

ENHANCING COOPERATION AND ASSISTANCE AS CONCERNS VICTIM ASSISTANCE

Discussion Paper

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Introduction:

1. Article 6.3 of the Anti-Personnel Mine Ban Convention states 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...” The States Parties have understood that this obligation placed “assisting the victims” as one of the core aims necessary in order that the Convention as a whole lives up to its promise. However, it is the most complex and challenging issue for the States Parties. This complexity arises from several key issues:
 - a. Victim assistance is a human rights issue that aims to address the rights and needs of people who are often marginalised and living in vulnerable situations in countries with limited resources and many competing priorities.
 - b. Victim assistance is not a stand-alone activity but requires the coordination of and collaboration between a wide range of actors including several government ministries and agencies as well as non-state entities.
 - c. Victim assistance should be inclusive of all persons with disabilities, regardless of the cause of disability.
 - d. Victim assistance should be integrated into broader national policies, plans and legal frameworks related to disability, health, education, employment, development and poverty reduction.
2. At the Cartagena Summit on a Mine-Free World, the States Parties “resolved to provide adequate age- and gender-sensitive assistance to mine victims, through a holistic and integrated approach that includes emergency and continuing medical care, physical rehabilitation, psychological support, and social and economic inclusion in accordance with applicable international humanitarian and human rights law, with the aim of ensuring their full and effective participation and inclusion in the social, cultural, economic and political life of their communities.”
3. In addition, the States Parties recognised that “addressing the rights and needs of mine victims is a long-term commitment which requires sustained political, financial and material commitments, provided both through national commitments and international, regional and bilateral cooperation and assistance, in accordance with the obligations under Article 6.3.”
4. A decade of efforts to implement the victim assistance provision of the Convention has resulted in a much clearer understanding of what victim assistance is and the challenges faced in addressing the rights and needs of landmine victims and other persons with disabilities. However, the persistent challenge remains of translating the increased understanding on victim assistance into tangible improvements in the quality of daily life of mine victims and other

persons with disabilities. Addressing this challenge requires greater priority be given at all levels to disability issues, that the capacity of States be increased to deliver on their responsibilities and for survivors and other persons with disabilities to be included in decision making processes. For all of this, financial, technical and material resources are essential.

International cooperation and assistance in the context of victim assistance:

5. The Cartagena Action Plan's victim assistance section includes eleven actions. However, it is clear that "no progress in improving the quality of daily life of mine victims and other persons with disabilities will be possible without adequate resources to implement policies and programmes." To address this, three actions in the Cartagena Action Plan's cooperation and assistance section relate specifically to assisting the victims:
 - a. Action #39 calls on the States Parties to: "Support the national efforts of those States Parties with clearly demonstrated needs to develop their capacities to provide assistance to mine victims and other persons with disabilities by providing where possible multi-year financial, material or technical assistance in response to the priorities of the affected State to facilitate long-term planning, implementation and monitoring of victim assistance-related activities." This requires the following:
 - i. States ultimately responsible need to identify gaps in resources available to implement national plans of action and seek specific support from the international community to address the gaps.
 - ii. States in a position to assist need to provide financial and other resources to support the implementation of other States' plans of action.
 - iii. All States Parties need to enhance coordination internally and amongst one another.
 - b. Action #41 calls on the States Parties to: "Ensure that international cooperation and assistance, including development cooperation, is age-appropriate and gender-sensitive and inclusive of, and accessible to, persons with disabilities, including mine survivors." This requires the following:
 - i. States in a position to assist need to include the issue of disability/victim assistance in bilateral development cooperation discussions involving affected States.
 - ii. A "twin-track approach" is essential, integrating victim assistance into broader development cooperation while providing resources for specialised services to ensure that mine survivors and other persons with disabilities are empowered to participate on an equal basis with others.
 - c. Action #46 calls on the States Parties to: "Develop and promote regional and bilateral cooperation in sharing and effectively using national experiences and good practices, resources, technology and expertise in addressing the rights and needs of mine victims and other persons with disabilities, to implement the Convention and to engage the cooperation of regional organisations." This requires greater efforts to identify and utilise opportunities to enhance regional and bilateral cooperation.

