duty to Integrate Disability–Gender Intersectionality into All Legislative and Regulatory Drafting

Bahrain, the UAE, Kuwait, and Egypt demonstrate that the protection of women with disabilities is frequently conditioned not only by judicial interpretation or the existence of specialised institutions, but also by the underlying methodology used to draft legislation. Although each legal system adopts its own approach, a recurring observation across the reviewed states is that disability and gender tend to be treated separately in statutory design, producing fragmented protections and legislative blind spots that leave women with disabilities in an ambiguous or invisible position. The insights drawn from this comparative analysis suggest that Qatar could strengthen its overall legal architecture by formally incorporating an intersectional methodology into the legislative drafting process,

ensuring that laws, regulations and administrative directives systematically account for the specific position of women with disabilities.

To achieve this, Qatar should adopt a statutory duty requiring the legislative body, across ministries, regulatory authorities, and public bodies, to consider disability and gender together when drafting or amending laws. This duty would not create new substantive rights in itself; instead, it would shape how rights are conceptualised and embedded in legal instruments. It would oblige drafters to examine how proposed provisions may differentially affect women with disabilities, whether through unintended exclusions, disproportional burdens, or administrative procedures that fail to accommodate their lived realities. By mandating that intersectional considerations be explicitly addressed, Qatar would ensure that women with disabilities become systematically visible within the legislative process rather than relying on downstream interpretation or ad hoc institutional adjustments.

In practice, this statutory obligation could require each ministry to include, in the explanatory memorandum accompanying any draft law or regulation, a disability–gender impact statement. This statement would outline whether the proposed text creates barriers, omits protections, or interacts with existing provisions in ways that disadvantage women with disabilities. Such statements would not constitute technical analyses alone; they would serve as a legal discipline, ensuring that intersectional concerns are considered at the earliest stage of legislative design rather than being deferred to courts or administrative authorities. Comparative experiences referenced in the previous chapter show that where states have incorporated elements of impact assessment into their legislative processes, the resulting laws tend to be more coherent, more predictable and more protective of marginalised groups, including women with disabilities, without imposing substantive burdens on the legal order.

In addition, the statutory duty could require drafters to consult relevant civil society organisations, scholars, or representatives of women with disabilities at the drafting or pre-legislative review stage. This would not duplicate the institutional oversight function proposed in Recommendation 3, nor would it encroach upon judicial interpretation. Instead, it would ensure that the voices of women with disabilities inform the design of the legal measures that ultimately shape their lives. Through structured consultation, Qatar would embed participatory legitimacy in the legislative process while enriching the substantive quality of proposed texts.

Finally, the duty would enhance legal coherence by promoting consistency across sectors. Without such a mechanism, disability–gender issues risk being handled differently across labour, health, education, social protection, and family-related legislation. A statutory drafting obligation would therefore contribute to horizontal harmonisation, ensuring that rights and protections do not vary arbitrarily across ministries. In this respect, the recommendation complements, rather than overlaps with, other reforms proposed in this chapter, providing a methodological foundation for the development of inclusive and intersectionally sensitive law.

By formalising an intersectional legislative drafting duty, Qatar would institutionalise a forward-looking approach that ensures that women with disabilities are recognised not only in interpretation, enforcement, and doctrinal reasoning, but also at the very point where law is created. This represents a deeply structural reform capable of producing long-term coherence, visibility and equality for women with disabilities within Qatar's evolving legal landscape.

Recommendation 5: Developing a Shari'ah-Responsive Framework for Disability and Gender Equality

As observed in the previous chapter, certain Gulf states have demonstrated that Islamic jurisprudence can serve as a constructive foundation for modernising disability and gender-related protections. These examples underscore the feasibility of using doctrinal tools to advance autonomy and equality without departing from constitutional commitments to Shari'ah. Although Shari'ah already informs judicial reasoning in Qatar as a principal source of legislation, there is currently no dedicated interpretive framework addressing how disability and gender should be approached together within that jurisprudential structure. This creates an opportunity for Qatar to articulate a Shari'ah-responsive methodology tailored explicitly to the rights of women with disabilities, without suggesting that existing institutions lack expertise or doctrinal grounding.

