**CRPD General discussion on Art.27**

**CRPD General Comment on the right of persons with disabilities to work and employment**

**15 March 2021**

**Landmine and Cluster Munition Monitor**

Landmine and Cluster Munition Monitor Impact Research Team with Marianne Schulze

The **Landmine and Cluster Munition Monitor\*** thematic research team on Impact, including casualties and equal access to comprehensive rehabilitation, would like to raise the following issues on the employment of persons with disabilities and Convention on the Rights of Persons with Disabilities (CRPD) Article 27, based on findings drawn from multi-year reporting:

1. Unemployment and lack of support for existing skills, as well as opportunities for relevant and market-demanded vocational and skills training, local employmentinitiatives, and other livelihood activities are highest in rural & remote areas; close consultation with persons with disabilities and community-based services in rural & remote areas are paramount
2. Labor exploitation and sub-forms thereof are a pressing concern, particularly those placing marginalized children, including children with disabilities, at high risk of sustaining injuries and impairments
3. Violence protection measures are crucial in all contexts, but particularly where inconsistencies with decent work standards or the principles of a right to remedy may contribute to a potential expansion of harm
4. Lack of data on the work, employment in conflict and post-conflict settings, and also on related risks to persons with disabilities including children, requires action

**1. Community-based vocational and employment opportunities in rural and remote areas**

The importance of community-based inclusion (Art 24/3, 26/1 & 19 CRPD) is particularly challenging to achieve in the rural and remote areas affected by humanitarian disasters: “States should take measures to ensure that persons with disabilities have adequate support to rebuild their lives and livelihoods in post-disaster and post-conflict situations. Temporary and permanent employment opportunities should be provided, together with vocational training.”[[1]](#footnote-1)

Persons with disabilities in rural and remote areas depend on vocational training, which responds to limited educational opportunities and the effect of discrimination and other forms of social exclusion, which may influence their willingness to engage. Landmine survivors and others with mental trauma may require additional support, including through peers (Art 26 CRPD/ Art 5.1 CRPD). The Landmine and Cluster Munition Monitor’s research shows clearly that opportunities for relevant vocational training and other economic inclusion initiatives and support in rural and remote areas are frequently lacking, thus disabling victims in reaching essential socio-economic opportunities.

In addition to the great importance of rural and remote offerings, there are indirect challenges, which emerge as a result of the reverberating effects of conflict and state fragility.[[2]](#footnote-2) These include: ongoing insecurity and/or violence, lack of access to justice and the absence of effective, accountable, and inclusive institutions, as austerity policies;[[3]](#footnote-3) and well as land grabs[[4]](#footnote-4) mainly through large-scale land acquisitions often result in the loss of community-based services, including socio-economic programs and offices of organizations of persons with disabilities. [[5]](#footnote-5)

Resourcing for employment initiatives in rural and remote areas affected by conflict and landmines remains scarce. In many countries, legal systems intended to implement quotas for the employment of persons with disabilities in large organizations and corporations in urban areas. These were inaccessible to people in remote and rural areas, did not come close to fulfilling their minimum objectives. In such cases of non-fulfillment, penalties can apply to those that do not fulfill the quota requirements.

The Monitor has noted recommendations discussed in Thailand, that part of the monies collected as penalties be transferred to appropriate rural and remote initiatives for economic inclusion, therefore distributing the benefits of quota policy measures beyond cities.

Suggestions:

* Strengthen emphasis on rural and remote opportunities for vocational and employment opportunities
* Explore means to address the impact of indirect challenges, particularly insecurity, austerity, and land grabs, including through safe consultations with persons with disabilities

**2. Labour exploitation and sub-forms thereof are a pressing concern, particularly children are at high risk**

In its General Comment No. 9 on “The rights of children with disabilities,” the Child Rights Committee emphasizes that children with disabilities are particularly vulnerable to different forms of economic exploitation, including the “worst forms of child labour,” as well as drug trafficking and begging.[[6]](#footnote-6) The collection of scrap metal and explosives is a risk activity recorded in both rural and urban areas. Particularly for poorer, marginalized households, scrap metal collection has been a common practice for income generation, as is the deliberate engagement with landmines and other explosive remnants of war (ERW).[[7]](#footnote-7) Numerous obligations enshrine the prohibition of child labor, most prominently Art 32 CRC.

Children are still either tasked with or otherwise engaged in collecting scrap metal, which amounts to exploitation and puts them at high risk of exposure to ERW. This state of affairs can be encouraged by supply chains that ignore, or encourage and endorse, these methods. Such engagement can cause significant physical and mental harm, frequently resulting in impairments and disability. Herding and other rural and domestic tasks that fall to persons with limited education opportunities and social marginalization can also introduce the risk of interaction with mines and ERW. A thorough and holistic examination of the nexus of disability and employment, therefore, has to make the link between the exploitation of children and the prevention of impairments.[[8]](#footnote-8)

