Persons with disabilities in situations of risk: A scoping study on Article 11 of the Convention on the Rights of Persons with Disabilities
Maselina Iuta Fiso, Founding Member and Project Officer, Deaf Association of Samoa

Angeline Chand, Human Rights and Gender Advisor, Pacific Disability Forum

Abia Akram, CEO of the National Forum of Women with Disabilities, Pakistan

Nelly Caleb, National Coordinator, Vanuatu Disability Promotion and Advocacy Association

Pratima Gurung, Chair, National Indigenous Disabled Women’s Association Nepal (NIDWAN)
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For additional information, please contact:
United Nations Office for Disaster Risk Reduction (UNDRR)
7bis Avenue de la Paix, CH1211 Geneva 2, Switzerland, Tel: +41 22 917 89 08
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EXECUTIVE SUMMARY

This scoping report provides insights on how strengthening the connection between disaster risk reduction (DRR) and the Convention on the Rights of Persons with Disabilities (CRPD) could reinforce efforts to enhance the protection of persons with disabilities in disaster risk situations.

It looks into article 11 of the CRPD and its focus on the dimensions of disaster risk. Besides providing an overview of how the CRPD with its legal norm-setting and monitoring can enhance disability-inclusive DRR, it also shows how the interlinkage between human rights and DRR has momentum in the United Nations Human Rights related fora (United Nations Human Rights Treaty Bodies and the Human Rights Council (HRC)). Furthermore, it presents analyses of CRPD state reviews, which affirm that the rights of persons with disabilities in risk situations need to be strengthened.

The report considers opportunities for how a stronger connection between DRR and the CRPD could be achieved. The combination of clarification of states’ obligations and the strengthening of the position of persons with disabilities in situations of risk, makes the CRPD an important tool to assist in reinforcing the legal foundation of DRR. The document specifically indicates opportunities for States, Civil Society Organizations (CSOs), Organizations of Persons with Disabilities (OPDs) and United Nations organizations (i.e. United Nations Office for Disaster Risk Reduction (UNDRR)).

Finally, recommendations are made on how the rights of persons with disabilities could be better promoted through DRR, and how the CRPD could strengthen disability-inclusive DRR, including:

- the development of a General Comment by the CRPD Committee specifically focused on article 11 and DRR

- strengthening support to CSOs, OPDs and National Human Rights Institutions (NHRIs), as well as National Sendai Framework Focal Points, so they are able to fulfil their vital role in this respect

- reinforcing the follow up of the CRPD Committees’ Concluding Observations by all stakeholders including through the engagement of the National Sendai Framework Focal Points as relevant

- enhancing international cooperation, especially to assist developing countries, to ensure adequate and sustainable support as is provided in line with Target F of the Sendai Framework.
INTRODUCTION

Persons with disabilities are often disproportionately affected in situations of risk, including humanitarian emergencies, disasters and their aftermath. The climate crisis, and the COVID-19 pandemic have exacerbated inequalities and show the urgency to strengthen disability-inclusive DRR.

Since the adoption of the CRPD in 2006, disability has been more prominent in the international policy frameworks. For instance, the 2030 Agenda for Sustainable Development reflects the rights of persons with disabilities across the different Sustainable Development Goals (SDGs). The same applies to various humanitarian policy frameworks, and the Sendai Framework for Disaster Risk Reduction 2015-2030 (the Sendai Framework). These frameworks are, in general, based on humanitarian and human rights principles, such as equality, non-discrimination, and participation.

They recognize the heightened vulnerability to disasters of persons with disabilities, and advocate for their rights to be taken into account. The Sendai Framework provides concrete actions to protect development gains from the risk of disasters. It aims at the substantial reduction of disaster risk and losses and preventing new and reducing existing disaster risk by reducing and managing conditions of hazards, exposure and vulnerability and enhancing capacities. (see box 1)

The Sendai Framework recognizes the vulnerability and exposure of people as foundational components of risks. In this respect, DRR means reducing vulnerability and exposure, while strengthening the capacity and resilience of persons with disabilities. Therefore, the Sendai Framework requires a people-centred preventive and inclusive DRR approach.

Participation in decision-making and implementation is considered a key issue for persons with disabilities and their organizations. The Sendai Framework was adopted at the Third UN World Conference in Sendai, Japan on 18 March 2015.

2 Disability is referenced in various parts of the SDGs and specifically in parts related to education, growth and employment, inequality, and accessibility of human settlements, as well as data collection and monitoring of the SDGs, for instance goal 4, 8, 10, 11, 17, see also the preamble of the Paris Climate Change Agreement (2015) with a reference to the rights of persons with disabilities.
3 See i.a. Inter-Agency Standing Committee-guidelines (IASC) guidelines on the inclusion of persons with disabilities in humanitarian action (2019), The Charter on Inclusion of Persons with Disabilities in Humanitarian action (2016), and Sphere Handbook (SPHERE 2011). Also, regional policy instruments have addressed the rights and needs of people with disabilities in disasters, for example, the Verona Charter on the Rescue of Persons with Disabilities in Case of Disasters (2007), the Incheon Strategy to ‘Make the Right Real’ for Persons with Disabilities in Asia and the Pacific (2012).
4 The Sendai Framework is the successor instrument to the Hyogo Framework for Action (HFC) 2005-2015. The Sendai Framework was adopted at the Third UN World Conference in Sendai, Japan on 18 March 2015.
6 See “Disability inclusion and disaster risk reduction, overcoming barriers to progress” (briefing note), John Twigg, Maria Kett and Emma Lovell (July 2018).
7 UN GA Resolution A/RES/71/276 (February 2017) endorsed Section V and VI of the report of the open-ended intergovernmental expert working group on indicators and terminology relation to Disaster Risk Reduction, for the report see note by the UN Secretary General A/71/644 (December 2016).
8 UN GA Resolution A/RES/71/276 (February 2017).
THE SENDAI FRAMEWORK AND TERMINOLOGY

