

Analysis of a policy on Article 11 of the CRPD

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International
Disability Alliance

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CHAPTER 1:

Introduction

Mali is a continental country subject to recurring natural disasters and security and humanitarian crises. In recent years, the country has faced major natural disasters and experienced security and humanitarian crises such as droughts, floods, epidemics and locust invasions, leading to massive population movements and a rural exodus.

Given the humanitarian consequences of these disasters, both in terms of loss of life and material damage, there is an urgent need to put in place a disaster management system that takes particular account of the needs of people with disabilities.

Despite the existence of a national multi-hazard contingency plan for disaster preparedness and response, and despite Mali's previous experience of disaster management over the last few decades, the main lesson learned is the difficulties caused by the slow response, poor mobilisation of resources, weak coordination mechanisms in disaster management, and above all, the lack of programmes adapted to the needs of people with disabilities.

Description of the context and analysis of disaster risks in Mali

Mali is a vast continental country with a surface area of around 1,246,814 km² (Atlas of World Populations and Countries in 2021), with three distinct environmental zones: the Sudanian zone in the south, the Sahelian zone in the centre and the Saharan zone in the north. It has a dry tropical climate, marked by great variability, alternating between dry and rainy periods. It shares these characteristics with other West African countries such as Burkina Faso and Niger.



Map of Mali

This situation helps to explain the country's vulnerability to exogenous shocks (bad weather, floods, etc.) and exposes it to the risk of natural and/or man-made disasters: successive droughts (food crises), floods, locust invasions, epidemics, traffic accidents, population movements, etc.

This physical vulnerability is especially accentuated by socio-economic and environmental factors, notably poverty which, according to the World Bank, is still marked, with an annual per capita income estimated at **2,121 US dollars¹ (in 2021)**; and a **literacy rate of 50.1% in 2018 according to UNESCO²**.

To ensure that disaster risk analysis is better coordinated, it is essential to take account of **Article 11 of the Convention on the Rights of Persons with Disabilities (CRPD)** to avoid any discrimination on grounds of disability.

Discrimination on grounds of disability refers to any distinction, exclusion or restriction on the grounds of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and

1. <https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.KD?locations=ML>

2. <https://uis.unesco.org/en/country/ml>

fundamental freedoms in the political, economic, social, cultural, civil or any other field. Discrimination on the grounds of disability includes all forms of discrimination, including the inability to respond flexibly to requirements for reasonable accommodation (the refusal of reasonable accommodation).

Risk categories

- Seasonal risks: Floods, cyclones and drought are a risk at regular and predictable times of the year
- Evolving risks: Armed conflicts, serious human rights violations, economic risks and pandemics evolve irregularly over time.
- Static risks: Earthquakes, volcanoes and tsunamis are unique and unpredictable.

Impact of humanitarian crises

- **Displacement:** Affected populations may be forced to flee their homes to seek shelter in other parts of the country (termed internally displaced persons or IDPs - *internally displaced persons*) or across borders to another country (termed refugees).
- **The destruction of homes and infrastructure:** Affected populations can lose their homes and possessions, including key infrastructure such as water and sanitation.
- **Disruption of social networks:** When people are displaced and/or divided by conflict, social support networks can break down and families/households can become separated.
- **Disruption of services:** Key service systems, including health, education, protection and others collapse due to the flight of staff, the destruction of buildings and other difficulties preventing the continuity of service provision.
- **Violence, exploitation and abuse:** The risk of violence is heightened as protection and support systems for victims collapse.
- **Loss of livelihood:** Livelihoods are lost and affected populations are forced to resort to negative coping mechanisms.
- **Divestment of resources:** At national level, resources can be diverted towards an immediate response to the crisis.

Obstacles encountered by disabled people

- **Being left behind when people flee:** due to physical barriers, obstacles to accessing information on asylum procedures, behavioural barriers (particularly for under-represented groups) and institutional barriers (e.g. ban on male assistants crossing a border).
- **Evacuation:** some obstacles include the lack of available early warning systems, the absence of evacuation aids, the inaccessibility of information on evacuation processes.
- **Safe shelters:** obstacles including inaccessible roads to reach shelters, inaccessible shelters, and obstacles to accessing information on housing assistance (e.g. rent assistance for refugees/IDPs housed outside camps).

Article 11 - Risk situations and humanitarian emergencies

In accordance with their obligations under international law, including international humanitarian law and international human rights law, States Parties shall take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, in particular situations of armed conflict, humanitarian emergencies and natural disasters.

Article 11 of the CRPD implies an interpretation of international humanitarian law based on a human rights approach to disability, which will necessarily lead to significant changes in policy and practice.

