

## **The post armed conflict period and inclusive rehabilitation of persons with disabilities.**

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### **School of Law and politics**

*Pursuant to resolution 16/15, the Human Rights Council (HRC) held its fourth interactive debate on the rights of persons with disabilities on 1st March 2012. The paper is partly furthered upon the theme of a panel that was formed by the Human Rights Council in 2012 on the participation of persons with disabilities in political and public life.*

This research is discussing the benefits of encouraging complementarity in interpreting the objectives of Article 26 in conjunction with Article 29 in the aftermath of the armed conflict situations envisaged in Article 11 of the Convention on Rights of Persons with Disabilities (CRPD).

According this paper critically is analysing the obligations to provide habitation and rehabilitation systems for aiding the participation of persons with disabilities in public and political life. That analysis is carried out under the prisms of CRPD States that are either undergoing or recovering from situations of armed conflicts (Article 26 in conjunction with 29). This research is bearing in mind that level of devastation and destructive violence are peculiar to the periods subsequent to occurrence of the armed conflicts in article 11 of the CRPD. This paper notes that the presence and absence armed conflicts across the State parties to the CRPD that have signed up to the above obligations must be explored to create a changed and variably challenges context for the affected States such as Syria, Southern Sudan among others. This paper suggest that in designing plans for post armed conflict recovery, the need to reconstruct public services (schools, hospitals, public housing, transport) in a manner that is strategic enough to consider the resettling and rehabilitation of civilians or returning refugees with disabilities. The application of inclusiveness ideologies to such recovery and post conflict construction projects must be seen as key to enabling persons with disabilities to participate in public and political life in the aftermath of armed conflicts.

This paper relies on the definition of rehabilitation as that given by the International Committee for Red Cross (ICRC) report on the physical rehabilitation programme of 2009.<sup>1</sup> According to which term “rehabilitation” is defined as the process that is intended to remove or reduce as much as possible post armed conflict barriers that tend to restrict activities of disabled people by assisting them to be more independent through enjoying the highest possible standards of wellbeing in the physical, psychological, social and professional terms.<sup>2</sup>

Another concept for explaining rehabilitation in relation to ideal State practice is Community based rehabilitation (hereafter CBR).<sup>3</sup> The definition of CBR is neither comprehensive to include all form of societies nor conclusive since disability national strategies and action plans might tend to vary from to time but also from one place another even within the same CRPD State Party. Nevertheless for purposes of clarity, the CRPD Lack an interpretation of rehabilitation the definition of from the Norad Report.<sup>4</sup> In that report CBR is defined as the strategic concept of developing multi-sectorial initiatives that are meant to concretise the post-armed conflict obligation to empower persons with disabilities and their families.<sup>5</sup> The empowerment the lives of persons with disabilities are improved by supporting their capability to access to mainstream services in addition to developmental programmes in the aftermath of armed conflicts.<sup>6</sup> Perhaps it must be recalled that the WHO resolution led to the

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<sup>1</sup> International Committee of the Red Cross (ICRC), ‘Annual report Physical rehabilitation programme’, (Published 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016 pg. 1

<sup>2</sup> Ibid

<sup>3</sup>CRPD State Parties such as Germany, China, the UK and many others have had relative peace

<sup>4</sup> WHO, ‘Community-based rehabilitation: CBR Guidelines: Towards Community-based Inclusive Development’, C. Khasnabis and K. H. Motsch (eds.) (Published 2010)

2010<<file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/CRPD%20Guidelinesw.pdf>> accessed 5 January 2016.

<sup>5</sup> Refugees and Persons of Concern with Disabilities: In support of a 2010 ExCom Conclusion <[file:///J:/CHAPTER%20SIX/excom2010\\_ngo\\_lobby\\_doc\\_final.pdf](file:///J:/CHAPTER%20SIX/excom2010_ngo_lobby_doc_final.pdf)> accessed 23 January 2016

<sup>6</sup> Ibid.

developing of CBR guidelines.<sup>7</sup> Those guidelines came into existence subsequent to the Alma-Ata declaration of 1978.<sup>8</sup> It is imperative to highlight that the coming into force of the CRPD marked greater strides in boasting the application and the implementation of the guidelines.<sup>9</sup> In this context the question addressed is how the application of the CRB guidelines in relation to persons with disabilities can become affected with the aftermath of armed conflicts.<sup>10</sup> In that case the impact of armed conflict must be drawn upon a situation that initiates whose causal relationship increases disabilities but justifying medical based model in the short run.<sup>11</sup>

### **The context of rehabilitation in post armed conflict period.**

In this chapter the term rehabilitation is used in as far as it relates to persons with disabilities rather than the context in which it is being used in literature of other disciplines such as criminology and psychology.<sup>12</sup> As a matter of fact, on such occasions, rehabilitation is used in a different context from that for which the concept is intended in this study.<sup>13</sup> That is because in the context of criminology it rehabilitation is used when implying rehabilitating juvenile or criminals.<sup>14</sup> Additionally in that context the rehabilitation shall encompasses those affected

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<sup>7</sup> Resolution WHA58.23. Disability, including prevention, management and rehabilitation. Fifty-eighth World Health Assembly, Geneva, 25 May 2005

<[www.who.int/disabilities/publications/other/wha5823/en/index.html](http://www.who.int/disabilities/publications/other/wha5823/en/index.html)> accessed 5 January 2016.

<sup>8</sup> Declaration of Alma-Ata: International conference on primary health care, Alma-Ata, USSR, 6–12 September 1978, Geneva, World Health Organization, 1978

<[www.who.int/hpr/NPH/docs/declaration\\_almaata.pdf](http://www.who.int/hpr/NPH/docs/declaration_almaata.pdf)> accessed 5 January 2016.

