

ASSISTING LANDMINE SURVIVORS: A DECADE OF EFFORTS

A SYMPOSIUM MARKING THE 10TH ANNIVERSARY OF THE VIENNA MEETING ON THE CONVENTION FOR THE PROHIBITION OF ANTI-PERSONNEL MINES

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LEGISLATION AND POLICY FRAMEWORK: PRESENTATION BY SIMON WALKER, ADVISOR, HUMAN RIGHTS AND DISABILITIES, OFFICE OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS

The following are rough notes of my presentation.

My presentation discussed three issues: first, an outline of the Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD); second, the connections between the six elements comprising article 6.3 of the Landmine Ban Treaty adopted by the Standing Committee on Victim Assistance; and third, an outline of how the CRPD could give guidance to States Parties of the Ottawa Convention.

First, the General Assembly adopted the CRPD on 13 December 2006 and it will be open for signature in New York on 30 March 2007. The CRPD is a paradigm shift in approaches to disability, moving from a model where persons with disabilities were objects of medical treatment, charity and social protection to subjects of human rights, active in the decisions that affect their lives and able to claim their rights. The CRPD has a broad scope, including a non-exhaustive definition of “persons with disabilities” which could be broadened further through the adoption of wider national definitions. The CRPD includes general principles, including respect for human dignity and autonomy, equality and non-discrimination, participation and inclusion as well as accessibility and respect for the evolving capacities of children.

The CRPD does not recognize any new rights, but rather sets out the obligations on States to meet the existing civil, cultural, economic, political and social rights (recognized in previous human rights treaties) in the specific context of persons with disabilities. To this end, States have to refrain from discriminating against persons with disabilities, ensure that third parties (the private sector, individuals etc) do not discriminate against persons with disabilities, as well as pass laws, policies and take financial, educational, social and other measures to ensure that discrimination does not occur. The Convention covers discrimination in a range of situations such as the workplace, schools, hospitals and other institutions, recreational and sporting activities, social security, access to justice and so on. The CRPD must be monitored at both the national level as well as the international level through an independent international committee created for that purpose.

Second, the CRPD relates to the six elements of victim assistance as follows:

- Understanding the extent of the challenge faced – article 31 (data and statistics)
- Emergency and continuing medical care – article 25 (right to health)
- Physical rehabilitation, including physiotherapy, prosthetics and assistive devices – article 20 (personal mobility) and article 26 (habilitation and rehabilitation)

- Psychological support and social reintegration – article 26 (habilitation and rehabilitation), article 28 (right to an adequate standard of living) and article 12 (equal recognition before the law and supported decision-making)
- Economic reintegration – article 27 (right to work)
- The establishment, enforcement and implementation of relevant laws and public policies – article 4 (legal obligations).

Third, the CRPD provides guidance to States Parties to the Ottawa Convention in five principal ways:

- 1) The CRPD puts the 6 elements of the Standing Committee into a clearer legal framework – the six elements are an elaboration of the legally binding requirements in the Ottawa Convention in article 6.3. The CRPD puts these six elements into a more explicit legal framework.
- 2) The CRPD brings “victim assistance” under the Ottawa Convention into the broader context of policy and planning for persons with disabilities more generally, which should help promote more systematic and sustainable approaches to victim assistance.
- 3) The CRPD provisions complement the six elements of the Standing Committee – the wording in many cases is quite similar and complementary.
- 4) The CRPD provisions supplement the six elements of the Standing Committee – importantly, the provisions of the CRPD go into greater depth. Moreover, the CRPD highlights the importance of respecting human rights in the process of providing victim assistance. Consequently, it is not only a question of collecting data, but ensuring that data respects privacy, is disseminated in accessible formats and is geared towards promoting the rights of persons with disabilities. Similarly, economic integration is not only about providing employment opportunities, but ensuring that rights are respected in the workplace such as protection against discrimination, fair remuneration and just conditions of work.
- 5) The CRPD establishes monitoring procedures that could assist in monitoring victim assistance. The CRPD brings into play national monitoring mechanisms such as national human rights commissions and ombudspersons as well as international monitoring through an independent committee that assists States in improving their respect for the rights of persons with disabilities, including landmine survivors.