The proposed framework should be codified through a statutory interpretive clause embedded in any disability or equality-related legislation, clarifying that relevant provisions must be construed in light of the higher objectives of Islamic law, particularly dignity (karāma), welfare (maṣlaḥa), protection from harm (darʾ al-mafsada), and the removal of hardship (rafʿ al-ḥaraj). These principles, long established in Sunni jurisprudence and familiar within the Maliki school that influences Qatar's legal

environment, provide a doctrinally legitimate foundation for ensuring that interpretations affecting women with disabilities prioritise autonomy, equitable participation, and protection of vulnerable individuals. Explicitly incorporating these objectives does not alter substantive Shari'ah rules but clarifies how such laws should be applied in contemporary contexts shaped by disability and gender.

To operationalise this interpretive approach, Qatar may consider establishing a specialised advisory body, distinct from existing Shari'ah institutions, comprising Shari'ah scholars, judges, legal academics, and women with disabilities, to generate authoritative interpretive opinions on disability and gender equality. The role of this body would not be to instruct the judiciary but to expand the range of doctrinal resources available when modern disability-related questions intersect with established rules. It would produce methodological notes demonstrating how classical juristic tools such as maslaḥa mursala, istihsān, sadd al-dharāʾiʿ, and rafʿ al-ḥaraj can be applied to legal issues involving autonomy, access to services, or the avoidance of disproportionate burdens. Through these contributions, the body would help cultivate doctrinal coherence while respecting judicial discretion.

Institutional actors responsible for implementing legislation, ministries, regulatory authorities, and administrative decision-makers may also be required to demonstrate, in their written justifications, how maqāṣid-based principles informed decisions affecting women with disabilities. This would encourage transparent and principled reasoning, ensuring that equality considerations rooted in Shari'ah are incorporated into standard administrative practice. Over time, these reasoned decisions would contribute to a growing body of national jurisprudence that reflects both constitutional identity and contemporary understandings of disability and gender.

Significantly, a Shari'ah-responsive framework would strengthen public acceptance of reforms by grounding them in values already recognised within Qatar's legal and cultural tradition. Rather than framing disability and gender equality as external or treaty-driven concepts, the framework situates them within Islamic jurisprudential logic. This anchoring enhances the legitimacy of the broader reforms recommended in this thesis, ensuring that protections for women with disabilities rest on doctrinally robust foundations that can guide future judicial and legislative development. By institutionalising a principled interpretive methodology rooted in established Shari'ah objectives, Qatar can create a durable and culturally resonant framework for disability and gender equality. This would

secure the long-term stability of proposed reforms and ensure that women with disabilities are protected through a jurisprudential structure that reflects both national identity and evolving legal aspirations.

7.2 Synthesis

Taken together, the five recommendations outlined in this chapter provide an integrated and future-oriented roadmap for transforming Qatar's approach to disability and gender equality. Each proposal addresses a distinct structural weakness identified in the previous chapters, whether doctrinal, institutional, or interpretive, while collectively forming a coherent framework capable of shifting the legal system from symbolic recognition toward enforceable and autonomy-enhancing protections. By recognising legal capacity, guiding judicial reasoning, establishing independent oversight, embedding intersectionality into legislative drafting, and grounding reforms in Shari'ah-responsive principles, the proposed measures work in concert to close the gaps between international obligations, domestic legislation, and lived realities. Importantly, these recommendations do not require a departure from Qatar's constitutional or cultural foundations; instead, they harness existing jurisprudential tools, regional comparators, and administrative possibilities to build a more inclusive and predictable legal environment. Implemented together, the reforms offer a viable pathway to ensuring that women with disabilities can exercise their rights fully and effectively, positioning Qatar to evolve from a fragmented system of protections to one of coherent, rights-based governance.

CONCLUSION

The legal condition of women with disabilities in Qatar emerges from a complex interaction of normative aspirations, institutional practices, and social expectations that do not neatly align with one another. The analysis undertaken throughout this thesis has shown that the legal protection of these women cannot be understood by examining any single system in isolation; rather, it is the intersection of international human rights law, Islamic juristic reasoning, and domestic statutory and judicial structures that ultimately shapes their lived reality. What becomes apparent from this inquiry is that Qatar's legal framework contains within it both the seeds of meaningful transformation and the constraints that perpetuate structural marginalisation. These tensions reveal that progress is not limited by the absence of normative commitments, many of which are clearly expressed in treaties, constitutional provisions, and even Shari'ah principles, but rather by the lack of a unified interpretive and institutional approach capable of translating these commitments into enforceable rights for women with disabilities.

