

EDITORIAL

PERSONS WITH DISABILITIES IN ARMED CONFLICTS: FROM INVISIBILITY TO VISIBILITY

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Persons with disabilities comprise 15% of the total population of the world;¹ that is, every three persons out of any given twenty people in the world, and over one billion people in total. This number does not account for those indirectly affected by discrimination, exclusion and barriers that come with disabilities, such as family members and caregivers. Additionally, due to discrimination and stigma, many persons with disabilities and their families often do not report to authorities or humanitarian organizations, and thus this figure is probably much higher, with numbers often estimated as high as 30%.² Armed conflicts increase this number, as many more people acquire new impairments, whether physical, sensory or psychosocial, as a result of military operations.

Persons with pre-existing disabilities face additional challenges and risks once an armed conflict breaks out. Accessing and receiving the basic necessities for survival, such as food, water, sanitation, shelter, healthcare and humanitarian aid, become arduous, if not impossible. In turn, this imperils these individuals' ability to live a dignified life. Fearing for their lives and security, when many are forced to flee their homes, persons with disabilities are often left behind, or simply cannot leave, facing the challenges and barriers exacerbated by military operations.

Urban warfare and the use of explosive weapons with wide-area impact in populated areas leave many affected people with life-long disabilities or severe psychological trauma.³ What remains of healthcare facilities in such environments is often overwhelmed with the sick and wounded, typically with complex injuries.

Persons with disabilities, who already face discrimination and stigma in peacetime, often face even greater harm in armed conflicts – including being directly targeted or indiscriminately attacked. Women and girls with disabilities

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1 World Health Organization and The World Bank, *World Report on Disability*, 2011, p. 29, available at: www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability (all internet references were accessed in November 2022).

2 International Committee of the Red Cross (ICRC), *The ICRC's Vision 2030 on Disability*, 2020, p. 3, available at: www.icrc.org/en/publication/4494-icrcs-vision-2030-disability.

3 Robert Mardini, “‘We See Deliberate Attacks on Civilians and Civilian Objects, Causing Untold Suffering.’ Briefing to UN Security Council Open Debate on Protection of Civilians”, ICRC, 25 May 2022, available at: www.icrc.org/en/document/deliberate-attacks-on-civilians-causing-untold-suffering.

face an increased risk of sexual violence,⁴ while boys and men with disabilities are forcibly recruited or mistakenly targeted as members of parties to the conflict.⁵ Institutions housing or caring for persons with disabilities have been targeted or used as human shields.⁶

International humanitarian law (IHL) has rules governing armed conflicts and the protection of civilians, including, of course, persons with disabilities. The fundamental principles of IHL regulating the conduct of hostilities (distinction, proportionality and precaution) remain important in the protection of persons with disabilities in armed conflicts, including using a disability lens when analysing and respecting these principles. Parties to conflicts must ensure that military operations and attacks effectively distinguish civilians and civilian objects from military objectives. This duty includes avoiding attacking hospitals and institutions that house and care for persons with disabilities. Combatants and fighters must distinguish between fighters and civilians, and must not attack persons with disabilities for not understanding or obeying orders. The proportionality assessment of every attack must take persons with pre-existing disabilities into account, as well as considering the new physical and mental disabilities such attacks may cause. Military commanders must consider that 15% of any given population in an area are persons with disabilities before ordering attacks. Particularly when it comes to the principle of precaution, it is imperative that parties to conflicts consider persons with disabilities and the various disabilities that may exist. As such, advance warnings will only be effective if they can reach all civilians, including persons with disabilities, and be easily understood and implemented. This requires parties to the conflict to use and employ various communication formats to ensure that persons with different types of disabilities may effectively access and understand those warnings, giving them enough time to shelter in safe areas. Ensuring accessibility of the built environment is also key so that civilians with disabilities can find safe shelter, like other civilians without disabilities, and be part of temporary evacuations to flee hostilities. IHL rules designed to provide specific protections for persons with disabilities should always be respected.

In situations of armed conflicts, the Convention on the Rights of Persons with Disabilities (CRPD) plays an important and complementary role to ensure the protection of persons with disabilities and their rights, which is made explicit through the application of Article 11.⁷ The CRPD also provides for interpretation of IHL on the basis of the much-needed shift from the medical model of disability to that of the evolving social and human rights model of disability. This aims to ensure that personhood and autonomy of persons with disabilities are

4 Alice Priddy, *Disability and Armed Conflict*, Geneva Academy Briefing No. 14, April 2019, p. 12, available at: www.geneva-academy.ch/joomlatools-files/docman-files/Academy%20Briefing%202014-2015-interactif.pdf.

5 Please see Nicolas Hocq and Nour Assaf, “Voices of Resilience: The Perspective of Persons with Disabilities in Armed Conflict”, in this issue of the *Review*.

6 A. Priddy, above note 4, p. 12.

7 For more on the history and importance of Article 11, please refer to Andrew Begg, “From Invisibility to Positive Legal Protection: The Drafting of Article 11 of the Convention on the Rights of Persons with Disabilities”, in this issue of the *Review*.

duly recognized; that they can participate in measures affecting them so that they are seen and heard; and that their varied experiences are reflected.