<sup>9</sup> R. Durrant and T. Ward, 'Evolutionary Criminology: Towards a Comprehensive Explanation of Crime', Elsevier 2015 pg. 254

<sup>10</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11

<sup>11</sup> British Medical Association, 'The medical Profession & Human Rights Handbook for a Changing Agenda', (Zed Books, 2001) pgs. 419

<sup>12</sup> G. Robinson and I. D. Crow, '*Offender Rehabilitation: Theory, Research and Practice*', Sage Publishers, 2009, pg. 1-3

<sup>13</sup> A. H. Eide, 'Community based rehabilitation in post conflict and emergency situation', E. M. Trauma (ed.) *Rehabilitation After War and Conflict: Community and Individual* (Springer, 201) pg. 97-100, see also

<sup>14</sup> I. Crow, 'The Treatment and Rehabilitation of Offenders', Sage Publishers, 2004 pgs. 5-8

due to drinking and drug addiction.<sup>15</sup> As a matter of fact the main attention is centred on analysing the effectiveness of the rights social-based model after situations of armed conflicts when rehabilitating persons with disabilities.<sup>16</sup> The making of reference to CRPD State Parties in recovery from armed conflict and peaceful State shall be useful in illustrating through comparison how the obligation to rehabilitate might be conceived differently in a peaceful CRPD State in relation to its conceptualisation by another State affected by an armed conflict situation and possibly recovering from the effects of that situation. Red Cross offers relief needs since IHL provides for the same in which case the weight of a relief need might be less enforceable, less concretised and less crystallised than a rehabilitation right. Nonetheless the latter is usually substituted by the former in the context of communities or societies residing in post armed conflict State Actors. This chapter is intended to illustrate that armed conflicts must be taken into account as a factor that tends to influence the model of disability through which the rehabilitating of persons with disabilities is undertaken.

### **Rehabilitation-disability models and disability-armed conflict relationship:**

In the aftermath period of armed conflicts, persons with disabilities in State Parties to the CRPD that are recovering from armed conflicts might face more problems associated with accessibility and mobility.<sup>17</sup> These problems are attributable to the evidence of a causal relationship that subsists between the existence of armed conflicts and presence of persons with disabilities.<sup>18</sup> Studies suggest that it is highly likely the aftermath some of the wounded and incapacitated survivors, post-traumatic stress disorders (PTSD) are persons with

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<sup>15</sup> P. Raynor and M. Vasnstone, 'Straight thinking on probation: Evidence based practice and culture of curiosity', G. A Bernfeld, D. P. Farrington and A. Leschied (eds.) *Offender Rehabilitation in practice*, John Wiley and Sons Ltd 2001 pg. 123.

<sup>16</sup> W. Boyce, 'Adaptation of community based rehabilitation in areas of armed conflict', *Asia Pacific Disability Rehabilitation Journal* (2000) 1 (11)

<<http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0500/z13jo0506.html>>accessed 23 January 2016.

<sup>17</sup> CRPD Article 4(1) (g) (h), Article 20(a)(b) (c)(d), Article 24(3) (a)

<sup>18</sup> W. Boyce, 'Adaptation of community based rehabilitation in areas of armed conflict', *Asia Pacific Disability Rehabilitation Journal* (2000) 1 (11)

<<http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0500/z13jo0506.html>> accessed 23 January 2016

disabilities.<sup>19</sup> That number is in addition to those who start the armed conflict without practical basis to claim disability rights but due to war related disabilities they become perfectly identifiable as persons with disabilities during and after the armed conflict.<sup>20</sup> As a matter of fact there is a high likelihood of having more persons with mental and physical disabilities in a CRPD State Party that has been affected by armed conflict. Practically and theorising the situation under the medical model of disability,<sup>21</sup> such a state of affairs necessitates increasing the availability of medical services and boasting the presence of more trained medical personnel in the State as a whole or in its affected areas.<sup>22</sup> On the contrary the subsequent periods of armed conflict situations are often characterised by absence of insufficient health services and medical resources.<sup>23</sup> That inability happens due to the scarcity of medical personnel in the affected areas bearing in of the State as it undergoes reestablishment.<sup>24</sup> Those problems will to some degree compromise the ability of the armed conflict CRPD State Party to fulfil its increased rehabilitation obligation or take accountability for failing in those obligations. There is importance of understanding and constructing the problematic nature of this relationship to the extent of compliance with certain rights of persons with disabilities in the context of the affected CRPD State Parties especially if analysed the post armed conflict period. This relationship might need for more

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<sup>19</sup> British Medical Association, 'The medical Profession & Human Rights Handbook for a Changing Agenda', (Zed Books, 2001) pgs. 419

<sup>20</sup> W. Boyce, 'Adaptation of community based rehabilitation in areas of armed conflict', Asia Pacific Disability Rehabilitation Journal (2000) 1 (11)  
<<http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0500/z13jo0506.html>> accessed 23 January 2016

<sup>21</sup>B. Watermeyer, 'Towards a Contextual Psychology of Disablism', Routledge 2013 pgs. 29, 31, 104, see also M. Oliver, 'Defining impairment and disability: Issues at stake', E. F. Emens and M. A. Stein (eds.) *The library of essays on equality and anti-discrimination law* (Ashgate Publishing Ltd, 2013) pg. 40.

<sup>22</sup>British Medical Association The medical Profession & Human Rights Handbook for a Changing Agenda Zed Books, 2001, pgs. 413-438

<sup>23</sup> Ibid

<sup>24</sup> W. Boyce, 'Adaptation of community based rehabilitation in areas of armed conflict', Asia Pacific Disability Rehabilitation Journal (2000) 1 (11)  
<<http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0500/z13jo0506.html>> accessed 23 January 2016

attention when training of disability movements, governmental bodies and humanitarian agencies entrusted with the duty of designing projects for rehabilitation.