Reforms undertaken by the State should aim to ensure that people with disabilities are taken into account in evacuation plans, and that budgetary allocations are made for this purpose. It is important to recall that States Parties are obliged to ensure that disability is mainstreamed in their policies on migrants and refugees, and in all channels of provision of humanitarian assistance.

In addition, it is essential to emphasise the obligation of States to involve disabled people's organisations in management and to take due account of their input and recommendations, particularly when setting priorities for the distribution of aid.

Disabled children are often abandoned by their families in high-risk situations. To alleviate this situation, the State must make it a priority to ensure the safety of all children with disabilities, particularly those placed in institutions in areas affected by conflict.

It also recommended a systematic registration of disabled people displaced within their own country to ensure that their situation is monitored, or those living in refugee camps, with the aim of ensuring that they have an adequate standard of living.

Why inclusive humanitarian action

In order to achieve the Sustainable Development Goals (SDGs), it is essential to strengthen the capacity of Public Housing Offices (PHOs) in inclusive humanitarian action:

- Support the capacity of PHOs to engage in key humanitarian processes at global, regional and national levels;
- Have an active core of disabled people's organisations (DPOs) capable of engaging with and influencing policy;
- Develop, disseminate and communicate resources developed in local languages and in accessible formats.

Why is this important?

People with disabilities are disproportionately affected by crisis situations: *for example*, data confirms that **people with disabilities** are **four times** more **likely** than other people to **die** in a natural disaster (UNITED NATIONS - People with Disabilities, Department of Economic and Social Affairs). Taking intersectionality factors into account, people with disabilities are more often victims of abuse, deprivation of care and abandonment in situations of risk, armed conflict and humanitarian emergencies. Disabled women are more likely to be victims of sexual violence.

Demographic profile of displaced persons in various sites in Mali



N.B. Disabled people have not been counted and are therefore not included in this OCHA 2021 profile.

Key elements of an effective humanitarian response in the context of disability

In order to improve the effectiveness of the humanitarian response to people with disabilities, it is essential to:

- Facilitate collaboration between specialist disability organisations at local, national and international level;
- Disseminate good practice among people with disabilities and DPOs and raise awareness of its relevance in strengthening the implementation of emergency humanitarian assistance;
- Improve the collection, management, disaggregation and analysis of information concerning people with disabilities, in order to promote their inclusion in the fight against multiple and transversal forms of discrimination;
- Extend the frameworks put in place by the Security Council to ensure the protection of civilians (women/girls) in times of armed conflict to people with disabilities;
- Include people with disabilities in the data collection effort;
- Identify and list disabled people at risk.

Internal and joint coordination structures, roles and responsibilities

Created in 1998, the Directorate-General for Civil Protection (DGCP) is the coordinating body for risk and disaster prevention and management (DPM). As part of the Ministry of Internal Security and Civil Protection, the DGCP's main task is to draw up national civil protection policy and ensure that it is implemented.

In this capacity, it is responsible for:

- Organising and coordinating prevention, forecasting and rescue operations;
- Developing and implementing disaster management plans;
- Managing the logistical resources allocated to carrying out these tasks;
- Coordinating and monitoring the emergency operations of the services responsible for implementing national civil protection policy;
- Carrying out rehabilitation work following disasters, calamities and catastrophes.

It also acts as the permanent secretariat for the Permanent National Commission for Disaster Prevention, Response and Relief.

These various Commissions would also serve as forums for meetings and exchanges between the various stakeholders at all levels, known as "Platforms on disaster prevention and management". They promote sustainable development through actions that encourage resilience in the face of disasters. This platform must work closely with disabled people's organisations.

Risks and barriers to the inclusion of people with disabilities in humanitarian action

People with disabilities face barriers that increase the risks in humanitarian contexts. "Obstacles can be classified as threats if they are deliberately put in place by an actor, or as vulnerabilities if they are the result of an involuntary act. In both cases, these barriers lead to exclusion, which increases the likelihood that people with disabilities will face threats and vulnerabilities at a higher level than the rest of the population affected by the crisis."

Through the use of facilitating factors (such as support services provided in camps, physical accessibility, easier access to food distribution points or the acquisition of technical aids, access to information), people with disabilities can improve their individual resilience. Better protection is needed to reduce risk and build resilience.

Recommendations

In order to effectively identify key actions and measures, and to plan and implement accessible and inclusive humanitarian programmes, it is essential to understand disability, accessibility and the concept of barriers.

States must ensure that all emergency information is disseminated in formats accessible to people with different types of disability, including sign language for deaf people, and in the various languages spoken on their territory, including by indigenous peoples.

All civil defence personnel and members of the rescue and emergency services, as well as anyone likely to intervene in humanitarian emergencies, must also undergo disability awareness training.