In accordance with Article 11 CRPD on situations of risk, all relevant protection measures available under both international humanitarian law and human rights law, including risk education, appropriate legal protections in terms of regulation, and awareness-raising of both hazards and rights, should apply to work, employment and subsistence activities in which persons with disabilities are engaged. Following the Inter-Agency Standing Committee (IASC) released guidelines on the inclusion of persons with disabilities in humanitarian action (November 2019), and UN Security Council Resolution 2475 (June 2019), which direct states to recognize their responsibility to take “all feasible steps to protect civilians,” humanitarian assistance and aid, as well as post-conflict development assistance including social protection schemes, states should safeguard persons with disabilities from encountering mine and ERW risks due to hazardous working conditions and conflict-related economic deprivation.[[9]](#footnote-9)

In addition to the prohibition of child labour and exploitation, the importance of the right to education,[[10]](#footnote-10) specifically the need to protect girl children and young girls,[[11]](#footnote-11) have to be emphasized. Likewise, the increased likelihood of children with disabilities to be abused for different forms of economic exploitation, including the “worst forms of child labour,” needs to be stressed.[[12]](#footnote-12)

The Committee on the Rights of the Child has not as yet developed a General Comment on article 32, but it has addressed state’s obligations in its General Comments No. 4 on “Adolescent health and development in the context of the Convention on the Rights of the Child” and No. 7 on “Implementing child rights in early childhood.[[13]](#footnote-13)

Suggestions:

* Include a link to issues of exploitation of children
* Strengthen references to situations of risk (Article 11 CRPD)

**3. Protection measures and the principles of a right to remedy are of the essence, particularly where inconsistencies with decent work standards may contribute to potential harm**

The rehabilitative and potentially reparative nature of opportunities for decent work, return to work, socio-economic inclusion and reintegration, should be promoted. Safe labor standards and appropriate work environments are relevant to this discussion, as is the core of humanitarian law: to limit the death and injury caused by armed violence and conflict and the harm to civilians. Also relevant are the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.[[14]](#footnote-14)

The Basic Principles, which recognize remedy for individual and collective harms, establish that in the process of redress, ‘satisfaction’ includes effective measures aimed at the cessation of continuing violations (22a) and ‘guarantees of non-repetition’ (23).[[15]](#footnote-15) These principles are commensurate with recognizing respect for the inherent dignity Article 16/4 CRPD on recovery in response to violence;[[16]](#footnote-16) while appropriate to the understanding disability as an interaction between long-term impairments and barriers that hinder participation in society (PP(e); Art 1, CRPD). Both impairments and barriers also being among the consequences of the use of prohibited weapons.

The nexus of disability and employment also plays out in initiatives that organize, encourage or promote, work for employers which create weapons or other products violating human rights or the principles limiting the impact of armed conflict or otherwise causing harm to civilians or unnecessary suffering. The nexus also plays out in work that consists in the production of goods, which in their making and/or in their use involves risks that are highly likely to cause harm and therewith impairments.[[17]](#footnote-17)

Suggestions

* Promote safe labor standards and ensure appropriate work environments
* Remove hazards from the communities and spaces of employment

**4. Lack of data**

In most landmine and cluster munition-affected countries, there is a lack of statistics on access by persons with disabilities to employment and vocational opportunities. In contrast, in Croatia, the state employment service records the number of registered persons with disabilities, including how many are mine and ERW survivors. Appropriate secure sharing of disaggregated data on the employment on work needs of persons with disabilities can incorporate information collected by various responsible ministries and government departments, including mine action centers, national associations of persons with disabilities, and survivors’ networks.

**Possible next steps on inter-sectional issues**

The importance of preventing the exploitation of children may warrant further exploration, in cooperation with the Child Rights Committee.

The impact of austerity measures on the space(s) of persons with disabilities may warrant further exploration in cooperation with the Committee on Economic, Social and Cultural Rights.

-----

\* The *Landmine and Cluster Munition Monitor* of the International Campaign to Ban Landmines and the Cluster Munition Coalition (ICBL-CMC) provides research on the impact of prohibited weapons (mines and cluster munitions) and similar explosive remnants of war (ERW) since 1999. In particular, the Monitor examines the implementation of the Mine Ban Treaty and Convention on Cluster Munitions and measures available to survivors, persons with disabilities, and other people with similar needs for the fulfillment of their rights in up to 70 countries affected by these impacts.

The ICBL-CMC adopted updated guidelines in January 2021. [[18]](#footnote-18) Consistent with ICBL-CMC multi-year strategic planning and the principles of the CRPD (Art 27), the guidelines include recognition of the need for full socio-economic inclusion: the right to access social and economic inclusion services, such as access to education, capacity-building, employment referral services, microfinance institutions, business development services, rural development and social protection programs, including in **rural and remote** areas.

The Mine Ban Treaty (1997) is the first disarmament or humanitarian law treaty in which States Parties committed to providing “assistance for the care and rehabilitation, including the social and economic reintegration” (Art 6/1) of those people harmed by a specific type of weapon. In practice, this “assistance” addresses the overlapping and interconnected needs of persons with disabilities, including survivors of landmines, cluster munitions, ERW, and other weapons, as well as people in their communities with similar requirements for assistance.

