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PROTECTION OF VULNERABLE GROUPS DURING ARMED CONFLICTS

Ivan Mugabi*

Humanitarian scholars have remained concerned with the devastating harm and destructive effects associated with the new means and methods of conducting armed hostilities. Little research has been done in exploring the social-economic impact warfare on the rights of vulnerable groups. In this case persons with mental and physical disabilities are more prone to warfare's changing and challenging environments during and after the end of armed hostilities. There is, however, inadequate research depicting how physical or even mental disabilities could be a probable consequence of armed conflicts. Mixed research methods have been used in exploring themes arising from the war-disability relationship. These themes relate to how armed conflicts have caused and impacted the person with disabilities. The case study model is applied by refereeing chosen examples of armed conflicts. Radom case studies have been used.

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INTRODUCTION

Armed conflicts have presented challenges, most of which have had significant impacts on lives of the most vulnerable groups of civilians.

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These impacts are vividly documented from the conflicts of North Ireland¹ in the UK, to Southern Vietnam² and more recently districts of Northern Uganda.³ Attention is centred on the vulnerability of persons affected with war related disabilities for purposes of this study. Equally imperative, is how disabilities are clearly a perceivable as a consequential outcome of the new means and methods of warfare. Some of these weapons are used by states and non-state actors against the harmless, powerless and helpless groups of civilians within the sampled examples of armed conflicts. For example Northern Ireland, it is unlikely to be with the same instances of disability history if compared with other regions of UK that never have experienced armed conflicts. Ultimately, the report of the Northern Ireland Survey on Activity limitations and Disabilities (NISALD)⁴ indicates a significant difference in the prevalence of war related disabilities as compared with Northern Ireland that experienced periods of armed conflicts in the 1970s.⁵ Ethnographically, a similar disability and geographic pattern clearly applies to war affected districts of Northern Uganda, where Northern Uganda Community Based Action for Children with Disabilities (NUCABCD) reports 264,000⁶ were disabled in one war in the affected district of Kitgum.

I. FACTIONALISM BETWEEN DISABLED CIVILIANS AND DISABLED COMBATANTS

In as much as armed conflicts may have led to a positive change in the legal shift of disability needs to disability rights, the same conflicts worsen the already problematic factionalism resulting into more vulnerability to persons with disabilities during and after armed conflict. After the conflict in Nicaragua, the differences in political ideologies led to mistrust between

¹Marie Breen-Smyth, *Injured and Disabled Casualties of the Northern Ireland Conflict: Issues in Immediate and Long Term Treatment, Care and Support*, RUTLEDGE 37, 41 (2013).

²Sharon R. Cohany, *The Vietnam Cohort, Employment and Earning*, 3 LABOUR LAW REVIEW 4, 15 (1992).

³United Nations OCHA and IRIN Report, *When the Sun Sets We Begin to Worry*, Office for the coordination of humanitarian affairs (OCHA) Regional Support Office for Central and East Africa and Integrated Regional Information Networks (IRIN), United Nations OCHA and IRIN Publications (November 2004).

⁴Northern Ireland Statistics and Research Agency, Southern, and Research Agency; *The Prevalence of Disability and Activity Limitations amongst Adults and Children Living in Private Households in Northern Ireland*. First Report from the Northern Ireland Survey of People with Activity, Limitations and Disabilities, Bulletin (July 2007).

⁵Paschal McKeown, Joint Committee on Human Rights, Memorandum by Mencap in Northern Ireland (July 20, 2007).

⁶Northern Uganda Community Based Action for Children with Disabilities (NUCBAC) (July 2005).

post conflict disability movements. This same mistrust divided the already vulnerable victims of war disabilities into two sections: the *ex-Sandinista* and the *ex-Contra* soldiers.⁷

II. SEXUAL VIOLENCE DISABILITY AND GENDER BASED VULNERABILITY

Furthermore, a research study done in northern Uganda⁸ suggested that disabled women were, on average, more exposed to cases of physical or sexual violence during the concluded armed conflicts in some districts of Northern Uganda.⁹ It is worth stressing that armed conflict situations are characterised by displacement, a processes which is often hastily arranged. In the same ethos, the 2006 United Nations on Rights of person with Disabilities UNCRPD¹⁰ clearly provides for a seemingly fascinating requirement, that is to say, the states have a duty to promote and protect rights of persons with disabilities, in public international law, human rights law and humanitarian law, whose duty applies in the presence and absence of times of armed conflict. Therefore, protecting is a continuing duty during and after times of armed conflicts.