- **Scope and purpose of the Sendai Framework** *(see para 15 of The Sendai Framework)*
  “The present framework will apply to the risk of small-scale and large-scale, frequent and infrequent, sudden and slow-onset disasters, caused by natural or manmade hazards as well as related environmental, technological and biological hazards and risks. It aims to guide the multi-hazard management of disaster risk in development at all levels as well as with and across all sectors.”

- **Goal of the Sendai Framework** *(see para 17 of The Sendai Framework)*
  “Prevent new and reduce existing disaster risk through the implementation of integrated and inclusive economic, structural, legal, social, health, cultural, educational, environmental, technological, political and institutional measures that prevent and reduce hazard exposure and vulnerability to disaster, increase preparedness for response and recovery, and thus strengthen resilience.” [underlining added]

- **Disaster risk** *(as endorsed by the UN General Assembly (GA) in Resolution A/RES/71/276 (2017))*
  “The potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time, determined probabilistically as a function of hazard, exposure, vulnerability and capacity.” [underlining added]

- **Disaster risk reduction** *(as endorsed by the UN General Assembly (GA) in Resolution A/RES/71/276 (2017))*
  “Disaster risk reduction is aimed at preventing new and reducing existing disaster risk and managing residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.” [underlining added]
provides in this regard that “persons with disabilities and their organizations are critical in the assessment of disaster risk and in designing and implementing plans tailored to specific requirements, taking into consideration, inter alia, the principles of universal design.”

Although progress has been made in implementing the Sendai Framework, further measures are necessary to take implementation forward. For example, in most countries still insufficient investment and progress in DRR is observed and the risk-understanding remains limited. Government policies continue to be largely reactive. The CRPD state reviews confirm that with regard to the protection of persons with disabilities, DRR implementation is lacking behind (see further under section V. Analyses of CRPD state reviews in relation to article 11 of the Convention).

The use of the well-established international human rights mechanisms and, in particular, the CRPD, could enhance the implementation of the Sendai Framework in respect of strengthening the resilience of persons with disabilities. The Sendai Framework is a soft law instrument in the form of guidelines, codes of conduct, and standard operating procedures. Whereas, these human rights mechanisms not only set legal norms, but they also provide further clarity on legal obligations and accountability for states and stakeholders. The interconnection with the CRPD could assist with providing further clarification and accountability in relation to disability-inclusive DRR.

This scoping report will look further into article 11 of the CRPD and its focus on the dimensions of disaster risk. Besides providing an overview of what the CRPD entails for DRR, the report also analyses relevant CRPD state reviews. Moreover, it shows how further guidance and clarity on article 11 of this Convention by the CRPD Committee could support the promotion and strengthen disability-inclusive DRR. The report also touches on work done by other United Nations human rights fora in this respect.

The decision of the CRPD Committee at its 27th session (August-September 2022) to develop a General Comment on article 11 will greatly contribute to enhancing a preventative and multi-hazard approach to disaster risk and adaptation to climate change, and leverage the combined potential of the Sendai Framework, the Paris Agreement and the Convention.

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11 See para 36 of the Sendai Framework, also references in paras, 7, 19 and 32 of the Sendai Framework.
12 See for example Global Platform for Disaster Risk Reduction, Co-Chairs’ summary, Bali Agenda to Resilience: Towards Sustainable Development for all in a Covid Transformed World (Co-Chairs’ Summary), May 2022.
13 See Global Platform for Disaster Risk Reduction Co-Chairs’ Summary (May 2022), para 11 and further.
14 The Dhaka Declarations (2015 and 2018) are an example of efforts made to strengthen the connection between the Sendai Framework and the CRPD, to reduce vulnerabilities and prevent and reduce consequences of disasters for persons with disabilities. The Dhaka Declaration (2015), which evolved version Dhaka Declaration+ was adopted in May 2018 through the 2nd International Conference on Disability and Disaster Risk Management, Bangladesh, May 15 - 17, 2018 by the participants from 32 countries, including members from Governments, groups and organizations of persons with disabilities, representatives from United Nations agencies,UNESCAP, regional and international non-government organizations.
THE CRPD AND ITS OPTIONAL PROTOCOL

A) PERSONS WITH DISABILITIES AS RIGHTS HOLDERS

Over the past decades, there has been a significant change in the way disability is understood. Disability is recognized “as the consequence of the interaction of the individual with an environment that does not accommodate that individual’s differences and limits or impedes the individual’s participation in society”.\(^\text{15}\) This social model of disability replaced the earlier charity-based and medical models that conceptualized disability as an individual problem. The CRPD embraces this social model.\(^\text{16}\) Persons with disabilities are rights holders.