Additionally concept of CBR in relation to applying the CRPD after armed conflict ought to take into account the effect of the interaction that these situations have of disability rights.<sup>25</sup> A classic example is evidenced with advocating for the application of CBR approaches in the national action plan of Myanmar by the UNDP.<sup>26</sup>

*“UNDP is also working to support the implementation of the national plan. This includes inclusion of people living with disabilities in community development work by focusing on Community-Based Rehabilitation.”<sup>27</sup>*

Particularly focussing on the advantages of streamlining the objectives for reintegrating persons with disabilities by taking in account the way in which the relationship or the interaction between armed conflict and disability can influence the contents of CBR with specific emphasis on the post-armed conflict States.<sup>28</sup> Such as the extent to which mobility support should be prioritised, the models of disability used in identifying, describing, understanding and consequently the representations of persons with disabilities. For example medical services in post armed conflict State are more likely to concentrate on treating of patients through medical needs as opposed to health rights.<sup>29</sup> As a result of the interaction relationship between the presence of armed conflict and prevalence of disability is clearly affecting the content and context of rehabilitation and such effects can be mainly manifested in two ways. Firstly they lead to variations in rehabilitation agendas within communities residing in the same CRPD State Party with the changes over time and in relation to the sequence of armed conflict which reshape the components of CBR.<sup>30</sup>

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<sup>25</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11

<sup>26</sup> UNDP Myanmar, ‘Human Development Initiative: Annual Report 2010’, Y. Padamse, N. N. Aung, N. Shrestha, K. Travers, S. Deed and N. A. Lynn (eds.) (Published 2010)

[file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/Human\\_Development\\_Initiative\\_2010\(FS-doc\)-op75%20\(1\).pdf](file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/Human_Development_Initiative_2010(FS-doc)-op75%20(1).pdf) accessed 13 February 2016

<sup>27</sup> Ibid pg. 35-37

<sup>28</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11

<sup>29</sup> British Medical Association, ‘The medical Profession & Human Rights Handbook for a Changing Agenda’, (Zed Books, 2001) pgs. 419.

<sup>30</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article

Additionally the relationship between the occurrence of armed conflicts and the prevalence of disabilities has impacts that may lead to global implications as a result of the rehabilitation of the armed conflict-disability relationship must be taken into consideration internationally. The impact of this relationship is of importance when analysing and formulating policies and practices among CRPD State Parties and their partners in undertaking rehabilitation. Thus the presence of armed conflict in some of the CRPD State Parties combined with the absence of such armed conflict in others should be perceived as an influential factor in accounting for the disparities in the rehabilitation needs for supporting persons with disabilities across the broader spectrum of the different CRPD State Parties.

Additionally the effect of the causal relationship between armed conflict and disability also appears to account for some of the discrepancies in the fitness and extent of reliance on the medical model of disability when rendering rehabilitation in some of the CRPD State Parties. Particularly there is a tendency for armed conflict to increase the degree of reliance on the language and expressions of the medical model of when referring to persons with disabilities partly due to amputations leading to armed conflict related disabilities.<sup>31</sup> For example in the physical rehabilitation programme of the ICRC it was stated that;

*“The ICRC promotes the application of internally developed guidelines based on international norms. It also promotes a multidisciplinary patient-management approach, which includes physiotherapy.”*<sup>32</sup>

The above patient centred perspective is typical of a CRPD State Party that is in the transition process of recovering from a period of an armed conflict in comparison to another peaceful CRPD State Party where the prevalence of disabilities is largely attributed to having a relatively higher life expectancy leading to a higher number of elderly people thus an aging

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See World Health Organisation, ‘Community-based rehabilitation: CBR Guidelines: Towards Community-based Inclusive Development’, C. Khasnabis and K. H. Motsch (eds.) (Published 2010) <<file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/CRPD%20Guidelinesw.pdf>> accessed 5 January 2016.

<sup>31</sup> J. Mowbra, ‘Linguistic justice: International law and language policy’, (Oxford University Press, 2012) pg. 70.

<sup>32</sup>International Committee of the Red Cross (ICRC), ‘Annual Report Physical rehabilitation programme’, (Published 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016 pg. 1

population.<sup>33</sup> The relevance and nature of medical treatment in relation to the various cases of war-related disabilities that tend to be typical during and after situations of armed conflict since the prevalence of the former type of disabilities is usually anticipated as a normal consequence of armed conflict.<sup>34</sup> That is indispensably attributed to the occurrence of collateral damage thus causing civilian casualties and wounded combatants such situations.<sup>35</sup>

Another commonly known disability related characteristic in the post armed conflict period of armed conflict recovering CRPD State Parties is the likely possibility of having more people with disabilities after an armed conflict situation compared to their initial numbers before occurrence of the armed conflict. The prevalence of war related disabilities in the aftermath of armed conflicts within the conflict affected States makes the occurrence of armed conflicts to be one of the fundamental factors that impact and consequently influences the elements of the duty to rehabilitate in some of the CRPD States Parties. Such elements include the extent of reliance on the relevance, and contribution of the medical model of disability in designing rehabilitation strategies among post armed conflict CRPD State Parties.

For example consecutive armed conflicts having affected Iraq and Afghanistan,<sup>36</sup> groups of persons with disabilities might be part of the civilian population that was inflicted by armed conflict violence in addition to causing war related disabilities due to the likelihood of rampant explosives from war remnants thence increasing the number of persons with

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<sup>33</sup> See WHO and the World Bank *'World Report on Disability'*, (Published 2011) Tables and graphs on pgs. 35-36 < [http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf)> accessed 5 January 2016.

