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**Enabling Human Rights of Persons with  
Disabilities in Post-Conflict Contexts:  
Interventions and Outcomes in Cambodia**

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# Contents

<i>List of Tables</i>	<i>v</i>
<i>List of Figures</i>	<i>v</i>
<i>List of Maps</i>	<i>v</i>
<i>List of Appendices</i>	<i>v</i>
<i>List of Acronyms</i>	<i>vi</i>
<i>Acknowledgements</i>	<i>vii</i>
<i>Abstract</i>	<i>viii</i>
<b>Chapter 1 Human Rights and Persons with Disabilities in Post-Conflict in Cambodia</b>	<b>1</b>
1.1 Introduction	1
1.2 Research Objective and Research Question	5
1.2.1 Research Objective	5
1.2.2 Research Question	5
1.3 Methodology	6
1.3.1 Positionality	6
1.3.2 Research Methodology and Structures	6
1.3.3 Selection of Participants	7
1.3.4 Scope and limitation	8
1.3.5 Ethical consideration	9
<b>Chapter 2 Critical Disability Discourse: Promoting Human Rights, Social Inclusion and Capabilities for a holistic approach to developing PWDs</b>	<b>10</b>
2.1 Human rights and the social model of ‘disability’ in relation to CRPD	10
2.1.1 CRPD: The idea of disability	10
2.1.2 Disability and conflict	12
2.2 Social exclusion and inclusion	13
2.2.1 A lens for societal spheres	13
2.2.2 Social exclusion and Human Rights, social model of disability	15
2.3 Capability Approach	16
2.3.1 The idea of Capability Approach	16
2.4 Summary	19
<b>Chapter 3 Interventions of Regional bodies, State, International Aid and NGOs</b>	<b>20</b>
3.1 Interventions by regional bodies	20

3.2 Interventions by the state	22
3.3 Initiatives by NGOs and international aid	26
3.3.1 International aid: ICRC	26
3.3.2 NGO: Jesuits Refugee Service Cambodia (JRS)/Jesuit Service (JS)	27
3.4 Summary	29
<b>Chapter 4 The current challenge of PWDs and the reaction for alleviating them</b>	<b>31</b>
4.1 Long-term war casualties in Cambodia related to disability	31
4.2 Human Rights and Social exclusion	34
4.3 Summary	48
<b>Chapter 5 Conclusion and recommendation</b>	<b>50</b>
<i>References</i>	52

## **List of Tables**

Table 1 The relevant factors to social exclusion and inclusion of the past .....	14
Table 2 Detailed information from 1979 to February 2016.....	31
Table 3 Human Rights Deficits .....	33

## **List of Figures**

Figure 1 Causes of the accidents .....	32
--	----

## **List of Maps**

Map 1 Map of Cambodia.....	8
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## **List of Appendices**

Appendix 1 List of participants .....	60
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## List of Acronyms

ASEAN	Association of Southeast Asian Nations
CMAA	Cambodian Mine Action and Victim Assistance Authority
CMVIS	Cambodia Mine/ERW Victim Information System
CRPD	Convention on the Rights of Persons with Disabilities
Disability Law	Law on The Protection and The Promotion of Persons with Disabilities
CDPO	Cambodian Disabled People’s Organisation
ESCAP	UN Economic and Social Commission for Asia and the Pacific
ERW	Explosive Remnant of War
JRS	Jesuit Refugee Service Cambodia
JS	Jesuit Service Cambodia
MoSVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
NGO	Non-Governmental Organisation
PWDs	Persons with Disabilities
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children’s Fund
WHO	World Health Organisation

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## **Abstract**

This research explores how interventions have made an impact on the human rights of PWDs, particularly those caused by landmines and explosive remnants of war in Cambodia, which has developed as a post-conflict country.

Disability, despite being emphasized from a medical viewpoint, the adoption of UN Convention on Rights of Persons with Disabilities completely changed it to a social model under which disability began to be regarded as something society has created. As long as disability continues in society, to investigate the relationship between disability and society, we need a lens which addresses this link appropriately. Whilst conflict causes disability to a large extent, the study regarding how PWDs can exercise their human rights in post-conflict era has not matured, even though many interventions have been undertaken by regional bodies, state, international aid, and NGOs.

In addressing the experiences of persons with disabilities and related interventions, this research employs social exclusion and inclusion, and the capability approach to explore the phenomenon of human rights violations and efficient remedy for them with dynamics. Social exclusion and inclusion look at the process of how people are deprived of opportunities, and the capability approach states the importance of real opportunities; both can be a lens to stress the demand for a holistic approach to improve the human rights of PWDs.

## **Relevance to Development Studies**

This research contributes to the field of development by emphasising multidimensional aspects of human rights of persons with disabilities, particularly those related to conflict, from a wide range of viewpoints through the voices of persons with disabilities.

## **Keywords**

Disability, Human rights, Social exclusion and inclusion, Capability approach, Post-conflict



# Chapter 1 Human Rights and Persons with Disabilities in Post-Conflict in Cambodia

## 1.1 Introduction

The human rights of persons with disability (PWDs) were officially recognised with the adoption of the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) on 13 December 2006<sup>1</sup>. This Convention not only specified clear and distinct rights for all PWDs but also emphasised the role of the signatory states to uphold these rights. This human rights approach was significantly different from the more traditional and widespread approach that viewed disability essential from a medical viewpoint and saw PWDs as persons who needed charitable assistance. In the wake of this convention, several regional bodies, states, international aid and several (local and international) Non-Governmental Organisations (NGOs) have set strategies and undertaken interventions to support PWDs to achieve their human rights. CRPD is of particularly importance in post-conflict regions where there are large numbers of people who suffer from both physically and emotionally injuries, which is likely to be a lack of sufficient protection of human rights combined with other societal factors.

### *The background of Cambodia*

Cambodia, situated in Southeast Asia, has had a long history of severe conflict since 1975 following the Vietnam War (1955-1975), with relatively high levels of PWDs affected by civil war and foreign occupation. After the Khmer Rouge forces gained power in Phnom Penh on 17 April 1975, it resorted to forced replacement of people to make them work in agricultural labour camps in the rural areas without fundamental rights. Moreover, the Khmer Rouge killed people categorized as intelligent, as well as those considered as spies to its regime. Approximately 1.7 million people died between 1975 and 1979 as a result of this genocide, leaving many PWDs with difficult conditions of life, including

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<sup>1</sup> It came into effect on 3 May 2008.

severe forced labour and lack of healthcare (Bonacker et al. 2011: 120, Kiernan 2002). Even though the Khmer Rouge was defeated in 1979 by Vietnamese military intervention, the civil war between the remnants of the Khmer Rouge, other anti-Vietnamese forces, and the Vietnamese and their Cambodian allies followed.

Finally, in 1991, the Paris Peace Agreement was concluded to end the conflict. In 1993, the national election was held under the support of UN, and afterwards, the new congress adopted the constitutional monarchy. Regardless of these steps, however, the Khmer Rouge had resisted until most of them surrendered in 1997. In 2006, the Extraordinary Chambers in the Courts of Cambodia was established to contribute to transitional justice.

The country ratified CRPD in 2012, and subsequently developed further plans to support PWDs to access to human rights. There are also other regional organisations, such as UN Economic and Social Commission for Asia and the Pacific (ESCAP) and the Association of Southeast Asian Nations (ASEAN), which are supporting projects helping PWDs in realising their rights alongside international aid and NGOs. This Research Paper is concerned with understanding the impact of these interventions on the PWDs in the country. While there are many types of disabilities associated with conflict, the paper focuses on one of the most enduring forms, i.e. disability stemming from explosions of landmines and Explosive Remnant of War (ERW)<sup>2</sup>, which keep injuring people even after the conflict.

### *The Significance of Landmines and Explosive Remnant of War (ERW)*

As of 2011, Cambodia was ranked fifth in the world regarding the number of people killed or injured due to landmines (Kang et al. 2014: 2). Large numbers of landmines were buried along the borderline between Thailand and Cambodia to impede Khmer Rouge and non-communist guerrillas. In addition, both State of Cambodia forces and Khmer Rouge laid landmines so as to guard their area and defeat their oppositions (The Halo Trust, n.d.). The number of

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<sup>2</sup> ERW are explosive munitions left behind after conflict ends. They consist of unexploded ordnances such as cluster munition remnants and abandoned explosive ordnance, landmines are not included.

landmines buried during the conflict is estimated 4 million to 6 million (Ruffins 2010).

Landmines are categorized into two groups: anti-personal and anti-vehicle landmines. The former, more relevant to this research, are intentionally created to explode when a person steps on it, to cause death or at least injured severely. These were used during the conflict for matters of cost and convenience: it costs only 3 USD to manufacture one landmine, but around 1,000 USD to demine it (Haas 2013). Since it does not require any particular skill to lay these landmines, during the conflict, child armies were made to lay them, and worse, sometimes they themselves became a victim of landmines they laid (Ruffins 2010).

Likewise, during the Vietnam War, a large number of bombs were dropped by the United States, specifically in the northeastern provinces along the borders of Lao PDR and Vietnam (Handicap International (HI), n.d., Landmine and Cluster Munition Monitor 2016). Whilst it is estimated that the number of ERW particularly cluster munition remnants is huge, precise data is not collected. Nobody can predict when they explode.

As such, the effect of the conflict has continued and can still be felt. Those physically disabled as a result of landmines and ERW form an important part of society. The proportion of PWDs by landmines or ERW of total reported causes of disabilities was 3.4%<sup>3</sup> in 2009, which constituted around 21,395 persons at the time<sup>4</sup> (MRTC (2009) developed with data from CSES 2004, Knowles report (2005) cited in HI 2009: 2), but the number has been increasing since then, as we see in the following chapter.

After the conflict, Cambodia, with the support of the international community in the form of aid and other agreements, assumed a democratic form of government, paying attention to the issue of human rights. In this process, the human rights of PWDs by the conflict, particularly by landmines and ERW,

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<sup>3</sup> Following the rank; old age: 26.7%, disease: 25.8%, accidents: 11.4%, others: 13.5%, and Congenital: 8.7%.

<sup>4</sup> It was reported 4.7% of Cambodian population had a disability; however, due to a lack of capacity of collecting data and knowledge of disability, this number is not considered reliable (UN 2013: 1). WHO reports 15% of the world's population have some form of disability (See: <http://www.who.int/mediacentre/factsheets/fs352/en/>).

were taken up by many forms of interventions including establishments of national NGOs, since landmines and ERW are likely to negatively affect the development of the country as long as they remain as the negative legacy of this conflict-era across the vast area (UN 2013: 4).

Even though, on the whole, the percentage of casualties by landmines and ERW is small compared to other causes, this should be regarded an essential object to be investigated for two reasons. First, landmines/ERW is one particular cause of physical disability regardless of one's character, such as gender, age or health condition during the conflict, which demands a deeper analysis of the consequences that follow. It has a direct and evident causal relationship with what both the country and interventions by other actors should deal with during post-conflict era. Secondly, as the removal of landmines and ERW is predicted to be ongoing until at least 2025 (Rayner 2016), the number of PWDs because of landmines and ERW would keep increasing. Hence, how to enhance their situations should be argued. Furthermore, the situation has been more acute in Cambodia, as many professionals including doctors, teachers and lawyers were killed resulting in shortages of professional help for PWDs, compounded by the lack of adequate financial resources to help them attain their human rights (UN 2013: 3).