Report by the Office of the United Nations High Commissioner for Human Rights

In order to apply **Article 11 of the CRPD**, the other provisions of the Convention must be respected. In particular, it is extremely important to comply with **Article 5 on equality and non-discrimination**, so that policies relating to emergency situations can be designed to take account of people with disabilities, including the provision of **reasonable accommodation**. It is also crucial to actively involve DPOs in the development, implementation and monitoring of laws and policies relating to emergency situations in accordance with **Article 4.3**. States shall fulfil their obligations under **Article 9 relating to accessibility**.

Promoting the concept of universal design, as set out in **Article 2**, is particularly important during a period of reconstruction. **Article 12** stresses the need to recognise the legal personality of people with disabilities under equal conditions.

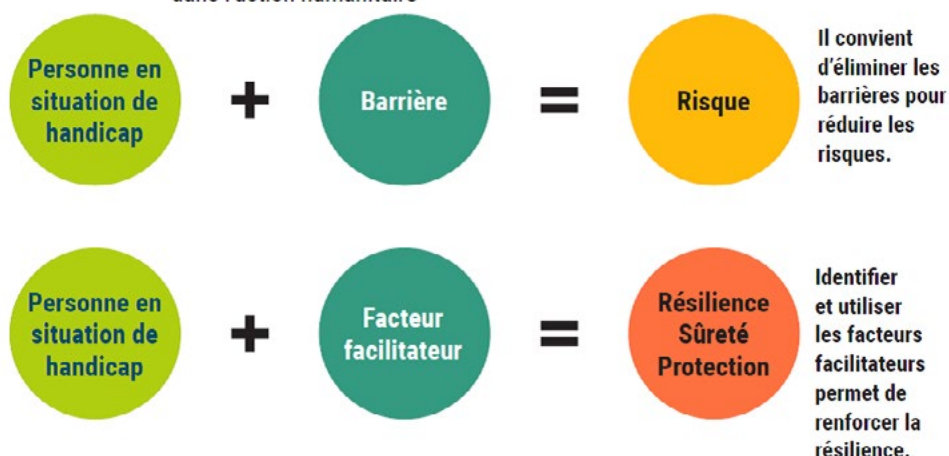
Article 14 addresses the non-discriminatory approach to deprivation of liberty, condemning discriminatory practices in places of detention, including segregation of people with disabilities and **denial of reasonable accommodation**.

Health and rehabilitation services, in particular **psychosocial rehabilitation** assistance, must be provided in accordance with **Articles 25 and 26** of the CRPD.

In accordance with **Article 19(c) of the CRPD**, it is crucial to take into account the specific needs of people with disabilities during the reconstruction period. Furthermore, according to **Article 28**, it is essential to guarantee disabled people the right to an adequate standard of living.

In accordance with **Article 32(1)(a)**, international cooperation, a potentially important source of funding in emergency situations, should be inclusive of and accessible to persons with disabilities and comply with the standards of the CRPD.

Diagramme 3. | Barrières et facteurs facilitateurs liés à l'intégration des personnes handicapées dans l'action humanitaire



Gender is an important factor in humanitarian action

Gender is an issue in all cross-cutting issues, and particular attention must be paid to achieving equality between disabled women and disabled men. Conflicts and crisis situations affect women differently.

It is essential to pay attention to gender issues and examine the facts from this angle, simply to recognise that women, girls, boys and men have different abilities and needs, and that they also contribute in different ways. Failure to see or take account of these differences in needs can have serious consequences for the protection and survival of people affected by humanitarian crises. Especially with regard to disabled women and girls.

Women and men have the same rights in human rights documents, but women and girls with disabilities are the most affected in disaster situations. The various sector plan programmes must take account of this particular exposure, which makes them more vulnerable in times of crisis. To do this we must:

- Provide access to information in accessible formats;
- Prevent sexual violence and manage its consequences;
- Distribute condoms to limit the spread of HIV;
- Integrate reproductive health services into programmes;
- Reduce neonatal morbidity and mortality by distributing medical supplies.

CHAPTER 2:

The case of Mali

Very little attention is paid to people with disabilities in humanitarian action in Mali.



They have been grouped with vulnerable people, often ignoring their (specific) needs. For *example*, during the COVID-19 pandemic, the e-Learning or home schooling programme did not take into account the specific needs of disabled children, despite the pleas of DPOs.

Mali currently has hundreds of thousands of internally displaced persons (IDPs) grouped together in various IDP camps that lack suitable, inclusive infrastructure.

Not all information is provided in accessible formats, such as Braille and/or sign language, as required by **Article 21 of the CRPD**. However, some of the information remains accessible, in particular the audio messages broadcast in the spoken press and the written messages in the written press or on social networks.