<sup>34</sup> International Committee of the Red Cross (ICRC), *'Annual report Physical rehabilitation programme'*, (Published 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016 pg. 1

<sup>35</sup> See, The Speech by P. Maurer (the ICRC President) on International Day of Persons with Disabilities, *'Helping people with disabilities live indignity'*, (Published December, 2013) <https://www.icrc.org/eng/resources/documents/film/2013/av123a-peter-maurer-international-day-disabilities.htm>> accessed on the 8 August 2015.

<sup>36</sup> International Committee of the Red Cross (ICRC), *'Physical Rehabilitation Unit ICRC Report Support for life physical rehabilitation programme'*, (Published July 2004) <[https://www.icrc.org/eng/assets/files/other/sfd\\_annual\\_report\\_2004.pdf](https://www.icrc.org/eng/assets/files/other/sfd_annual_report_2004.pdf)> accessed 5 January 2016.



disabilities after such situations of armed conflict.<sup>37</sup> By States becoming Parties to the CRPD, there is an implied intention that the obligation to rehabilitate under the CRPD shall be applied in times of peace and in those of armed conflicts. The prevalence of war related disabilities is almost certain and hence there is a possibility that States and other rehabilitation providers may be inclined to overemphasise the rehabilitation of war related disabilities. It is imperative to point out those persons with disabilities that are not war related they are hardly given the same level of attention by for example the ICRC physical rehabilitation project in relation to those with war related disabilities in project reports or resource allocation for developing post conflict rehabilitation measures.<sup>38</sup> An understanding of the manner in which the representation of disabilities primarily as consequences of armed conflict is informing and therefore impacting the different ways in which the CRPD States are relating in rehabilitation. This shows that humanitarian agencies and disability movements need to acknowledge the ways in which situation of armed conflict are changing the context and contents of CBR for persons with disabilities before and after situations of armed conflicts.<sup>39</sup> That is justifies the need to appreciate the effect of these differences to the building of disability rehabilitation between CRPD State Parties that are recovering from armed conflicts and those that are free from armed conflicts. Those differences are fundamentally crucial in questioning that practicability and efficacy of assuming the same standards and elements of the obligation to rehabilitate persons with disabilities in CRPD armed conflict affected and armed conflict non-affected CRPD State Parties. The general rehabilitation related obligations of States Parties under CRPD and Geneva laws might have inherent flaw if analysed and examined from a global perspective. This understanding of the varied in nature of global problems that are caused by different dynamics is clearly a challenge to Public International Law wherever it is trying to set universally standardised obligations. In this case CRPD State Parties undergoing armed conflicts recovery may have a

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<sup>37</sup> Ibid

<sup>38</sup> Ibid. see also International Committee of the Red Cross (ICRC), ‘Annual report Physical rehabilitation programme’, (Published 2009)

[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf) accessed 23 January 2016 pg. 1

<sup>39</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11

See World Health Organisation, ‘*Community-based rehabilitation: CBR Guidelines: Towards Community-based Inclusive Development*’, C. Khasnabis and K. H. Motsch (eds.) (Published 2010)

<file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/CRPD%20Guidelinesw.pdf>

accessed 5 January 2016.

distinctive rehabilitation problem partly due to the inherently inevitable presence of an armed conflict disability causal relationship important and shall be dealt with in the subsequent section of this chapter.

Therefore it becomes apparent that the elements, objectives and scope of CBR might vary between different communities or societies of the same CRPD State.<sup>40</sup> Secondly CBR might also vary between two or more CRPD Parties. For example CBR in the context of Western Europe where the having an aging population is a dominant cause of disabilities aspects CBR may be closely connected to the role of law in rehabilitating of the elderly with aging related disabilities in care homes.<sup>41</sup> However the contents and context of that rehabilitation obligation to in a CRPD State Party that is recovering from an armed conflict there is a high possibility that a substantial majority of its persons with disabilities are likely to be associated with war related disabilities and would bear different expectations or aspiration from community based rehabilitation projects.<sup>42</sup> That applies in the same CRPD State Party, if its problems are analysed before and after the presence of an armed conflict. That is to say, the medical model of disability might be essential for training more personnel that would be necessary in rehabilitating of persons with disabilities. Accordingly, armed conflict recovering CRPD State Parties are likely to experience a relatively higher demand for disability rehabilitation support in aftermath armed conflict than before situations of armed conflict. That trends to be a common pattern to most CRPD States that are undergoing their recovery post armed conflict period. The CRPD seems to hardly appreciate this aspect although that variation makes the concept of cultural relativity fundamentally essential in interpreting the effects and impacts of the differences of rehabilitation.

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<sup>40</sup> Arne H Eide, 'Community based rehabilitation in post conflict and emergency situation', Erin Martz Trauma (ed.) *Rehabilitation After War and Conflict: Community and Individual* (Springer, 201) pg. 97-100

<sup>41</sup> See WHO and the World Bank 'World Report on Disability Report', (Published 2011) Tables and graphs on pgs. 35-36 <[http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf)>accessed 5 January 2016.

<sup>42</sup> See World Health Organisation, '*Community-based rehabilitation: CBR Guidelines: Towards Community-based Inclusive Development*', C. Khasnabis and K. H. Motsch (eds.) (Published 2010) <<file:///J:/NORWAY%20DONAR%20TO%20REHABILITATION/CRPD%20Guidelinesw.pdf>>accessed 5 January 2016.