B) THE CRPD IS A LEGAL FRAMEWORK FOR INCLUSIVE SOCIETIES

The CRPD is a universal, legally binding standard that was adopted in 2006 and entered into force in 2008.\(^\text{17}\) The Convention is ratified by 185 of the 193 member states of the United Nations. The entry into force of the CRPD is often referred to as a paradigm shift in the human rights protection of persons with disabilities.\(^\text{18}\) Its purpose is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”.\(^\text{19}\)

At the same time as the CRPD, its Optional Protocol was adopted and entered into force.\(^\text{20}\) The Optional Protocol not only provides an individual complaints procedure, but also grants the CRPD Committee the possibility to launch inquiries where there is evidence of grave and systematic violations of human rights. The Optional Protocol is ratified by 100 UN Member States.

The UN Office of the High Commissioner for Human Rights (OHCHR) refers to the CRPD as a blueprint for action to include and uphold the rights of persons with disabilities.\(^\text{21}\) It is from the existing international standards on persons with disabilities the most advanced in terms of scope and depth.\(^\text{22}\) The CRPD covers the full spectrum of civil, cultural, economic, political and social rights. It complements the other United Nations human rights treaties to ensure the inclusiveness and accessibility of all human rights for persons with disabilities on an equal basis.\(^\text{23}\)

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\(^{17}\) 3 May 2008.


\(^{19}\) Article 1 of the CRPD.

\(^{20}\) The Optional Protocol to the Convention on the Rights of Persons with Disabilities (Optional Protocol).


States are the primary duty barriers to promote and protect the rights of persons with disabilities. The CRPD identifies areas where adaptations must be made for persons with disabilities to be able to effectively exercise their rights and areas where the protection of their rights must be reinforced. The Convention mostly contains programmatic provisions and assignments for state parties to take measures. In addition, it foresees that state parties have to work continuously and progressively on the realization of the rights of persons with disability.24

Another essential element of the CRPD is that persons with disabilities and their representatives are provided with a central role and voice in all aspects of the implementation of the Convention. The CRPD requires states parties to “closely consult with” and “actively involve” persons with disabilities in decision-making processes related to them.25

C) GENERAL GUIDING PRINCIPLES OF THE CRPD

In addition to the primary purpose of article 1 of the CRPD, the Convention contains in article 3 a set of eight overarching and foundational principles. These guide the interpretation and implementation of the entire Convention, cutting across all issues. These general principles are at the core of the CRPD and are central to monitoring the rights of persons with disabilities.26 (see box 2)

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24 Article 33 (2) of the CRPD.
25 See i.a. article 4 (3) and art. 33 (3) of the CRPD.
**D) ARTICLE 11 SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES**

Article 11 of the CRPD is a unique provision, which for the first time in a United Nations human rights treaty, explicitly refers to obligations in situations of risk, including “humanitarian emergencies and natural disasters.”

This article recognizes the particular vulnerability of persons with disabilities during situations of risk and humanitarian emergencies. It requires states to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including conflict, humanitarian emergencies and natural-hazard events. In the context of disaster risk reduction, it is important to recognise that while the CRPD specifically references ‘natural disasters’, disaster risk is created by the decisions people make, and while hazards may be natural, disasters are not. Indeed, it is critical that in taking relevant DRR measures, state parties and stakeholders take into account the full scope of hazards enshrined in para 15 of the Sendai Framework. Disaster risk cannot be managed hazard by hazard. A multi-hazard approach is fundamental, given the systemic nature of risk and its compounding and cascading effects across sectors, geographies, and societal groups.

This provision emerged during the intergovernmental negotiations which took place against the backdrop of the December 2004 tsunami. It was suggested to use a model like article 38 of the Convention on the Rights of the Child (CRC), which ensures protection of the rights of children affected by armed conflict. However, it was deemed necessary to foresee an explicit article on situations of risk and emergencies to ensure the protection of persons with disabilities affected by armed conflict and other situations of risk.

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**BOX 3**

**ARTICLE 11 - SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES**

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

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E) OTHER RELEVANT CRPD-PROVISIONS FOR DRR

Besides the general provisions, other articles of the CRPD are relevant and need to be considered when interpreting and implementing article 11 of the Convention; see box 4.\(^{31}\)

For example, for DRR, the promotion of international cooperation, as is provided in article 32 of the Convention, could be important in support of the least developed countries (LDCs) and small island developing states (SIDS), which are often the most vulnerable to disasters. This is also aligned to Target F of the Sendai Framework, which seeks to substantially increase international cooperation to developing countries by 2030.

 BOX 4

EXAMPLES OF OTHER RELEVANT ARTICLES OF THE CRPD IN SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES\(^ {32}\)

- Ensuring close consultation with, and the active involvement of, organizations of persons with disabilities in the development and implementation of legislation and policies (article 4 (3)).
- Raising awareness of disability-inclusiveness (article 8).
- Access to justice (article 13).
- Protection of persons with disabilities from all forms of exploitation, violence and abuse (article 16).
- Right to live independently and be included in the community (article 19).
- Freedom of expression and opinion, and access to information (article 21).
- Habilitation and rehabilitation services (article 26).
- Right to an adequate standard of living and social protection, including the right to food, water and shelter (article 28).
- Collection of appropriate statistics and data to understand the situation of persons with disabilities before (article 31).
- International cooperation (article 32).
- Designating national monitoring and implementation mechanisms, including focal points within government, coordination mechanisms and national human rights institutions (article 33).