Additionally, as with other PWDs, the victims of landmines and ERW also suffer from social stigma due to their impairment. For those reasons, even though Cambodia ratified CRPD, a large number of obstacles still exist which prevent complete implementation of CRPD (SIDA 2015). Challenging the situation of PWDs is made more complicated by Cambodian culture. Over 85% of Cambodians are Buddhists, with many holding the belief that disabilities are caused by a sin committed in a past life. Such a traditional view, which prevails particularly in rural provinces, does not provide the space and awareness to understand the social exclusion of this group, and to promote their human rights. Moreover, people tend to assume that people with mobility impairment would be intellectually impaired as well (UN 2013: 82).

As a result, removal of landmines and ERW, and rehabilitation of victims became an agenda for a nation state, international aid and NGOs, and it has led to success to some extent. Even before the ratification of CRPD, Cambodia

enacted the ‘Law on The Protection and The Promotion of Persons with Disabilities’ (Disability Law) in 2009 (Royal Government of Cambodia 2009). The ratification of CRPD can be considered the actual trigger to develop interventions in terms of disability. Therefore, the next step should be to explore how these interventions influenced the human rights of PWDs affected by the conflict.

## 1.2 Research Objective and Research Question

### *1.2.1 Research Objective*

The overall objective of the research paper is to develop appropriate interventions to enable PWDs to access their human rights. The paper will analyse the problems experienced by PWDs by landmines and ERW, and the measures taken by regional bodies, the state, international aid and NGOs to support PWDs so as to understand the extent to which these interventions have promoted the human rights of PWDs in Cambodia.

### *1.2.2 Research Question*

Which are the major challenges faced by PWDs, particularly those affected by landmines and ERW in their daily lives, how they have been supported to access their human rights in Cambodia, and how the gap, if any, between the experiences of PWDs and these interventions can be filled?

#### *Sub-research questions*

- How have physical disabilities by landmines and ERW affected the daily lives and opportunities of PWDs since they became disabled?
- In what ways have issues resulted from physical disabilities caused by landmines and ERW been addressed by regional bodies, a state, international aid and NGOs?
- To what extent have the interventions by regional bodies, a state, international aid and NGOs reflected the experiences of PWDs caused by landmine and ERW to promote their human rights?

## 1.3 Methodology

### *1.3.1 Positionality*

My past experiences of meeting, talking and seeing conditions of PWDs as a practicing lawyer in Japan drove me to commit this research object. Spending time with Cambodian people was familiar area to me since I had lived in Cambodia for eight months in 2010, working as a part-time lecturer for Cambodian students studying Japanese laws, and through my experiences, I had already learned their culture.

Through this research, I realised my unconscious bias as looking for ‘sad’ or ‘hard’ stories of PWDs even though I thought I had overcome this sort of charitable viewpoint. It is true their conditions are not easy, but it does not result in cosmetic issues that they are ‘victims’. On the contrary, as elaborated in later chapters, they showed me how they could survive, challenge and even overcome the obstacles they faced.

### *1.3.2 Research Methodology and Structures*

A theoretical framework was developed to analyse the major challenges faced by PWDs due to landmines and ERW and to understand how they were enabled to access their human rights. In order to do this, the study linked the discourses of human rights, social exclusion/inclusion, and capability approach (Chapter 2). The human rights perspective challenged the focus on only the medical ‘problem’ of PWDs and the need to give them charity, and framed their rights as PWDs, along the lines of CRPD. The paper used social exclusion/inclusion to provide a holistic understanding of difficulties and challenges attributed to physical impairment. The theoretical framework was supplemented by the capability approach which suggested the need for development of specific capabilities in order that PWDs access their human rights.

Then, the interventions by regional bodies, the state, international aid and NGOs are reviewed to see how these interventions reflect these theoretical frameworks in Cambodia (Chapter 3). Subsequently, the experiences of PWDs in Cambodia are elaborated with quantitative and qualitative data to evaluate the extent to which interventions could make an impact to improve their human rights (Chapter 4). The realities of PWDs caused by landmines and ERW

since they were physically disabled, were studied through the use of semi-structured interview, which was viewed as an adequate method of data collection in order to ‘delve deeply into social and personal matters’ (DiCicco-Bloom and Crabtree 2006: 315). The interesting aspect of individual in-depth interviews is that healthcare researchers quite often employ it to frame and analyse how events and experiences in relation to health and healthcare delivery are perceived, which reflects positively on this research as this dimension, the relationship between a service provider and a recipient, is definitely a part of this study (DiCicco-Bloom and Crabtree 2006: 316). Conclusion and suggestions for future interventions follow (Chapter 5).

### *1.3.3 Selection of Participants*

In the beginning to plan my field research, I contacted an NGO named Jesuit Refugee Service Cambodia (JRS) which has been supporting PWDs after the conflict and has dedicated to helping PWDs in Cambodia since 1980 alongside support for refugees in camps. In 1991, following an agreement with the Ministry of Social Action, JRS established Jesuit Service Cambodia (JS), a sister organisations sponsored by the Jesuits<sup>5</sup> (JS, n.d. a, Jesuite Social Center Tokyo n.d.).

I conducted semi-structured interviews with 17 persons from 25 to 27 July and on 29 July 2016 (Appendix 1), 16 out of whom were physically disabled because of landmines, and one by ERW, both during and after the conflict. Nine were soldiers when disabled. Interviewees were not selected by gender, age, job or current social and living condition, since broader experiences were required as much as possible, which allowed me to figure out various difficulties. As a result, I interviewed 11 males and six females. Regarding age, one was under 30, two were 30 to 39, three were 40 to 49, and 11 were 50 to 59. Nine of them lived in Siem Reap province and the others in Oddar Meanchey province<sup>6</sup>; both are located near the national border between Thailand, where many people have been injured by landmines (JRS 2016: 9).

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<sup>5</sup> It is a male religious order within the Roman Catholic Church.

<sup>6</sup> Since they were forced to replace by the Khmer Rouge, the villages they live now are different from before the conflict.

JRS referred me to one male working there named Tun Channareth, who had lost his legs due to landmines during the conflict and has been working on disability issues more than 20 years. He introduced two PWDs working at JS and one PWD working at JRS to me. He also took me to some villages in which PWDs supported by JRS and JS and consequently, I could reach 12 interviewees. Tun Channareth contributed to these interviews as a voluntary interpreter from Khmer, an official language of Cambodia, to English as well as one of the interviewees.

I encountered another interviewee by chance in Physical Rehabilitation Center in Siem Reap province<sup>7</sup>. The interview was interpreted by the individual guiding me at that time in that centre.

Map 1 Map of Cambodia<sup>8</sup>



Source: JRS 2016: 2

#### 1.3.4 Scope and limitation

The scope of this research is to study how the interventions for improving the situation of PWDs caused by landmines and ERW have been done by various actors such as regional bodies, a state, international aid and NGOs in Cambo-

<sup>7</sup> It had been set up by Handicap International, but was taken over by the government.

<sup>8</sup> The main administrative divisions of Cambodia are the following: province, district, commune and village.



dia, and whether these interventions have taken into account the multidimensional aspects of disability; human rights, social exclusion/inclusion, and capability.

The biggest advantage of the interviews was the support by Tun Channareth since he knew quite well the situation of PWDs in Cambodia, as well as the 15 interviewees. Therefore, even though I was a stranger to them as well as a foreigner, it was easier to build a rapport than I had expected.

The limitation of this research is primarily geographical. The primary data was only collected in rural areas, Siem Reap and Oddar Mienchey province. Besides, the number of the interviewees is limited, since this is not a nationwide research. In addition, this study focuses on particular form and cause of disability thus it does not imply the situation of all categories of PWDs in Cambodia.

Additionally, as my proficiency in speaking and understanding Khmer is low and except for two interviewees<sup>9</sup>, no one could not speak English, I relied on natives regarding interpretation. Hence, the extent of communication with these 15 interviewees remained constrained compared to others in which I could interview in English without an interpreter. I should have ensured that the questions I posed were not too complicated for interpreters. This might also result in a bias in terms of the perspectives of disability issues since both interpreters have been involved in them.

### *1.3.5 Ethical consideration*

I asked the interviewees before starting the interviews if I could record the interviews and quote them with their names on my thesis orally, and 16 of them approved; one person disagreed to mention the name.

Additionally, interviewing in relation to something which might make a huge impact on them, there was the danger of retraumatization by reawakening their memories (Fontes 2004: 165). Hence, I did not focus too much on the details of when they were injured, but completely avoiding it was also not possible.

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<sup>9</sup> Chan Men and Tun Channerth could speak English.

## Chapter 2 Critical Disability Discourse: Promoting Human Rights, Social Inclusion and Capabilities for a holistic approach to developing PWDs

This chapter reviews three analytical frameworks that are used to understand the context of PWDs and how these approaches have been employed to support PWDs in human rights and social development. The first deals with the details of CRPD and how it shifted the prevailing paradigm of PWDs from merely sick, injured or mentally ill people to those with rights. Second, the social exclusion/inclusion concepts emphasise the importance of looking at the process by which PWDs have become socially vulnerable with deprivation of human rights. Lastly, the capability approach reflects a way in which PWDs can be helped to improve their situation, access their human rights and achieve social inclusion. These frameworks and their interlinkages will be utilised to analyse PWDs in the Cambodian context in the subsequent chapters.

### 2.1 Human rights and the social model of ‘disability’ in relation to CRPD

#### 2.1.1 CRPD: *The idea of disability*

There are several categorizations, each of which looks at disability through a different lens such as a charity model, a medical model or a social model (Office of High Commissioner for Human Rights (OHCHR), n.d.). Since a medical model had a massive impact on how to conceptualize disability in modern history (Areheart 2008: 183, Kayess and French 2008: 5, Samaha 2007: 7-8, Quinn et al. 2002: 14) and a social model is regarded as an idea which converts it, these two ideas are vital in exploring how the formulation of difficulties PWDs face has been transforming.

Under a medical model, PWDs are deemed as persons who need to be provided with medical cures and often seem abnormal. Historically, people perceive disability as something which can be removed only by medical treatment. Focusing on medical elements of disability, people are likely to take for granted that ‘both problems and solutions lie within disabilities rather than within society’ (Kayess and French 2008: 6).

As a result, this idea continuously reinforces the perception that an individual impairment is the main reason causing social exclusion without considering the different features linked to the type of disability and how society creates a barrier against them (OHCHR, n.d.). At the same time, this idea makes it possible to give a reason to treat PWDs differently in economic, social and political dimension (Samaha 2007: 8). Undoubtedly, such an idea could easily evoke stigmatization and discrimination against disabilities, since it only addresses the negative side of disability combined with the idea that states deal with disability issues as one of the welfare matters (Quinn et al. 2002: 25-26).

CRPD proclaims its purpose by stressing that PWDs have concrete rights to enjoy life fully without any discrimination (Preamble and Article 1 CRPD). It does not provide an accurate definition of the term ‘disability’, but it is apparent a medical model was abolished, and a social model has been incorporated embodying human rights:

‘Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others’ (preamble (e) CRPD)

That is, under a social model, disability should be thought of a barrier existing in society which prevents PWDs from exercising social, cultural and political rights, rather than only emphasising its negative aspects due to impairment (Samaha 2007: 6). However, it does not have any intention to ignore this aspect. On the contrary, it considers disability ‘as disadvantage caused by the confluence of (1) personal impairment and (2) a social setting comprising architecture, economics, politics, culture, social norms, aesthetic values, and assumptions about ability’ (Samaha 2007: 8).