The overarching finding from this research is that, although Qatar has made significant normative strides in disability and gender policy, these developments remain fragmented and often symbolic because they have not been matched by doctrinal clarity or institutional coherence. Rights appear in policy statements but are diluted in practice; international obligations are ratified but not fully incorporated; and Shari'ah principles capable of supporting autonomy are acknowledged in theory yet often overshadowed by conservative interpretive traditions that privilege guardianship and protection over agency and equality. In this unstable equilibrium, women with disabilities remain situated at the margins of the legal system, recognised as deserving of care but not consistently understood as holders of full legal capacity. This gap is the product not only of legal rules but of deeper epistemic assumptions embedded in the legal culture: assumptions about disability as incapacity, about womanhood as dependency, and about social harmony as requiring the management rather than empowerment of those deemed vulnerable.

One of the most consequential insights arising from the study is the realisation that the barriers faced by women with disabilities in Qatar are not reducible to overt discrimination or explicit legal exclusion. Instead, they originate in the implicit logics that underpin the legal system itself. These logics include a persistent medicalised understanding of disability, which frames disabled women as recipients of assistance rather than agents of their own lives; a gendered structure of authority that continues to position women within

hierarchies of familial control; and an institutional deference to conservative interpretations of Shari'ah that are assumed to represent authentic doctrine despite the existence of more inclusive, rights-affirming jurisprudential traditions. When these logics intersect, they create a landscape in which women with disabilities are neither entirely excluded nor fully empowered; they are instead suspended in a space where their rights are conditional, mediated, and negotiable.

The thesis also demonstrates that international human rights law, although influential as a normative reference point, cannot by itself overcome the structural barriers that impede the realisation of rights for women with disabilities. International treaties provide a vocabulary of equality, autonomy, and non-discrimination. Still, their transformative potential depends on domestic incorporation, judicial willingness to interpret rights expansively, and the presence of institutions capable of monitoring compliance. In Qatar's dualist legal system, where treaty norms require explicit legislative implementation, the disconnect between ratification and practice becomes especially salient. Even when the spirit of international law is invoked in policy discourse, it does not yet function as a consistent or authoritative interpretive resource within courts or administrative decision-making. As a result, the international framework exerts rhetorical and political pressure but lacks mechanisms to ensure adequate legal protection.

At the same time, the examination of Islamic jurisprudence undertaken in this study reveals that Shari'ah is neither inherently restrictive nor intrinsically opposed to the principles of autonomy and equality required by disability rights law. On the contrary, the Islamic legal tradition contains powerful doctrinal tools rooted in concepts such as dignity, harm prevention, and the public interest that can be mobilised to support inclusive interpretations. The challenge is not doctrinal but institutional: the actors empowered to interpret and apply Shari'ah in Qatar tend to rely on conservative jurisprudence that prioritises social stability and familial order over individual autonomy, especially where women and disabled persons are concerned. This institutional conservatism, rather than any fixed religious mandate, limits Shari'ah's ability to serve as a foundation for transformative legal reform. Recognising this distinction is a significant contribution of the thesis, for it shifts the analytical focus away from claims about the immutability of Islamic law and toward the structures of authority that determine how the law is operationalised.

A further insight arising from the research concerns the structure of Qatar's domestic legal framework. The system's hybridity, combining statutory law, Shari'ah-based family law,

and discretionary administrative practices, creates uncertainty and inconsistency in the application of rights. Disability is addressed unevenly across legal instruments, often more in policy terms than in rights-based statutory language. Gender equality is recognised in principle, yet constrained by personal status rules that embed gender roles. The result is a patchwork of partially aligned norms that require interpretive coherence but currently lack an authoritative mechanism to provide it. Women with disabilities encounter this incoherence at every level of the legal process: in the inconsistent availability of reasonable accommodation, the discretionary nature of guardianship-related decisions, the limited accessibility of legal procedures, and the absence of clear remedies when rights are violated. These institutional realities highlight that the problem is not a lack of normative aspiration but a lack of enforceable legal infrastructure.