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ARTICLE 32 – INTERNATIONAL COOPERATION

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

a. Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
b. Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
c. Facilitating cooperation in research and access to scientific and technical knowledge;
d. Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention." [underlining added]
THE CRPD MONITORING MECHANISMS

As with each United Nations human rights treaty body, the CRPD has established a committee of independent experts to monitor implementation of the treaty provisions by its state parties: the CRPD Committee. The CRPD Committee provides guidance for interpretation and implementation of the obligations and rights which the Convention entails. As with other United Nations human rights bodies, this mechanism contains legal norm-setting and a thorough functioning accountability system. The CRPD Committee has several tools to carry out this interpretative and monitoring mandate, which will be elaborated hereunder.

A) CRPD STATE REVIEWS

The first means for monitoring the implementation of the obligations under the CRPD is through the state reporting procedure. All states parties to the Convention have a duty to submit regular reports to the CRPD Committee on the measures taken to give effect to the rights provided in the Convention. States must report within two years of ratifying the Convention (the initial report), and every four years after that, or whenever requested by the CRPD Committee.

These state reviews benefit from broad based consultations and constructive engagement with CSOs, OPDs and NHRIs. Also, United Nations organizations and programmes are encouraged to contribute to this procedure. The CRPD Committee engages in constructive dialogue with the state and the other actors. It adopts Concluding Observations containing concerns, suggestions and recommendations to the state for follow-up action to improve and strengthen implementation.

i) CRPD reporting guidelines for state reviews

The CRPD Committee created reporting guidelines that aim to advise states parties on the form and content of their reports. States parties preparing for the initial reports should use these guidelines. As a consequence of a better understanding of the gaps in the implementation of the Convention, the CRPD Committee adopted revised guidelines on periodic reporting (see Annex I) in 2016. This revision was also a follow up of new international developments that had taken place, such as the adoption of the 2030 Agenda for Sustainable Development and the agreed Sendai Framework.

With regard to article 11 of the CRPD, these revised guidelines provide much more detailed guidance to states parties for their plan of action in the situation of risk and emergencies. They contain clear linkages to the implementation of the
Sendai Framework. The guidelines do not only assist states, but are also intended to support CSOs, OPDs, NHRIs and other stakeholders in their contributions to the periodic CRPD reporting. Moreover, the 2016 guidelines provide for the CRPD Committee a pool from which it selects issues in its interaction and recommendations in the state reporting reviews.

ii) Crucial roles for stakeholders in CRPD state reviews

• Persons with disabilities and their representatives

As indicated above, an essential element of the CRPD is the central role of persons with disabilities and their representatives in all aspects of the Con-
vention, including the monitoring. The Convention requires that civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

- Specialised organizations from the United Nations or other organs of the United Nations

The CRPD Committee can be assisted by specialized organizations from the United Nations or other organs of the United Nations. It can send requests to United Nations specialized agencies and other competent bodies as it may consider appropriate, to provide expert advice or to submit reports on the implementation of the Convention in areas falling within the scope of their activities.\(^{39}\)

Furthermore, with regard to the received state reports the CRPD Committee can:

"as it may consider appropriate, [transmit] to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee’s observations and recommendations, if any, on these requests or indications". [bold added]\(^{40}\)

In this perspective, it is also worth mentioning the Inter-Agency Support Group (IASG) on the Convention on the Rights of Persons with Disabilities, which was established by the United Nations Chief Executives Board in September 2006. The IASG is a mechanism for international cooperation in support of the promotion and implementation of the Convention and its Optional Protocol.\(^ {41}\)

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\(^{39}\) Article 38 of the CRPD.

\(^{40}\) Article 36 (5) of the CRPD.


\(^{42}\) See Document CRPD/C/5/4 on the working methods of the Committee on the rights of persons with disabilities (September 2011).
B) OTHER MONITORING AND INTERPRETING TOOLS OF THE CRPD COMMITTEE

Besides state reviews, the CRPD Committee has the following possibilities to exercise its mandate, which could be relevant in reinforcing disability-inclusive DRR: see box 6.

While for the moment there is no General Comment specifically focused on **article 11 of the CRPD**, the CRPD Committee does refer to this provision, for example in its General Comment no.2 on article 9 of the CRPD, in which it underlined that accessibility of emergency services to persons with disabilities is a precondition for their protection in situations of risk, natural disasters and armed conflict. Moreover, it stated that accessibility must be incorporated as a priority in post-disaster reconstruction efforts and that, therefore DRR must be accessible and disability-inclusive. Noteworthy that, recognizing its need, at its 27th session (August-September 2022), the CRPD Committee showed commitment to developing its next general comment specifically on article 11, situations of risk and humanitarian emergencies.

As of now, also **no individual complaint under the Optional Protocol relating to article 11 of the CRPD has been submitted**. Communications related to the inadequate implementation of article 11 of the Convention, could for example be referred in conjunction with other direct applicable articles of the CRPD. This could mean that complaints concerning inadequate measures of disability-inclusive DRR could be admissible under the CRPD’s Optional Protocol. This application of the complaint procedure could assist in strengthening the implementation of article 11 of the Convention.

Furthermore, the CRPD Committee can **always request states parties to provide further information** relevant to the implementation of the Convention. This happened with regard to the **armed conflict situation in Ukraine**. The CRPD Committee requested concerned states parties to submit information in writing about the situation of children and adults with disabilities with specific reference to article 11 of the Convention. The CRPD Committee discussed these issues during its 27th session (August-September 2022).

