

# Victim Assistance and Disability Rights

## The Convention on the Rights of Persons with Disabilities within the Mine Ban Treaty Framework

The Convention on the Rights of Persons with Disabilities (CRPD) was adopted by the UN General Assembly on 13 December 2006, following four years of negotiation. This is the first human rights treaty adopted in the 21<sup>st</sup> century and it has been welcomed by human rights and disability activists around the world.

The CRPD articulates the rights of people with disabilities and provides a framework for States on how they can and should implement these rights. By using disability rights to further survivor assistance objectives, the CRPD can serve as a powerful tool to complement the Victim assistance obligations in the Mine Ban Treaty (MBT).

### Role to Date of Disability Rights in the Mine Ban Treaty Framework

Since 2003, a number of States Parties to the MBT have spoken in favour of the CRPD and cited its value in understanding and promoting survivor assistance.

This approach was reaffirmed in the Final Report for the Nairobi Review Conference, providing that “the problems faced by landmine victims are similar to the challenges faced by other persons with injuries and disabilities. Victim assistance 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. However, it does require that a certain priority be accorded to health and rehabilitation systems in areas where landmine victims are prevalent.”<sup>1</sup>



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<sup>1</sup> Nairobi Review Conference, 2004, Final Report, para. 65.

It was further stated “[t]he work to implement the Convention has resulted in the commonly held view that the call to assist landmine victims should not lead to victim assistance efforts being undertaken in such a manner as to exclude any person injured or disabled in another manner. Furthermore, the impetus provided by the Convention to assist mine victims has provided an opportunity to enhance the well-being of not only landmine victims but also all other persons with war-related injuries and persons with disabilities. Assistance to landmine victims should be viewed as a part of a country’s overall public health and social services systems and human rights frameworks.”<sup>2</sup> Furthermore, “[t]he States Parties have come to recognize that victim assistance is more than just a medical or rehabilitation issue — it is a human rights issue.”<sup>3</sup>

Under the Nairobi Action Plan, States Parties were called on to “[e]nsure that national legal and policy frameworks effectively address the needs and fundamental human rights of mine victims, establishing as soon as possible, such legislation and policies and assuring effective rehabilitation and socio-economic reintegration services for all persons with disabilities.”<sup>4</sup>

The CRPD itself was also referenced in the Nairobi Review Conference Final Report 2004<sup>5</sup> and the reports of the 6<sup>th</sup> Meeting of States Parties in 2005<sup>6</sup> and the 7<sup>th</sup> Meeting of States Parties in 2006.<sup>7</sup>

### **The Victim Assistance Questionnaire: Law and Policy**

The country responses to the Standing Committee on Victim Assistance’s Co-Chairs’ important initiative, the Victim Assistance (VA) Questionnaire process, have included some limited references to the CRPD, but it is clear that more awareness needs to be raised. In fact, it is this process that has shown us that governments, particularly mine-affected, could significantly benefit if they are made aware of the CRPD as a tool to help meet their survivor assistance obligations. In this regard, the following provides a small sample of States parties’ objectives from the completed VA Questionnaires:

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<sup>2</sup> Id., para. 66. Note that the Draft of the Final Report for the 7<sup>th</sup> Meeting of States Parties, also addresses this, see “Achieving the Aims of the Nairobi Action Plan: The Geneva Progress Report 2005-2006”, para. 30. The Final Report of the First Review Conference provided a clear framework to develop efforts in relation to mine victim assistance. Three statements are particularly relevant. In particular, the States Parties emphasized that “the call to assist landmine victims should not lead to victim assistance efforts being undertaken in such a manner as to exclude any person injured or disabled in another manner.” They stated that “assistance to landmine victims should be viewed as a part of a country’s overall public health and social services systems and human rights frameworks.” As well, they highlighted that “providing adequate assistance to landmine survivors must be seen in a broader context of development and underdevelopment.”

<sup>3</sup> Supra note 1, para. 68

<sup>4</sup> Nairobi Review Conference, Nairobi Action Plan, Action No. 33.