The Convention on Cluster Munitions (2008) makes the provision of assistance to survivors a formal requirement for all States Parties. It reflects the CRPD general principle prohibiting “discrimination of any kind on the basis of disability” and highlights its close relationship with the CRPD in the preamble.

1. OHCHR, Thematic study on the rights of persons with disabilities under article 11 of the Convention on the Rights of Persons with Disabilities, on situations of risk and humanitarian emergencies A/HRC/31/30, Para 39.

   Also, SC Resolution 2475 on persons with disabilities in conflict and humanitarian crises highlights the impact of war on persons with disabilities. [↑](#footnote-ref-1)
2. For example, in Cambodia, one of the last remaining vocational training centers, the long-established Banteay Prieb center near Phnom Penh, run by Jesuit Refugee Service, serves an increasing range of persons with disabilities and includes a wheelchair production facility and a farm project for training and income generation. Without communicating in advance to the Banteay Prieb center, the Ministry of Social Affairs, Veterans & Youth Rehabilitation and the Disability Action Council announced a plan in July 2019 to use the land of the center to house several other departments and NGOs, by demolishing existing infrastructure and constructing new premises. The building works were being undertaken without providing an alternative temporary location for the existing vocational training center to operate. The center was forced to halt student intake for 2020. [↑](#footnote-ref-2)
3. E.g., Nolan, Economic & Social Rights after the Global Financial Crisis (2014). [↑](#footnote-ref-3)
4. See, Committee on Economic, Social and Cultural Rights Committee, General Comment 4 Right to Adequate Housing, Para 8; General Comment 7 Right to Adequate Housing: Evictions. [↑](#footnote-ref-4)
5. See for example: Landmine and Cluster Munition Monitor, Fragile situations, conflict and victim assistance, May 2016, www.the-monitor.org/media/2333167/VA\_Fragile-Situations-18-May-16-\_print-X-1-.PDF. [↑](#footnote-ref-5)
6. The Committee accordingly recommends ratification of ILO Conventions (No.138) and (No.182) and urges States in the implementation of these Conventions to pay special attention to the vulnerability and needs of children with disabilities (CRC/C/GC/9, para. 75). [↑](#footnote-ref-6)
7. Scrap metal collection has been a common practice in Lao PDR for income generation, and is still reported in some areas, such as in the north of the country. The deliberate engagement with ERW, including submunitions, for income generation is also reported in other States Parties, including Afghanistan and Cambodia. [↑](#footnote-ref-7)
8. In recent years ICBL-CMC members and others engaged in the field have highlighted the need for disaggregated data on disabilities prior to landmine and ERW incidents as such data is not collected or available. Therefore the relation between disability, marginalization, and risk is not established systematically beyond the substantial anecdotal evidence existing from field experience and media reporting. [↑](#footnote-ref-8)
9. Also relevant: Mine Ban Treaty Oslo Action Plan, Action #40. [↑](#footnote-ref-9)
10. “States Parties have an obligation to ensure that communities and families are not dependent on child labour. The Committee especially affirms the importance of education in eliminating child labour and the obligations set out in article 7(2) of the Worst Forms of Child Labour Convention, 1999 (No.182).” (Committee on Economic, Social and Cultural Rights, General

    Comment No. 13, 1999, HRI/GEN/1/Rev.8, para. 55, p. 82). [↑](#footnote-ref-10)
11. “Eliminate the economic exploitation of child labour and protect young girls at work,”

    Report of the Fourth World Conference on Women, September 1995, A/CONF.177/20, Platform for Action, paras. 263 and 282). [↑](#footnote-ref-11)
12. CRC General Comment 9, Children with Disabilities; CRC/C/GC/9, para. 75. [↑](#footnote-ref-12)
13. “During adolescence, an increasing number of young people are leaving school to start working to help support their families or for wages in the formal or informal sector. … The Committee urges States Parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, to continuously review national regulations on minimum ages for employment with a view to making them compatible with international standards, and to regulate the working environment and conditions for adolescents who are working (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182), so as to ensure that they are fully protected and have access to legal redress mechanisms... To this end, States Parties must notably fulfil the following obligations: … (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and by regulating the working environment and conditions in accordance with international standards…” (Committee on the Rights of the Child, General Comment No. 4, 2003, CRC/GC/2003/4, paras. 18 and 39(e)) [↑](#footnote-ref-13)
14. Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005, https://www.ohchr.org/en/professionalinterest/pages/remedyandreparation.aspx. [↑](#footnote-ref-14)
15. The definition of victims of violations in the Basic Principles is closely related to the definitions used in the Mine Ban Treaty and Convention on Cluster Munitions as persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or impairment of their rights. [↑](#footnote-ref-15)
16. See also Rule 8/4 Standard Rules on the Equalization of Opportunities of Persons with Disabilities A/RES/48/96. [↑](#footnote-ref-16)
17. See for example Stop Explosive Investments, and the work toward total disinvestment investments in cluster munition producers, https://stopexplosiveinvestments.org. [↑](#footnote-ref-17)
18. ICBL-CMC Guiding Principles for Victim Assistance, <http://www.icbl.org/en-gb/resources/guiding-principles-for-victim-assistance.aspx>. [↑](#footnote-ref-18)