

Joint Submission to the Committee on the Rights of Persons with Disabilities - Upon the Occasion of the review of the Islamic Republic of Iran

The Rights of Persons Disabled by Landmines in the Islamic Republic of Iran

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Submitted by Impact Iran and the Center for Supporters of Human Rights



IMPACT IRAN

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The current submission was prepared by Impact Iran and the Center for Supporters of Human Rights (CSHR). This submission is on the rights of persons, notably children, disabled by landmines in the Islamic Republic of Iran. Primary sources of information in this submission are lawyers and activists inside and outside of Iran that advocate for persons disabled by landmines and their families. No one involved in the preparation of this submission, however, is themselves a person disabled landmines or a victim of landmines.

Impact Iran (impactiran.org) is a human rights advocacy coalition launched in January 2014. The coalition is composed of 14 organizations based in seven countries, all working to advance human rights in the Islamic Republic of Iran in various capacities. Through advocacy campaigns aimed at United Nations member states, UN mechanisms, and other high-level human rights discussions, Impact Iran strives to elicit action by stakeholders that promote respect for international human rights standards in the country. Impact Iran is a project housed at the City University of New York - Brooklyn College.

The Centre for Supporters of Human Rights (cshr.org.uk) is a non-profit non-governmental organization incorporated in the United Kingdom in 2012. Dr. Shirin Ebadi, 2003 Noble Peace Prize Laureate, is a founder and the Chair of the Centre. The primary aim of the Centre for Supporters of Human Rights (CSHR) is to improve the lives of Iranians in Iran through human rights awareness raising, education, and empowerment. CSHR is a member of the International Campaign to Ban Landmines and its staff includes leading experts on Iranian landmine-related policy and law.

Central to Impact Iran's mission is working with Iranian human rights defenders, experts, and lawyers to produce submission to the various UN human rights mechanisms. In this regard Impact Iran in partnership with Center for Supporters of Human Rights, and other coalition members, have been active in alerting UN bodies to breaches in rights of persons affected and/or disabled by landmines and other unexploded remnants of war in Iran. The UN Committee on the Rights of the Child, for example, made concluding observation the issue in its most recent review of Iran after Impact Iran and CSHR submitted relevant information to them.

The Rights of Persons Disabled by Landmines in the Islamic Republic of Iran

1. Iran is the second most mine-polluted country in the world. Iran has reported that an estimated 20 million mines were placed during the 1980-1988 war with Iraq. Individuals living in the five western border provinces in Iran are at high risk of mutilation and debilitating injuries as a result of landmines and explosive remnants of war. These mine and explosives material are specifically located in the west and south west of the country, which include, West Azerbaijan, Kurdistan, Kermanshah, Ilam, and Khuzestan.
2. From 1988, which marks the end of the Iran and Iraq war, to 2014, there have been approximately 6,995 people injured in landmines and explosive remnants of war.¹ The lack of sufficient efforts by the government to clean the mine-polluted areas has resulted to an increase to the numbers of casualties and individuals with disabilities to the community each year. Due to the lack of a comprehensive plan or a coordinating body in charge of assisting those who have become disabled as a result of the landmines, the services and assistance that the victims received are varied and oftentimes inaccessible.²
3. The government also has the civil responsibility to compensate their citizens in the event of physical injury and financial loss suffered as these landmines were primarily laid by the state or its affiliates. Those injured by mines invariably face problems such as the high cost of receiving medical treatment, as well as living with disability for the rest of their lives. Amongst the victims of mines are children. If as a result of their encounter with mines they become disabled, they are likely to be deprived of normal physical activities and this in turn is likely to bring about possible psychological and mental harm. It is imperative that government makes provisions for the physical needs of victims by facilitating medical treatment for their physical injuries as well as mental and psychological needs.
4. According to Iranian laws, victims of mine accidents have two forms of compensation to assist with the monetary expenses of coping with their disabilities. The first form gives victims the right to collect damages (known as “diye”) for the courts, for injuries resulting from the government’s inability to demine the area, which is a form of liability. This is necessary to offset the cost of surgeries and rehabilitation needed as a result of losing a limb, going blind, or some other injury. The second form of compensation is to support victims with disabilities is a monthly stipend. This amount is usually determined by the extent of the disability and the limitation upon which it imposes on the victim to earn an income. Despite the fact that they serve different purposes, authorities have been known to force victims to choose between the “diye” and the monthly stipend. These victims have the right to receive both forms of compensation since the injuries are the liabilities of the state and cause a lifetime of struggle forcing them to be dependant on the social welfare of the State. For example, in cases in which disabled persons received “diye” the commission charges with providing monthly stipend will refuse to make an awards.