The conversion from a medical model influences the argument that states bear a responsibility to ensure the human rights of PWDs as well. Under CRPD, instead of medical professionals, states have a primary obligation to remove barriers which prevent people from participating in society (Article 4 CRPD). Disability is no longer an excuse for not providing human rights equally, and states have a legal duty to protect the human rights of PWDs in any societal sphere.

Yet, in reality, we can find PWDs who are not protected the rights provided under the CRPD. Ultimately, there still remains a certain concern regarding the implementation of CRPD, and one of the reasons could be the lack of an enforcement mechanism. It is no doubt that declaring human rights was the first crucial step, but it is time to argue more practically in order to attain full implementation; otherwise, CRPD would become nothing no more than lists of provisions.

### *2.1.2 Disability and conflict*

Armed conflict is one of the leading causes ruining one's health since it results in a vast number of dead and wounded, not only on the battlefield, but also by displacement, including disintegration of family and social community, the shortage of sufficient health and social services, disruption of the local economies, and forced work (Murray et al. 2002: 1, Pedersen 2002: 181, 183).

As a result, armed conflict can impact many civilians although it is likely to be overlooked compared to military personnel (Johnson and Thompson 2008: 37). Weapons including landmines utilised during conflicts often make people physically disabled. It is estimated that around 110 million landmines were buried and another 100 million were stockpiled all over the world, which can kill and injure several people at once (CARE 2003). In addition, the possibility of being injured by them continues even after a war, as long as the landmines are not removed, and ERW have the same risk. Therefore, it is no wonder that conflict tends to become a cause of disability.

Although CRPD aims to set up a global standard of human rights protection for PWDs, the practical solutions and guidelines based upon experiences in post-conflict situations in developing countries have not been sufficiently discussed (Dos Santos-Zingale and McColl 2006: 243). In addition, little research on experiences of PWDs in a post-conflict situation have been done (Dos Santos-Zingale and McColl 2006: 245), which makes PWDs less visible and less emphasised although they are already made to be extremely vulnerable. As a result, many fundamental human rights of PWDs could be violated in a post-conflict era.

Furthermore, when it comes to international aid for post-conflict countries, medical viewpoints easily prevail regarding disability. In other words, in a hu-

manitarian situation, a medical model of disability would be addressed even though issues existing around PWDs emerge not only because of impairment, but also a structure embedded in society. As Kerr (2013) pointed out, there is a lack of sufficient analysis on how human rights of PWDs are or are not implemented in the context of conflict based upon a social model (as cited in Berghs 2015: 744).

Some of the human rights under CRPD should be paid attention to in this particular context, such as:

- Right to personal mobility (Article 20): because of an armed conflict, infrastructural elements would be destroyed, and this may pose an obstacle to the mobility of PWDs.
- Right to health (Article 25): impairment itself should be mitigated in an appropriate way.
- Right to work and employment (Article 27): to gain stable means for living is also essential for PWDs to recover from damage of a conflict.
- Right to adequate standard of living and social protection (Article 28): it should be indispensable to maintain the living standard of PWDs with social security after conflict since they tend to struggle with improving their lives.

This list never indicates that other rights are less significant; however, we need to keep it in mind how post-conflict circumstances damage PWDs and how infringements of human rights occur from a social model perspective.

## 2.2 Social exclusion and inclusion

### 2.2.1 *A lens for societal spheres*

As noted by European Foundation (1995: 4), social exclusion is ‘the process through which individuals or groups are wholly or partially excluded from full participation in the society within which they live’ (cited in de Haan 2000: 25). Moreover, this idea has developed reflecting the fact that it can occur at multi-dimensional levels, and sometimes emerges simultaneously at different levels which often interrelates with each other. Thus, it is an adequate lens to describe the process of social relations with causes and outcomes beyond non-participation due to a lack of material resources (Burchardt et al. 2002: 5, de

Haan 2000: 26, 27). Social exclusion/inclusion is ‘a way of looking at society’ (de Haan 2000: 28) in a more comprehensive manner.

According to Burchardt et al., societal dimensions can be separated into six spheres: individual, family, community, local, nation and global. They influence each other, and every outcome or behaviour at each level has more than one cause. Since a person can be affected by a broad range of elements in society at any level, it is almost impossible to zero in on one particular cause of social exclusion (Burchardt et al. 2002: 7-8).

One possible way of analysing it is to differentiate factors of the past from of the present. Tracing present influences allows us to recognise possible causes of existing social exclusion/inclusion. Regarding present influence, Burchardt et al. sort it into two elements: external influences and internal influences. The former indicates current constraints on an individual or community, and the latter is choices which individuals or communities make (2002: 8). The components below are the influential elements of the past that could determine social exclusion and inclusion at present and accordingly in future.

Table 1 The relevant factors to social exclusion and inclusion of the past

	Examples of what it contains
Human capital	Family, health, housing, poverty, social environment, education and training
Physical capital	Ownership of housing, land and equipment
Financial capital	Ownership of financial assets or liabilities

Source: Burchardt et al. 2002: 8

On the basis of the components, social exclusion/inclusion as conceptual frameworks provide us with a tool to investigate both spatial and temporal dynamics through which people are shifting from social exclusion to inclusion or vice-versa. Therefore, they offer a point of view to probe the inefficiency of the human rights protection of PWDs despite the adoption of CRPD. Post-conflict context additionally can be taken into consideration as influential factors. As a concept, social exclusion/inclusion are not entirely new, but they can guide us to ‘emphasize and focus attention on the role of relational features in deprivation’ (Sen 2000: 8).

On the other hand, this framework can be too general or abstract, which could lessen the impact of promoting human rights. Since a way of evaluating social exclusion/inclusion is not clarified, the meaning of these norms or how we can capture them remain too vague. In addition, in relation to PWDs, becoming disabled itself seems to be the most relevant factor of the past, and everything in the present might be influenced by it, no further analysis might be needed.

However, this way of thinking is exactly how a medical model sees disability. On the contrary, this analytical framework can show us how PWDs *perceive* reality rather than the one determined by others. Therefore, local and individual contexts should be included (de Haan 2000: 28, 29). Meanwhile, we should keep in mind that this is not a limited lens for an analysis of social phenomenon and there is no exclusive social exclusion or inclusion. The role of this viewpoint ‘reminds us of the wider field’, not making any limitation in acquiring one’s situation within this complex society (Burchardt et al. 2002: 6).

### *2.2.2 Social exclusion and Human Rights, social model of disability*

The usefulness of social exclusion viewpoint is that it has the similar perspective in looking at the process and elements of marginalisation, which is argued in a social model of disability. Both of them consider society as the space in which a particular marginalisation or human rights violation is formed and developed by various factors.

De Haan states that in formulating social exclusion and inclusion, the human rights of both individuals and groups ought to be combined with them (2000: 38). Levitas et al. (2007: 25) also point out that ‘[social exclusion] involves the lack or denial of resources, rights, foods and services, and the inability to participate in the normal relationships and activities, available to the majority of people in a society, whether in economic, social, cultural or political arenas’ (cited in Mathieson et al. 2008: 86). Apparently, not only ‘rights’ but all the other elements they mention can be set up within human rights discourse; lack of access to the social, economic and political rights (United Nations Development Programme (UNDP) 2007: 16, Curran et al. (2007) cited in Mathieson et al. 2008: 15).

Social exclusion is the process of being deprived of various elements in society as argued. Unlike addressing only the outcomes of deprivations of rights or

current circumstances of no human rights protection, social exclusion draws explicit attention to the process of how human rights have been deprived in the context reflected in the elements of the past, elaborated in Table 1 (de Haan 2000: 26). Those factors are quite diverse and all could be relevant to some human right. Consequently, under social exclusion recognised at any social level, people including PWDs demand social inclusion developing their human rights. Therefore, employing social exclusion approach enriches human rights discourse under CRPD by incorporating the process of human rights invasion.

## 2.3 Capability Approach

### 2.3.1 *The idea of Capability Approach*

According to Sen, capability means ‘practical opportunity’ (Mitra 2006: 236) which can fulfil combinations of human functionings. Functionings involve not only activities but also desirable states, ‘what a person is able to do or be’ (Sen 1993: 30). The extent of capability is influenced by ‘conversion factors’ (Trani et al. 2011: 145) that are a set of means or instruments such as ‘income and wealth and other primary goods and resources’ (Sen 2006: 154). Additionally, immaterial factors such as social and environmental elements are also included as conversion factors as Trani et al. pointed out (2011: 151). If a person equips oneself with enough conversion factors which can develop one’s capability, one can achieve functionings; as Trani et al. noted, ‘the capabilities set of these persons is shaped by their conversion factors’ (2011: 145). The capability approach brought about a significant change in the way of analysing and conceptualising welfare economics including standard of living, personal well-being, quality of life and poverty (Mitra 2006: 238), all of which are likely to become high-priority issues in post-conflict context (Reisinger 2009: 486).

Even though two persons obtain the same set of means or instruments, however; it does not necessarily imply that the extent of the capability they can enjoy is the same (Sen 2006: 153). Sen illustrates it by PWDs who are likely to need additional consideration for functionings due to disability.

‘for example, a disabled person can do far less than an able-bodied person can, with exactly the same income and other “primary goods”’ (Sen 2006: 154)



As Sen pointed out, ‘social exclusion may be directly a part of capability poverty’ (2000: 4). Therefore, it is no wonder the levels in which conversion factors could be recognised are the same categorised spheres where social exclusion occurs: individual, family, community, regional and national level (Trani et al. 2010: 151). Thus, conversion factors one possesses play a role to determine whether the situation becomes social exclusion or inclusion. Additionally, influential factors of the past elaborated in Table 1 in social exclusion/inclusion discourse affect one’s conversion factors as well. This conceptual linkage ‘both provides more theoretical underpinning for the approach of social exclusion and helps us to extend the practical use of the [capability] approach’ (Sen 2000: 45).

Moreover, Sen emphasises a person’s interest more than a person’s actions or behaviours, which social exclusion/inclusion also addresses. Sen subsequently introduces well-being and advantage as ways to observe interests and fulfilment of individuals. The former is an achievement of a person with functionings. The latter indicates the real opportunities a person acquires from which one can gain the freedom to choose (Mitra 2006: 238-239). Through placing these norms at the centre of the concept rather than what is provided by others, this does not fail to observe what and how PWDs are struggling to develop their lives. That is, ‘[capability approach] avoids labelling by classifying persons with disabilities based on their impairment only which leads to a uniform and inadequate provision of services’ (Trani et al. 2011: 144).

Whether a list of capabilities exists or is required remains one of the arguments around the capability approach (Sen 2006: 159), since ‘opportunities’ seem not to be theoretical or specified. However, similar to social exclusion, the capability approach is not other than one of the theoretical frameworks to investigate the social relationship with a wide range of different factors. Thus, making a list of capabilities only limits the usefulness of adopting it.

As such, employing social exclusion and the capability approach as analytical frameworks simultaneously strengthens analysing the process of marginalisation and remedy for PWDs. Nevertheless, research in terms of usefulness of the capability approach, particularly in relation to disability and interventions, is not mature (Trani et al. 2011: 144). It implies that even though PWDs perceive

oneself socially excluded by lack of capabilities, productive activities might not be conveyed. Through the capability approach, we can explore how to make the most relevant impact on PWDs under human rights infringement. The capability approach plays a vital role in creating a practical bridge from social exclusion to inclusion: full human rights protection.

