**Questionnaires to inform the thematic report of the Special Rapporteur on the rights of persons with disabilities on armed conflict, 76th General Assembly – 2021**

# C: Civil Society

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**Landmine and Cluster Munition Monitor**

**Landmine and Cluster Munition Monitor Impact Research Thematic Team with Marianne Schulze**

## QUESTIONS

1. Please provide information on whether and how your organization engages on the protection of persons with disabilities under international humanitarian law.

The International Campaign to Ban Landmines and the Cluster Munition Coalition (ICBL-CMC) is an umbrella organization that includes hundreds of campaign member organizations internationally and engages directly 30 organizations working on disability rights issues, including many which are organizations of persons with disabilities led by conflict survivors.

The Landmine and Cluster Munition Monitor (the Monitor) of ICBL-CMC has provided 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 the 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 research of Landmine and Cluster Munition Monitor thematic research team on Impact, includes monitoring and reporting of casualties, coordination, risk education, and equal access to comprehensive rehabilitation. These services range from emergency and continuing health care, through physical rehabilitation and psychosocial support, to socioeconomic inclusion. We also look at data collection and national disability laws and policies. Comments are based on activities of the Monitor and ICBL-CMC, with findings drawn from multi-year reporting.

Monitor research has shown that over time the Mine Ban Treaty, the Convention on Cluster Munitions, their obligations and commitments, and humanitarian disarmament more broadly, have contributed to making more resources available to survivors, as well as to people with similar needs. Assistance to people critically injured, survivors, families and affected communities is relevant to addressing the needs of persons with disabilities in circumstances of risk and conflict. States Parties to these conventions have understood that such assistance should be carried out “in such a way that there is non-discrimination between mine survivors and others who have otherwise been injured and/or have acquired a disability,” Thus, these measures contribute to addressing some of the rights of persons with disabilities in the same communities during conflict.

The Monitor shares information through its reporting on developments in the linkages between human rights for persons with disabilities and international humanitarian law. Vital experience has been gained during the past 20 years of coordination and provision of assistance to survivors under the Mine Ban Treaty (and 10 years under the Convention on Cluster Munitions). This experience is shared to be used to inform the development of policies, plans, preparedness activities, and inclusive coordination related to the implementation of Article 11 of the Convention on the Rights of Persons with Disabilities (CRPD).

The Monitor expresses the need to improve the adequacy and efficacy of data collection in mine action and conflict situations, as well as the demand for progress in related systems and mechanisms that include persons with disabilities. Due to the preference for conflict fatality reporting systems in situations of armed conflict, there are many more people recorded as dead compared to those recorded injured and thus the situation of impairment and disability, including persons with disabilities, is underreported.

The ICBL-CMC adopted updated relevant guidelines in January 2021. These ICBL-CMC Guiding Principles addresses among other issues, assistance to survivors in the context of disability rights. They provide a framework for all concerned actors to plan, implement, monitor, and evaluate progress. The Guiding Principles are based on Article 6 of the Mine Ban Treaty and Articles 5 and 6 of the Convention on Cluster Munitions, and their five-year Action Plans, as well as International Humanitarian Law and Human Rights Law, foremost the CRPD. See ICBL-CMC Guiding Principles for Victim Assistance, <http://www.icbl.org/en-gb/resources/guiding-principles-for-victim-assistance.aspx>

Supporting implementation of and monitoring Mine Ban Treaty *Oslo Action Plan* Actions includes activities and services to implement the following: Protection in situations of risk, including situations of armed conflict; effective and efficient emergency medical response and ongoing medical care; comprehensive healthcare, rehabilitation services, and psychological and psychosocial services, ands social and economic inclusion.

1. Please provide information on the engagement of your organization with the government and/or military authorities relating to the protection of persons with disabilities in armed conflict.
	1. Who initiated the engagement?
	2. What was the motivation, purpose, and outcome of these engagements?
	3. Was Article 11 of the CRPD and/or UN Security Council Resolution 2475 (2019) discussed in these engagements?

As the *de facto* monitoring regime of two humanitarian disarmament treaties with more than two-thirds of countries as states parties, the Monitor informs states and other interested actors at international meetings of new developments, including:

* Armed conflict and attacks on healthcare providers;
* The process of development of the Inter-Agency Standing Committee (IASC) guidelines on the inclusion of persons with disabilities in humanitarian action, during which some mine survivors and their representative organizations, including and organizations of persons with disabilities.
* were involved in pilot testing and regional feedback discussions during the development process;
* The UN Security Council text on the protection of persons with disabilities in conflict, Resolution 2475 (2019), as well as protection of civilians more broadly as found in Resolution 1894;
* The Charter on Inclusion of Persons with Disabilities in Humanitarian Action adopted at the World Humanitarian Summit in Turkey in May 2016;
* Reporting on and submitting information to the 2015 thematic study of the Office of the United Nations High Commissioner for Human Rights (A/HRC/31/30), ‘The rights of persons with disabilities under article 11 relating to situations of risk and humanitarian emergencies,’ which notes that Mine Ban Treaty States Parties committed to integrate landmine survivors with disabilities into the broader legal frameworks related to the rights of persons with disabilities, thus reflecting “a more updated understanding of the issue.”