Key actors in victim assistance:

6. The ultimate responsibility of guaranteeing the rights and meeting the needs of landmine victims within a particular state rests with that state. Victim assistance-related activities (i.e., activities to address the needs of individuals involved in a landmine explosion and guarantee the rights of all persons injured or disabled, together with the families of those killed or injured and their affected community) should be part of the work plans and budgets of a wide range of ministries and agencies responsible for health, social affairs, labour, education, transport, justice, planning, finance, and possibly others.
7. In States in a position to assist, the main actors are usually development agencies and ministries that engage in international cooperation efforts. However, within these agencies, there could be multiple agents including those desks / individuals responsible for bilateral development assistance with countries concerned, or providing assistance through multilateral entities (e.g., WHO, ICRC) for disability-related services, or, for “mine action” specifically. In addition, ministries of foreign affairs and defence may be implicated. As well, it is possible that the ministries of health of those in a position to assist may have their own cooperation initiatives with countries of concern.
8. We should be clear that States Parties in position to assist include any State that has any form of assistance (e.g., training, expert exchanges, small but still important financial contributions, etc.) that it could offer to another State to help in improving its response to landmine survivors and other persons with disabilities. In this Convention, the number of States Parties in a position to assist is not limited to the OECD DAC member States. Rather, we are fortunate that there are 156 States Parties in a position to fulfil Article 6.3 obligations.
9. International organisations are also key actors in generating resources or implementing programmes. For example, UN agencies such as the WHO, UNDP, ILO, UNOHCHR, UNICEF, and UNMAS can generate resources for capacity building and the World Bank can provide resources for particular programmes. The ICRC also plays an important role in capacity building and service provision particularly in the areas of physical rehabilitation and emergency care. Again, these actors, like States, are not monolithic but complex. For instance, several aspects of the work of the WHO may be relevant to what we consider “assisting the victims”.
10. Associations of landmine survivors and disabled persons organisations are important stakeholders in victim assistance-related activities, particularly through their work on awareness-raising and advocacy to ensure that the issue is well understood at all levels.
11. Non-governmental organisations provide services for persons with disabilities in many affected States. While some are well known members of the “Convention community” (e.g., Handicap International), numerous others that are actively involved at the national level working on disability and/or development issues may not see themselves as working on “victim assistance” (i.e., their engagement is significant for the long-term sustainability of services for mine victims but they are not part of the “Convention community”). In order to better understand the scope of services available in affected States, a comprehensive mapping of all actors involved in services relevant to “assisting the victims” is needed.
12. At the regional level, key actors generating resources for victim assistance-related activities include the European Commission, the Organisation of American States, and the International Trust Fund for Demining and Mine Victims Assistance.

13. The private sector, including individuals, charitable foundations and the business community, is potentially a key actor/partner in victim assistance, particularly as a donor to NGOs or as a provider of technical, human and other resources.

Issues and opportunities:

14. In 2004 the States Parties adopted the principle that: "...providing adequate assistance to landmine survivors must be seen in a broader context of development and underdevelopment." However, to date, there is no clarity on the true magnitude of what is provided by States in a position to assist. The bulk of what is made available for activities considered consistent with "assisting the victims" is not captured in any assessment of "mine action" funding. The bulk of what is provided is through bilateral cooperation between States to enhance healthcare systems (including injury surveillance, emergency response, institutions and human capacity), physical rehabilitation programmes, mental health services, the exercise of rights by persons with disabilities, etc.
15. A dialogue on enhanced cooperation and assistance as concerns "assisting the victims" could itself be enhanced if those in a position of giving and receiving development assistance (and core budget support) could provide greater clarity regarding the true magnitude of the effort being made to assist States in developing the responses necessary to meet the rights and needs of all individuals who are injured or who live with disabilities.
16. What we do know about "victim assistance" funding is that more than US\$ 232 million has been reported since 2004 in support of emergency medical care, physical rehabilitation and other assistance carried out by international service providers such as the ICRC, Handicap International, other NGOs and relevant UN agencies. With an overwhelming message from NGOs in 2009 being that the majority of survivors are no better off than in 2004, our dialogue could be aided by knowing what actually resulted from this US\$ 232 million + investment.
17. We need to move beyond calls that a specific percent of "mine action" funding should be dedicated to victim assistance for several reasons:
 - a. As noted above, we do not know much about what surely amounts to the greatest investment being made in "assisting the victims" – support provided through bilateral cooperation between States to enhance healthcare systems, physical rehabilitation programmes, mental health services, the exercise of rights by persons with disabilities, etc;
 - b. To argue for a greater piece of a finite "pie" for one activity may mean less for another. More funding for victim assistance at the expense of humanitarian demining (particularly when demining is one of the main activities to address the victimization of communities and to prevent additional victims) may be counterproductive.
 - c. We do not know how big the "pie" should be; and,
 - d. We are not clear regarding what we expect from affected States in terms of "national ownership".
18. Cooperation and assistance is not only about financial resources:

- a. The provision of technical support is an important aspect of sharing knowledge and enhancing victim assistance-related activities. This can include activities such as short term visits to assist in the implementation of a specific project, for example, developing a national plan of action, an evaluation, or awareness-raising and the sharing of information on new developments, or the emplacement of a technical advisor to work in a ministry or governmental agency.
 - b. Support for national capacity building is essential for the long term sustainability and accessibility. However, capacity building is in itself a long term activity and multi-year financial commitments are essential. Inadequate capacity may be a result of inadequate budgetary resources directed to disability-related activities. This may be compounded by a lack of capacity of personnel and the migration of capacities to the capital or outside the country. It is necessary to build capacities for service provision, the coordination, implementation, monitoring and evaluation of plans of action for persons with disabilities, including mine survivors, by relevant ministries and agencies. It is also necessary to build the capacity of survivors and other persons with disabilities to become advocates and leaders for change.
 - c. Another form of cooperation and assistance that does not require cash transfers is the provision of equipment and other supplies to enhance victim assistance-related activities. This type of assistance can include the provision of equipment for the production of prostheses and orthoses or medical supplies for health centres.
19. National ownership is essential to the long-term sustainability of victim assistance-related activities. While the States Parties have articulated what national ownership means to them in terms of facilitating cooperation and assistance for Article 5 implementation, they have not done so regarding fulfilling their promise to mine victims.
 20. There are challenges in channelling resources for victim assistance-related activities from States in a position to assist. For instance, a Ministry of Health may not be a direct interlocutor in discussions concerning bilateral cooperation (or may be marginalised from discussions on implementation). Instead, funding is often channelled through a UN agency which is then responsible for implementation and monitoring of programmes in collaboration with the relevant national authority.
 21. If a State requiring assistance places a low priority on disability issues, opportunities related to cooperation and assistance may be missed, particularly if the State in question does not specifically ask for this type of support. UN agencies and others may stand ready to assist but if disability is not highlighted as a priority by the government, it may therefore not be a priority for the assisting actor. Raising the priority given to the disability issue has the potential to generate additional resource allocations through the national budget and funds available through international cooperation. Furthermore, greater clarity is needed on the amount of national resources that are spent on victim assistance-related activities in affected States.
 22. UN agencies are often the preferred channel for funding to government authorities. However, in some cases, it has been reported that it can take months or even years for the funds to be released and that the supporting agency sometimes lacks the technical expertise to be the implementing partner.
 23. States and others recognise the need to mainstream disability into development activities. However, disability is not specifically mentioned in the Millennium Development Goals and

related the targets and indicators. It is widely acknowledged that it will be impossible to achieve the MDGs goals without taking into consideration the needs of persons with disabilities. The September 2010 High Level Summit to review progress on the MDGs could provide an opportunity to raise awareness of the rights and needs of mine survivors.