On the one hand, human rights can underpin capabilities in a way that what capabilities indicate could be described by applying human rights; on the other hand, the capability approach can embody the perception of human rights in a substantial way. In this sense, these two normative ways of understanding are complementary (Sen 2006: 157, 159, 163). These two frameworks stemmed from similar motivations. Sen notes that ‘capabilities and the opportunity aspect of freedom [...] have to be supplemented by considerations of fair processes and the lack of violation of people’s right to invoke and utilise them’ (2006: 157). Human rights can also be considered as access to a particular freedom, thus the capability approach can clarify more precisely what freedom and human rights truly mean with the idea of opportunities (Sen 2006: 152, 153). On the basis of what Sen discussed, Vizard et al. argue that the capability approach enables human rights approach to recognise a broad range of human rights - negative as well as positive obligations - to protect and support human rights (2011: 7). The relation between these two theories can be expected to create ‘the synergies’, yet they note that there are some questions remain to be explored (2011: 2, 16).

As demonstrated in the previous section, a social model of disability is a way of thinking that disability is not impairment but societal constraints, i.e., the restriction of human rights. In a medical model of disability, even if PWDs want some functionings, they are rarely achieved (Hurst and Albert 2006: 25). However, PWDs can embody what they desire to attain by applying both human rights principles under CRPD and the capability approach. Since the perspectives from both a social model and the capability approach see the lack of possible opportunities as a significantly negative aspect of human rights, the capability approach can deepen a social model of disability. Furthermore, the capability approach can contribute to assessing whether interventions could have a sufficient impact to develop human rights of PWDs by providing practical opportunities.

## 2.4 Summary

Disability discourse shows us the dynamics among societal relations due to its multidimensional and interdisciplinary aspects. The dynamics can be recognised by approaching it from a social model combined with human rights perspectives, social exclusion/inclusion frameworks and the capability approach. Each point of view has a correlation with others. In addition, throughout this argument, the effect of devastating conflict era needs to be included as it makes an influence on all approaches.

The benefit of drawing attention to the circumstances of PWDs from these different analytical frameworks is to accelerate toward the fulfilment of human rights of PWDs. None of the three can work efficiently by themselves, but when we compound them in a well-integrated way, our viewpoint could be enriched so as to undertake effective interventions.

## Chapter 3 Interventions of Regional bodies, State, International Aid and NGOs

As noted in Chapter 1, there are several key actors relevant to promoting human rights, social inclusion and capabilities of PWDs. In this chapter, the interventions undertaken by regional bodies, the state, international aid and NGOs are analysed regarding whether they reflect social exclusion and capability approach to develop human rights of PWDs, specifically focused on those disabled by landmines and ERW in Cambodia.

### 3.1 Interventions by regional bodies

Regional frameworks, a state has a primary responsibility for its implementation, need to be taken into account, for they could affect the national framework. There are two relevant regional bodies in Southeast Asia: ESCAP and ASEAN, both of which are dealing with PWDs applying their own strategy.

In the Incheon Strategy, adopted by ESCAP to promote human rights of PWDs in this region in 2012, PWDs caused by landmines are explicitly mentioned as one of the unrepresented groups (UN 2012: 18). The components regarded to be specifically relevant to this research are (UN 2012: 13):

- Goal 1: Reduce poverty and enhance work and employment prospects
- Goal 3: Enhance access to the physical environment, public transportation, knowledge, information and communication
- Goal 4: Strengthen social protection

Each goal implies CRPD Articles: right to accessibility (Article 9), personal mobility (Article 20), work and employment (Article 27), adequate standard of living and social protection (Article 28). Furthermore, in its policy direction section, it highlights the importance of addressing the fundamental needs of PWDs and their families who live in poverty, involving PWDs in decision-making process, including disability dimension for development and multisectoral consultation and collaboration (UN 2012: 16-17). As a member state of

ESCAP, the Cambodian government is obligated to accelerate the implementation of these goals in line with CRPD.

The Cambodian government, as a member state, is required to participate in ASEAN's strategy regarding PWDs as well; all ten member states of ASEAN ratified CRPD. One of the related actions is the 2<sup>nd</sup> Regional Dialogue on the Mainstreaming of the Rights of PWDs held from 29 June to 1 July in 2016 in Chiang Mai, Thailand. Its purpose was to argue the rights of PWDs with a broad range of stakeholders and the way to strengthen the promotion and protection of PWDs in the ASEAN; health (Article 25 CRPD), education (Article 24 CRPD) and employment issues (Article 27 CRPD) were focused on (ASEAN 2016a). The second is the ASEAN Intergovernmental Commission on Human Rights (AICHR) Training Programme on the Rights of PWDs held from 11<sup>th</sup> October to 14<sup>th</sup> October in 2016 in Bangkok, Thailand. It aimed to understand the rights of PWDs from different perspectives including visits to some of the organisations promoting the human rights of PWDs (ASEAN 2016b).

These regional strategies could be positively evaluated in that they address the significance of human rights of PWDs. Particularly, in the Incheon Strategy, the emphasis of PWDs caused by landmines can enhance the specific interventions they demand, which could have a similar impact on those caused by ERW. Moreover, it applies social exclusion and capability approach by highlighting the needs and inclusion of PWDs in every aspect of society although broadness and ambiguity remain regarding causes of marginalisation. ASEAN remarks the same tendency that it attains to contain various dimensions of human rights of PWDs although the strategy seems to be evolving.

These regional bodies need to bear in mind that the different goals or targets are linked with one another to strengthen social inclusion and capability. In terms of ASEAN's the 2<sup>nd</sup> Regional Dialogue, some rights were specifically argued, but the issues around these rights are not independent, and a lack of these rights may trigger other human rights invasions at the same time. Each human right can influence other human rights. Therefore, the interventions need to consider this correlational linkage to grasp a whole picture of the situation of PWDs.

### 3.2 Interventions by the state

The Ministry of Social Affairs, Veteran and Youth Rehabilitation (MoSVY) was established in 1999 to promote the welfare and rehabilitation services for PWDs (SIDA 2015: 3). In 1992, the government had already released a sub-decree on Improvement of Wages of Civil Servants and State Workers, in which Article 7 regulates a monthly disability pension for veteran PWDs (HI 2009: 8). In 2011, the government launched the new policy by which non-veteran PWDs become also be eligible to receive pensions under a sub-decree (The Cambodia Daily 2011). Pensions seem to be one of the tools to ensure right to adequate standard of living and social protection (Article 28 CRPD). It can also be recognised as a conversion factor which enhances one's capability, although it has been criticised of its poor implementation (Vida 2015, Sotheary 2015).

Not only ministries, but there are other governmental frameworks to achieve human rights of PWDs. One is the Disability Action Committee established in 1996 prior to the ratification of CRPD. It changed the name to the Disability Action Council in 1998 and has played a coordinating and advisory role as part of the government since 2009 when the Disability Law was adopted. It instructed ministries to set up a working group to mainstream disability issues in 2013 (Nguon 2014:3). As disability is a cross-cutting issue, such strategy can contribute to capturing various aspects of difficulties of PWDs, which is indispensable for social inclusion.

For particularly PWDs caused by landmines and ERW, in September 2000, the government established Cambodian Mine Action and Victim Assistance Authority (CMAA) to engage in raising awareness regarding the needs of landmines and ERW survivors in Cambodia to fully include them in national disability interventions (CMAA, n.d. a). Under the initiative by CMAA, the government launched National Mine Action Strategy 2010-2019 in November 2010. It was the first comprehensive national mine action strategy including ERW to support them as the main target of the development and the poverty reduction (Royal Government of Cambodia 2010). It can shed light on the difficult circumstances these specific causes have induced, which can lead an adequate conversion factor to overcome them.

The second goal of National Mine Action Strategy 2010-2019 - ‘Contribute to economic growth and poverty reduction’ – is related to this research. Two of four its sub-objects are to support local development priorities in communities affected by landmine/ERW and support landmine/ERW survivors and their families to receive adequate medical care, physical rehabilitation and livelihood assistance (Royal Government of Cambodia 2010: 9). Right to health (Article 20), habilitation and rehabilitation (Article 26), and adequate standard of living and social protection (Article 28) under CRPD can be promoted by these objects. National Mine Action Strategy 2010-2019 will be taken over by National Mine Action Strategy 2017-2025 which was launched in January 2016 and would be completed by the end of June 2016<sup>10</sup>, which reinforces the commitment to CRPD (CMAA, n.d. b).

For all PWDs, Disability Action Council began to develop National Plan of Action for Persons with Disabilities in 2007 and it came into effect in 2009 covering until 2011. Whilst it contains all PWDs, it was practised in accordance with the framework for victim assistance. To implement National Plan of Action for Persons with Disabilities entirely, National Disability Coordination Committee was established. In 2011, it reported that only 12 of 27 objectives the National Plan of Action for Persons with Disabilities required were satisfied. The National Plan of Action for Persons with Disabilities was renewed by National Disability Strategic Plan 2014-2018 (UN 2013: 3).

National Disability Strategic Plan 2014-2018 mentions mobility in one of the objects so as to improve access to the physical environment, public transport and facilities. It also says that protecting primary livelihood including food, clothing and appropriate accommodation is essential for PWDs (Royal Government of Cambodia 2014: 18). CRPD provides the same principles: accessibility (Article 9), right to personal mobility (Article 20) and adequate standard of living (Article 28). Although it does not specify PWDs caused by landmines and ERW, the difficulties mentioned above are common issues that need to be addressed. Thus, this plan can have an influence on developing their social inclusion as well.

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<sup>10</sup> As of 8 November 2016, the details have not been released.

In addition, in 2014, supported by the Australian Government, UNDP, World Health Organisation (WHO) and United Nations Children's Fund (UNICEF), the government launched a joint development programme Disability Rights Initiative Cambodia which is planned as a 5.5-year program from 2014 to 2018 (UN 2013: vi); this no doubt recognises PWDs caused by landmines and ERW as one of their targets. The program goal is 'the improved quality of life for people with disability' and more specifically it aims to increase opportunities for PWDs in social, economic, cultural and political dimension through effective implementation of the National Disability Strategies Plan 2014-2018 alongside CRPD (UN 2013: 7). It prioritises to meet 'the real and immediate needs of people with disabilities' (UN 2013: 8), and also notes that the different types of obstacles each PWD encounters need to be identified (UN 2013: 12).

This program notices the very point that social exclusion and capability approach demand: highlighting the interests of PWDs in various dimensions of their lives. On the other hand, it can lose sufficient impact on developing human rights without considerable attention from this perspective. For instance, in relation to Component 3 'Support for strengthening rehabilitation system' (UN 2013: vii), how to gain practical opportunities of this rehabilitation system, which is the fundamental value, needs to be argued as real opportunities. That is why Cambodian Disabled People's Organisation (CDPO) claims the government should build more healthcare institutions in remote areas (CDPO 2013: 11). In other words, whether PWDs can exercise their functionings depends on whether they are offered real opportunities by this program.

Besides these interventions, the Disability Law is crucial as the only legally binding tool. Chapter 3 aims to promote livelihoods of PWDs; Article 10 says the state should 'give due attention, an appropriate, to promoting livelihoods for persons with disabilities in conformity with the national economic situation'. Article 12 also confirms the responsibility of the state in supporting the poor and integrating PWDs into communities. They relate to right to living independently and being included in the community (Article 19 CRPD), personal mobility (Article 20 CRPD), and adequate standard of living and social protection (Article 28 CRPD) under CRPD.