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43 General Comment no.2, Article 9: accessibility (CRPD/C/GC/2) (April 2014).
45 Article 11 of the CRPD is in general regarded as an implementation provision. However, with regard to its possible direct applicability and admissibility it is worth referring to recent developments concerning the Optional Protocol under the Children Rights Convention in the so called climate change cases, for the decisions in these cases see, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1351&Lang=en.  
46 Article 36 (1) of the CRPD.
C) NATIONAL MONITORING MECHANISMS

It is also important to point out that the CRPD includes provisions for a national monitoring mechanism.48 Like OPDs have pointed out, this national monitoring can provide valuable information on the state of national implementation of the Convention and can identify reliable information on grave or systematic violations of the Convention. This information can, for example, be submitted to encourage the CRPD Committee to undertake an inquiry under the Optional Protocol if the state concerned has ratified it.49 It can also assist with the follow up on CRPD Committee recommendations to ensure implementation of disability-inclusive DRR.

48 Article 33 of the CRPD.
A) DEVELOPMENTS IN THE HUMAN RIGHTS COUNCIL AND THE CRPD COMMITTEE

The strengthening of the coherence between DRR and human rights protection has momentum in United Nations human rights-related fora.\(^{50}\)

In 2016, the Human Rights Council (HRC) already focused on the rights of persons with disabilities in situations of risk and humanitarian emergencies. It adopted a resolution and it welcomed the OHCHR thematic report, which was also specifically focused on article 11 of the CRPD.\(^{51}\) Both the HRC resolution and the OHCHR report emphasized the need to reinforce the implementation of article 11, including strengthening involvement and participation of persons with disabilities and their representatives in all stages of DRR.\(^{52}\) The OHCHR report also pointed out the failure by governments and others to take reasonable preventive action to reduce vulnerability and enhance the resilience of persons with disabilities, as well as to provide effective mitigation.

With the ongoing climate change crisis, armed conflicts and the recent COVID-19 emergency, the need for further clarity and implementation of the human rights obligations under article 11 of the CRPD becomes even more clear and pressing.

i) Climate change

The UN human rights mechanisms acknowledged on numerous occasions that climate change has a disproportionate impact on vulnerable groups.\(^{53}\) Most recently in reaction to the devasting floods in Pakistan, the CRPD Committee and UNDRR expressed in a joint statement “that situations of risk and humanitarian emergencies amplify vulnerable situations for persons with disabilities - the lack of accessible information, services and infrastructure, inaccessible evacuation procedures, inaccessible emergency shelter and relief camps, a lack of assistive devices and support services, inaccessible health care, lack of access to supply chains for food security and to clean water and sanitation.”\(^{54}\) They

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\(^{50}\) The UN International Law Commission made already in 2014 in its (draft) articles on the "protection of persons in the event of disasters" a clear reference to the link between disasters and human rights protection.


\(^{52}\) See specifically OP 5 of Resolution A/HRC/RES/31/6 with specific measures contemplated by article 11 of the CRPD.

\(^{53}\) See for example General Recommendation no. 37 by the Committee on the Elimination of Discrimination against Women (CEDAW) on gender-related dimensions of DRR in a changing climate (CEDAW/C/GC/37) (March 2018).

\(^{54}\) See the joint statement on the situation of persons with disabilities by flooding in Pakistan, issued by the CRPD Committee and UNDRR (9 September 2022), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRPD/STA/PAK/9595&Lang=en
called for concerted immediate and longer-term action to ensure the specific needs of persons with disabilities. There is a great need to enhance the integration of DRR and climate change adaptation in policies, programmes and their implementation, and investment decisions. The Asia Pacific Ministerial Conference held Australia on 19-22 September 2022 stressed the necessity to scale up implementation of integrated and comprehensive disaster and climate risk management at national and local levels. It also affirmed that disaster risk reduction must be inclusive and people-centred and that a gender-transformative, disability-inclusive and human rights-based approach that promotes and supports diverse participation and leadership of women, youth, persons living with disability, LGBTQI+ people, indigenous people and older persons reduces disaster risk.  

Also, the HRC has emphasized in various instances that all states should adopt a comprehensive disability-inclusive approach to climate adaptation and mitigation policies, to ensure the full and effective protection of human rights for all.

ii) Armed conflict

The Special Rapporteur on the rights of persons with disabilities (Gerard Quinn) is currently focusing on the rights of persons with disabilities in the context of armed conflict. His work, together with the above mentioned CRPD Committee session on the situation in Ukraine, will provide further clarity on article 11 of the Convention relating to armed conflicts. However, this work could also deepen the understanding of article 11 of the CRPD in general. For example, the CRPD Committee provides, in the Chapter on the situation of persons with disabilities in Ukraine and in countries where they have fled (9 September 2022), an overview of CRPD jurisprudence relating to article 11 of the Convention.

iii) COVID-19 emergency

The COVID-19 emergency has stressed the need to strengthen inclusive responses for persons with disabilities. In May 2020, the OHCHR provided guidelines on COVID-19 and the rights of persons with disabilities. These were developed with the support of the United Nations partnership on the Rights of Persons with Disabilities (UNPRPD). In April 2020, a United Nations policy brief on a disability-inclusive response to COVID-19 was

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55 See the Co-Chairs’ Statement from the Asia-Pacific Ministerial Conference for Disaster Risk Reduction https://www.undrr.org/publication/apmcdrr-co-chairs-statement-2022

56 Resolution A/HRC/RES/47/24 (July 2021), most recently the HRC reaffirmed this in its Resolution A/HRC/RES/50/9 (July 2022).

