

PROTECTION OF INTERNALLY DISPLACED PERSONS WITH DISABILITIES IN YEMEN

SUBMISSION TO THE UN SPECIAL RAPPOREUR ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS

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DATA AND BACKGROUND

An estimated 3.65 million people have been displaced within Yemen as a result of the conflict since March 2015, the vast majority of them for more than one year.¹ Amnesty International has documented the experience of displaced civilians in Yemen and how persons with disabilities have been disproportionately impacted. In the report, *Excluded: Living with disabilities in Yemen's armed conflict*, the organization examined the situation of 31 persons with disabilities who had been displaced to the southern governorates of Aden, Lahj and Abyan.²

There is currently no reliable data available on the number of persons with disabilities in Yemen or their needs. The lack of capacity to collect data, especially during conflict, and accompanying challenges are reflected in the discrepancy of the data that does exist. While the latest statistics from the Arab region placed the number of persons with disabilities at the relatively low figure of 6.8% in Yemen, calculations based on global estimates by the World Health Organization suggest that as many as 4.5 million Yemenis are persons with disabilities.³ In contrast to assessments for other countries in crisis in the region, the UN's humanitarian needs overview for Yemen does not include qualitative data on persons with disabilities, but merely refers to them as a vulnerable group particularly at risk.⁴

Amnesty International viewed the form used by humanitarian workers involved in protection monitoring to register displaced persons and identify their needs. Under a section on "vulnerabilities", the form seeks to collect data on persons with disabilities and disaggregate it by gender, age (0-4, 5-11, 12-17, 18-24, 25-59, 60+), and two broad categories of disability (mental and physical). This, however, is not the model championed by disability rights advocates – a further

¹ UN High Commissioner for Refugees (UNHCR), *Operational Update*, 13 September 2019, bit.ly/2m49sXG

² Amnesty International, *Excluded: Living with disabilities in Yemen's armed conflict*, (Index: MDE 31/1383/2019).

³ UN Economic and Social Commission for West Asia (ESCWA), *Disability in the Arab Region 2018*, bit.ly/2B00HnR (hereinafter ESCWA Report), p. 14; The World Health Organization (WHO) estimates that 15% of the global population are persons with disabilities. The most up-to-date figure for Yemen puts the number of persons with disabilities at 3 million. See UN Office of the High Commissioner for Human Rights (OHCHR), *Yemen conflict death toll nears 650, with UN rights office spotlighting plight of 3 million disabled*, 5 May 2015, bit.ly/2Pscyl4
OCHA's current estimate of Yemen's population is approximately 30.5 million. See OCHA, *2019 Humanitarian Needs Overview: Yemen*, December 2018, bit.ly/36c2HG7

⁴ See, for example, OCHA, *2019 Humanitarian Needs Overview: Syrian Arab Republic*, March 2019, bit.ly/2qPoi6V; *2019 Humanitarian Needs Overview: Yemen*, 2019, December 2018, bit.ly/36c2HG7

Humanitarian needs overviews are carried out in partnership with all humanitarian actors to assess the humanitarian situation and to identify the needs of the affected population. See OCHA, *Needs Assessment: Overview*, bit.ly/34h19Zv

disaggregation by type and severity of disability is recommended.⁵ Without such quality disability data, humanitarians will continue to struggle to ensure an inclusive and appropriate humanitarian response.⁶

In a letter dated 20 November 2019 responding to questions from Amnesty International, the Aden office of UNHCR, the agency that leads on providing protection, shelter and non-food items, such as mattresses and kitchen sets, to IDPs, said the agency “is doing its best to incorporate more disaggregation in every assessment, planning and implementation stages.” It added that the forms the agency uses “undergo regular review and enrichment based on inputs from partners including from the community.”

Responding to a question regarding the collection and availability of data on the number of persons with disabilities and their needs, the Ministry of Social Affairs and Labour told Amnesty International in a letter dated 8 December 2019 that it continues to collect data on an annual basis but only in territories under its control. The ministry did not share the specifics of the data.

