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Evolution of Disability Rights in Iraq

Due to the many years of conflict in Iraq, landmines and explosive remnants of war resulted in a large population of persons with disabilities. People with disabilities in Iraq lack adequate housing, medical care, educational opportunities and legislation protecting their rights. Now is the time to create the legal framework protecting the rights of persons with disabilities.

by Ken Rutherford and Megan Hinton [Center for International Stabilization and Recovery]



Prosthetics prepared for fitting in Iraqi Kurdistan.
All photos courtesy of Ken Rutherford.

Iraq hosts some of the highest rates of persons with disabilities (PWDs), explosive remnants of war (ERW) and landmine contamination in the world. According to the World Health Organization (WHO), about two million disabled people live in Iraq.¹ In contrast to the pre-Saddam Hussein government that lacked a human-rights agenda and legal protective framework for the disabled, the Iraq government's recent political attention to disability rights has been positive, as evidenced by its accession to the *Convention on the Rights of People with Disabilities* (CRPD), *Anti-Personnel Mine Ban Treaty* (APMBC) and the *Convention on Cluster Munitions* (CCM).²

Landmine and ERW contamination is the result of recurring internal conflicts, the Iran-Iraq War (1980–1988), the Gulf War (1991), the invasion by the U.S.-led coalition in 2003 and the increased violent activity by insurgent groups that followed. Accurate and comprehensive estimates of the overall degree of contamination in the country cannot yet be determined until Iraq's survey and data collection capacity is improved.³ According to iMMAP, which provides information management support to the Government of Iraq in order to quantify its amount of mine contamination, mines contaminate a total of 1,295,621,650 sq m in the central and southern provinces. The Basra province alone possesses a total of 1,171,166,897 sq m of contaminated land, accounting for more than 90 percent of the total contamination in central and southern Iraq. The remaining contamination in central and southern Iraq is located in the Diyala, Missan, Muthanna, Ninewa and Wassit provinces.⁴

Iraq also possesses a significant amount of cluster-munition contamination as a result of air strikes from the 1991 Gulf War and 2003 invasion of Iraq. Cluster-munition contamination in the central and southern provinces totals 208,251,879 sq m, of which most is concentrated in the Muthanna and Thi-Qar provinces. Contamination in the central and southern provinces by other types of ERW amounts to 483,394,792 sq m. As a result of ongoing violent conflict in Iraq, iMMAP has noted a large change in the amount of suspected hazardous areas. iMMAP records 992,175,808 sq m of new battle area in the Babylon, Diyala and Salah al-Din provinces in 2015, raising the total amount of battle area in central and southern Iraq to 1,055,623,230 sq m.⁴

According to iMMAP, there is a total of 128,929,311 sq m of confirmed hazardous area and 168,885,007 sq m of suspected hazardous areas in the Kurdistan region. The number of landmine/ERW casualties in the Kurdistan region totals

In 2014, I traveled to Kurdistan to gather information on needed mine risk education (MRE) and disability awareness programs and observed firsthand the effects of conflict and landmines/explosive remnants of war (ERW) on Kurdistan's unique situation. The actual number of victims of landmines/ERW in Iraq is unknown, but Iraqi national databases show 21,492 casualties between 2001 and 2007, with more than half of these taking place in Kurdistan. The danger of landmines/ERW in Iraq and Kurdistan will only increase with the recent influx of Syrian refugees, now at 248,203 people, and the rising number of internally displaced persons, who now total 2.96 million people in Iraq.⁶ I observed refugee camps at Arbat and Gawilian, met with members of NGOs working in the area, and observed an MRE session at a private school. The important partnership between NGOs and governments was apparent from the start as I saw firsthand the positive benefits of collaboration in the camps and the incredible work being done in Kurdistan with MRE and victim assistance.

~ KEN RUTHERFORD

13,000 (2,356 injured/10,644 killed). The majority of these casualties occurred in the Slemani and Erbil provinces.⁴

Although much of the ERW contamination in the Kurdistan region occurred decades ago during the intrastate conflict between Kurdistan and the Iraqi government, it remains a serious current threat—especially now that the region has experienced a large influx of Syrian refugees and internally displaced persons (IDPs) from elsewhere in Iraq who are unfamiliar with the area and the danger beneath its terrain.⁵

Disability in Iraq

Al-Qaida in Iraq has been active since 2004, and the Islamic State group is currently in conflict with government forces and its allied militias. Some reports indicate that the Islamic State group is laying mines as well as improvised explosive devices in Iraq, including Kurdistan.^{7,8} According to WHO, the total number of IDPs in Iraq rose to 2.96 million by June 2015. Additionally, it documented 248,203 Syrian refugees residing in Iraq at that time.⁹ The growing number of IDPs and influx of refugees place unbalanced stress on the health care infrastructure.

The current conflict in Iraq greatly impacts the lives of PWDs. Those who lost limbs or faculties—from war or other causes—experience extreme hardships. PWDs in Iraq face extensive discrimination in an environment and lack legislation protecting their rights to live as functioning, contributing citizens, including services and facilities capable of meeting even basic medical or rehabilitative needs. For the Iraqi people, disabilities usually result in job loss, an inability to attend school and impoverishment for their entire families. These hardships are not just because of physical barriers. Profound

social barriers exist as well. These problems are compounded during conflict, making those with disabilities much more vulnerable, especially due to lack of awareness about their rights and limited mobility. Many of those with disabilities are abandoned during evacuation, due to missing or inadequate preparation and planning exacerbated by inaccessible services such as transportation systems.

