

Making sense out of the Anti-Personnel Mine Ban Convention's obligations to landmine victims

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Introduction

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction – the *Anti-Personnel Mine Ban Convention* or *Ottawa Convention* – is unique for a number of reasons. Not the least of these is the manner in which the Convention has married obligations that concern a conventional weapon with requirements that the Convention's parties act to assist the victims of the weapon in question. When the Convention was adopted in September 1997, this aspect of the Convention was heralded by diplomats and activists, with landmine survivors themselves celebrating that “the Ottawa Convention is the first international arms control agreement that addresses the humanitarian needs of the victims of a particular weapon system.”¹

Establishing an international legal instrument on a conventional weapon which featured a responsibility for the victims of the weapon was itself a challenge for those involved. However, the real work began once the Convention entered into force when states had to act on this responsibility. The aim of this paper is to review what this responsibility is and how it has come to be understood by the Convention's membership. Moreover, this paper will examine the approach taken since the Convention's first five year review conference in 2004 in applying this understanding in such a way that a meaningful difference can be made. That is, the approach taken has been to treat a general obligation to assist victims in a manner that is analogous to the Convention's specific and time-bound obligations concerning mine clearance and stockpile destruction. Finally, this paper will suggest that the Anti-Personnel Mine Ban Convention's States Parties' approach to *mine victim assistance* may provide lessons for the implementation of other instruments of international law, particularly the Convention on Certain Conventional Weapons' Protocol V.²

Legal obligations

The preamble to the Convention expresses the desire of the States Parties “to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims.” This wish is translated into an obligation in article 6.3 of the Convention in that “each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims (...).” This article continues by indicating that such assistance may be provided through a variety of means, including “the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, and national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.”

¹ Rutherford, Ken and Jerry White. “The role of the Landmine Survivors Network”, in *To walk without fear: the global movement to ban landmines*, Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds. (Toronto: Oxford University Press, 1998), 114.

² The full name of this instrument is the Protocol on Explosive Remnants of War of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

In the process of developing the Convention, provisions on cooperation and assistance first appeared in the second draft convention of 14 March 1997, which was prepared by Austria.³ However, neither the second draft nor the third draft of 13 May 1997 contained proposed measures to assist landmine victims. Indeed, at the September 1997 Oslo Diplomatic Conference when the Convention was negotiated, obligations to provide assistance for the care and rehabilitation of, and social and economic reintegration, of mine victims were agreed “only after lengthy debate” with a number of donor governments “concerned about the financial ramifications of such obligations.”⁴

Thus, seeing that an international instrument prohibiting a conventional weapon would also address the needs of those who had fallen victim to the weapon was a hard-fought victory. It was a victory none the less and a significant one, in part because it resulted in terms like “mine victims” and “assistance” for mine victims becoming embedded in international law. However, given that these terms are not defined in the Convention and that “arguably the Convention does not impose an absolute legal obligation upon States Parties to assist mine victims,” upon entry into force of the Convention the Convention’s membership was challenged with figuring out exactly what to do.⁵

Understanding the Convention’s obligations

Soon after the Convention entered into force, on 7 May 1999 at the First Meeting of the States Parties to the Convention, the Intersessional Work Program was established, which included a *Standing Committee on Victim Assistance and Socio-Economic Reintegration* holding informal meetings in the period between the Convention’s formal diplomatic gatherings.⁶ One of the early steps taken by the States Parties in the Intersessional Work Programme was to proceed in clarifying terms that are central to fulfilment of the Convention’s aim of providing assistance to victims. In doing so, the States Parties were aided by advanced thinking that had already been undertaken on this matter by the US-based Landmine Survivors Network (LSN).

LSN’s central role in guiding the work of the International Campaign to Ban Landmines’ (ICBL) Working Group on Victim Assistance led to the ICBL adopting as positions various definitions on key terms like *victim* and *victim assistance*, and, various views on the place of *victims* and *victim assistance* in broader contexts.⁷ These positions subsequently became the basis for discussions in the Standing Committee on Victim Assistance and Socio-Economic Reintegration in 1999-2000 and beyond.⁸ Ultimately, the Convention’s First Review Conference in 2004 recorded the advancements made in the States Parties’ understandings of these matters. For instance, at the First Review Conference, it was concluded that “*victims* include those who either individually or collectively have suffered physical or psychological injury, economic loss or substantial impairment of their

³ Maslen, Stuart. *Commentaries on Arms Control Treaties, Volume I: The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*. (Oxford: Oxford University Press, 2004), p 177.