EXPERIENCES OF IDPS WITH DISABILITIES (INCLUDING INTERSECTIONAL ANALYSIS)

Amnesty International found that displaced persons with disabilities in Yemen encountered compounded difficulties, starting with their displacement journey. In some cases, the situation of civilians with disabilities was worsened by the failure of the parties to the conflict to give effective advance warning of attacks likely to affect the civilian population.⁷ Even after reaching shelter, such as an IDP camp, and despite efforts by the humanitarian community to be more inclusive of the rights of displaced persons with disabilities, they have struggled to obtain equal access to facilities and aid.

Almost all those whose cases were documented had to be dependent on their family members during the trip, the vast majority of them travelling without any assistive devices such as wheelchairs and crutches.

Amnesty International observed the general absence of the participation of persons with disabilities in camp or community governance and decision making. In only one out of five IDP sites visited by the organization – a camp in Aden – was there a person with a disability who appeared to be a co-ordinator with the site’s management. Conditions varied in the different sites Amnesty International researchers visited, however all sites fell below providing an adequate standard of living for anyone, with particular challenges and significant access issues for persons with disabilities.

Persons with disabilities who did have mattresses in their shelters had rather thin ones that looked neither durable, nor comfortable, let alone helpful in relieving bedsores for those with limited mobility. Overall, there was a noted shortage of assistive devices such as tricycles, wheelchairs, canes, crutches, and the government’s existing distribution system was largely centralized, putting the onus on persons with disabilities to seek out devices and collect them. The majority of those who did have wheelchairs said the devices were handed out by wealthy individuals, not as part of an organized process, and without any accompanying guidance on usage for the recipients or their family members as per recommended global standards.⁸ Interviewees said the wheelchairs they had were not suitable for the rugged terrain in the camps, were generally of low quality and did not facilitate their autonomy and independence.

Many spoke of the inaccessibility of latrines and washing facilities. In all the sites visited by Amnesty International, there were no dedicated latrines for persons with disabilities or private facilities for those who cannot move around, and researchers observed the absence of handles, ropes or chairs that would enable persons with disabilities to use latrines

⁵ Humanity & Inclusion – Handicap International recommends using the short set of Washington Group Questions, a non-discriminatory self-assessment method, which involves six questions designed to identify if individuals have any difficulty carrying out certain activities (walking, seeing, hearing, cognition, self-care and communication). The answer to each question is further broken down into four categories to determine severity. See, for example, Leonard Cheshire and Humanity & Inclusion, *Disability Data Collection: A summary review of the use of the Washington Group Questions by development and humanitarian actors*, October 2018, bit.ly/2BwfDsl

Similarly, it is recommended that, in order to uphold the rights of older persons, a better practice would be to further break down age into smaller brackets, for example, 50-59, 60-69, 70-79, 80-89, 90+. See, for example, Amnesty International, *Fleeing my whole life: Older people’s experience of conflict and displacement in Myanmar* (Index: ASA 16/0446/2019), pp. 36, 37, 73.

⁶ UNHCR, which piloted the use of the Washington Group Questions in Jordan, has committed to more methodologically aligned pilots. See, for example, International Disability Alliance, All Commitments made by the United Nations High Commissioner for Refugees (UNHCR): Data Disaggregation, 2018, bit.ly/2W6RMZq; UNHCR USA, Global Disability Summit – Beyond immediate needs: ensuring disability inclusion in protracted crises, 24 July 2018, bit.ly/2N2bFNI

The UK’s Department for International Development (DFID), along with other key donors, has also backed this approach in its strategy aimed at better inclusion for persons with disabilities. See DFID, *DFID’s Strategy for Disability Inclusive Development 2018-23*, December 2018, bit.ly/2ALc80c; see also, European Civil Protection and Humanitarian Aid Operations (ECHO), *DG ECHO Operational Guidance: The Inclusion of Persons with Disabilities in EU-funded Humanitarian Aid Operations*, January 2019, bit.ly/2WwdSF2, p.20.