Those who succeed in fleeing the initial threats of violent conflict still face additional obstacles. Conflict often disrupts physical, social and economic structures serving as societal support systems; and PWDs experience the effects of this disruption much more than the general population. Most shelters and refugee camps are inaccessible to those with mobility issues. Due to scarcity of resources in these facilities and the perception that anyone with a disability requires extraordinary medical care and attention, they often experience blatant discrimination or are turned away from facilities entirely.¹⁰ Refusal of services to PWDs, such as that observed in the refugee camps, blatantly violates the CRPD, as Article 11 clearly declares that States Parties are obligated to take “all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict.”¹¹

Disability Legislation

On 20 March 2013, Iraq ratified the CRPD that asserts the inherent rights of PWDs.¹² Personal mobility and accessibility—in terms of intellectual access to information and communication as well as physical access to goods, services and facilities—are two of the most emphasized issues in the CRPD.¹³



Photos from a peer-support planning trip in Erbil and Dohuk, Iraq (January 2012).

I interviewed a number of individuals who highlighted the need for more comprehensive victim assistance support. PWDs are particularly vulnerable to the impacts of conflict, as social support systems are disrupted by conflict and shelters avoid taking in disabled persons, who are seen as requiring extraordinary medical care.²⁰ Although Iraq has adopted the U.N. *Convention on the Rights of Persons with Disabilities* (CRPD), many noted that not enough has been done to implement the recommended measures in the CRPD fully, an issue that is compounded by societal structures in Iraq that do not adequately respect the rights of PWDs. The importance of addressing victims in Iraq, and the rights of those with disabilities, will only increase as conflict in the region continues.

~ KEN RUTHERFORD

According to the 2005 Iraqi constitution, “The State shall care for the handicapped and those with special needs, and shall ensure their rehabilitation in order to reintegrate them into society and this shall be regulated by the law.”¹⁴ However, many years passed before Iraq made any legal commitments to pursuing disability rights. In September 2013, the Iraqi Parliament passed a national disability law titled, *Law for the Care of Persons with Disabilities and Special Needs*.¹⁵ However, because this law was originally drafted prior to Iraq’s accession to the CRPD, it does not fully implement the recommended measures outlined by the CRPD. Of particular concern is that the law’s language posits disabled people as recipients of care, which is evident in the law’s title, rather than emphasizing disability rights and the right for all PWDs to serve as active, contributing members of society.

Because Kurdistan is officially a region of Iraq, it must also comply with the protocols specified in the CRPD. Article 25 of the 2009 Draft Constitution of the Kurdistan Region states that the Kurdistan government must ensure the welfare of those with disabilities and aid their reintegration into society.¹⁶ Similarly, the Kurdistan Parliament passed a regional law to supplement the CRPD in 2011, titled *Law no. 22 on the Rights and Privileges of Persons with Disabilities and Those with Special Needs in the Kurdistan Region*. However, many PWDs living in Kurdistan feel this law does not sufficiently implement the recommended CRPD protocols, and are pressuring the Kurdish Regional Government to amend the legislation to include more protective measures such as

increased pensions for PWDs and their caretakers, additional welfare aid for health insurance and housing, as well as loans enabling PWDs to marry.¹⁷

Services Available

The health care infrastructure in Iraq still lacks the human capital and resources capacity to effectively respond to weapons-related injuries, including medical procedures such as amputations or shrapnel removal. In 2013, the International Committee of the Red Cross (ICRC) conducted trainings and provided resources to hospitals in conflict-prone areas in order to expand its trauma care capacity. Specialized treatment such as reconstructive surgery is much less accessible to mine/ERW survivors due to the fact that the specialized services are often available only through private clinics and are very expensive.³ Weakening security in the country in the past year threatens the ability of governmental bodies and humanitarian nongovernmental organizations to access and assist mine/ERW survivors and other PWDs in need of services.

As of November 2014, ICRC was supplying 66 health care facilities across 10 cities with medicine, medical instruments and equipment in Basrah, Dohuk, Erbil, Fallujah, Hamdaniyah, Hawijah, Mosul, Najaf, Sinjar and Tooz. ICRC also operates a physical rehabilitation center in Erbil and supports eight other rehabilitation centers throughout the country. Together, these rehabilitation centers serve more than 23,000 PWDs.¹⁸ As of 2013, the situation for mine/ERW survivors living in Kurdistan was relatively better than that for



Prosthetics prepared for fitting in Iraqi Kurdistan.

survivors living in central and southern Iraq. Yet, the health care infrastructure still lacks the capacity to comprehensively address the needs of mine/ERW survivors in the Kurdistan region.

Since 2012, the Kurdistan region has experienced an influx of Syrian refugees and IDPs from central and southern Iraq, many of whom have disabilities and need specialized medical care.³ In response to these growing pressures, Handicap International has expanded its operations staff based in the Kurdistan region. The organization offers PWDs prosthetic devices and mobility aids, as well as rehabilitative services.¹⁹

Recommendations for the Future

According to the 2014 *Landmine and Cluster Munition Monitor*, victim assistance programming in Iraq has been ad hoc at best which is somewhat under-

standable in light of recent political turmoil. The *Monitor* recommends three action points based on years of victim assistance research: sustainable survivor data-collection mechanisms, increased survivor participation in disability rights issues, and gender-equal survivor assistance and empowerment programming.³ These action points are especially appropriate and important as Iraq is party to the three key international legal conventions related to survivors of mine/ERW incidents: the APMB, CCM and CRPD. Now is the time to institute and implement transformative disability rights legislation in order to assist and protect those with disabilities during the current period of conflict and in the post-conflict reconstruction period to follow. ©

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