⁴ Ibid, pp 55 and 183.

⁵ Maslen. p 56.

⁶ Also established were four other Standing Committees with the original name of these mechanisms being “Standing Committees of Experts.” At the 2000 Second Meeting of the States Parties to the Convention, it was agreed to drop the term “Experts” and reduce the committee structure to four Standing Committees. In addition, the “Standing Committee on Victim Assistance and Socio-Economic Reintegration” was originally called the “Standing Committee of Experts on Victim Assistance, Socio-Economic Reintegration and Mine Awareness.” At the 2001 Third Meeting of the States Parties that matter of mine awareness / mine risk education became the domain of the Standing Committee that held responsibility for mine clearance.

⁷ International Campaign to Ban Landmines. *Victim Assistance: Contexts, Principles and Issues*. (Position paper of the International Campaign to Ban Landmines, 2000).

⁸ *Final Reports of the Standing Committees of Experts: Report of the Standing Committee of Experts on Victim Assistance, Socio-Economic Reintegration and Mine Awareness*. (Annex IV to the Final Report of the Second Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 19 September 2000).

fundamental rights through acts or omissions related to mine utilization.”⁹ Moreover, it was acknowledged that, on the one hand, “a broad approach to what is considered a landmine victim has served a purpose in drawing attention to the full breadth of victimization caused by landmines and unexploded ordnance,” while, on the other hand, “quite naturally the majority of attention has been focused on providing assistance to those individuals directly impacted by mines” given that “these individuals have specific needs for emergency and ongoing medical care, rehabilitation and reintegration, and require legal and policy frameworks to be implemented in such manner that their rights are protected.”¹⁰

Also concluded at the Convention’s First Review Conference were important understandings regarding the place of *victims* and of *victim assistance* in broader contexts. For instance, the States Parties recorded that “those individuals directly impacted by mines are a sub-group of larger communities of persons with injuries and disabilities.”¹¹ This important understanding logically then flowed to the acceptance by the States Parties of another understanding which points to the need for a more sophisticated approach to what the United Nations (UN) has defined as “mine action.” That is, according to successive reports on mine action issued by the UN Secretary General, the UN defines “mine action” as encompassing five core elements, with one of these being “victim assistance.”¹² However, as noted at the First Review Conference, “there are important contextual differences between humanitarian demining and activities related to assisting in the care, rehabilitation and reintegration of landmine victims.”¹³ The States Parties further concluded that “humanitarian demining, while related to, is relatively distinct from other humanitarian, development or disarmament challenges and thus has developed as a relatively new and specialized discipline.”¹⁴ In contrast, the matter of victim assistance is different in that it “does not require the development of new fields or disciplines but rather calls for ensuring that existing health care and social service systems, rehabilitation programmes and legislative and policy frameworks are adequate to meet the needs of all citizens — including landmine victims.”¹⁵

In other words, the response to locate, remove and destroy mines in the ground, which in large part was catalyzed by the impetus created by the development of new international legal instruments in the mid-1990s, involved the emergence of what can be considered to be a new *profession*. While demining for humanitarian purposes has been undertaken since the immediate post First World War period, *humanitarian demining* has come into its own over the past decade as something of a vocation requiring specialized knowledge and specific preparation, and for which there is a degree of accreditation. The response to those whom have fallen victim to mines, though, has not necessitated a new discipline or profession. As noted by the Convention’s States Parties, “the problems faced by landmine victims are similar to the challenges faced by other persons with injuries or disabilities” and hence “assistance to landmine victims should be viewed as part of a country’s overall public health and social services systems and human rights frameworks.”¹⁶

⁹ *Review of the operation and status of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction 1999-2004*. (Part II of the Final Report of the First Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 9 February 2005), paragraph 64.

¹⁰ *Ibid.*

¹¹ *Ibid.*, paragraph 65.

¹² United Nations. *United Nations mine action: a strategy for 2001-2005*. (Report of the Secretary General, Document # A/58/260/Add.1, 8 August 2003), paragraph 9.