¹ Landmine and Cluster Munition Monitor, Iran (February 27, 2017) available at <http://www.the-monitor.org/en->

² idib

5. Based on a 1994 legislation,³ a commission (Article 2 Commission) was established to process cases of individuals who were disabled or injured in order to determine their eligibility to receive support and protection from the Martyrs Foundation, the War Veteran affairs, the Oppressed Foundation or the Imam Khomeini Relief Committee. Procedurally, the commission is made up of the following authorities: (1) The Governor as the chairman (2) Management of the Martyr Foundation and War Veterans Affairs (3) The Head of the Intelligence Unit (4) Commander of the Revolutionary Guards of the Islamic Revolution Corps (5) Attorney General (6) Commander of the border (7) The Head of the Imam Khomeini Relief Committee, and finally (8) a coroner. As agents of the state, the members of the commission's duties are to defend interests of the government and to reduce government payouts to mine victims.

6. The primary problem for the disabled victims is the complicated and prolonged process of investigation and deliberation. The process of awarding a monthly stipend involves a complicated bureaucracy and review process. Hearings, issuing awards, are conducted without the disabled person or their representatives being present. This decision usually takes a long time to arrive at, generally several month or even years.

7. Amounts of monthly stipends is generally inadequate to meet the cost of living and medical needs of the the recipient. Under a bylaw from the Martyr Foundation minors are not eligible to receive the amount of their stipend until they reach the age of maturity, meaning that families of landmine victims are required to pay for many costs associated with their child's disabilities without support.

8. The burdens imposed by the complex bureaucratic often results in persons disabled by landmines from forgoing their claims or under reported.

9. Additionally, because victims of landmines often live in the most remote part of Iran there is rarely pre-existing infrastructure that can accommodate people with the physical disabilities. This lack of accommodation can hinder access to education, medical services and other social needs.

10. The example of Gashin Karimi:

Gashin Karimi, lost her foot in a mine explosion about three years ago when she was eleven years old. There was no signage or any indication that she and her playmates were in danger and playing in a field infested with mines. Her case was reviewed by the Article 2 Commission, which determined that her disability amounted to a 40% disability. This determination entitled her to both damages (diye) and allowance. Since the accident, Gashin has undergone eleven surgeries, which her family has had to pay up front. Gashin lives in a remote area of Kurdistan and for several months after the accident she was unable to attend school. Foundation of Martyrs and Veterans Affairs (FMVA) has not provided any assistance for her or her studies.

³ In 1994, the Iranian Parliament approved a law that restored the payment of salaries or benefits of war refugees or people who had decided to return to their homes in the war-torn areas of the country but had become disabled as a result of coming into contact with explosive materials. However, the implementation of this law proved to be difficult in practice, and as a result, the legislation had to undergo several amendments. The Cabinet of Ministers in a meeting dated 25 December 1994 considered the proposal dated 19 July 1994 by Ministry of Defense and Armed Forces Logistics and relied on Article 7 of the above law to pass the implementation regulations.

They have since withheld her monthly allowance until she turns eighteen. Furthermore the courts have denied Gashin her rights to damages (diye), she has since appealed their decision. By not providing appropriate compensation for the loss of Gashin's foot and not providing the means to access educational facilities, the member state has not taken appropriate measure to insure "all human rights and fundamental freedom on an equal basis" with other children under the convention.

11. Article 4 and 7 of the CRPD calls on states to take all necessary measures to ensure the full enjoyment by all persons with disabilities, including children, of "all human rights and fundamental freedoms" on equal basis. Specific to Article 7, the Islamic Republic of Iran replied to the list of issues presented by the Committee on the rights of Persons with Disabilities by stating that, "if children get disabled as a result of terrorist attacks and war, they will be provided with full support, including educational, medical, health, living, sports rehabilitation, leisure and recreational facilities. The foundation of Martyrs and Veterans Affairs considers it a duty to provide those facilities for an individual's life long and appropriate it to their needs." Yet, in several documented case, as in the example of Gashin Karimi, this principle has not been put into practice. Her circumstance is just one of many examples of children in the rural areas of Iran who do not have equal access to their rights. Only recently, on 19 February 2017, in Shoosh (a Khuzestan province), a thirteen-year-old boy was badly injured after accidentally triggering a mine. He lost one of his hands and his face was significantly damaged. The next day, In another accident, in the city of ILAM, one individual was killed and another was injured. These two incidents were within 24 hours of each other.

The civil responsibility of the government for clearing the mines and other war installation after 29 years from the end of the war is self-evident. Iranian citizens disabled by landmines are entitled to compensation and a full range of support and accommodations from the government needed for them to enjoy their human rights and fundamental freedoms on an equal basis with others.

Recommendations:

1. Amendment of the current laws concerning victim of landmines;
 - a. Replace some members of the Commission with those who are more familiar with the areas and victims such as member of parliaments and lawyers of the victims;
 - b. Ensure the Commission can commence investigation and make a final decision on compensation packages in a timely manner;
 - c. Reduction of number the members of the Commission appointed from government bodies;
 - d. Ensure the amount of compensation to every person disabled by landmines is adequate for them to live a decent standard and pay for all medical and other needs related to their disability
2. Accession to the Mine Ban Treaty to benefit from the Convention's provisions to assists the landmines survivors
3. Reform regulations to permit children under the age of 18 to collect monthly stipends for those with disabilities.
4. Ensure persons disabled by landmines that receive court awarded remedies ("diye") are not forced to forgo stipends from the Article 2 Commissions or vise versa.