⁷ International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, Vol. 1: Rules, Rule 20: “Each party to the conflict must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.”

⁸ See, for example, WHO, *Guidelines on the provision of manual wheelchairs in less resourced settings*, 2008, bit.ly/2N38C7E

with ease or, in fact, at all.⁹ Latrines were built on an elevation in a way that did not render them accessible for wheelchairs. Such issues are at the heart of fulfilling persons with disabilities' rights to life with dignity and to sanitation.¹⁰

In practically all the cases documented, persons with disabilities had to rely on their relatives to help them go to the latrines in the camps. The vast majority said they washed inside their tents, the conditions of housing and sanitation facilities having a clear impact on their ability to practise self-care and undermining their autonomy, privacy and inherent dignity.

The majority of those whose cases were documented depended on their family members to collect aid – be it rations or cash-based assistance – on their behalf. Whether handed out off site or in distribution points in camps, the model is based on individuals having to go to these collection points, which poses a problem for people with limited or no mobility. Families said they had to incur additional transport costs to collect aid from off-site locations.

Displaced persons with disabilities and their family members told Amnesty International that they struggled to access health care owing to both the distance to and from health care services as well as the costs they faced in seeking to access those services, which are primarily concentrated in urban centres. To see a health worker and receive appropriate treatment, displaced persons with disabilities generally had to travel to the nearest town or city to access health specialists. Mobile health clinics conducted semi-regular visits to some displacement sites, but there was inadequate follow-up by medical staff. In some cases where referrals were made by a mobile health clinic for specialized treatment in hospitals in nearby towns, displaced persons with disabilities were unable to take advantage of the referral as they could not afford the transport, or the treatment itself.

When it comes to education, not all the IDP camps have schools on site and, even in those that do, the schools are not adapted for children with disabilities, at least not in the sites visited by Amnesty International. Amnesty International did not independently assess the physical accessibility of these schools (schools were not in session during the researchers' visits), but, with regard to substance, interviewees made it clear that the learning methods and capacities of teachers did not accommodate students with disabilities.

Amnesty International's research shows that certain groups within the wider group of displaced persons with disabilities were often at risk of particular stigmatization and discrimination due to existing inequalities across communities in Yemen. In many cases, it appeared that families had lower expectations of women and girls with disabilities compared to men and boys with disabilities and that due to cultural norms, women and girls with disabilities face even more compounded challenges in displacement. Accepted societal practices in Yemen necessitate that women are assisted by members of their immediate family or other females, which affects, for example, who carries them while fleeing violence and who helps them to access latrines and bathing facilities in the camps. Opportunities of mingling and general inclusion in camp life appeared even more limited for girls and women with disabilities because of social exclusion and lack of structures to support them. At least two women with physical disabilities told Amnesty International they spend their days confined to their tents. Amnesty International documented one case of a displaced teenage girl with a disability who was sexually assaulted on the outskirts of the camp where she lives with her family; the organization noted that where they existed, the quality and capacity of mechanisms for monitoring and reporting gender-based violence and of the related health and psychosocial services for survivors varied between the different camps and that it was not clear to what extent these respected the principles of equality and accessibility for girls and women with disabilities.

While the Yemeni population is predominantly young, persons aged 65 and above make up 37% of the population with disabilities in Yemen.¹¹ Older persons with disabilities with whom Amnesty International met faced compounded

⁹ UNHCR's global standards call for ensuring that latrines are "accessible and appropriate for persons with disabilities (no barriers or tripping hazards, ramp access, large doorways, hand rails on stairs, space to turn a wheelchair, non-slippery floors, etc.)." See UNHCR, *Emergency Handbook: Persons with disabilities*, bit.ly/2BBVcdk

Similar guidance is also detailed in the Humanitarian inclusion standards for older persons and persons with disabilities. ADCAP, *Humanitarian inclusion standards for older people and people with disabilities*, pp. 128, 129.