¹³ *Review of the operation and status of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction 1999-2004*. (Part II of the Final Report of the First Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 9 February 2005), paragraph 65.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*, paragraphs 65-66.

Just as assisting mine victims should not be segregated from assistance that is provided more generally to the broader segment of a country's population that faces challenges stemming from injury or disability, the matter of victim assistance must also not be segregated from the broader context of development. As recorded by the Convention's First Review Conference, while a political commitment is required on the part of relevant States Parties to advance the quality of life of mine victims, "ensuring that a real difference can be made may require addressing broader development concerns." As such, "victim assistance should be integrated into development concerns."¹⁷ In this manner, it is possible to look at assistance to mine victims as being not simply a cost but rather an investment. This fact has been understood by the States Parties, who concluded that "development efforts that assist mine victims will benefit from these victims' contributions to their countries' development through their full participation in social and economic spheres."¹⁸

While addressing development concerns means addressing issues that are essentially collective, landmine survivors are individuals and hence concerns from the point of view of individuals need to be addressed as well. The States Parties also recognized this point at the First Review Conference. In particular, they emphasized their understanding of this matter by clearly recording that victim assistance, as well as being a matter of collective concern, "is also a human rights issue."¹⁹

Certainly another major advance made by the States Parties was to record an understanding of what exactly they mean by *victim assistance*. Thanks in large part to the intellectual input provided by a particularly skilled representative of the Landmine Survivors Network, Becky Jordan, who was at the forefront of shaping ICBL policy on victim assistance, at the Convention's First Review Conference the States Parties concluded that *victim assistance* is generally understood to comprise six elements:

- understanding the extent of the challenges faced;
- emergency and continuing medical care;
- physical rehabilitation, including physiotherapy, prosthetics and assistive devices;
- psychological support and social reintegration;
- economic reintegration; and,
- the establishment, enforcement and implementation of relevant laws and public policies.²⁰

The States Parties also drew a series of conclusions regarding progress that had been made during the period leading to the First Review Conference and what challenges remain.

In addition to developing understandings on concepts like *mine victim* and *victim assistance*, and on broader contextual matters, the States Parties at the First Review Conference drew several important conclusions regarding the matter of responsibility. That is, who ultimately has responsibility for assisting mine victims? The work of the States Parties has led them to accept the view that "all States Parties in a position to do so have a responsibility to support mine victims – regardless of the number of landmine victims within a particular State Party."²¹ However, the States Parties also came to the understanding that "the ultimate responsibility for victim assistance rests with each State Party within which there are landmine survivors and other mine victims", with the logic for such an understanding grounded in the fact that "it is the basic responsibility of each State to ensure the well-being of its population, notwithstanding the fundamental importance of the international donor community supporting the integration and implementation of the policies and programmes articulated by States Parties in need."²²

¹⁷ Ibid, paragraph 67.

¹⁸ Ibid.

¹⁹ Ibid, paragraph 68.

²⁰ Ibid, paragraph 69.

²¹ Ibid, paragraph 85.

²² Ibid, paragraph 81.

As well as developing understandings on responsibility, the States Parties identified for whom this responsibility mainly applies. That is, the responsibility to support mine victims is “most pertinent for – and hence the challenges faced in fulfilling it most profound in (24) States Parties in which these States Parties themselves have indicated there likely are hundreds, thousands or tens-of-thousands of landmine survivors.”²³ These States Parties are: Afghanistan, Albania, Angola, Bosnia and Herzegovina, Burundi, Cambodia, Chad, Colombia, Croatia, the Democratic Republic of the Congo, El Salvador, Eritrea, Ethiopia, Guinea Bissau, Mozambique, Nicaragua, Peru, Senegal, Serbia and Montenegro, Sudan, Tajikistan, Thailand, Uganda and Yemen.