57 In Security Council Resolution 2475 (2019) the Security Council for the first time addressed specifically persons with disabilities. This resolution represents a clear political commitment towards mainstreaming disability across all United Nations pillars.

58 See Report A/76/146 (2021), the SR is preparing for the GA 2022 a report on conduct of hostilities, military operations, and peace keeping operations, see the site of the SR https://www.ohchr.org/en/special-procedures/sr-disability#:~:text=Mr.,Rights%

59 See chapter on the situation of persons with disabilities in Ukraine and in countries where they have fled after 24 February 2022 (9 September 2022), para 9, https://www.ohchr.org/en/treaty-bodies/crpd/statements-declarations-and-observations.


61 A collaborative effort that brings together United Nations entities, governments, organizations of persons with disabilities and broader civil society works to translate these possibilities into reality.
produced. In recent state reviews, the CRPD Committee refers in its Concluding Observations under article 11 of the CRPD to these two documents to improve implementation and safeguard the rights of persons with disabilities.

Additionally, the CRPD Committee is building on this experience, and adopted during its 27th session (August-September 2022) Guidelines for the Deinstitutionalization, including in emergencies. In the course of the COVID-19 crisis, the CRPD Committee observed alarming situations with institutionalized persons with disabilities, and therefore developed these guidelines in close consultation with CSOs and OPDs.

The above outlined developments in the United Nations human rights fora show that these fora provide opportunities and tools to reinforce states’ accountability and strengthen the position of persons with disabilities with regard to DRR.

The COVID-19 pandemic strongly evidenced the need for a multi-hazard management of disaster risk, with the full engagement of all states institutions and a whole-of-society approach, as enshrined in the Sendai Framework.

B) THE USE OF INTERNATIONAL HUMAN RIGHTS MONITORING TO STRENGTHEN HUMAN RIGHTS BASED APPROACH (HRBA) AND ENSURE DISABILITY-INCLUSIVE DRR

The United Nations human rights treaty bodies, the HRC, and its special procedures, can offer further clarity on what a human rights-based approach in DRR means.

In general, an HRBA will lead to greater accountability and empowerment of those involved in DRR. It is considered that empowerment and accountability processes in DRR can reinforce each other, and that human rights will contribute to progress in these areas. An HRBA will reduce community vulnerability and enhance resilience for persons with disabilities.

Mere existence of national legislation concerning disasters, including legislation relating to DRR, may not be sufficient, especially in guaranteeing enforceable rights, for persons with disabilities. Vulnerability of individuals to disasters may be reduced if laws and policies incorporate an HRBA. The use of international human rights monitoring mechanisms could assist those seeking justice where national implementation is lacking, and make states more accountable.

63 CRPD/C/27/3.
65 HRBA is empowering rights holders and holding duty bearers into account.
66 See “The relationship between Human Rights and Disaster Risk Reduction revisited: Bringing the legal perspective into the Discussion”, Karen Da Costa and Paulina Pospieszna, in Journal of International Humanitarian Legal Studies (May 2015), if accountability mechanisms are in place they are likely to increase instances in which state can be held responsible.
ANALYSES OF CRPD STATE REVIEWS IN RELATION TO ARTICLE 11 OF THE CONVENTION

*Trends in state and shadow reporting, and CRPD Committee’s Concluding Observations*

For this scoping document, state reviews relating to article 11 of the CRPD were examined. These reviews included initial state reports, as well as second and third reports by state parties. In all these reviews, article 11 of the CRPD was addressed. The CRPD Committee provided in these state reviews specific concerns and recommendations with regard to article 11 of the Convention. A large variation could be viewed between how elaborated the implementation of this provision was dealt with in the states’ and shadow reports by CSOs, OPDs and NHRIs.

The CRPD is a relatively new human rights instrument compared to the other United Nations human rights conventions. Therefore, it should be taken into consideration that most state parties produced only their initial report or are in the process of presenting a first report. Second and third state reports could provide, in a next stage further, clarity on how follow-up and implementation has been given to the CRPD Committee’s recommendations. In that stage also, the more detailed 2016 reporting guidelines (see Annex I) could be of further assistance.

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69 Including state reviews from Albania, Australia, Bangladesh, Cook Islands, Cuba, Djibouti, Ecuador, El Salvador, Estonia, France, Greece, Hungary, India, Iraq, Jamaica, Japan, Kuwait, Myanmar, New Zealand, Niger, Norway, Philippines, Mexico, Nepal, Rwanda, Saudi Arabia, Senegal, Spain, Switzerland, Turkey, Vanuatu, Venezuela.

70 The CRPD Committee often asked to the states in the List of Issues (LOI) to provide information on any disaster risk strategies developed in consultation with organizations of persons with disabilities, and on the applicability of these strategies to different groups of persons with disabilities.
Other general observations from these state reviews with regard to article 11 of the CRPD are:

- The initial state reports often focus on providing a general overview of the national law, institutions and policies on disaster management.

- The CRPD Committee frequently links the implementation of article 11 of the Convention to the implementation of the Sendai Framework. In various reviews also CSOs, OPDs and NHRIs make references in their shadow reports to the implementation of the Sendai Framework. The states that do refer explicitly to the Sendai Framework are mostly the states that have experienced disaster situations.