¹⁰ The right to dignity is at the heart of international human rights law. See, for example, Universal Declaration of Human Rights, Preamble and Articles 1, 22. It is also recognized among principles of humanitarian work. See Sphere Handbook, p. 29. The right to sanitation – which among other things requires hygienic, accessible facilities that ensure privacy and dignity – has been recognized as being derived from the right to an adequate standard of living; it is therefore implicitly contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Committee on Economic, Social, and Cultural Rights (CESCR), Statement on the Right to Sanitation, 19 November 2010, UN Doc. E/C.12/2010/1, para. 7. The CESCR said the right to sanitation is also "integrally related", among other rights, to the right to health. Article 28 of the CRPD also recognizes the right of persons with disabilities to an adequate standard of living "without discrimination on the basis of disability."

¹¹ See International Labour Organization (ILO), *Demographic and Labour Market Trends in Yemen*, 2014, bit.ly/347ApdT (hereinafter ILO, *Demographic and Labour Market Trends in Yemen*), p. 15; ESCWA Report, p. 20.

challenges in accessing their rights in displacement. Some had experienced difficulties in fleeing violence. Some were forced to spend most of their day in a tent, reliant on family members and in some cases constrained by limited mobility.

A number of the displaced persons with disabilities whose cases were documented by Amnesty International belong to the *Muhamasheen* community (the “marginalized ones”) – a social minority not considered part of Yemen’s tribal system which has long been subjected to descent-based discrimination. They were among those facing multiple and compounded discrimination due to an intersection of factors of inequality.

NATIONAL AND INTERNATIONAL LEGAL AND POLICY FRAMEWORK (INCLUDING ACHIEVEMENTS AND CHALLENGES)

Yemen has ratified the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, but it still adheres to an outdated “medical model” that regards disability as an impairment that needs to be “diagnosed” and rehabilitated.¹²

The Yemeni Constitution guarantees equality and obligates the state to guarantee equal opportunities for all citizens politically, economically, socially and culturally.¹³ Law No. 61 (1999) further reaffirms the rights of persons with disabilities to enjoy all rights enshrined in the Yemeni Constitution and other laws on an equal basis with other citizens.¹⁴ However, Yemeni law does not explicitly prohibit discrimination on the basis of disability or provide legal protection against it. The Ministry of Social Affairs and Labour acknowledged to Amnesty International that at least one of the country’s relevant laws do not reflect its international obligations, saying it will be recommending amendments once the situation stabilizes and parliament is fully convened.

The Yemeni government’s national disability strategy affirms its commitment to the rights of persons with disabilities.¹⁵ Its Social Welfare Fund and Handicapped Welfare and Rehabilitation Fund still exist.¹⁶ However, the ongoing armed conflict has affected implementation. Prior to the war, there were more than 300 organizations that provided services for persons with disabilities.¹⁷ There are now only 26, all of which have limited capacity and programmes due to lack of funding and operational viability.

The lack of support has been exacerbated by Yemen’s territorial divisions. The weakening or relocation of barely functioning state institutions, coupled with economic collapse and widespread lawlessness, has meant that persons with disabilities have often not been able to access the support of the relevant governmental entities.¹⁸ Organizations of persons with disabilities and government officials from the Ministry of Social Affairs and Labour confirmed that the Handicapped Welfare and Rehabilitation Fund interrupted its disbursement of stipends to persons with disabilities in government-controlled areas, whether in support of their livelihood, education or health, between 2015 and 2017; it resumed them in 2017, but on an irregular basis due to lack of funding and bureaucratic disruptions. The Fund is supposed to receive as much as 50% of its funds from customs duties paid by private businesses and public enterprises,¹⁹ which have been hard hit by the conflict.