III. EVIDENCE OF PREFERENTIAL TREATMENT ENJOYED BY DISABLED COMBATANTS

The disabilities¹¹ studies based on Nicaragua's armed conflict indicated privileged treatment of combatants continues to allocate even less post conflict vulnerable groups of disabled civilians as compared disabled combatants. Such preferential treatment enjoyed by disabled combatants is on one hand attributable to the willingness to participating in military jobs of an undoubtedly risky nature, while on the other hand such differential

⁷ Stephen Meyers, *Wounded Warriors or One of the Crowd? Civil War, Citizenship, and Disability in Nicaragua*, *Disability Studies and Ability Studies: Two Lenses to Investigate Peace* Gregor Vol. 6, Issue 4 PEACE STUDIES JOURNAL 22 (Wolbring eds., November, 2013).

⁸ *Human Rights Watch, As If We Weren't Human, Discrimination and Violence against Women, with Disabilities in Northern Uganda* (August 2010). <http://www.hrw.org>.

⁹ United Nations OCHA and IRIN Report, *When the Sun Sets We Begin to Worry*, Office for the Coordination of Humanitarian Affairs (OCHA) Regional Support Office for Central and East Africa and Integrated Regional Information Networks (IRIN), United Nations OCHA and IRIN Publications (November 2004).

¹⁰ Article 11, in situation of risk and humanitarian emergency: States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities including situations of armed conflict.

¹¹ Gregor Wolbring, *Disability Studies and Ability Studies: Two Lenses to Investigate Peace*, Vol. 6, Issue 4 PEACE STUDIES JOURNAL (University of Calgary, November, 2013).

treatment raises concerns of distributive equity and equal treatment under UNCPD.

IV. POST CONFLICT INEQUALITIES AMONGST PERSONS WITH DISABILITY

More still are the eventual inequalities of social-economic nature that such preferential models cause to the most vulnerable groups of war disabled victims. Moreover, in most cases during or event after armed conflicts, the disabled combatants are not anywhere close to the most vulnerable groups compared with the disabled civilians. Technically, the protection of the most vulnerable groups of the disabled civilians remains practically challenged in many respects. Such groups include disabled children and disabled women,¹² among others.

It becomes increasingly evident that during armed conflicts runs the state's protective obligation under article 11 of UNCRPD is binding with respect to acts and omissions of state actors during armed conflicts, whereas it is fewer firms on non-state actors such as the insurgents and belligerents.¹³ In practice persons with disabilities may be faced with even greater challenges in non-internationalised conflicts. The problem remains at the rebels' groups' insurgents or belligerents that lack state personality, to undertake state obligations under UNCRPD Convention.¹⁴

V. LAW AS A WEAK REGULATOR OF EVENTS AND ACTIVITIES OF ARMED CONFLICTS

Times of armed conflicts involve displacement, in which case persons with and those without disabilities are usually displaced. Obviously, the shootings and lootings, coupled with the spraying of calumative agents¹⁵ and nerve agents¹⁶ contribute to the naturally frightening nature of such a displacement process. This descriptive account is meant to stress the distinctiveness of armed conflict from cases of well-planned resettlement processes, or cases of peacefully planned migration. Comparatively

¹² *Human Rights Watch, As If We Weren't Human, Discrimination and Violence against Women, with Disabilities in Northern Uganda* (August 2010). <http://www.hrw.org>.

¹³ Sassoli Marco, A Bouvier Antoinette, *How Does Law Protect in War, 2nd Cases Documents and Teaching Materials, and Contemporary Practice, in international Humanitarian Law*.

¹⁴ Article 11 of the United Nations Convention on Rights of Person with Disabilities.