This sense of responsibility was underscored in the *Nairobi Action Plan*, which noted that the Convention’s victim assistance obligations constitute “a vital promise for hundreds of thousands of mine victims around the world, as well as for their families and communities” and that “keeping this promise is a crucial responsibility of all States Parties,” with it being “especially the case for those (24) States Parties where there are vast numbers of victims.”²⁴ Moreover, in the *Nairobi Action Plan*, the States Parties recorded 11 commitments related to this “vital promise.” These commitments include that the States Parties, “particularly those (24) with the greatest numbers of mine victims,” will do their utmost to proceed with specific action points related to all six defined areas of *victim assistance*.²⁵

In conclusion, the understandings on victim assistance recorded by the States Parties at the Convention’s First Review Conference provided them with a solid basis to begin considering that the application of the victim assistance obligations of the Convention could be more analogous to the application of more concrete obligations found elsewhere in the Convention. For example, with respect to obligations related to the destruction of stockpiled anti-personnel mines, the Convention’s obligations are very clear. What must each States Party do? It must destroy stockpiled anti-personnel mines under its jurisdiction or control. For whom is this obligation relevant? Every State Party that reports stockpiled anti-personnel mines under its jurisdiction or control must apply this portion of the Convention. Following the development of understandings on victim assistance, it became much clearer to see what the victim assistance obligation entails and for whom it is most pertinent. However, while a sound basis was provided to treat victim assistance like other obligations, complications still existed.

Seizing the opportunity presented by understandings on victim assistance

The Convention provided a legal basis to act to assist landmine victims, the Convention’s States Parties during the period 1999 to 2004 developed a collective understanding of what assisting landmine victims means, and the *Nairobi Action Plan* provided a political impetus to act during the period 2005-2009. However, following their First Review Conference the States Parties still lacked a clear understanding of what could be or should be achieved by a certain point of time. Millions of dollars had been generated between 1997 and 2004 for matters that are consistent with the aim of assisting landmine victims.²⁶ However, activists were arguing that not enough was being done or well enough. On the eve of the Convention’s First Review Conference, the ICBL claimed that “in many

²³ Ibid, paragraph 85. The *Review of the operation and status of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction 1999-2004* recorded 23 not 24 relevant States Parties. Ethiopia subsequently ratified the Convention becoming the 24th relevant State Party for this matter.

²⁴ *Ending the suffering caused by anti-personnel mines: Nairobi Action Plan 2005-2009*. (Part III of the Final Report of the First Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 9 February 2005), paragraph 5.

²⁵ Ibid, Paragraph 5, Actions #29-35.

²⁶ For example, the International Committee of the Red Cross, through its *Special Appeal Mine Action 1999-2003* and *Special Appeal Mine Action 2004*, generated over CHF 100 million during the period 1999-2004 for curative care and physical rehabilitation. See: International Committee of the Red Cross. *Special Report: Mine Action 2003*, and, *Special Report: Mine Action 2004*.

mine affected countries the assistance available to address the needs of survivors is inadequate.”²⁷ The same activists, though, also indicated that it was unclear what and how much needed to be done and by when, with the ICBL acknowledging that “the extent to which landmine survivors’ needs are not being met is generally still unknown.”²⁸

Essentially, by not knowing what needs to be done by certain key milestone dates like the Convention’s Second Review Conference in 2009, the Convention’s States Parties were setting themselves up for failure because there was no measuring stick regarding what it means to have fulfilled their promises to mine victims. Immediately following the First Review Conference, the newly selected Nicaraguan and Norwegian Co-Chairs of the Standing Committee on Victim Assistance and Socio-Economic Reintegration took this as their point of departure. The Co-Chairs proceeded by further advancing the application of the victim assistance provisions of the Convention as if they were like other obligations.

Of course, victim assistance is not like other obligations. It is not defined in the Convention, which means the conclusions recorded at the First Review are extremely significant. The Convention is not precise in identifying and quantifying exactly for whom this responsibility is most profound, which again points to the value of States Parties at the First Review Conference self-identifying that they are part of a group of 24 States Parties with the responsibility for significant numbers of survivors. What remained was to make the victim assistance obligations have deadlines and hence analogous to the Convention’s deadlines for mine clearance and stockpile destruction, and, to spell out these obligations in concrete terms.

In terms of the deadlines, perhaps both arbitrarily and logically, the Co-Chairs called for concrete progress to be made by the time of the Convention’s Second Review Conference in the second half of 2009. In terms of clarifying what concrete progress would be, or what the measuring stick would be for success or failure in 2009, the Co-Chairs turned the matter over to the 24 relevant States Parties in question. That is, while an obligation to destroy stockpiled anti-personnel mines is universally applicable, it makes no sense to assume that a measure of progress in a particular area of victim assistance, such as in medical care or physical rehabilitation, would be common to all. Clearly, what could be expected from, or what should be achieved by, any one of the 24 relevant States Parties would be different from all others given diversities in terms of numbers and characteristics of survivors, bureaucratic and service delivery capacity, geography, et cetera.