Landmine Monitor Report 2020 included separate reporting on risk education about mine and explosive ordnance. For the first time reporting included reporting on protection measures reaching persons with disabilities through mine risk education and awareness of explosive ordnance hazards.

Since 2015, the Monitor has held three subject-specific side events with international disability rights experts, including survivors and other persons with disabilities as panelists, at meetings of States Parties on the Mine Ban Treaty. These were: on Article 11 of the CRPD, with Humanity and Inclusion (Geneva, 2015); Fragile and conflict affected states, with UNICEF (Geneva, 2016); and on IHL and the rights of persons with disabilities including survivors, with ICRC and the Geneva Academy of International Humanitarian Law and Human Rights (Geneva, 2018).

Continuing annual updates in online country profiles and in the Landmine and Cluster Munition Monitor Overviews highlight issues of conflict, IHL and the CRPD. Several special reports by the Monitor also address these issues, including Equal Basis 2014 and Equal Basis 2015 which address relevant Monitor reporting on ‘Disability in Challenging Environments: Armed Conflict-Post Conflict-Political and Economic Transition,’ in 33 countries. The list includes the following topics:

* Frameworks for assistance ([2018](http://www.the-monitor.org/media/2921936/Frameworks-Final.pdf)) <http://www.the-monitor.org/media/2921936/Frameworks-Final.pdf> ([2013](http://the-monitor.org/media/131747/Frameworks_VA-December-2013.pdf)) <http://the-monitor.org/media/131747/Frameworks_VA-December-2013.pdf>
* Fragile situations, conflict and assistance ([2016](http://www.the-monitor.org/media/2333167/VA_Fragile-Situations-18-May-16-_print-X-1-.PDF)) <http://www.the-monitor.org/media/2333167/VA_Fragile-Situations-18-May-16-_print-X-1-.PDF>
* Assistance and CRPD Article 11: Situations of risk and humanitarian emergencies ([2015](http://the-monitor.org/media/2034853/MonitorBriefingPaper_VAandArticle11_25June2015.pdf)) <http://the-monitor.org/media/2034853/MonitorBriefingPaper_VAandArticle11_25June2015.pdf>
* Landmines/ERW, displacement and refugees ([2015](http://the-monitor.org/media/2034850/MonitorBriefingPaper_Refugees_20June2015_final2.pdf)) <http://the-monitor.org/media/2034850/MonitorBriefingPaper_Refugees_20June2015_final2.pdf> ([2013](http://the-monitor.org/media/984148/Landmine-Refugees-_Final.pdf)) <http://the-monitor.org/media/984148/Landmine-Refugees-_Final.pdf>
* Inclusion and Rights in 33 Countries ([2015](http://www.the-monitor.org/media/2155496/Equal-Basis-2015.pdf)) <http://www.the-monitor.org/media/2155496/Equal-Basis-2015.pdf>
Access and Rights in 33 Countries ([2014](http://www.the-monitor.org/media/1717975/EqualplusBasisplus2014plusFinal.pdf)) <http://www.the-monitor.org/media/1717975/EqualplusBasisplus2014plusFinal.pdf>

In specialized reporting on the relevance of Article 11 of the CRPD, the Monitor has shared examples from the CRPD reporting of Colombia (CRPD/C/COL/CO/1) and Uganda (CRPD/C/COL/CO/1) that demonstrate that some states perceive an overlap between Article 11 of the CRPD and commitments under the Mine Ban Treaty and Convention on Cluster Munitions, and the corresponding requirements to provide assistance in a non-discriminatory manner.

1. Please provide information on whether your organization engages with the government on laws or statutes that punish criminal acts that specifically target persons with disabilities.

N/A

1. Please provide information on relevant legislation and policies related to the following:
	1. Are persons with disabilities excluded from serving in the armed forces on the basis of their disability? Do you engage with the government on this issue?
	2. Do policies or programs exist that allow persons serving in the armed forces to continue serving in cases where they acquire a disability? Do you engage with the government on this issue?

Veterans with conflict related impairments are often excluded and pensioned as disabled veterans, but conversely conscripted soldiers and those in compulsory military service who have disabilities do not have their impairment recognized, in order to prevent them from avoiding service. Based on anecdotal accounts from research, , the severity of medicalized testing for fitness and disability as an exclusionary factor from military service may lessen the further the combatant is from direct state authority of command: pro state militias and non-state armed groups with territorial control (that may later become part of a ruling government) often have more flexibility in having personnel with disabilities.

* 1. What supports are available to assist persons experiencing psychosocial trauma as a consequence of armed conflict (civilian, current military, or former military)? Do you engage with the government on this issue?

Psychological and psychosocial support activities reported to the Monitor include professional counselling, individual peer-to-peer counselling, community-based peer support groups, and through networks of survivors and associations of persons with disabilities.