¹⁵ Neil Davison, Bradford Disarmament Research Centre (BDRC) Department of Peace Studies University of Bradford, Bradford Science and Technology Report No. 8 (August 2007).

¹⁶ K. K. BURKHART AND J. AKHTAR, *CLINICAL NEUROTOXICOLOGY, CLINICAL MANAGEMENT OF POISONING AND DRUG OVERDOSE* 135 (J.F Winchester, M.W. Shannon and L. M. Haddad ed., 3rd edition, WB Saunders company 1998).

speaking, the damages reported and photographs taken in Northern Uganda by the human rights watch suggest more women and children became disabled with landmine explosives during 20 years of armed conflict.¹⁷

VI. VULNERABILITY AND THE POTENTIAL OF PSYCHOLOGICAL POST WAR COMPLICATIONS

Vulnerable groups have manifested a high potential of psychological post war complications. Consequently armed conflicts by their nature not only increase the vulnerability. The earlier arguments partly justify a view that, times of armed conflict present not just a challenging but in fact, a changed environment, often less favourable to the protection of rights vulnerable groups. The above observation is true in regards to persons with disabilities and women who have suffered as victims of sexual violence amidst the ongoing conflicts and sequentially prone post war psychological mental and traumatic disorders.¹⁸ A classic example of such instances is seen in the psychiatric¹⁹ and psychological²⁰ reports carried out on veterans of the gulf²¹ (these were formerly classed as combatant in the gulf war). This accounts for a great deal of collateral damage to civilian women and civilian children most of whom suffer war related disabilities, in spite the protective principle of identity and distinction of civilians from combatants.

VIII. INTERNATIONALISED CONFLICTS AND ACCOUNTABILITY OF THIRD PARTY STATES

In which case making states answerable for causing to war related disability for outside their territories remains a puzzle. As witnessed by a long term generation disability in Vietnam some of which are attributed to

¹⁷ Christine Byron, *A Blurring of the Boundaries, the Application of International Humanitarian Law by Human Rights Bodies*, Volume 47, Number 4 VIRGINIA JOURNAL OF INTERNATIONAL LAW 841 (Summer 2007).

¹⁸ A. Fontana, and R. Rosenheck, *War Zone Veterans Returning to Treatment: Effects of Social Functioning and Psychopathology*. J NervMent Dis. 2010 Oct; 198 (10):699-707, DOI: 10.1097/NMD.0b013e3181f4ac88.

¹⁹ Engel C. C., Jaffer. A. Adkins J. Riddle JR. and Gibson R., *Can We Prevent a Second 'Gulf War syndrome'? Population-based Healthcare for Chronic Idiopathic Pain and Fatigue after War*, ADV. PSYCHOSOMATIC MED 25:102-22 (2004).

²⁰ A. Fontana, and R. Rosenheck, *War Zone Veterans Returning to Treatment: Effects of Social Functioning and Psychopathology*. J NervMent Dis. 2010 Oct; 198(10):699-707, DOI: 10.1097/NMD.0b013e3181f4ac88.

²¹ Ismail K. Kent. K. Sherwood R. Hull L. Seed P. David AS., Wessely. S., *Chronic Fatigue Syndrome and Related Disorders in UK Veterans of the Gulf War 1990-1991: Results from a Two-phase Cohort Study*.

America's actions of spraying Dioxin as a bush and enemy clearing military technique way back in the 1970s. It took a while to convince America, initiate legislations of policies and practices aimed at aiding Vietnam in developing a veteran rehabilitation disability and veteran compensation scheme.

CONCLUSION

The level of stigma, displacement, discrimination and war related disabilities increases during times of armed conflicts. It is necessary to explore how the classification of armed conflicts have interacted with the post conflict accountability for war related disabilities. Finally, the correlation between means and methods of warfare on one hand and the extent of harm caused to vulnerable persons remains another fascinating dimension for legal ethnical studies. Considering the strong connection disabilities has with the occurrence of armed conflicts, public international law needs to strengthen rights of persons with disabilities during and after armed conflicts (Both civilians and combatants).