The conflict between the armed forces of the government of Yemen, supported by a coalition of states led by Saudi Arabia and the United Arab Emirates and their allied forces, against the Huthis (the de facto authorities in several northern governorates) and allied forces qualifies as a non-international armed conflict between the internationally recognized

¹² CRPD, Preamble (e) and Article 1; Law No. 61 (1999), Article 2: “Any person, male or female, who is proved by medical examination to be permanently incapacitated or partially disabled due to a disability, injury or illness that has caused his inability to learn or engage in any activity wholly or partially derived.”

¹³ Yemeni Constitution, Articles 24, 41 and 42.

¹⁴ Law No. 61 (1999), Article 3.

¹⁵ Ministry of Social Affairs and Labour, *National Disability Strategy (2014-2018)*, bit.ly/2CGIomN

This strategy outlines the vision, objectives and principles of a ‘rights-based’ approach to disability for Yemen. Its main objectives include raising awareness about persons with disabilities and undertaking a comprehensive legislative and policy review to bring laws and policies in line with the human rights model of disability enshrined in the CRPD, in consultation with organizations of persons with disabilities.

¹⁶ The Social Welfare Fund was created by Law No. 31 (1996). It is a government-funded social safety net for at-risk people in Yemen, including persons with disabilities. Articles 28 and 29 of the law establishing the fund state that financial support for persons with disabilities from low-income families who are seeking vocational training should be prioritized and that they should be considered for employment opportunities upon completion of the training, in line with Yemeni Labour Law, which stipulates that 5% of jobs be reserved for persons with disabilities. The Handicapped Welfare and Rehabilitation Fund was created by Law No. 2 (2002).

¹⁷ A Yemeni government agency called the Social Development Fund used to have a dedicated budget for organizations of persons with disabilities prior to the war, but it appears to have stopped functioning. Humanity & Inclusion – Handicap International, *Report on situation analysis: Inclusion in Yemen 2018* (hereinafter HI Inclusion Report), December 2018, p. 14.

¹⁸ Aziz El Yaakoubi, “Yemen central bank nearly doubles interest rate to halt rial plunge”, Reuters, 19 September 2018, reut.rs/2JurOTs

¹⁹ Law No. 2 (2002), Article 4.

government (and other states it has invited to come to its defence) and a non-state armed group. All parties to the non-international armed conflict in Yemen are bound by international humanitarian law (IHL). Meanwhile, international human rights law – including the rights contained in the CRPD and other relevant treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC) – also applies during times of peace and during periods of armed conflict, and is legally binding on all states, their armed forces and other agents.

EXAMPLES OF GOOD PRACTICES AND CHALLENGES IN ADDRESSING THE PROTECTION AND SUPPORT NEEDS

Amnesty International noted how guidance issued by humanitarian actors involved in protection, such as in response to the cholera epidemic in Yemen, highlighted ways to ensure the identification and inclusion of persons with disabilities and the assessment of their specific needs.²⁰ However, conditions in IDP camps indicate that the inclusive humanitarian commitments are yet to be implemented on a wide scale. Humanity & Inclusion, also known as Handicap International, initiated the creation of an “Inclusion Task-force”, which started operating in March 2019 and now includes UN agencies and international and local humanitarian organizations, to help humanitarians deliver a more inclusive response.²¹ UNHCR, which leads on providing protection and shelter to IDPs, indicated to Amnesty International that there are efforts under way aimed at improving services in displacement sites it is involved in, with implementation still being in a preliminary stage. Responding to a question about the training of humanitarian workers to ensure more inclusive humanitarian action, UNHCR said it regularly conducts training for its partners and works with partners with international expertise to conduct specialized training.

UNHCR said it and other providers of humanitarian services operate under mandatory guidelines that require facilitating equal access for persons with disabilities, but the agency recognized that challenges to the various modalities of aid delivery included access for service providers and persons with disabilities “and ensuring correct information is reaching the persons with disabilities.” Addressing shortcomings in the health referral system in IDP camps, the UNHCR office in Aden said that one of the challenges that hinders effective and timely referrals is the lack of mapping of available health services, which is not ready yet.