Subsequently, Chapter 4 includes physical rehabilitation and health care. This chapter admits that the aim of physical rehabilitation is to enable PWDs to ‘fulfil their potential and fully exercise their capacities and talents in society’ (Article 14) and ‘the needs of persons with disabilities’ should be included (Article 18). Right to health (Article 25 CRPD) and habilitation and rehabilitation (Article 26 CRPD) are regarded pertinent provisions of CRPD.

Regarding right to work and employment (Article 27 CRPD), Chapter 7 contains Article 39 which mentions the necessity of establishing vocational training institutions and providing free training particular to the poor or military veterans of PWDs.

According to the Disability Law Article 49, international treaties shall be considered the principle provisions when it contradicts a national law. It can be deemed a supportive aspect to improve the situation of PWDs, but, in fact, Cambodian civil society alleges the particular rights CRPD addresses are not clarified in the Disability Law. For instance, it was proclaimed that protection of PWDs during a situation of risk and humanitarian emergencies (Article 11 CRPD), access to justice (Article 14 CRPD), freedom from exploitation, violence and abuse (Article 16 CRPD), freedom of expression and opinion access to information (Article 21 CRPD) are not provided (CDPO 2013: 3).

In addition, due to the lack of appropriate enforcement, many people, including PWDs, law enforcement agencies, civil servants and the general public particularly those living in remote areas, do not still know that PWDs are right holders (CDPO 2013:4). As a result, PWDs’ rights have not been protected sufficiently even though these rights are explicitly provided in the Disability Law. As such, the government has been exposed to a challenge in implementing CRPD and accordingly the Disability Law (CDPO 2013, Teehan 2014). In spite of many strategies, the gap with human rights perspective remains significantly. Consequently, Disability Law has not functioned as a comprehensive tool for recognising social exclusion of PWDs.

All interventions seem to acknowledge they should shift to a social model of disability with a norm of human rights under CRPD, and admit the state’s obligation to transfer from social exclusion to social inclusion by providing conversion factors. To accelerate the implementation; therefore, social exclusion

perspective needs to be prioritised more on the basis of a social model, which means an emphasis on the affecting elements that have led PWDs to today's severe circumstance. Addressing 'rights' independently cannot involve multi-dimensional social aspects which PWDs have been facing. Thereby, effective conversion factors to expand their capabilities can be identified with taking into account the different situation of each PWD as Disability Rights Initiative Cambodia draws significant attention.

### 3.3 Initiatives by NGOs and international aid

Because of an impact by the conflict, Cambodian civil society has held relatively large numbers of both local and international NGOs and international aid as the main actor of supporting PWDs. They have undertaken remarkable activities in advocacy as well as provisions of essential service for PWDs. These interventions emerging in civil society are one of the key elements to develop the current situation with cooperation among them (UN 2013: 3-4).

#### *3.3.1 International aid: ICRC*

The International Committee of Red Cross (ICRC) is the most relevant international aid which has supported landmine and ERW survivors, mainly regarding physical rehabilitation. Since 1991, it has been operating physical rehabilitation programme including providing prostheses, crutches and training for technical staffs (ICRC 2002). It started to support physical rehabilitation centres in Battambang and Kampong Speu province and a Phnom Penh-based orthopaedic component factory in 2011 (ICRC 2016a). These forms of support intend to promote right to personal mobility (Article 20 CRPD).

Beyond the physical support, it has begun to engage in 'social re-integration' programs for PWDs so that PWDs could reintegrate into society, regaining their dignity. In 2015, it launched an income-generating program, through which PWDs can receive financial support for starting up income-generating: a mobile coffee shop which we can see quite often along the street, mushroom cultivation, poultry farming and sewing. It applies not only to providing the support in the economic sphere, but also highlighting playing sport as the means for social inclusion. One outstanding example was organising Battambang women's wheelchair basketball team in July 2012 (ICRC 2016b). Right to

work and employment (Article 27 CRPD), adequate standard of living (Article 28 CRPD) and participation in cultural life, recreation, leisure and sport (Article 30 CRPD) have been improved through these interventions.

The activities tended to focus on the medical model of disability, notably regarding the moment shortly after becoming disabled; however, the recent activities have been integrated into a social model. If a medical model were still stressed, social exclusion would not be alleviated. Thus, it is indispensable that international aid which is mostly in charge of a post-conflict era, consciously adopt a social model of disability, addressing human rights, since a primary impact may last long. In delivering support for PWDs, they should take into due account how their interventions could become a more useful conversion factor for them as a whole to gain capabilities.

### *3.3.2 NGO: Jesuits Refugee Service Cambodia (JRS)/Jesuit Service (JS)*

Since JRS and JS are the NGOs dealing with PWDs caused by landmines and ERW in my research area, in this section, the steps taken by these two organisations have been elaborated.

JRS has been actively working on the issues of PWDs. What JRS has supported; however, is not enough to push forward the daily lives of PWDs due to the limited budget, says Tun Channareth (27 July 2016). In 2015, some of their activities included (JRS 2016);

- building houses, toilets, wells, income generating grant, wheelchairs, bicycles for schooling
- arranging training opportunities
- teaching about home gardening

Likewise, to develop the condition of daily lives in the community, JS produces wheelchair which can be affordable for PWDs, develops infrastructure, supplies access to clean water by wells and ponds, and builds shelters. Furthermore, JS set up a vocational training school for PWDs. The vocational centre named Banteay Prieb, Dove Centre, is located in Kandal province, approximately 25 km from Phnom Penh, the capital city of Cambodia. This programme aims to allow PWDs to acquire the necessary skills for decent work, core capacity for daily lives, regain self-esteem, reintegrate in their communities in terms of socio-economic activities, get over both chronic poverty in their

families and communities and a stigma against them through societal contribution, and gain the capacity for financial independence (Jesuit Social Center Tokyo, n.d., JS, n.d. b).

Through their activities, JRS and JS tried to develop the human rights of PWDs such as right to living independently and being included in the community (Article 19 CRPD), personal mobility (Article 20 CRPD), rehabilitation (Article 26 CRPD), work and employment (Article 27 CRPD) and adequate standard of living (Article 28 CRPD). They have led to expanding the capabilities of the recipients by providing relevant conversion factors toward social inclusion.

Advocacy is also another respect by which the current constraints could be reduced. JRS has done the following (JRS 2016);

- promoting meetings between leaders of commune and village, and PWDs
- advocating for accessibility
- reviewing with National Disability Strategic Plan 2014-2018
- delivering the speeches at international meetings in Geneva and Dubrovnik

These activities are also critical in that it could address the voices of PWDs in various manners including stressing right to accessibility (Article 9 CRPD), which relates to awareness-raising noted in CRPD Article 8. Although perhaps they cannot result in a distinguished outcome immediately, it is vital to keep raising voices to make a social model of disability solid.

In addition, the action-oriented research project from May 2012 to May 2013 was conducted by survivor networkteam, and an initiative was taken by Cambodia Campaign to Ban Landmines and JRS collaborated with CMAA and the Arrupe Center (JRS/CCNL 2013: 2). This project elaborated the living condition of PWDs through the quality of life survey (the Survey), which is described in more detail in the next chapter, and meanwhile built and tried to strengthen network called survivor network among PWDs across the country (JRS/CCNL 2013: 5). This sort of activity is useful so that relevant actors realise real situations of PWDs. In CRPD, Article 31 set an explicit obligation regarding statistics and data collection so as to implement what it demands suffi-

ciently. In this regard, the Survey can be a basis to promote the human rights of CRPD, which can bring social inclusion and abundant capabilities.

By their interventions, JRS and JS have more practically focused on improving the difficulties of PWDs reflecting their actual livings. Through the activities, JRS and JS have developed human rights, and promoting social inclusion and capabilities of PWDs to a certain extent. However, they should carefully convey the interventions to realise possible opportunities same as other actors.

### 3.4 Summary

As elaborated, there is a significant difference between regional bodies, the state, and international aid and NGOs regarding the way of interventions to improve human rights of PWDs. The first two have concentrated on more indirect activities such as strategies, laws and seminars: one more step exists before reaching PWDs. On the contrary, others have conducted more direct actions against PWDs such as service delivery and advocacy that influences the indirect activities by other actors as well.

To ensure the effectiveness, they need to consider the fact that the disability issues have stemmed from multidimensional aspects. In this respect, the interventions of ASEAN are insufficient in that they merely highlight some limited situations and have not covered the whole situation yet. It can utilise how the Incheon Strategy by ESCAP adopts social exclusion and the capability approach. The state has formulated considerable numbers of frameworks including the Disability Law which can influence on PWDs hugely if the implementation succeeds with social exclusion/inclusion and capability viewpoints, and this is the current challenge. Meanwhile, it is supportive that ICRC has emphasised social inclusion in addition to medical support, which is essential to embody social model. JRS and JS are engaging in supporting PWDs to gain access to human rights in a more straightforward way by providing conversion factors although their activities are also constrained due to the capacity.

As such, interventions by these actors, and probably other actors dealing with PWDs, can strengthen each other, as in the case of the theoretical frameworks. Comprehensive collaboration among all actors only enables PWDs to accom-

plish their human rights, fully socially included, and obtain more and more capabilities by the synergy, which has not emerged richly yet.

## Chapter 4 The current challenge of PWDs and the reaction for alleviating them

In spite of these different interventions by the state and other organisations, PWDs continue to face challenges in accessing and realising their human rights. This chapter reflects on the continuing effects of landmines and ERW, and the prevailing forms of human rights deficits that continue to remain. While using existing statistical and other official data to reflect on the situation, this chapter also uses primary data, such as interviews done during the fieldwork in July 2016 to supplement the analysis. In doing so, it examines how these deficits are linked to a form of social exclusion and lack of capabilities, while also looking at critical interventions which have improved the situation of PWDs and enabled them to access their human rights.

### 4.1 Long-term war casualties in Cambodia related to disability

According to Cambodia Mine/ERW Victim Information System (CMVIS), which was established in 1994 by the Cambodian Red Cross with technical and financial support from Handicap International Belgium and UNICEF, the latest number of landmine/ERW casualties was 64,595 recorded from 1979 to February 2016 (CMVIS 2016: 2)<sup>11</sup>. Some details of this number are shown in the table below.

Table 2 Detailed information from 1979 to February 2016

<i>Casualties</i>	landmines	79%
	ERW	21%
<i>Effect variation</i>	killed	30%
	injured	56%
	amputated	14%
<i>Sex and age</i>	men	62%
	boys (age<18)	19%

<sup>11</sup> Due to the lack of a national survey, the proportion of this number to PWDs on the whole is not provided.