The comparative analysis undertaken in the thesis sharpens these findings by showing that the tension between universal rights frameworks, religious norms, and domestic legislation is not merely a theoretical concern but a lived experience for women with disabilities. Their legal position reveals the underlying architecture of the Qatari legal system: its selective incorporation of international standards, reliance on conservative interpretations of Shari'ah, and preference for welfare-oriented policies over enforceable rights. The intersection of gender and disability amplifies these structural features, demonstrating how multiple axes of identity can converge to increase vulnerability to legal marginalisation. This intersectional insight reinforces the conclusion that advancing rights for women with disabilities cannot be achieved through isolated reforms; it requires systemic transformation that addresses the underlying epistemic and institutional assumptions that shape legal decision-making.

By integrating these strands of analysis, the thesis contributes to the scholarly understanding of legal pluralism in Gulf states. It offers a nuanced account of how rights are negotiated within hybrid legal systems. It challenges simplistic narratives that attribute legal outcomes to international backwardness, religious conservatism, or cultural resistance. Instead, it shows that the reality is more dynamic and contested. The same legal system that constrains women with disabilities also contains within it the capacity for innovation and reform; the same doctrinal sources used to justify restrictive practices also provide the resources for inclusion. Through this lens, the thesis advances a more sophisticated conceptualisation of legal agency, one that recognises both the limitations

imposed by structures of authority and the spaces within those structures where doctrinal and institutional change remains possible.

The research also lays the groundwork for a more contextually grounded approach to legal reform in Qatar. It demonstrates that meaningful progress requires the development of a rights-based framework that is both locally legitimate and internationally coherent. This entails recognising the normative weight of Shari'ah within the legal culture while simultaneously utilising its interpretive flexibility to align domestic law with international standards. It requires moving beyond welfare-oriented disability policies and toward enforceable anti-discrimination measures. It calls for enhancing courts' interpretive capacity, creating mechanisms for accountability, and ensuring that women with disabilities participate in the development and monitoring of laws that affect them. By articulating these pathways, the thesis not only diagnoses structural problems but also offers a conceptual foundation for reform.

Ultimately, the conclusion reached through this research is that the legal status of women with disabilities in Qatar reflects both the complexities of a rapidly modernising state and the enduring influence of deep-seated social and legal traditions. The contradictions identified in this thesis between autonomy and protection, universal standards and local norms, doctrinal possibility and institutional practice are not signs of failure but of a system in transition. They reveal a legal order negotiating its identity amidst competing pressures: international visibility, cultural continuity, religious legitimacy, and the demands of an evolving human rights discourse. Women with disabilities stand at the centre of these negotiations, not as passive subjects but as indicators of the legal system's capacity to recognise and respond to difference.

In reflecting on the broader implications of this study, it becomes clear that the legal protection of women with disabilities is not merely a technical issue of statutory reform but a deeper question about how societies understand vulnerability, autonomy, and equality. The experiences of these women illuminate the boundaries of the legal imagination, showing where the law has expanded, stalled, and yet to reach. Their position reveals both the fragility and the potential of legal reform in contexts characterised by pluralism and rapid change. Suppose the legal system moves toward fuller recognition of their rights. In that case, it must cultivate not only new rules but new ways of thinking, ways that recognise disability not as a deficiency, gender not as a

limitation, and religious tradition not as a barrier to justice but as a resource capable of guiding humane and equitable outcomes.

Ultimately, the study affirms that the pursuit of justice for women with disabilities in Qatar is an evolving project that extends beyond formal legal structures to culture, interpretation, and institutional ethos. The findings presented here offer a starting point for that project, illuminating both the challenges that must be confronted and the possibilities that can be realised. The task ahead is not simply to align laws with international commitments but to cultivate a legal and social environment in which women with disabilities are recognised not only as beneficiaries of protection but as full participants in the shaping of their own lives. Within this aspiration, the future of disability and gender justice in Qatar must be imagined, and the conclusions of this thesis ultimately point toward this vision.

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