In order to meet humanitarian needs wherever they are to be found, without discrimination, the fundamental principle of impartiality requires that persons with disabilities should be specifically accommodated and/or be made a priority during the delivery of humanitarian assistance.⁸ It is known that adverse distinction/discrimination is prohibited in implementing the rules of IHL and in humanitarian action. However, non-adverse distinction based on the specific barriers and needs of persons is justified and even necessary, if it is designed to ensure that persons with disabilities may access relief services on an equal basis with other civilians.⁹ This can be done by ensuring that places where humanitarian aid is provided are accessible to persons with physical disabilities, and that persons with visual, sensory or intellectual disabilities know of, understand and receive humanitarian aid. It also includes measures to ensure the transportation of humanitarian aid to homes or shelters of persons with disabilities who cannot travel to the location where aid is provided. This requires proactive work from humanitarian organizations, donor countries and institutions to identify and collect relevant and accurate data on persons with disabilities affected by armed conflicts.¹⁰ Donor countries and institutions, as well as humanitarian organizations, also have a role to play in ensuring that their policies are disability-inclusive, by including persons with disabilities in decision making.¹¹

In 2020, the International Committee of the Red Cross (ICRC) adopted Vision 2030 on Disability¹² to ensure that our humanitarian services and our employment policies and practices are inclusive, and to promote the inclusion of and provide opportunities for persons with disabilities in conflict-affected areas to achieve their full potential.¹³ Our Vision for 2030 is built upon four very important pillars. The first is to ensure that our programmes and operations are inclusive and accessible to persons with different disabilities, promoting their protection and safety with the utmost respect for their dignity. The second pillar is to deliver and develop targeted physical rehabilitation services, ensuring that these services are of the highest quality, equitably accessible and sustainable to persons with disabilities living in conflict-affected settings. The third pillar is to build an enabling work environment for persons with disabilities by meeting the standards under disability-inclusive human resources practices and policies. The final pillar is to contribute to a legal and policy environment that promotes the

8 ICRC, “How Law Protects Persons with Disabilities in Armed Conflict”, 13 December 2017, p. 4, available at: <https://www.icrc.org/en/document/how-law-protects-persons-disabilities-armed-conflict>.

9 For more on this subject, please refer to Alexander Breitegger, “Increasing Visibility of Persons with Disabilities in Armed Conflict: Implications for Interpreting and Applying IHL”, in this issue of the *Review*.

10 ICRC, above note 8, p. 4.

11 A best practice could be the work of Finland, please see the “Interview with His Excellency Pekka Haavisto: Foreign Minister of Finland”, in this issue of the *Review*.

12 ICRC, above note 2.

13 *Ibid.*, p. 2.

inclusion of persons with disabilities in humanitarian activities provided in conflict-affected settings, as well as their protection and safety.

The ICRC cannot meet its Vision 2030 on Disability alone. Partnerships within the Red Cross and Red Crescent Movement, with organizations of persons with disabilities, the humanitarian sector at large, with local, regional and international organizations and the private sector are crucial to our work towards a disability-inclusive sector.

Additionally, the coordination, collaboration and communication with and among the various partners require additional funding.

As an institution, our main goal is to protect and assist people affected by armed conflicts, and that includes persons with disabilities. This “Persons with disabilities in armed conflict” issue of the *International Review of the Red Cross* is one step towards meeting that goal. As evidenced by the article in this issue by Sonia Crenn and Charlotte Mohr from the ICRC Library,¹⁴ so far, there is a dearth of articles, books or other scholarly writings on the rights and protection of persons with disabilities, and much less still in the realm of armed conflicts. This had created a gap in the legal and policy environment protecting persons with disabilities. This issue of the *Review* is therefore expected, as per the fourth pillar of ICRC’s Vision 2030 on Disability, to contribute to the legal and policy environment promoting the inclusion of persons with disabilities in humanitarian activities, and promoting their protection and safety in armed conflicts and other situations of violence. This issue features around twenty-five articles written by persons with disabilities themselves, academics, scholars and practitioners on various themes related to the protection of persons with disabilities in armed conflicts such as IHL, human rights law, international criminal law, humanitarian action and peace and security. This issue also features interviews with His Royal Highness Prince Mired bin Raad Zeid Al-Hussein, His Excellency Pekka Haavisto – Minister of Foreign Affairs of Finland, and Mr Gerard Quinn – United Nations Special Rapporteur on the Rights of Persons with Disabilities, on the legal protection and inclusion of persons with disabilities. This issue also brings together more than ten persons with disabilities and humanitarian aid professionals from all over the world to share their testimonies and experiences of living in armed conflict and violent settings.¹⁵ Fittingly, this issue starts with these testimonies.

Persons with disabilities are all too often invisible to society, even more so in armed conflicts. Ultimately, it is the ICRC’s desire and goal to help persons with disabilities gain visibility and claim centre stage – not as victims, but as actors and agents of change.

14 Please refer to Sonia Crenn and Charlotte Mohr, “The Protection of Persons with Disabilities in Armed Conflict: An Empty Shelf in an IHL-specialized Library?”, in this issue of the *Review*.

15 N. Hocq and N. Assaf, above note 5.