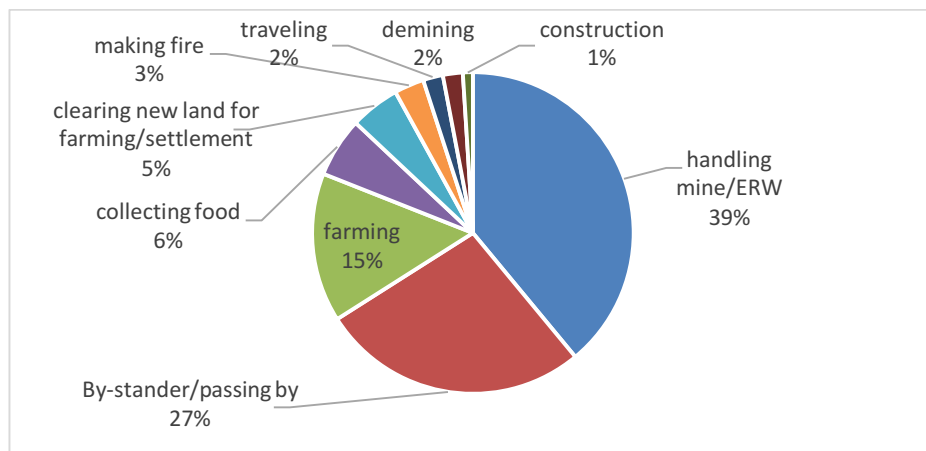
women	15%
girls (age<18)	4%

Source: CMVIS 2016: 2

Five most affected provinces for landmine/ERW casualties ranked by total casualties were Battambang, Preah Vihear, Oddar Mean Chey, Banteay Mean Chey and Kampong Thom. This proportion reflects the background of burying landmines during the conflict. As introduced in Chapter 1, landmines were mainly used to protect the border between Thailand and except for Kampong Thom province, these four provinces are located along the border.

There are still people who became disabled because of landmine/ERW, although more than twenty years have passed since the country welcomed peace. The number of accidents from January 2015 to February 2016 was 127 and the proportion of the causes is given below:

Figure 1 Causes of the accidents



Source: CMAA 2016: 8

### *Human Rights Deficits*

According to the Survey, including 1,215 landmines and 417 ERW survivors among 3,345 participants, some of the key results with regard to human rights were founded as below:



Table 3 Human Rights Deficits

<i>Outcomes</i>	<i>Relative HRs under CRPD</i>
39% had any form of prosthetic <sup>12</sup>	<b>Article 20:</b> Personal mobility
59% had no ID cards and 69% had no free health card	<b>Article 25:</b> Health
49% had no sufficient food, among them 14% had no food to eat and another 13% had very little food	<b>Article 28:</b> Adequate standard of living and social protection
52% could not earn enough income to live in dignity	<b>Article 27:</b> Work and employment <b>Article 28:</b> Adequate standard of living and social protection
94% had a place to live but 6% of them said it was unsatisfactory or worse	<b>Article 28:</b> Adequate standard of living and social protection
61% had no land titles	<b>Article 28:</b> Adequate standard of living and social protection
40% had no job and claimed they did not have the opportunities to gain income; among those who have a job, three-fourths were self-employed in farming, small business/trade, fishing and lumber	<b>Article 27:</b> Work and employment <b>Article 28:</b> Adequate standard of living and social protection
24% received government pensions	<b>Article 28:</b> Adequate standard of living and social protection
About two-thirds of those are married	<b>Article 23:</b> Respect for and the family
37% had a micro-credit loan and 99% of them were able to repay <sup>13</sup>	<b>Article 28:</b> Adequate standard of living and social protection

Source: JRS/CCNL 2013: 15, 26, 27

<sup>12</sup> This survey includes persons with any form of disability.

<sup>13</sup> Although the number is quite astonishing, how much they owed or what the repayment strategy was were not recognized.

Apparently, as described above, various difficulties can be observed regarding livelihoods of PWDs, which means many human rights are not attained. On the grounds of CRPD, PWDs should be enabled to ‘fully enjoy all human rights and fundamental freedoms’ (preamble (v) CRPD) in every daily dimension. In fact, the set of rights mentioned in Table 3 are never newly established by CRPD and were already declared by the international human rights conventions adopted before<sup>14</sup>. Nonetheless, considering the historical pathway in which PWDs were likely to be neglected from society and be enforced to be in lack of protection, human rights under CRPD should be paid attention to. Yet, in practice, many human rights articulated in CRPD have not been fulfilled according to the Survey. Therefore, we need to explore in depth which interventions are needed for social exclusion and enough capabilities, which allow PWDs to get access to their human rights.

#### 4.2 Human Rights and Social exclusion

This section analyses the different aspects of social exclusion that continue to influence the PWDs from accessing their rights. It shows that it is necessary to have multiple forms of interventions to deal with the different forms of social exclusion faced by the PWDs, as well as appropriate capabilities to realise their rights. This section is largely based on interviews conducted during the field work by the author.

The feelings and difficulties all the 17 respondents, amputated one or both legs, had in the beginning after having impairment were negative, without exception, which sounds quite obvious in the case that a person loses one or some parts of their body. However, why they perceived this physical change as negative - in other words, why it became equated to social exclusion for them and their capability became less - need to be emphasised. Hence, tracing the process leading them to the current condition is significant to seek effective interventions for achieving human rights. As a result, it could shed light on required conversion factors to improve their capabilities toward social inclusion.

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<sup>14</sup> See, for instance, International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights.

### ***Right to Personal mobility – Article 20***

Why I take the issue of mobility first is because it seems the most relevant, and affects other rights of the respondents; everyone noted this point. The effect of mobility was mentioned mostly in terms of changing their way of living after having disabilities. The mobile difficulty was the first physical obstacle for them. They did not know how to walk soon after being disabled and felt depressed by the fact that they could not walk as fast and smoothly as others, which is the visible effect imagined and recognised immediately. Besides that, mobile difficulty influences other activities in their daily lives as well.

As noted in Chapter 3, ICRC has conducted the critical intervention to promote this right by providing supporting devices such as a prosthesis and crutches. This activity has contributed to improving the mobility standard of PWDs, but this is not the case for all. It is not simple for them even after supporting devices were given. The foremost crucial point is quality and usefulness in real life; whether these devices fit with their particular context.

During the monsoons, neither prostheses nor crutches hardly operate due to thick mud on the road represented by what Hoeung Sombath, a 54-year-old male using crutches, said: ‘Mud is a big problem’ (27 July 2016). Sek Phen, a 52-year-old female working as a farmer, also explained the difficulty: ‘Particularly during [the monsoons], it is hard for me to walk because of mud [with crutches]’ (26 July 2016). Ou Phanna, a 37-year-old female, shared her experience: ‘Prosthesis does not let me work in a farm due to mud. When I tried to support my neighbour in a rice field, my prosthesis was stuck in mud, and as a result, I could not move.’ In the meantime, she pointed out - ‘After having a prosthesis, I can go anywhere. I felt I was able to move easily’ (25 July 2016). In this regard, supporting devices have proven to play a role as a conversion factor, but still have the certain limitation of her capabilities.

Other issues such as age, health and insufficient follow-up by providers result in pain in the legs by a prosthesis and in arms by crutches. Besides, a person who lost a leg from the stem could not use a prescribed prosthesis. As a result, some devices were no longer utilised even though PWDs got them for free. Lorm Roeb, a 53-year-old female, stated his situation: ‘I cannot walk with a

prosthesis because I could not get used to it, so I only use crutches, but I have pain in my arms [in using them]’ (27 July 2016).

Ultimately, the difficulty in moving could not be improved progressively if those devices did not fit with each condition. It has affected some of them in a contradictory way and impeded them from enjoying full access to personal mobility. Hence, interventions in mobility improvement should take into account an actual opportunity of utilisation, otherwise it continuously keeps capability away. Table 3 included a certain amount of PWDs who have any form of prosthetic, but whether they can utilise it is another issue.

The limitation of mobility restricts not only capabilities related to mobile access but also others. This can be seen by the experience of Suas Khoeun, a 57-year-old female running her shop noted by saying, ‘After being disabled, I could not do anything better than ordinary people. I lost my identity, and I believed I could do nothing’ (26 July 2016). Sok Pav, a 38-year-old male with a wife and three kids also said, ‘When I tried to move somewhere, I was too slow. I felt heartbroken and sorrow [after being disabled]. I was sad because I had no leg’ (26 July 2016). They had felt they could no longer have high expectations for their future and this feeling has not easily removed. Prak Soeun, a 52-year-old male with a wife and two kids, and lacking a job, stated, ‘I was hopeless because I did not know exactly how to feed my family and how I could do a job. I still have the same feeling because I already lost my one leg. Every activity is done by my wife, not me’ (26 July 2016). Their depressed feeling seems to stem from the fact they had expected they could have fewer chances than others.

The factors leading to social exclusion by mobile restriction could be identified at various levels, from an individual, community to international level. Supporting devices can be a conversion factor for their capabilities as long as it takes into account their situation accurately. What CRPD Article 20 demands is to provide adequate resources or materials which bring them actual opportunities so that their social exclusion related to mobility could be mitigated. In the meantime, right to personal mobility also affects other forms of rights introduced in the following parts, which brings an additional meaning to support for mobility.

### ***Right to Work and employment – Article 27***

Not only Prak Soeun but also Sorm Pheach, a 54-year-old male with a wife and two kids without a job, stated, 'I did not know how I could survive without any job' (26 July 2016). That is to say, a right to work and employment is significantly relevant to survive for PWDs. Even people without disabilities were forced to face severe situation since the long-lasting conflict ruined this country, it plunged PWDs into a more socially vulnerable status as physical disability would not allow ample possibilities. Therefore, CRPD Article 27 (k) also promotes vocational and professional rehabilitation.

Albeit NGOs have conducted the essential intervention to promote this right, it is evident both from the Survey and my field research that a certain amount of people cannot access to this right. In my finding, nine out of all interviewees, two females and seven males, did not have any job, though Anonymous, 46-year-old male with his wife and some kids, said, 'I have a rice field which is enough to feed my family [without a stable job]' (29 July 2016). However, for others without a sufficient conversion factor in place of employment, unemployment hinders them from expanding their capabilities. In addition, it might result in chronic unemployment of family members because of this disadvantage. Prak Soeun mentioned, 'My wife wants to have a job such as selling goods at home or in a market, but I do not have enough money to support my wife' (26 July 2016).

The interviewees have tried to find some job since they became disabled as they know this is the relevant conversion factor which enabled them to survive at least. Those who succeeded in this respect mentioned the positive changes in their lives. Suas Khoeun expressed the improvement by running her shop supported by an NGO for two years where she sold small stuff. She said, 'My situation became better because of this small business. Before that, I was selling Cambodian small cakes at different places, but I could earn quite a small amount of income by it' (26 July 2016).

Hol Pros, a 52-year-old male, and Sok Borey, a 53-year-old-male, are working at JS as repairers of wheels. Taking vocational training at the Dove Centre mentioned in Chapter 3 as one of the activities of JS helped a great deal with their current lives. Hol Pros said, 'I got a job, and it made my life much better'

(25 July 2016). Likewise, Sok Borey stated that ‘I began to embrace hope after the training course’ and ‘it is normal after getting marriage, having kids, finding a job and getting salary’ even though soon after being disabled, ‘I felt difficulty with my broken heart and body’ (25 July 2016). Notably, repairers do not need to move, and he mentioned that as advantageous for him.

However, we should look at what ‘job’ means very carefully, for it does not always draw a sufficient income. As Ou Phanna, who helped her husband making small sculptures for souvenirs said, ‘If nobody orders, I can get nothing.’ (25 July 2016), which implies that having this job has not become a solid conversion factor for her.

Before being disabled, some were working as farmers or rice field workers, and others were students and too young to work. During that period, they could have gained means for the living cost similar to others without disabilities. Under the current situation, for those who have no job, unless other conversion factors to acquire more capabilities are supplied, their negative feelings are not transformed into hopeful viewpoint, as noted by Sok Paov, a 38-year-old male with his wife and four kids, and without a job and other materials, ‘Because I cannot find a job, [the difficulties] have not changed [since I became disabled in 1994]’ (26 July 2016).