## 6.2 Varied elements of rehabilitation among CRPD State Parties

Post armed conflicts rehabilitation services in the affected CRPD States Parties can be constrained by the prevalence of disabilities since they are recovering from the damage caused by the occurrence of armed conflicts. In other words, the occurrence of armed conflicts in some of the CRPD State Parties must be seen as a factor that accounts for variances in the elements, the purpose and the eventual language of rehabilitation between the different CRPD State Parties. For example a CRPD State Party like the UK has high life expectancy rates and considerably a substantial majority of the pensioners within its aging population might at some time develop age related mental, physical or intellectual disabilities.<sup>43</sup> Thus the prevalent cause of those disabilities is obviously not war-related as in the case of Syrian children,<sup>44</sup> imputed Afghanistan youths or even landmine disabled women in Angola or Mozambique.<sup>45</sup> Unlike those listed CRPD State Parties (Western European States) are also CRPD State Parties and not affected by an armed conflict situation.<sup>46</sup> In that context, for the UK context scrutinising rehabilitation, its services tends to be used when referring to the welfare and mental wellbeing of the elderly in a care or nursing home some of whom may have aging disabilities.<sup>47</sup> Note that in cases of age related disabilities commonly in an armed conflict free-State Party but where the prevalence of disabilities is an aging population, the scope of rehabilitation might not necessitate measures for reintegration into

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<sup>43</sup> See WHO and the World Bank 'World Report on Disability Report', (Published 2011) Tables and graphs on pgs. 35-36 <[http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf)> accessed 5 January 2016.

<sup>44</sup> M. Burke and L. P. Vicentic, 'Protecting persons with disabilities in armed conflicts', S. C. Maslen (ed.) *The War Report: Armed Conflict in 2013* (Oxford University Press, 2014) pg. 403

<sup>45</sup> M. Miles, 'Disability & Social Responses in Some Southern African Nations: Angola, Botswana, Burundi, D.R. Congo, Malawi, Mozambique, Namibia, Tanzania, Rwanda, Zambia, Zimbabwe: a Bibliography, with Introduction and Some Historical Items', Centre for International Rehabilitation Research Information and Exchange, 2003

<sup>46</sup> International Committee of the Red Cross (ICRC), 'Physical Rehabilitation Unit ICRC Report Support for life physical rehabilitation programme', (Published July 2004) <[https://www.icrc.org/eng/assets/files/other/sfd\\_annual\\_report\\_2004.pdf](https://www.icrc.org/eng/assets/files/other/sfd_annual_report_2004.pdf)> accessed 5 January 2016.

<sup>47</sup> See WHO and the World Bank 'World Report on Disability', (Published 2011) see Tables on pgs. 35-36 < [http://www.who.int/disabilities/world\\_report/2011/report.pdf](http://www.who.int/disabilities/world_report/2011/report.pdf)>> accessed 5 January 2016.

work or access to education.<sup>48</sup> However for rehabilitating persons with war related disabilities a considerable number of post conflicts victims such as those in reports from Syria and Iraq are individuals usually in the earlier years of their life.<sup>49</sup> In the context of the post armed conflict issues of medical support for mobility is interconnected with supporting the right to accessing education and work places remains another core element of CBR in a CRPD State Parties such as Syria, Iraq and Afghanistan which are impacted by situations of armed conflicts.<sup>50</sup> Those varied elements must inform practices of designing CBR in armed conflicts affected States in three possible ways. These include; (i) Relief and Resettlement after armed conflicts States (ii) Reparation and Restoration and Recovery and (iii) Reconstruction and renovation

#### (i) Relief for Persons with Disabilities and Resettlement after armed conflicts States

Post armed conflict rehabilitation should be perceived as a concept that entails undertaking special relief measures that are aimed at resettling persons with disabilities constituting part of the affected populations after occurrence of armed conflicts or situations that are envisaged in Article 11 of the CRPD.

Those relief measures should be aimed at enabling persons with disabilities to access medical services, humanitarian support and relief aid in the aftermath of armed conflicts. Fundamentally the right of participating in public and political life is closely interlinked to having the equal access to those rehabilitation facilities.<sup>51</sup> The rehabilitation process is a core aspect of resettlement since enhances the freedom of movement leaving through supporting

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<sup>48</sup> C. Denholm, P. McGowan and P. Tatham, 'Emerging from the shadows: Fijian children and youth with disabilities', R. I. Brown, D. Baine and A. H. Neufeldt (eds.) *Beyond basic care: special education and community rehabilitation in low income countries* (Captus Press, 1996) pg.104.

<sup>49</sup> See International Committee of the Red Cross (ICRC), 'Physical Rehabilitation Unit ICRC Report Support for life physical rehabilitation programme', (Published July 2004) <[https://www.icrc.org/eng/assets/files/other/sfd\\_annual\\_report\\_2004.pdf](https://www.icrc.org/eng/assets/files/other/sfd_annual_report_2004.pdf)> accessed 5 January 2016

<sup>50</sup> CRPD Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11, see also M. Miles, 'Disability & Social Responses in Some Southern African Nations: Angola, Botswana, Burundi, D.R. Congo, Malawi, Mozambique, Namibia, Tanzania, Rwanda, Zambia, Zimbabwe: a Bibliography, with Introduction and Some Historical Items', Centre for International Rehabilitation Research Information and Exchange, 2003

<sup>51</sup> International Committee of the Red Cross (ICRC), 'Annual report Physical rehabilitation programme', (Published 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016 pg. 1

the right based approach to accessing of physiotherapy and assistive devices (prostheses, walking aids and wheelchairs).<sup>52</sup> The CRPD discourages disability rehabilitation projects whose assistance is based on the factionalised selection of certain groups of disabled groups as they tend to exclude some or certain groups of the persons with disabilities from their inherent entitlement under the CRPD.