<sup>5</sup> Supra note, 1, para. 84. The success and lessons learned from the work to implement the Convention have helped inspire further efforts at the international level to protect and promote the rights of persons with disabilities. In this regard, the States Parties have been apprised of, and have discussed during meetings of the Standing Committee on Victim Assistance and Socio-Economic Reintegration, ongoing negotiations on a draft United Nations convention on the rights of people with disabilities.

<sup>6</sup>

Zagreb Progress Report, para. 76. Since the First Review Conference, efforts have been made to strengthen the normative framework that protects and ensures respect for the rights of persons with disabilities including landmine survivors through the participation by many States and interested organizations in the ongoing drafting of an international convention on the rights of persons with disabilities.

<sup>7</sup> Geneva Progress Report, para. 45.

- Draft and adopt a comprehensive law for persons with disabilities guaranteeing their rights and creating an accessible and barrier free society, with due importance to the rights of women with disabilities, and issues of discrimination.
- Advocate for equal opportunities in employment for persons with disabilities and aim to achieve effective implementation of legislation by 2007.
- Raise awareness amongst persons with disabilities and the general public about the rights of persons with disabilities from 2005-2009.
- Develop strategies for effective mechanisms and efficient participation of disabled people in planning and decision-making.
- Establish a Disability Desk in the Office of the President and at all levels of government.
- Press for the adoption and implementation of the first employment bill, establishing directions and priorities for the specific disability programmes, in order to allow young persons with disabilities to access employment and become socially and professionally integrated.
- Develop a strategy to increase cooperation within the local community on the promotion of mental health, with the aim of integrating persons with disabilities into the daily life of the community.
- Enact and implement improved laws and regulations related to rights and benefits for disabled persons, all within the implementation of the poverty reduction strategy, as well as the EU process of stabilisation and integration.
- The adoption and implementation of the draft legislation to protect the rights of all people with disabilities, including women and children, regardless of the cause of disability.
- Protect the rights of mine survivors and other persons with disabilities.

## **Key Messages**

1. The MBT remains the principal tool for mine survivor assistance. Those obligations do not go away.
2. By focusing on all persons with disabilities and addressing their rights in detail, the CRPD will benefit mine survivors and reinforce the MBT and the Nairobi Plan of Action in the following ways:

**I. Understanding the Extent of the Challenge Faced:** need to have accurate and up-to-date data on a range of issues, e.g. total number of survivors and their specific needs, and the extent/lack of and quality of services that exist to address their needs. (Action No. 34)

*CRPD, article 31 (Data and Statistics)*

**II. Emergency and Continuing Medical Care:** Emergency first aid and adequate medical care (e.g. trained staff, medicines, equipment and infrastructure). (Action No. 29)

*CRPD, article 25 (Right to Health)*

**III. Physical Rehabilitation and Prosthetics:** rehabilitation services and physiotherapy, and the supply of prosthetic appliances and assistive devices, and to promote physical well-being. (Action No. 30)

*CRPD, article 20 (Personal Mobility); article 26 (Right to Rehabilitation)*

**IV. Psychological Support and Social Reintegration:** community-based peer support groups, associations for disabled people, sporting and related activities, professional counseling. (Action No. 31)

*CRPD, article 26 (Right to Rehabilitation, see specific reference to “peer support”); article 30 (Right to Sport)*

**V. Economic Reintegration:** assistance programmes that improve the economic status of mine victims in mine-affected communities through education, economic development of community infrastructure and the creation of employment opportunities. (Action No. 32)

*CRPD, article 27 (Right to Work and Employment)*

**VI. Law and Public Policies:** legislation and actions that promote effective treatment, care and protection for all disabled citizens, including landmine survivors. (Action No. 33)

*CRPD, article 4 (General Obligations)*

Other relevant issues: obligations on survivor inclusion, referenced in Action No. 38 (article 4(3)), equality and non-discrimination (article 5), gender and age, referenced in Action No. 35 (articles 6 and 7, and mainstreamed through text) awareness-raising (article 8), personnel training (article 4(i)), independent living (article 19), implementation through international cooperation, highlighting that disability should be part of development strategies, called “inclusive development” (article 32), and national implementation and monitoring (article 33).