- The detailed 2016 reporting guidelines (see Annex I) seem to be mainly used by the CRPD Committee. As mentioned earlier, these 2016 guidelines provide more specific guidance on what states should report under article 11 of the CRPD during their periodic reporting. These guidelines provide an overview of the necessary implementation measures under article 11 of the Convention. The CRPD Committee uses these guidelines, and subsequently focuses the questions and recommendation to the specific state situation. States hardly seem to refer to or use these guidelines.

- Issues that are frequently pointed out by the CRPD Committee in their Concluding Observations that need to improve:

  - Involvement, participation, consultation or representation of CSOs or OPDs in all stages.
  
  - Accessibility and inclusiveness for persons with disabilities (i.a. with regard to strategies, policies and protocols, early warning systems, emergency information, specific emergency measures, shelters).
  
  - Better dissemination of information regarding prevention (i.a. in accessible formats).
  
  - Situations of refugees, immigrants and internal displaced persons (IPD), and women and girls.
  
  - Strengthening of measures to provide training to persons charged with the task of evacuating persons with disabilities in the event of emergency.
  
  - Specific allocation or earmarking of resources.
  
  - Disaggregated data on persons with disabilities.
  
- In many recent states reviews, the CRPD Committee shared its great concern on the lack of implementation of article 11 of the CRPD with regard to the COVID-emergency. It referred in its relating Concluding Observations, among others, to the specific OHCHR guidelines and the SG policy brief (see references above).

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72 This summing up is not exhaustive.
From the state and shadow reporting, it is apparent **that more guidance and monitoring is needed to assure disability-inclusive DRR**. As OHCHR has mentioned in a recent report, about 22 per cent of states that have provided information on their implementation of article 11 of the Convention have only generic emergency planning and have no specific emergency plans in place for persons with disabilities.\(^\text{73}\) Especially the COVID-emergency exposed that further **awareness needs to be created and more specific guidance given to all different actors on what disability-inclusive DRR entails** under article 11 of the Convention.

In addition to a better understanding by the states of their obligations under article 11 of the Convention, the CRPD state review system can also assist with strengthening the position of persons with disabilities and their representatives. The CRPD Committee emphasises in many of its Concluding Observations their crucial role in all phases of DRR, and that still much needs to be improved.

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\(^{73}\) See “Participation of persons with disabilities in climate action, disaster risk reduction and resilience against natural disasters”, note by OHCHR (CRPD/CSP/2022/4) (March 2022), nt 3, disability and development report, realizing the SDG UN 2018.
The above described CRPD and its monitoring tools provide opportunities to strengthen the implementation of disability-inclusive DRR.

OPPORTUNITIES FOR STATES

A CRPD Committee’s General Comment on article 11 of the Convention can provide the necessary clarification of states’ obligations to protect persons with disabilities in DRR, and will assist them in fulfilling their responsibilities under the Sendai Framework and the SDGs. The CRPD provides a well-established framework with which states (including National Sendai Framework Focal Points) in cooperation with CSOs, OPDs, NHRIs and United Nations organizations, (specifically UNDRR) can ensure a disability-inclusive DRR.

OPPORTUNITIES FOR CSOS AND OPDS

The CRPD Committee can provide further clarity on what the rights of persons with disabilities entails in DRR (including in planning, strategies, policies and actions). The CRPD confirms the shift to empowering persons with disabilities with rights and reinforces their legal position. It emphasises the crucial role CSOs and OPDs should play in all stages of DRR. The CRPD not only strengthens the rights of persons with disabilities, but also foresees international procedures to enforce these rights (i.a.

THE PRINCIPLES IN THE CRPD PROVIDE A GUIDE FOR STAKEHOLDERS TO CONSCIOUSLY INCLUDE THE RIGHTS OF PERSONS WITH DISABILITIES IN DRR

“to ensure application of the principles of dignity, equality and non-discrimination to people with disabilities;

to promote and protect their inclusion and safety;

to sensitize international and national agency staff, and national and local authorities, on the rights, protection and safety of people with disabilities;

to ensure that people with disabilities affected by crises know their rights and entitlements, have access to information and participate in decisions that affect them on an equal basis with others;

A rights-based approach also addresses programme planning and implementation.”
participation in the state reviews and individual complaints procedures) and gives them a stronger voice.

**OPPORTUNITIES FOR UNITED NATIONS ORGANIZATIONS**

The CRPD Committee bases its recommendations not only on reporting from states and CSOs, OPDs and NHRIs, but also on other sources, such as United Nations organizations. With regards to article 11 of the CRPD, (informal) information and expertise from for example UN Country teams or UNDRR could especially be relevant. The CRPD tools provide an opportunity to ensure coherence with DRR work done throughout the United Nations system.

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74 See reference to these principles in “Disability inclusion and disaster risk reduction, overcoming barriers to progress” (briefing note), John Twigg, Maria Kett and Emma Lovell (July 2018), p. 7.
CONCLUDING RECOMMENDATIONS

RECOMMENDATIONS ON HOW THE RIGHTS OF PERSONS WITH DISABILITIES COULD BE BETTER PROMOTED THROUGH DRR, AND HOW THE CRPD COULD STRENGTHEN DISABILITY-INCLUSIVE DRR

● In general, enhance awareness of the obligations and rights under article 11 of the CRPD in relation to DRR, and encourage states that did not accede yet to the CRPD and its Protocol to ratify these treaties.