“The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all [but not by some groups of] persons with disabilities, and to promote respect for their inherent dignity.”<sup>53</sup>

Therefore persons having disabilities before and after the occurrence of armed conflicts must be equally and inclusively taken into account when applying a rights approach of the CRPD whenever persons with disabilities are being resettled by State Parties or humanitarian agents.<sup>54</sup> Thus the test of entitlement to the ICRC physical rehabilitation project must avoid the narrow centred approach that might limit the disabled social funds to some groups of disabilities without including a vast majority of groups of persons with disabilities. The study is of the view that rehabilitation between groups of persons with disabilities before and after an armed conflict might differ but that must not justify selective tendencies of inclusion and as long as those persons have sustained long term impairments, then, their exclusion exposes them to hindrances of participating in the day activities.

Furthermore, it is worth mentioning that the difference in nature of needs should assist relief aiders and planning groups of States in shaping trends of medical based training.

“States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.”<sup>55</sup>

That likelihood of a variation in the disability relief needs is vital in the allocating of health services for purposes of taking into account persons with disabilities living within the aftermath communities of CRPD States Parties which are recovering from situations of armed conflict.

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<sup>52</sup> Ibid

<sup>53</sup> CRPD Article 1

<sup>54</sup> Ibid Articles 24 (2) (b), 25 (c), 26(b) and Preamble Para. m in relation to Article 11

<sup>55</sup> CRPD Article 26(2)

Accordingly although medical model of disability has been undisputedly contest as a model that by disability movements,<sup>56</sup> on the contrary, this study argues, medical model of disability must credited for its noble role in rendering mobility rehabilitation the constitute an indispensable relief services since mobility assistive devices are an essential part of integrating disabled people in society.<sup>57</sup> Reports from donor associations of disability rehabilitation projects in low income CRPD State Parties some of which are undergoing armed conflict transition recovery have eluded the difficulties of balancing the contributions of the medical models while at the same time avoiding its disadvantages.

*“[...] while the importance of medical interventions is not questioned as an important part of the individual empowerment, this theory of change does not address the key obstacles to exclusion of persons with disabilities. It is also limited to persons and conditions that can be treated or ameliorated. Promotion of the rights of persons with disabilities has many other dimensions [...]”*<sup>58</sup>

In light of the above observation this study advocates for rehabilitation to balance the outcomes from medical disability model by maximising its contributions whereas minimising its weaknesses on the affected populations of persons with disabilities within CRPD State Parties that are undergoing the transition process of recovering from situations of armed conflict. Thus relief and resettlement initiatives for persons rehabilitating person with disabilities should commence by drawing from the medical model but for comprehensiveness and inclusiveness the social ought to be considered for persons with disabilities whose concerns relate to the accessibility of education infrastructures after the occurrence of armed conflicts in order to exercise their right to education. Note that renovation is dealt with the subsequent part of this section.

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<sup>56</sup> Ibid

<sup>57</sup> W. Boyce, ‘Adaptation of community based rehabilitation in areas of armed conflict’, Asia Pacific Disability Rehabilitation Journal (2000) 1 (11)

<<http://www.dinf.ne.jp/doc/english/asia/resource/apdrj/z13jo0500/z13jo0506.html>> accessed 23 January 2016

<sup>58</sup>Norwegian agency for Development and Cooperation (Nordic) Consulting Group Mainstreaming disability in the new development paradigm Evaluation of Norwegian support to promote the rights of persons with disabilities’, (Published 2012) Oslo<<file:///J:/Mainstreaming-disability-in-the-new-development-paradigm-Evaluation-of-Norwegian-support-to-promote-the-rights-of-persons-with-disabilities-kopi.pdf>> accessed 5 January 2016, pg. 25

## (ii) Reparation, Restoration and Recovery

Armed conflict affected CRPD State Parties such as DRC Congo and Lebanon in which reparation and restoration are intrinsic features of recovering from devastation impacts of an armed conflict,<sup>59</sup> for generally peaceful CRPD State Parties such as Germany or Sweden there are is a comparably less need to be concerned with measures of ensuring that persons with visual impairments understand the landmine risky zones for as part of the national strategies for disability rehabilitation. Absence of such a consideration in the national rehabilitation strategy is due to civilian population in peaceful CRPD State Parties facing no risks to incidents of explosives as a result of underground landmines.<sup>60</sup> In as much as rehabilitation extends to such concerns in a CRPD State Party undergoing post armed conflict. In fact in the aftermath of armed conflicts, the World Institute on Disability observed that rehabilitation projects tend to exclude persons with disabilities.<sup>61</sup> Potentially that means inclusion is necessary to minimise armed conflict related problems faced by persons with disabilities as well as to prevent the likelihood of more disabilities if it is either undermined or even underestimated.<sup>62</sup>

Arguably due to the absence of armed conflict, then, disability related rehabilitation would be hardly be influenced by challenges or changes that tend to be caused by the occurrence of armed conflicts. For example in the course of prompting the restoration and reparation of CRPD State Parties having communities recovering from armed conflict, a high demand for prosthesis is necessary for some of the persons with disabilities for restoring their mobility so

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<sup>59</sup> N. Kabbara and K. K. Nagata, *'Is the Rights Model of Disability Valid in Post-conflict Lebanon? A Participatory Pilot Survey in Beirut'*, United Nations Development Cooperation Branch <<file:///J:/209-1251-1-PB.pdf>> accessed 5 January 2016

<sup>60</sup> C. Giannou and M. Baldon, 'War Surgery working with limited resources in armed conflicts and other situations of warfare', International Committee for Red Cross Volume 1 pg. 99

<sup>61</sup> World Institute on Disability, 'The Involvement of Persons with Disabilities in Conflict Resolution and Peacebuilding Efforts: Inclusion of Persons with Disabilities (PWD) as Part of the Solution in the Post Conflict Arena', (Published February, 2015) <<file:///J:/WID-Disability-Inclusive-Peacebuilding-Process.pdf>> accessed 5 January 2016.