As such, limited capabilities have continuously invaded their human rights. PWDs without a job and other supplemental means are socially excluded due to the lack of conversion factors at various levels such as individual, family and community. Additionally, a job demanded under the article should be adequate and efficient enough to enrich their capabilities sustainably.

### ***Right to adequate standard of living and social protection – Article 28***

Since under this article, there are several points, I divide my findings into four parts: pension; food, shelter and water; physical capital; financial capital. Also, the meaning of ‘adequate’ could bring a discourse, but according to the analytical frameworks evolved in Chapter 2, the interests of PWDs should be focused on.

### *Pension*

The state, described in Chapter 3, has granted pensions for all PWDs since 2011, which is evaluated as one form of social protection CRPD demands in Article 28. A pension can be recognised as a crucial conversion factor for those receiving it as Hoeung Sombath, living with his wife and five kids without a job, said, ‘Even [my pension] is not a significant amount of money, I felt it made my life relatively easy’ (27 July 2016). Yet, according to the respondents, only half of the females receive pensions including one female regarded as a soldier by carrying bullets. For PWDs living in a rural area in poverty, the pension might be the only means for income since it is hard for them to find a job as described in the previous section. Ultimately, the pensions have not contributed to developing social inclusion efficiently due to poor implementation.

### *Food, shelter and water*

Even though people receive a pension, some of them cannot achieve their rights completely. As the Survey shows, several forms of fundamental living difficulties still remain, such as food, shelter and water, all of which CRPD Article 28 covers as well. Food is one of the most crucial elements for maintaining one’s lives. Eight interviewees chose food as their current issue. Not all people could have three meals a day; two of them mentioned that sometimes they could only eat twice or once.

‘Adequate housing’, according to this Article, is not something composed of mere a steel cover and wood floor where rain peeks, but one that can keep persons safe, clean and comfortable. Three of the interviewees selected shelter as one of their current issues. The house where Moeunt Menh, a 47-year-old male with his wife and three kids, and without a job, lives, almost collapsed cannot endure heavy rain. Lorm Roeb, a 53-year-old female living with her husband and three out of nine kids and grandchildren, without a job, claimed that ‘The house is too small for my family’ (27 July 2016). Ou Phanna ‘The big problems are house and land. My husband and I do not have our own land and house’ (25 July 2016), although she expressed her gratitude to an NGO for supplying the place where she lives. For them, their capability regarding shelter remains restricted.

On the other hand, Kong Chheab, a 48-year-old-male with his wife and five kids, and without a job, appreciated the support of an NGO to build a comfortable shelter, since previously, the rain had demolished the house he had lived in, even though he stated, ‘My current situation is as difficult as ever’ (26 July 2016). In other words, that shelter is a conversion factor for him, but it has not succeeded in transforming his situation to social inclusion in other dimensions.

Considering water; however, this issue was noted by Sok Paov as not only for PWDs, but also for all of the villagers. He requested sufficient water supply specifically from January to June or July, during the dry season (26 July 2016). During that period, people need to buy water due to a lack of water supply which burdens their home budget, which seriously damages PWDs in a severe living condition.

What Sok Borey proclaimed clearly pointed out the issue laid out this article: ‘I am thinking about a programme which can support PWDs in a rural area because it is not sufficient so far. Today, they are provided just with a wheelchair or repairing programme, but a house, toilet and food are not enough. Normally, health, job, food and other things are the things PWDs need’ (25 July 2016).

As such, even though the importance of social protection by the government is remarked in the strategies by both the regional bodies and the state, in practice, it is still far from enjoying this right. These conditions made PWDs socially excluded with regard to adequate living standard under their capabilities.

#### *Physical capital – an ownership of an asset*

Physical capital such as an ownership of an asset elaborated in Table 1 in Chapter 2 should be addressed as well as this is helpful to gain adequate standard of living. Since it relates to feeding family members, this is a suitable issue discussed under this article although this is not explicitly mentioned.

In the Cambodian context, particularly, whether or not owning farm land critically influences their living conditions as Cambodia is an agrarian country. However, Cambodia was seriously damaged in this aspect due to the conflict. Both Suas Khoeun and Moeunt Menh had been landowners by succeeding



parents' right, but their rights to the land were not maintained during the conflict as everyone was forced to move and all land records were disposed of by the Khmer Rouge (Chiou 2011). Under the current legal system about the ownership of land, it is nearly impossible to retrieve land title (Council for the Development of Cambodia, CIB & CESZB, n.d.)<sup>15</sup>. Consequently, people should pay a certain amount of money to gain the ownership of land, and if one cannot afford it, they end in lack of access to land as Table 3 indicates.

Chhay Sot, a 58-year-old-female with her husband and two kids working as a farmer, expressed the contribution of the land to her life by saying, 'Having land, which I bought with the money my husband saved, made my life better' (26 July 2016). On the contrary, Sok Borey said, 'If I had land in rural area, [my life] would become much better. I could grow something to feed my family' (25 July 2016). Additionally, Tun Channareth proclaimed 'Cambodia is a country of agriculture. If people do not have land, how can they survive?' (27 July 2016).

In addition to their personal factors, the general element across the country should be kept in mind, i.e., developing economic situation and increasing cost of living particularly in a city. Four of them own home gardens, but they are usually not so large that they can grow vegetables or fruits just for daily living and not for selling them in a market. However, what Hoeung Sombath stated reflects the reality; 'I cannot afford even seeds of plants for my home garden' (27 July 2016).

Likewise, to obtain other assets such as cows or chickens which people eat or sell in a market requires expenditure. Therefore, it is no wonder that three respondents described their lives as being in a poor condition because of insufficient material assets. Physical capital represented by land and domestic animals could be essential conversion factors to promote their right to adequate living standard with rich capabilities.

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<sup>15</sup> Land dispute is one of the serious human rights issues in Cambodia combined with Economic Land Concession (see at: <http://www.irinnews.org/report/97654/analysis-cambodian-land-rights-focus>).

### *Financial capital*

Similar to physical capital, financial capital in Table 1 such as liability is the next element in promoting this right. In my finding, yet, financial capital was least mentioned. Regarding liabilities, it can give a further possibility to develop their life as budget for buying a cow or chicken. This is illustrated by Lorm Roeb's case: she purchased a baby cow with a loan (27 July 2016). In other words, liability becomes a conversion factor for her to specific capability, i.e., owning a cow to develop her life. The fact that PWDs can pay back their loan as found in the Survey is quite a positive aspect although we need to investigate whether they would not be burdened by paying it back.

PWDs living in a rural area probably do not think themselves a possible recipient in terms of financial capital. In a sense that their opportunities to access to a loan are not expanded, this can be considered as a form of social exclusion in the economic sense despite their unconsciousness.

### ***Right to health – Article 25/Habilitation and Rehabilitation – Article 26***

Regarding health care, nine interviewees are concerned about their own, as well as their children's health issues, which is partly because 11 of them are over 50's<sup>16</sup>. As shown in the previous section, people claimed continuous physical pain, and it would increase as they get old. This factor can influence other rights described above as it is also one of the fundamental conditions to expand capabilities.

The fact mentioned by Kong Chheab needs to be paid attention to. It is an effect of 'ID Poor Card', mentioned as 'free health card' in the Survey, by which poor people can receive medical treatment for free (The Phnom Penh Post 2014). However, probably because medical staff know they will not pay for the treatment or prescriptions, sometimes people are made to wait for a long time to see a doctor, which made him decide not to have this card anymore. Instead of this, he just goes to a hospital and pays for medicines by himself (26 July 2016). This indicated that even if ID Poor Card is supplied, it

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<sup>16</sup> According to WHO, life expectancy of Cambodia is 68.7 years old (see at: <http://www.worldlifeexpectancy.com/cambodia-life-expectancy>)

sometimes fails to be a conversion factor and creates another social exclusion at the local level.

In Chapter 3, the interventions related to habilitation and rehabilitation are illustrated; however, the same kind of issue as mobile supporting devices exists. According to Tun Channareth, when he tried to bring a PWD to a rehabilitation centre, his family members came to Tun Channareth and cried out to get him back. Why? Because that PWD was the only person who could earn for his family members, and losing him would have a huge adverse impact on his family (27 July 2016). That is, unless other means of maintaining a family is secured, rehabilitation system does not function at all as a possible opportunity.

### ***Equality and non-discrimination – Article 5***

Under CRPD, Article 2 defines ‘discrimination on the basis of disability’ as ‘any distinction, exclusion or restriction on the basis of disability’ which impinges upon ‘all human rights’ by any form of action. Subsequently, Article 3 describes ‘non-discrimination’ as one of the general principles; Article 4 states clearly that states parties should realise the society where PWDs are not discriminated. Additionally, Article 5 is the central body by which CRPD clarifies its high demand to combat discrimination against PWDs. These provisions reflect the history of the marginalisation of PWDs.

The reason why any form of discrimination should be abolished is that all human beings have the right to be treated equally, regardless of any components such as race, class, age and health (Amnesty International, n.d.). In other words, if one is treated negatively on the basis of one’s physical impairment, it is assessed as discriminatory action. Since discrimination invades full participation in society and results in fewer capabilities as well, it confines social inclusion.

As shown in Chapter 1, since Cambodian culture is said to be an obstacle to combating discrimination, I was interested in the extent of prevalence of discrimination in my research although the Survey included no concrete deficits related to this right. In practice, six out of the interviewees had experienced ignorance or insult by others. PWDs are restricted to enhance their capabilities because of discrimination. What is remarkable is that it tended to happen in the town, at the local level, rather than in the village or commune level according

to them. It was sellers at the market, waiters at the restaurant and moto<sup>17</sup> drivers, and not neighbours, who took discriminatory actions due to their physical appearance; as Prak Soeun stated, 'People did not want to talk with me or sell stuff to me when I went to the market' (26 July 2016). The experience of Tun Channareth was impressive:

'When I went to the restaurant in the town with my guests [without disabilities], the staff of that restaurant denied me entrance even after I explained I brought my guests. After my guests had called me, they might think I left them, the staff came and apologised to me.' (27 July 2016)

The staff of that restaurant did not believe a person with no legs in a wheelchair could be and should not be a guest.

According to Tun Channareth, why this sort of discriminations occurs in public is related to the local economy, which means PWDs are deemed poor and therefore, others are likely to think PWDs cannot pay for products or service. Additionally, some people seem to consider disability as something infectious. On the basis of another experience of Tun Channareth, one parent said, 'Don't touch [him]!' and brought their child away when a child tried to touch his lost legs. He assumed that parents did not want their child to become like him (27 July 2016).

There are other forms of discrimination at the closer level as well. Those at village and commune level were undertaken by relatives or commune leaders. For instance, the sibling of Ou Phanna felt ashamed of her after she became disabled even though they had been in a close relationship before. 'My sister did not like me after I became disabled and I moved to my aunt's house' (25 July 2016), she said.

The reason driving commune leaders to practice discrimination, mentioned by Hoeung Sombath, a 54-year-old male with his wife and five kids without a job, is a place where he had lived before. He had lived in an institution established by international aid project which had got PWDs in one location, but it already ended a couple of years ago and accordingly, he needed to move to the new location, where he lives now in that village. However, the village and commune leaders have denied his belonging to that community as he was still not consid-

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<sup>17</sup> Motor bike taxi; local people quite often use it.

ered a member of the community. As a result, his name was unlisted in the members of the village and commune. He said, 'Even though I tried to contact the leaders of village and commune, they are not interested in me' (27 July 2016).