● Support the development of a General Comment by the CRPD Committee with regard to article 11 of the CRPD that guide a stronger preventative, integrated and multi-hazard management of disaster and climate risk, taking into account its systemic nature and cascading and compounding effects. Such a General Comment would provide the necessary guidance to assist states, CSOs, OPDs, NHRIs and UNDRR to ensure the protection of persons with disabilities in risk situations and adopt preventative measures to reduce existing risk and prevent the creation of new risk.

As can be seen in the CRPD state reviews, the implementation of disability-inclusive DRR is still often inadequate and in a starting phase. Although progress has been made - including with regard to the development of the 2016 reporting guidelines on article 11 of the Convention, the ongoing work in relation to armed conflicts and the COVID-19 emergency - further legal guidance and norm-setting on DRR in line with the national and local disaster risk reduction policies and plans adopted in accordance with Target E of the Sendai Framework would accelerate implementation and ensure disability-inclusive DRR.

● Strengthen the support to CSOs, OPDs and NHRIs, so that they are able to fulfil their vital role in promoting and protecting the rights of persons with disabilities in DRR. Raise awareness in the humanitarian field about the opportunities that the CRPD, and its article 11 specifically, provide for disability-inclusive DRR. Broaden partnerships with organizations beyond the humanitarian setting, include relevant organizations focused on prevention of risk and human rights. Assist these organizations to reduce disaster risk themselves, so they are able to operate and provide the necessary services to persons with disabilities during disasters. Support awareness about using national and international human rights mechanisms to ensure disability-inclusive DRR in both settings.

● Reinforce the follow up of the Concluding Observations by the CRPD Committee, specifically in relation to the implementation of the DRR dimensions of article 11 of the Convention. Not only states (including National Sendai Framework Focal Points), but also CSOs, OPDs, NHRIs and other stakeholders have an important role in this follow up. When national mechanisms are not enough to ensure follow up, refer also to other international tools, such as mechanisms within the Human Rights Council (i.a. Universal Periodic Reviews, Special Rapporteurs).
All stakeholders can use the CRPD Concluding Observations as tools and pressure points to ensure implementation.

- Create and support awareness about the individual complaint procedure under the Optional Protocol of the CPRD. Processed individual complaints can also create general precedents. Awareness-raising and encouraging the ratifying of the Optional Protocol to the CRPD could therefore assist in strengthening the protection of persons with disabilities in DRR.

- Create and support awareness about the possibility to provide information and submissions to the Special Rapporteur on the rights of persons with disabilities with regard to individual concerns or concerns of a general nature relating to protection of rights of persons with disabilities in DRR. This special procedure can also be followed when states have not ratified the CRPD or its Optional Protocol.

- Enhance international cooperation on the basis of article 11 in conjunction with article 32 of the CRPD to strengthen disability-inclusive DRR, especially in assistance to developing countries, to ensure adequate and sustainable support as is provided in Target F of the Sendai Framework. Enhance capacity-building with regard to exchange and sharing of information, training, and sharing best practices, or providing as appropriate technical and economic assistance with regard to disaster and climate risk management.
SITUATIONS OF RISK AND HUMANITARIAN EMERGENCIES (ART. 11)

15. States parties should provide information on the following:

a. Measures adopted to ensure that persons with disabilities and their representative organizations are meaningfully informed of, consulted about and actively participate in all steps relating to the strategies, plans and protocols for disaster risk reduction and humanitarian emergencies, including those relating to armed conflict and natural hazards, including their design, implementation, monitoring and evaluation, the conduct of risk assessment and the systematic collection of data disaggregated by disability and information on loss from disaster;

b. Measures adopted to ensure the inclusiveness and accessibility of disaster risk reduction measures and disaster management strategies, as indicated in the Sendai Framework for Disaster Risk Reduction, such as risk assessments, the collection, availability and dissemination of risk information, investments to enhance the economic, social, health and cultural resilience of persons, needs-assessments, emergency evacuation procedures, multi-hazard strategies, early warning systems and recovery, rehabilitation and reconstruction strategies, and to guarantee that they reach all persons with disabilities in disaster risk and emergency situations, and that they are tailored to the requirements and rights of persons with disabilities and developed in accessible formats and languages. The extent to which those measures take into account the diverse requirements of persons with disabilities and the application of the principles of universal design;

c. Steps taken to optimize the use of mass media with the aim of providing adequate, accessible and timely information on disaster risk and humanitarian emergencies, including early warning systems, to persons with disabilities, especially persons who are at a higher risk of marginalization;

d. Measures adopted to ensure the protection of the lives and safety of persons with disabilities in situations of risk, including, among others, through the provision of the necessary assistive devices and accessible mobile applications, accessible shelters, relief and other services and facilities, social support and health services/treatment, trained rescue teams and accessible communication channels that take into account the diverse requirements of persons with disabilities;
e. Steps taken to ensure that post-emergency rehabilitation, resettlement, reconstruction and rebuilding processes are based on risk assessments inclusive and accessible to persons with disabilities, among others, through the application of universal design and build-back-better principles;

f. Measures adopted to regularly and effectively train civil defence, rescue and emergency personnel and other relevant humanitarian actors on the inclusion of an age and disability perspective based on human rights and the principle of leaving no one behind in situations of risk and humanitarian emergencies.