<sup>62</sup> Ibid



as facilitate them when reintegrating and interacting with other rehabilitation services.<sup>63</sup> In most case, prosthesis is increasingly perceived as a mobility support for persons with disabilities.<sup>64</sup> Thence becoming vital in furthering the restoration of their independent living as exemplified in projects of the ICRC.<sup>65</sup> Therefore reparation and restoration are vital attributes in terms of understanding of the differences in the context and contents of the CRPD's duty to rehabilitate persons with disabilities. Those differences are to some extent a result of some CRPD State Parties experiencing armed conflict that has in this study been proven as a factor considerably discrepancies in the trends of rehabilitation in two ways.

Firstly the occurrence of armed conflicts changes the trends of rehabilitation by reshaping the focus and objectives of reparation and restoration of persons with disabilities before and after situations of armed conflict.<sup>66</sup> Secondly the presence of situations of armed conflict in certain CRPD State Parties coupled with the absence of such situations in others leads to remarkable differences rehabilitation across the global spectrum of the State Parties to the CRPD. Those differences are evident in terms of the variances in the extent of demand for restoring the mobility for persons with disabilities. Such a restoration of mobility in the aftermath of armed conflicts is as part of the rehabilitation measures that are designed for enabling the participation of persons with disabilities in public and political life as intended by the CRPD.<sup>67</sup> The main point in relation the second category is furthered from a view that occurrence of a situation of armed conflict has always had and may continue to have a causal relationship with the prevalence some disabilities. Hence that account for some of the

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<sup>63</sup> K. Stephanie, 'Disability and conflict; exploring how the peace process in Northern Ireland assesses and addresses the needs of persons with disabilities', *Disability & Society*, 28 (6) (2013) pg. 826, 838, see also

<sup>64</sup> CRPD Article 20 in relation to aftermath effects of situations in Article 11 of CRPD

<sup>65</sup> International Committee of the Red Cross (ICRC), 'Annual report Physical rehabilitation programme', (Published, 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016 pg. 1

<sup>66</sup> N. Kabbara and K. K. Nagata, '*Is the Rights Model of Disability Valid in Post-conflict Lebanon? A Participatory Pilot Survey in Beirut*', United Nations Development Cooperation Branch <<file:///J:/209-1251-1-PB.pdf>> accessed 5 January 2016

<sup>67</sup> International Committee of the Red Cross (ICRC) Physical Rehabilitation Unit ICRC Report Support for life physical rehabilitation programme ICRC, (Published July 2004) <[https://www.icrc.org/eng/assets/files/other/sfd\\_annual\\_report\\_2004.pdf](https://www.icrc.org/eng/assets/files/other/sfd_annual_report_2004.pdf)> accessed 5 January 2016.



variations in the nature, scope and objectives of the duty to rehabilitate among different CRPD State Parties are experiencing today.

(iii) Reconstruction and renovation

Reconstruction of temporary accommodation shelters is another common element of CRPD State Parties that are undergoing transition from situations of armed conflict to a peaceful understanding. Consequently camp infrastructures are a major source of accommodation and housing to civilian populations in CRPD State Parties which are experiencing situations of armed conflict or recovering from the existence of such situations. At this stage it becomes fundamentally helpful for this project to draw from the observations made under the 2010 Excom conclusion in relation to the accessibility problems of the camp infrastructures in relation to persons with disabilities.<sup>68</sup> Note that an ExCom Conclusion referring to a concrete way in which ExCom Member States and UNHCR can demonstrate the commitment of complying with their obligations under the Convention and International Humanitarian Law.<sup>69</sup> The problem of accessible infrastructures is commonly evidenced in most of the post armed conflict communities regardless of the CRPD positive obligations on States.<sup>70</sup>

“In most refugee and IDP emergencies, persons with disabilities face critical problems of access to camp services, facilities, organizations and information. The physical infrastructure of refugee and IDP camps is often inaccessible to persons with disabilities (e.g. shelters, latrines and bathing areas, water points, schools, health clinics and camp buildings). Persons with disabilities do not enjoy full and equal access to mainstream services (e.g. shelter, water and sanitation, food and nutrition, health and mental health services, education, vocational training and income generation activities). Additional specialized services for persons with disabilities (e.g. specialized health services, physical rehabilitation, prosthetics clinics) are often not available.”<sup>71</sup>

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<sup>68</sup> See, Refugees and Persons of Concern with Disabilities: In support of a 2010 ExCom Conclusion <[file:///J:/CHAPTER%20SIX/excom2010\\_ngo\\_lobby\\_doc\\_final.pdf](file:///J:/CHAPTER%20SIX/excom2010_ngo_lobby_doc_final.pdf)>accessed 23 January 2016

<sup>69</sup> Ibid.

<sup>70</sup> CRPD Articles 9(1)(a), 28(1), 28(2)(d) in conjunction with Article 11

<sup>71</sup> See, Refugees and Persons of Concern with Disabilities: In support of a 2010 ExCom Conclusion <[file:///J:/CHAPTER%20SIX/excom2010\\_ngo\\_lobby\\_doc\\_final.pdf](file:///J:/CHAPTER%20SIX/excom2010_ngo_lobby_doc_final.pdf)>accessed 23 January 2016

Furthermore donor agencies ought to ensure that public and private entities inclusive infrastructural plans for reconstruction are inclusive to promote the accessibility.<sup>72</sup> International bodies approving and consigning renovation projects should emulate USA approaches on procurement and disability<sup>73</sup> In the USA that Section 508 of the Rehabilitation Act requires Federal contracting authorities to use accessibility standards in their public procurement.<sup>74</sup> Such an approach must be adopted by various States Actors subcontracting projects for reconstruction after situations of armed conflicts.<sup>75</sup> That will encourage the reconstruction of infrastructural systems such as schools, hospitals, houses and public services that are accessible to persons with disabilities.