Amnesty International recommended that donors should do better in funding efforts aimed at improving the provision of various services for persons with disabilities (for example health care) and the humanitarian response in general, including a push by UNHCR to increase the number of mobile protection teams, community networks and accessible community centres.

RECOMMENDATIONS

TO THE GOVERNMENT OF YEMEN

- Facilitate the work of humanitarian agencies and organizations, including through ensuring that the Executive Unit for IDPs is actively mediating and resolving issues in situations of land disputes affecting IDP sites and ensuring they are not built on or expanded over disputed lands.
- Improve co-operation with UN agencies and humanitarian organizations to ensure that assistance programmes are inclusive of and non-discriminatory towards persons with disabilities and other marginalized groups.
- Ensure that humanitarian assistance reaches persons with disabilities who are not registered in IDP camps and who are staying in informal sites and host communities.

TO UN AGENCIES AND HUMANITARIAN ORGANIZATIONS

- Strongly consider a further disaggregation of data on persons with disabilities to include type and severity of disability, as well as more nuanced age brackets for older persons (for example, 50-59, 60-69, 70-79, 80-89, and

²⁰ See, for example, Protection Cluster Yemen, *Protection guidance for cholera response*, April 2019, bit.ly/2msf3rf

²¹ An assessment by Humanity & Inclusion – Handicap International in late 2018, based in part on interviews with 40 humanitarian organizations working in Yemen, had found that “95% of the humanitarian organisations do not monitor the access of persons with disabilities to their interventions and are not considering the specific needs of persons with disabilities in humanitarian interventions.” HI Inclusion Report, pp. 5, 13.

90 years and older). Ensure the collection of qualitative information on barriers to inclusion of persons with disabilities by conducting more in-depth studies on access and participation.

- Promote the inclusion of persons with different types of disabilities in managing camp affairs and in designing, implementing and monitoring assistance programmes. Engage organizations represented by persons with disabilities in Yemen in humanitarian programming.
- Ensure that infrastructure in camps is accessible to persons with disabilities in adherence with humanitarian principles and rights enshrined in international human rights law and in collaboration with persons with disabilities and their representative organizations. This includes installing new latrines or retrofitting existing ones with attention to the rights of persons with disabilities and ensuring other necessities, including housing, schools and medical facilities, are accessible. Ensure that new sites factor in the plans means to fulfil these rights at the outset.
- Provide persons with disabilities equal access to information about camp services, such as medical care, food distribution and evacuation plans, through easy-to-understand materials or other relevant communication methods.
- Ensure the creation of inclusive mechanisms for delivery of aid to persons with disabilities to guarantee their access to assistance, including door-to door-delivery. Formalize existing networks of volunteers and create new ones to assist persons with disabilities who would like to collect aid themselves and ensure that they are not dependent on others.
- Closely monitor the equal access of children with disabilities to inclusive and accessible schools in camps and facilitate their access to off-site schools if that is their choice. Ensure that these schools do not perpetuate segregation or exclusion of children with disabilities.
- Closely monitor sexual and gender-based violence against displaced women and girls with disabilities and ensure the existence and effectiveness of mechanisms to report and seek redress. Ensure that information about these mechanisms is accessible to women and girls with disabilities and that they have equal access to sexual and reproductive health services.
- Ensure that humanitarian staff, particularly those who are in daily contact with affected communities, receive adequate and regular training on the rights of persons with different disabilities, based on the principles underlying the CRPD and humanitarian principles of non-discrimination and participation.
- Monitor the current health referral system and access to rehabilitation care in place for displaced persons with disabilities to ensure proper follow-up.

TO DONOR STATES

- Ensure that humanitarian organizations are inclusive of persons with disabilities in implementing their response by including benchmarks and reporting regarding progress in ensuring the rights and inclusion of persons with disabilities.