On the contrary, Sok Paov has been a village leader for three years, wherein other villagers elected him. Village leaders do not receive any economic reward but are in charge of sharing information with the other village people and sometimes gather to discuss how to improve people's life. He had opportunities to meet leaders of other villages, and among them, some are PWDs as well according to him. He had no experience of discrimination in his village (26 July 2016).

In relation to the job in NGOs, as Hol Pros stated there were some people who did not think well of his working in an NGO due to the salary he could receive which was relatively higher than ordinary individuals in the rural area (25 July 2016). It could be one dimension of discriminatory action which restricts social inclusion in community.

Apart from these experiences, four people mentioned that people who had met them had shown pity and one of them had been given some amount of money. Instead of a direct form of discrimination, 'pity' can be interpreted as a form of indirect discrimination since it can cause a viewpoint that PWDs are just weak, which fundamentally damages the principles of CRPD.

For those who could not move to remote areas; however, discriminatory actions did not happen as their world has been limited to around their house, which indicates this issue relates to the level of mobility as well. The fact that immobility could avoid discrimination seems quite ironic.

Furthermore, unequal delivery of a pension stated in the previous section forms discrimination. Even though the state enacted pension legislation for all PWDs, many of them have still not received it as clearly described in the Survey as well. This obviously invades equality under the law.

In reviewing their experiences particularly from those surrounding PWDs, it becomes evident that there are many root causes which have created a discriminatory attitude at family, community or national level. One is practical causes, such as a lack of accurate knowledge and information about disability and the

other includes emotional feeling as fear or unfair. They imply a lack of awareness-raising (Article 8 CRPD) to tackle prejudice. We should recognise what makes others discriminate against PWDs correctly and provide efficient conversion factors for it to achieve social inclusion and widen capabilities.

### ***Respect for home and the family - Article 23***

Having a family has both a positive and negative influences on PWDs, which has been my impression through the finding. The former embraces the feeling that one has an accompanying person for the future. The latter means people become concerned about the future, including food, education and job of their family members, specifically their children in addition to one's own future. Interestingly, no critical impact on the decision they had made, whether they had got married or not and had a child or not because of their disabilities, was mentioned. In my finding, 14 lived with their spouse<sup>18</sup>, two were single, and the other was a widow. In this respect, they could gain the capability to exercise this right.

To be honest, at first, I could not understand their decision for having so many children; for instance, Lorm Roeb has nine kids, although it seems to make their life bitter. However, soon, I realised it was my biased viewpoint. For them, as noted, having a family can give power or meaning to live. Tun Channareth, having six children, said, 'I began to think how to fulfil my responsibility as a father [after having kids]. Before that, I had not thought about my family seriously and had been deaf for what others kindly had talked to me' (27 July 2016). No one mentioned they regretted having a family.

At the same time, it could still a difficult decision for PWDs to have a family because of a lack of sufficient income resource: 'I want to gain more income to have a family like my friends. It is not enough now', Chan Men, a 28-year-old male working at JRS, noted (27 July 2016). In this regard, the reason why one-thirds of PWDs in the Survey do not get married needs to be explored.

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<sup>18</sup> Two females got married with a male who also had some form of disabilities.

In fact, due to all of the facts mentioned in the previous sections, the future of a family has become one of the serious concerns. As Hol Pros said, children's education is an important issue since it influences the possibility of getting a job and stable life (25 July 2016). Lorm Roeub also mentioned, 'My children sometimes could not go to school and even when they could go, they could not receive an advanced education due to poverty' (27 July 2016). The social exclusion of PWDs affects their family members as well.

Nonetheless, this right should be respected even though it tends to result in hardship from our viewpoints. Kong Chheab noted with a detached tone, 'Today, I am getting old, but I have many experiences which I can tell my wife and kids what they should do or which is the best way to live a better life' (26 July 2016). His remark indeed shows us that he has experienced developing his functionings through having a family, which could promote his family's functionings as well.

### ***Improving self-dignity***

The last thing I would like to highlight is how people surrounding PWDs could improve self-dignity, which was not recognised in the Survey but the impressive outcome in my research. Soon after disabled, some deeply despaired at their future. As Sok Borey explained by saying 'I thought the death was much better than living with disabilities' (25 July 2016). Also, Tun Channareth remarked 'I tried to commit suicide twice because I was ashamed of my disability' (27 July 2016). They felt they had lost their dignity by being disabled.

However, when PWDs meet other PWDs, some perceived these specific opportunities empowered them, and encouraged them to survive. Ou Phanna brilliantly described, 'Before, I was hopeless, but after I met other PWDs, I got to know not only I [who had disability] and I got hope' (25 July 2016). She could also overcome her shame because of disability.

Meanwhile, the support from others without disabilities has a significant meaning for PWDs as it led them to challenge their difficulties. Suas Khoeun stated, 'Continuous encouragement by my relatives and neighbours greatly supported me' (26 July 2016). Even though they had no hope in the beginning, encouragement by others influenced their attitude toward the future to a great extent.

Thus, Prak Soeun '[we] try to encourage PWDs not to lose hope but try their best and promote our lives' (26 July 2016).

As such, the circumstances in which PWDs meet each other and share their own experience seems vital so that they make further efforts for survival, same as the support from family and others including neighbours. In practice, this sort of 'support' is less highlighted in providing aid since the experiences of PWDs have not been reflected regardless of its essential role as a conversion factor to overcome future difficulties. What JRS did by formulating survivor network has made an impact in this aspect.

However, it does not necessarily imply that every PWD feels the same energy in this sort of occasion. As Lorm Roeub noted, concern over their own family and daily lives does not allow her to consider others. Also, some just feel pity for other PWDs in comparison with their own situation. Chhay Sot said, 'I feel the difficulties others have are twice as much as mine, even though I regard my situation as quite difficult. But I cannot do anything for them' (26 July 2016).

Although diverse reactions would be observed, meeting other PWDs and the support from others could be an outstanding conversion factor toward social inclusion and more capabilities with self-dignity, which can affect throughout CRPD (Trani et al. 2010: 154).

#### 4.3 Summary

In this chapter, I explored how PWDs have experienced difficulties and challenges in daily lives and how interventions have influenced to improve them, reflecting a combined theoretical framework in Chapter 2.

It has been clearly noticed that there are corresponding human rights concerns emerging at a wide range of levels of society, which impacts on the lives of PWDs enormously. Where, how and why social exclusion arises differ from person to person. Lack of access to one right is followed or accompanied by lack of access to another right. Whereas some interventions have significantly contributed to promoting their particular human rights, and social inclusion and capabilities, there remain many human rights that have not been developed by either intervention.



The apparent reason is the lack of multi-focused intervention. In other words, if one just focuses on the specific condition or need, an intervention would not make a difference dynamically, since what people are facing is significantly multidimensional. To accelerate human right protection by applying effective interventions, we should take into consideration seriously the interrelationship among different elements that cause social exclusion and a lack of capabilities. Furthermore, a conversion factor for each case is also different, and no one should not be imposed what it is (Burchardt 2004: 743). It is true there is no absolute social exclusion and inclusion.

## Chapter 5 Conclusion and recommendation

This research has shown there are PWDs caused by landmines and ERW who are not protected by their very fundamental human rights, such as right to personal mobility, health, work and employment, and adequate standard of living and social protection, which are elaborated in Chapter 4. These rights have a significant influence on a broad range of aspects in daily lives including walking, working, eating, health and self-dignity, some of which have made their further opportunities restricted since people became physically disabled. Also, based on their disabilities, some of them experienced discrimination. All of these are human rights deficits that are associated with social exclusion and lack of appropriate capabilities at various societal spheres.

Regional bodies, the state, international aid and NGOs have conducted interventions in varied ways, from making strategies and laws to providing goods, advocating and formulating network among PWDs. Some interventions such as pensions from the state, providing prostheses and crutches by ICRC, vocational training and job opportunities or houses by NGOs have enhanced the extent of the protection of human rights of PWDs, which have been undertaken by including processes of social exclusion/inclusion and capability expansion. The social model of disability underpinning CRPD is clearly influencing many recent interventions going beyond limiting support to medical treatment, although medical aspect is also vital as physical pain has affected other human rights and consequently lessens their capability.

Notwithstanding, there remains the gap between the experiences of PWDs and these interventions. Among the difficulties of PWDs, upholding self-dignity is one respect which is hardly addressed, although it affects their future in an intense way. Many are depressed and need continual mental and emotional support, as well as encouragement by people surrounding PWDs to regain their own identity, which could open a way to social inclusion and capabilities in the future combined with other fundamental rights as JRS have challenged. In addition, other interventions are also found room for improvement according to the voices of PWDs in terms of practical opportunities.

Looking at the process of existing infringements of human rights from social exclusion and capability perspectives can allow us to acquire the entire situation of that specific PWD. This could lead a relevant conversion factor, which can transfer to social inclusion, expand capabilities and accordingly, to enable human rights. Moreover, the collaboration among actors is also essential as human rights invasions need to be alleviated by multi-focused interventions, avoiding a single and short-term standpoint. Crucially, human rights are not independent but in an interrelationship. Employing comprehensive analytical frameworks awakens the fact that numerous factors in society affect each other in a complicated and dynamical way.

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Appendix 1 List of participants

Name	Sex	Age	Province	Family members	When became disabled	Current job	Date
Hol Pros	male	52	Siem Reap	wife, 3 kids	1984, soldier	working at an NGO	25/July/2016
Sok Borey	male	53	Siem Reap	wife, 4 kids	1988, soldier	working at an NGO	25/July/2016
Ou Phanna	female	37	Siem Reap	husband, 2 kids	2003	making sculpture	25/July/2016
Prak Soeun	male	52	Oddar Meanchey	wife, 2 kids	1988, soldier	no job	26/July/2016
Sorm Pheach	male	54	Oddar Meanchey	wife, 2 kids	1989, soldier	no job	26/July/2016
Sek Phen	female	52	Oddar Meanchey	husband, 4 kids	1983	farmer	26/July/2016
Sok Paov	male	38	Oddar Meanchey	wife, 4 kids	1994, soldier	no job	26/July/2016
Kong Chheab	male	48	Oddar Meanchey	wife, 5 kids	1989, soldier	no job	26/July/2016
Chhay Sot	female	58	Oddar Meanchey	husband, 2 kids	1989	farmer	26/July/2016
Suas Khoeun	female	57	Oddar Meanchey	no husband, no kid	1985	shop owner	26/July/2016
Hem Yen	female	55	Oddar Meanchey	husband passed away, 4 kids, 7 grandchildren	during the conflict	no job	26/July/2016
Hoeung Sombath	male	54	Siem Reap	wife, 5 kids	1984, soldier	no job	27/July/2016
Lorm Roeub	female	53	Siem Reap	husband, 9 kids	around 1986	no job	27/July/2016
Moeunt Menh	male	47	Siem Reap	wife, 3 kids	1988, soldier	no job	27/July/2016
Chan Men	male	28	Siem Reap	father, 3 brothers	1996	working at an NGO	27/July/2016
Tun Chan-nareth	male	56	Siem Reap	wife, 6 kids	1982, soldier	working at an NGO	27/July/2016
Anonymus	male	46	Siem Reap	wife, 7 kids	1990	no job	29/July/2016