As matter of fact, the reluctance of by governments of the affected societies to design procurement procedures that emphasise subcontracting of service providers that demonstrate the inclusion of persons with disabilities, may lead to choosing service providers that minimise reconstruction costs by reducing or ignoring to allocate funds materials that might be vital for enhancing the accessibility of person with disabilities. Thus State parties or funding stakeholders for post conflict reconstruction project should ensure that architecture plans are designed in manner that includes persons with disabilities as one of as one of the most vulnerable minority groups within post conflict affected populations.

### **Recommendations:**

The high prices from rich western economies for prosthesis make the ICRC incur high expenses for the raw materials required for manufacturing support disability prosthesis. Although the efforts have been made by the humanitarian agencies such as ICRC to find

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<sup>72</sup> See Global Protection Cluster (GPC), '*Protection of Conflict-Induced IDPs: Assessment for Action*', (Published February 2008) <<http://www.refworld.org/docid/47eba3c62.html>> accessed 23 February 2015. M. Meaney, Shelter for people with disabilities', D. Mitchel and V. Karr, (Eds.) *Crises conflict and disability: Ensuring equality* (Routledge Taylor and Francis Group, 2014) pg. 90.

<sup>73</sup> Section 508 of the Rehabilitation Act <<http://www.section508.gov/>>accessed 23 February 2016

<sup>74</sup> Ibid

<sup>75</sup>See World Institute on Disability (WID), 'The Involvement of Persons with Disabilities in Conflict Resolution and Peacebuilding Efforts: Inclusion of Persons with Disabilities (PWD) as Part of the Solution in the Post Conflict Arena', (Published February, 2015) <<file:///J:/WID-Disability-Inclusive-Peacebuilding-Process.pdf>> accessed 5 January 2016.

other alternative raw material to subsidize the rehabilitation cost, this is an area where the WTO and UNTAD could consider these are part of the materials or mobility products whose process or outputs might deserve compulsory licensing or low tariffs on materials for prostheses where it is needed to meet the rising demand for such facilities in post armed conflict communities.

Considering that persons with disabilities are disproportionately impacted by the prevalence of violence which has repeatedly constituted a component both international and non-international armed conflicts, in addition to making many people such as civilians, become disabled through violence, it is fair and prudent to include them in conflict resolution and peacebuilding efforts plausibly to the greatest extent possible. Full inclusion contributes to more comprehensive rehabilitation, are necessary to creating resilient and long-lasting peace.

Furthermore the ongoing evolution from the charity/medical model of disability to the social justice and human rights models, empowering people with disabilities through rehabilitation process that might be vital in enabling peacebuilding as an active feature for participants and advocates. Subsequently disability groups that participate will be more likely to have their grievances addressed, receive appropriate support, be viewed as legitimate stakeholders, and build healthy group relationships with other post-conflict groups, among other benefits.

It is thus imperative that rehabilitation should be seen as stepping stone for designing approaches that can be used in encouraging the inclusion people with disabilities in conflict resolution and peacebuilding processes. Doing so will first require learning about existing relation between increase in the number of persons with disabilities after armed conflict, understanding the role of physical rehabilitation scheme in supporting mobility, accessibility of persons with disabilities to places of peacebuilding. Thus rehabilitation could be seen as one way how people with disabilities are included in current outcomes of better transnational and international justice schemes. This can be achieved by initiating, developing, and funding a series of case studies documenting the relationship between war and disability on one hand and rehabilitative mobility to forums of conflict resolution on the other that must be portrayed as contributors to people with disabilities as actors whom mobility rehabilitation could aid in actively participating in peace building mechanisms. This paper is furthered on existing knowledge (literature, organizational, or otherwise) can then be used to develop a blueprint for including all disability groups in future peacebuilding efforts - which should then be distributed and used worldwide.

## **Conclusion:**

In summary as a matter of fact in nearly all post armed conflict communities around the global it is almost undisputable that the number of persons with disabilities tends to increase after armed conflict simply because such situations have always caused and will continue to cause a considerable increase in the number of persons with disabilities. That increase has impacts and implications on the extent of the costs associated with the State's duty to rehabilitate persons with disabilities. As indicted by from the 1999 ICRC physical disability project indicated that 117,849 prosthesis for mine survivors and 3540 for orthoses along with physical therapy in 1999 alone.<sup>76</sup> Clearly more people become beneficiaries to CRPD Rights associated with mobility and accessibility in the aftermath of armed conflicts as exemplified in the 1999-2009 in its assisted network centres of the International Committee for Red Cross (ICRC) in armed conflict affected States.<sup>77</sup> Therefore the magnitude of demand for disability rehabilitation combined the rehabilitation cost for disability services increases in CRPD State Parties undergoing post armed conflict communities. These are issues that contemporary institutions of the United Nations ought to afford considerable attention when evaluating the effectiveness of States in providing an inclusive protection of basic right to all marginalised groups especially in the context of post conflict States actors.

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<sup>76</sup> International Committee of the Red Cross (ICRC), 'Annual report Physical rehabilitation programme', (Published 2009) <[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4031.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4031.pdf)> accessed 23 January 2016

pg. 1  
<sup>77</sup> Ibid.