* In Bosnia and Herzegovina (BiH), a program to develop structured peer-to-peer psychological support, by survivors for survivors and other persons with disabilities in healthcare and rehabilitation facilities supported by the European Commission.
* Survivors in Kinshasa, in the Democratic Republic of the Congo (DRC), hold monthly peer-to-peer support meetings.

Survivor networks, which often provide peer-to-peer and collective psychosocial support, struggled to maintain their operations with decreasing resources available.

* 1. Are there differential services granted to veterans with disabilities on the one hand and civilians with disabilities on the other? Do you engage with the government on this issue?

Our research shows that for most countries where differences in services were reported veterans, soldiers, , police, emergency service personnel, deminers, and state employees may expect to receive priority services through relevant regulations, but not only during the time of armed conflict. Civilian survivors of armed conflict, acts of terrorism and counter terrorism, and other forms of armed violence may also receive preferential treatment according to regulations in many countries. Sometimes, however, there is an equivalency between services available to members of the armed forces or civilians injured during conflict and the privileges gained by members of disability-specific state-recognized national umbrella OPDs with significant influence on government decision-making mechanisms. This has been reported in Albania and Ethiopia.

For example, disabled war veterans were often given a privileged status above that of civilian war survivors and other persons with disabilities, particularly in regards to pensions, allowances, and other state benefits. This continued to be raised as an issue for the enforcement of austerity measures linked with international financial payment regulations to Bosnia and Herzegovina in particular.

It is also noted from research missions that among veterans with disabilities and former combatants some also have children, partners, or other dependents with disabilities and certain legal privileges may pass directly to those dependents in particular, in case of the death of the supporting veteran.

Even where veterans are entitled to receive priority access to treatment for conditions resulting from their time in military service, in some cases only those who fought on the ‘winning side’ receive such benefits, while other veterans may be impoverished or destitute and lack access to services, thus requiring specific support from non-government providers.

The Monitor and ICBL-CMC, including national member organizations, regularly remind the relevant states that all persons with disabilities have the right to the highest attainable standard of health care and rehabilitation (Article 12 CESCR, Article 24 CRC, Article 12 CEDAW).. The Monitor also notes that in taking a rights-based approach to assistance and equality of services, States Parties need to be mindful of the obligation not to remove existing rights, including those attained by soldiers, veterans, police, emergency service personnel, and deminers (Article 44 of the CRPD).

* 1. Are there veterans groups with disabilities and do they interact with organizations of persons with disabilities (OPDs) on protection or general disability rights issues?

The Monitor has documented advocacy and service delivery activities by veterans’ groups, including standing for the rights of other persons with disabilities’ similar needs, types of impairments, pursuits and interests (such as art or sport). In Bosnia and Herzegovina, veterans’ groups are involved in the delivery of physical rehabilitation services to mine survivors with disabilities and other persons with disabilities through local rehabilitation centers. Veterans’ groups are also involved in the collection of information on the needs of their fellow veterans with disabilities (e.g.: in Serbia), as well as in the provision of psychological and peer support, inclusive sports, and awareness-raising for persons with disabilities with diverse impairments.

In El Salvador, the Foundation for Survivors and People with Disabilities (Fundación Red de Sobrevivientes y Personas con Discapacidad, or Red de Sobrevivientes, Network of Survivors) and other civil society organizations advocated for a period of more than seven years for the development and adoption of a new law to harmonize the existing law including the laws which had been enacted prior to the entry into force of the CRPD for El Salvador: the law Injured and Disabled as a Result of the Armed Conflict (1993) the law on Equalization of Opportunities for People with Disabilities (2000), and A new Law on the Inclusion of People with Disabilities came into force in El Salvador on 1 January 2021. The Law for the Inclusion of Persons with Disabilities, formulated based on the constitution of El Salvador and the CRPD, was approved in June 2020.

1. Please provide information on how civil society, specifically OPDs, are involved in the process to identify and address discrimination and marginalization of persons with disabilities in situations of armed conflict, conflict prevention, humanitarian action, and peacebuilding operations.

ICBL-CMC members who are survivors, several of whom are also Monitor researchers, have participated actively in matters of peacemaking and peace-building in many countries, including in Afghanistan, Cambodia, Colombia, Croatia, El Salvador, Ethiopia, Iraq, Serbia, Senegal, Tajikistan, Thailand, and Uganda. In Colombia, members of Landmine Survivors’ Organizations represented the perspectives of survivors in the Colombian peace process national committee, as well as at the peace negotiations in Havana, Cuba in 2015.

In the majority of conflict- affected countries with a landmine problem OPDs involving survivors were engaged in implementing many aspects of the CRPD for survivors and all persons with disabilities with similar needs including: assessment data collection, rehabilitation & peer support and referral, and income-generating projects. However, in many, the extent of these essential ODP-led community-based services was severely reduced in the past 5 years due to cuts in the small amounts of funding that had previously been available for activities.