With this in mind, the question that arose related to who determines what measurable progress will be on the part of each of the 24 relevant States Parties. The answer was clear and obvious: As the ultimate responsibility of meeting the needs of survivors rests with each of these states, it was understood that they themselves must define what can be / should be achieved, in concrete and measurable terms, and how. Others may have the expertise and capacity to assist in understanding problems, in developing plans to deal with these problems and in monitoring the efficacy and implementation of plans. Real and sustainable progress, though, cannot be made without the space being created for affected States Parties themselves to *own* the challenge and the solutions to it.

The Co-Chairs’ approach to ensuring progress in understanding what progress would be involved the distribution of a comprehensive questionnaire to the 24 relevant States Parties to support their articulation of: (a) concrete victim assistance objectives by 2009; (b) plans to achieve these objectives; and (c) means to implement these plans. As noted in December 2005 in the Sixth Meeting of the States Parties’ (6MSP) *Zagreb Progress Report*, “this questionnaire was inspired by the *Strategic Framework for Planning Integrated Victim Assistance Programmes*, which was developed by Switzerland in 1999, and it was based upon the *Guidelines for the Socio-economic Reintegration of Landmine Survivors*, which was produced by the World Rehabilitation Fund and the United Nations

²⁷ International Campaign to Ban Landmines. *Landmine Monitor: toward a mine-free world – executive summary*. (Washington, DC: Human Rights Watch, 2004), 52.

²⁸ *Ibid*, 47.

Development Programme (UNDP) in 2003.”²⁹ The main aim of this questionnaire was to encourage the 24 States Parties in question to establish so-called *SMART* objectives:³⁰

- Specific objectives which should specify what these States Parties want to achieve.
- Measurable objectives which would enable all to know whether objectives had been met.
- Achievable objectives that are truly attainable.
- Realistic objectives which could indeed be achieved with resources at the disposal of the State Party in question or with resources that could realistically be acquired externally.
- Time-bound objectives which would be achieved by the time of the Second Review Conference.

The *Zagreb Progress Report* additionally noted that “to further support the efforts of these 24 States Parties in developing concrete and measurable objectives for victim assistance, the Co-Chairs convened two regional workshops in which all 4 pertinent Latin American States Parties participated and in which 10 of the 11 pertinent African States Parties participated.”³¹ Moreover, “a number of country-specific assistance strategies” were pursued and every effort was made to encourage the relevant 24 States Parties to present their initial responses to the questionnaire at the June 2005 meeting of the Standing Committee on Victim Assistance and Socio-Economic Reintegration.³² Most of them did so. In addition, a number of States Parties were assisted by the Implementation Support Unit of the Geneva International Centre for Humanitarian Demining (GICHD) in preparing responses to the questionnaire.

The *Zagreb Progress Report* also significantly noted that the questionnaire distributed by the Co-Chairs “is not an end-product but rather an initial step in a long-term planning and implementation process as it concerns victim assistance.”³³ Responses to these questionnaires were summarized in a lengthy annex to the *Zagreb Progress Report* and hence became part of the Convention’s permanent record. As such, there is now a much more solid means to advance this long-term process, particularly by having provided the beginnings of “a clearer road map regarding what needs to be done between 2005 and the Second Review Conference and how success pertaining to victim assistance will be measured in 2009.”³⁴

Overcoming remaining challenges

While the effort undertaken in 2005 by relevant States Parties was impressive, the quality of the responses was mixed. Few States Parties actually responded with *SMART* objectives. Some States Parties detailed at length their status. However, even though this should have provided a sound basis for setting objectives, very little was put forward in terms of what the desired status would be in 2009. Other States Parties failed to spell out what is known or not known about their status. In addition, some States Parties did not engage in the effort at all.

Another challenge identified in 2005 relates to the conclusion drawn at the First Review Conference that “assistance to landmine victims should be viewed as a part of a country’s overall public health

²⁹ *Zagreb Progress Report* (Part II of the Final Report of the Sixth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, unofficial version, 2 December 2005), paragraph 70.