There is no specific budget for implementing inclusive humanitarian actions for people with disabilities. However, there is a public subsidy line for the Mali Federation of Disabled People's Associations (**FEMAPH**), which is managed by the National Directorate for Social Development. In 2022, this budget was cut by 85%, with only 15% of this amount allocated to the **FEMAPH**. National legislation does not contain any provisions that are more favourable than those set out in the **CRPD**.

a) Recommendations:

-  Develop a budget and timetable for the progressive implementation of the rights of people with disabilities to ensure inclusive humanitarian action;
-  Dedicate 5% of the national budget to fulfilling the rights of people with disabilities.

In application of the provisions of the CRPD, Mali adopted **Law 2018-052 of 12 June 2018** on the protection and promotion of the rights of people living with disabilities in the Republic of Mali. **Article 28** of this law provides for the establishment of a **national committee to monitor the rights of people living with disabilities**, which has still not been set up. As a result, there is currently no official body that can advise or be consulted on policies and programmes concerning people with disabilities.

Mali has a general human rights strategy. However, issues relating to the rights of people with disabilities are the responsibility of the Ministry of Health and Social Development, which implements the national solidarity policy and the national social development policy, whose

implementing bodies are the National Directorate for Social Protection and the Solidarity Economy and the National Directorate for Social Development.

It was only recently, at the Council of Ministers meeting on 1 February 2023, that the draft text establishing a National Human Rights Directorate in the Ministry of Justice and Human Rights was adopted. To date, organisations representing disabled people have not been consulted on this project.

Participation of organisations representing people with disabilities in decision-making related to humanitarian action

From “vulnerable” to “forgotten”

Disabled people are one of the most vulnerable groups due to socio-cultural factors.

The conflict in the north of the country since 2012 has exacerbated the vulnerability of other groups (widows, orphans, displaced persons). Taking these vulnerabilities into account very often has a negative impact on people with disabilities by creating new target groups. The demographic profile of people in humanitarian situations, with no further details to designate people with disabilities, conflicts with the standards set out in **Article 11 of the CRPD**. The position of disabled people has fallen dramatically in the humanitarian hierarchy (from 1st to 3rd place behind war widows/orphans and displaced persons).

DPOs are only beneficiaries of humanitarian action. They are not involved in the design or implementation of initiatives, let alone their evaluation. If they are involved, it is only in an advisory capacity and/or in gathering information. Recommendations made by DPOs are not taken into account by humanitarian actors. Since 2012, DPOs in Mali have been lobbying the National Human Rights Commission (**NHRC**) to promote the implementation of the CRPD. They are also lobbying religious figures, including the representative voice of **widows and orphans**, for a fairer distribution of humanitarian aid. It must be acknowledged that religious players carry much more weight with the authorities than DPOs; their voice counts for more.

However, despite the presence of **four disabled people** representing this group on the National Transitional Council (CNT), which acts as parliament during this period of political transition, challenges remain.

- DPOs are not equipped or prepared to include **people with disabilities in humanitarian action**.
- People with disabilities are not meaningfully involved in the whole process of implementing the CRPD.
- The opinions of disabled people's organisations are not sufficiently taken into account in the implementation of the CRPD.

- Humanitarian actors are not taking sufficient steps to include the disability dimension in their programmes, despite numerous advocacy initiatives.
- Displaced disabled people face a constant accessibility problem in the camps.
- The number of disabled people displaced to date is unknown due to a lack of data, whereas the number of displaced people in general is known.
- The OCHA shelter cluster did not consult people with disabilities when it presented the shelters planned for displaced people. As a consequence, accessibility standards are not being met.

The different types of risk and emergency for disabled people

Community conflicts and acts of terrorism creating situations of acute insecurity. Besides this, pandemics such as COVID-19 represent a major threat. In addition, drought and floods can cause famine and food insecurity, among other salient risks.

Despite the many existing risks, we do not yet have disaggregated data on disabled people in Mali. Disabled people are one of the most vulnerable groups due to socio-cultural factors. Conflicts increase the vulnerability of other groups (widows, orphans, displaced persons).

Taking these vulnerabilities into account often has a negative impact on disabled people by creating additional target groups.

CHAPTER 3:

CONCLUSION:

Against a backdrop of persistent crisis since 2012, people with disabilities in Mali are exposed to an increased risk of death, injury, exploitation and deprivation for reasons related to barriers, to pre-existing discrimination and stigmatisation or directly linked to the crisis and the disability. Inclusive humanitarian action can reduce these risks by ensuring that children, women and men with a range of disabilities have suitable access to protection and assistance, and by including them in decision-making.

Despite all the efforts of DPOs, the voice of people with disabilities, particularly with regard to violations of their rights in crisis situations, remains insufficiently heard. **Article 11 of the CRPD** was established to reinforce the specific obligations of States and other actors to ensure equitable protection for persons with disabilities in crisis situations. The lack of disaggregated data on this population further contributes to their marginalisation in humanitarian action.