24. Efforts to implement the Convention on the Rights of Persons with Disabilities (CRPD) present an opportunity to enhance victim assistance-related efforts:
 - a. The CRPD promotes the understanding that development programmes should be inclusive of and accessible to persons with disabilities. The CRPD also promotes a shift in thinking about development, as it encourages the integration of persons with disabilities into all development activities rather than treating disability as a stand-alone thematic issue. This is based on the clear understanding that persons with disabilities must be recognised as equals.
 - b. Article 32 outlines four measures to improve cooperation, “including facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices”. In 2010, the UN Office of the High Commissioner for Human Rights will undertake a study on the implementation of Article 32. This may assist in improving the implementation of Article 6.3 of the AP Mine Ban Convention.
 - c. Article 32 also highlights the importance of cooperation between and among States and partnership with relevant organisations, particularly organisations of persons with disabilities.
25. Action #24 of the Cartagena Action Plan calls for the establishment of a functional coordination mechanism for the development, implementation, monitoring and evaluation of relevant national policies, plans and legal frameworks that includes all relevant stakeholders, including government ministries and agencies, organisations of persons with disabilities, international agencies, and NGOs. A functional coordination mechanism is essential to address duplication and/or gaps in service provision.
26. Action #28 of the Cartagena Action Plan calls on States Parties to “monitor and evaluate progress regarding victim assistance within broader national policies, plans and legal frameworks on an ongoing basis...” Effective monitoring and evaluation is important both for transparency and to ensure that resources are used effectively and efficiently. Moreover, cooperation can be strengthened and enhanced when States in a position to assist can see that the resources they are providing are having the desired effect. States could utilise existing monitoring and reporting tools, including those developed in the framework of other humanitarian law and human rights instruments, for example, the CRPD, to improve victim assistance reporting under the Convention.
27. International cooperation could be enhanced if all project proposals clearly show how the proposed programme or activity will contribute to achieving the objectives of the national plan of action and the aims of the Cartagena Action Plan. This in turn would assist States in a position to assist to report with greater clarity on their disability and/or victim assistance-related funding to States with clearly identified needs.
28. Action #39 of the Cartagena Action Plan calls on States Parties to “support the national efforts of those States Parties with clearly demonstrated needs...” However, in many affected States there

is limited disability-related data available at the national level for strategic planning of services and programmes, making it difficult to know what the priorities are and where resources should be targeted. Furthermore, there is often no clear understanding of who is doing what and where due to a lack of coordination not only within the disability sector as a whole but sometimes also between NGOs. Undertaking a needs assessment or a situation analysis can be a costly exercise and donors are often reluctant to fund such activities. However, without a clear understanding of the extent of the challenge it will not be possible to determine with clarity whether there is a need for increased international assistance or whether the rights and needs mine survivors and other persons with disabilities are being adequately addressed.

29. Action #25 of the Cartagena Action Plan calls on States Parties to “collect all necessary data, disaggregated by sex and age, in order to develop, implement, monitor and evaluate adequate national policies, plans and legal frameworks.” Article 31 of the CRPD also obliges States Parties “to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention”. It is important that States avoid duplication in the collection of data. Ensuring that the category of ‘mine casualty’ and ‘mine survivor’ is included in all relevant data collection mechanisms instead of creating separate mechanisms would limit duplication of efforts.

Questions for consideration to enhance international cooperation and assistance in relation to victim assistance-related efforts:

- *Within States that are in a position to assist, a wide range of actors may actually play a role in supporting activities that are consistent with the aim of assisting the victims, with the main ones being those who have responsibility for bilateral cooperation as concerns enhancing other States’ healthcare systems, physical rehabilitation programmes, mental health services, the exercise of rights by persons with disabilities, etc. However, these actors, who likely are responsible for the bulk of what truly amounts to resources for victim assistance-related efforts, do not for the most part participate in the work of the Convention. How can we gain greater clarity regarding the true magnitude of the effort being made to assist States Parties that are responsible for significant numbers of landmine victims in developing the responses necessary to meet the needs of all individuals who are injured and who live with disabilities?*
- *Given the above, what is typically reported as “victim assistance funding” probably amounts to a small portion of what is actually being generated to ultimately enhance the lives and guarantee the rights of landmine victims. However, this still amounts to hundreds of millions of dollars having been invested in recent years. What difference has been made as a result of this investment? What lessons have we learned?*
- *Given that “assisting the victims” exists within broader healthcare, social services, development and human rights contexts, what is the role (and the extent of the role) of the AP Mine Ban Convention in addressing what amounts to a profound set of challenges to overcome in many countries?*
- *At the Cartagena Summit, the States Parties defined and remarked on the importance of national ownership as concerns Article 5 implementation. What is expected of affected States in terms of “national ownership” as concerns victim assistance?*
- *What specific blockages do States Parties that are responsible for significant numbers of survivors face in being able to mobilise resources internally and from international sources?*

- *Article 32 of the Convention on the Rights of Persons with Disabilities (CRPD) spells out measures concerning international cooperation and assistance. How can States Parties to the AP Mine Ban Convention – whether they are party to the CRPD or not – ensure coherence in acting upon the cooperation and assistance provisions of both Conventions?*