³⁰ SMART is a common acronym in widespread use. A Google search conducted in February 2006 for “SMART objectives” brought up over 19.6 million hits from organizations ranging from on-line marketing companies to the Shetland Islands Council to the March of Dimes promoting its use.

³¹ *Zagreb Progress Report* (Part II of the Final Report of the Sixth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, unofficial version, 2 December 2005), paragraph 71.

³² Ibid.

³³ Ibid, paragraph 72.

³⁴ Ibid.

and social services systems and human rights frameworks.”³⁵ In many instances, the effort to develop victim assistance objectives has been led by demining officials with little interaction with those responsible for health and social services. Moreover, in some instances the actual provision of assistance to landmine survivors appears to be the responsibility of mine action structures, not health care or social service structures.

A further challenge related to the First Review Conference’s understanding that “providing adequate assistance to landmine survivors must be seen in a broader context of development and underdevelopment.”³⁶ Many States Parties have prepared Poverty Reduction Strategy Papers or national development plans to overcome broader development challenges, with most such documents containing objectives that are relevant to advancing the care, rehabilitation and reintegration of landmine survivors. However, in many instances the preparation of victim assistance objectives has not taken these broader national plans into consideration.

The needs to overcome these challenges and to monitor progress were identified in the *Zagreb Progress Report* as priorities in the period leading to the Seventh Meeting of the States Parties:

- “While objectives may have been established by many of the 24 States Parties that have reported the responsibility for significant numbers of survivors, it is essential that these States Parties proceed with the more complex task of developing comprehensive national plans to guide the fulfillment of these objectives, ensuring that these plans integrate mine victim assistance into broader health care and social service systems, rehabilitation programs and legislative and policy frameworks.”³⁷
- “In keeping with the commitment made in the *Nairobi Action Plan* to monitor and promote progress in the achievement of victim assistance goals, a priority must be, to place a focus on what steps are being taken to achieve the national objectives set by the 24 most affected States Parties and what progress is being made.”³⁸

At the 6MSP, Afghanistan and Switzerland were elected to serve as 2005-2006 Co-Chairs of the Standing Committee on Victim Assistance and Socio-Economic Reintegration. They were determined to pick up where their Nicaraguan and Norwegian predecessors left off, acknowledging that the best way to assure progress in overcoming these challenges is to work intensively, on a national basis, with as many of the relevant States Parties as possible while providing some level of support to all 24 of these States Parties. Their aim, quite simply, is to see that by the September 2006 Seventh Meeting of the States Parties: (a) those with good objectives would develop good plans; (b) those with vague objectives would develop more concrete objectives; and, (c) those that had not engaged, or had engaged very little, in the process of developing objectives and plans in 2005 would get engaged.

To achieve their aim, some level of support is being provided to all 24 relevant States Parties in the form of advice each may wish to consider in improving on 2005 efforts to establish SMART objectives. In addition, the Implementation Support Unit of the GICHD has been tasked with providing *process support* to as many relevant States Parties as possible in advancing their inter-ministerial efforts to establish better objectives and develop good plans. *Process support* involves country visits featuring the following: (a) one-on-one meetings with officials from relevant ministries

³⁵ *Review of the operation and status of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction 1999-2004*. (Part II of the Final Report of the First Review Conference of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 9 February 2005), paragraph 66.

³⁶ *Ibid*, paragraph 67.

³⁷ *Zagreb Progress Report* (Part II of the Final Report of the Sixth Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, unofficial version, 2 December 2005), paragraph 80(i).

³⁸ *Ibid*, paragraph 80(ii).

to raise awareness of the matter and to stimulate inter-ministerial coordination; (b) outreach to relevant international and other organizations to ensure that their efforts in support of the State Party in question are both incorporated into and incorporate mine victim assistance efforts; and, (c) inter-ministerial workshops to bring together all relevant actors to discuss and consolidate improvements on objectives and the development of plans.

It should be noted that workshops are not considered as stand-alone activities or ends in themselves. Rather, workshops are part of a State Party's overall process of objective setting, planning, and implementation of efforts to ensure progress by 2009. The processes in relevant States Parties which were catalyzed in 2005 and further supported in 2006, ideally should be continuous. Moreover, while meaningful progress by 2009 is necessary to demonstrate to the outside world that this aspect of the Convention is working, inter-ministerial processes may have to continue for many years after 2009. After all, the ultimate aim is a true equalization of opportunities of landmine survivors and other persons with disabilities vis-à-vis countries' broader populations.

Lessons for other conventional weapons instruments

It has been a challenge for states to understand how to make progress in the pursuit of the totality of the Anti-Personnel Mine Ban Convention's core aims. This largely is the result of the Convention's unique nature as a set of obligations that is largely characteristic of disarmament law but which exist to fulfill a humanitarian purpose. Victim assistance has been the most difficult of the core aims to understand. However, as has been demonstrated, efforts are being made to overcome this challenge by treating victim assistance obligations in a manner that is analogous to the concrete, defined and time-bound obligations that pertain to other core aims. Moreover, by understanding *victims* and *victim assistance* in broader contexts the States Parties have developed a clear sense regarding how existing state systems, plans, programs and legislative frameworks need to give due regard to the needs of survivors and that it makes no sense to establish a new field of activity that is often referred to as *victim assistance*. It has taken the States Parties several years to develop this conceptual approach and those charged with implementing conventional weapons instruments that have emerged since would be wise to apply the lessons learned from the Convention rather than starting from scratch.

As noted, an initial advance was made by the Anti-Personnel Mine Ban Convention in simply incorporating any obligations with respect to assistance for the victims of the weapons in question. This obligation, which was a hard won victory in 1997, was accepted as a logical course of action in 2003. That is, in 2003 the member states of the Convention on Certain Conventional Weapons adopted the Protocol on Explosive Remnants of War, incorporating in that protocol, virtually word for word, the Anti-Personnel Mine Ban Convention's ground breaking provisions on victim assistance.³⁹

The application of this provision of the Protocol on Explosive Remnants of War will mean the protocol's parties will face the same challenges with the care and rehabilitation and social and economic integration of "victims of explosive remnants of war" as were faced by the Anti-Personnel Mine Ban Convention's States Parties in fulfilling this obligation with respect to "mine victims". The parties to the protocol can benefit from the understandings developed through the work of the Anti-Personnel Mine Ban Convention, particularly with respect to how the Convention's States Parties defined what *victim assistance* is, recognized its place in broader contexts, and highlighted who holds ultimate responsibility for assuring progress. What remains for the parties to the protocol is to follow the Anti-Personnel Mine Ban Convention's lead in catalyzing and supporting national inter-ministerial processes to establish objectives and develop and implement plans.

³⁹ Article 8.3 of the Convention on Certain Conventional Weapons' Protocol on Explosive Remnants of War reads: "Each High Contracting Party in a position to do so shall provide assistance for the care and rehabilitation and social and economic reintegration of victims of explosive remnants of war. Such assistance may be provided inter alia through the United Nations system, relevant international, regional or national organizations or institutions, the International Committee of the Red Cross, National Red Cross and Red Crescent Societies and their International Federation, non-governmental organizations, or on a bilateral basis."

Conclusion

It would be idealistic to think that some of the world's poorest countries with some of the greatest challenges regarding the care, rehabilitation and reintegration of landmine survivors would demonstrate perfection in the establishment of national victim assistance objectives and in the development and implementation of national plans. Assistance exists to help them with these tasks and in accordance with the Convention those in a position to do so are obliged to provide it. However, outsiders cannot do it all, nor, more importantly, should they do it all. States with significant numbers of victims need to be provided with the space to internalize that they own the ultimate responsibility for the well being of landmine survivors – as well as all others – in areas under their control or jurisdiction.

Hence, with perfection unattainable, it should be acknowledged that it will be a major advance should there be any degree of meaningful progress made by relevant states in taking charge of matters that, at the end of the day, are their responsibilities. The Anti-Personnel Mine Ban Convention, after all, was all about expanding the traditional understanding of state responsibility, with states accepting that in addition to national security responsibilities they have important human security responsibilities. Ensuring progress in victim assistance by key milestone dates, like the 2009 Second Review Conference, will help demonstrate the efficacy of this sense of responsibility. The work undertaken to date by the States Parties suggests that they are on the right track. However, efforts – and processes – will have to continue with vigor in order to make a real and sustainable difference.