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EVOLUTION OF VICTIM ASSISTANCE AND THE NEEDS

presentation by

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Thank for giving the Implementation Support Unit of the Anti-Personnel Mine Ban Convention the opportunity to share some of our experiences in supporting the implementation of the victim assistance provision of the Convention. In particular, we have been asked to provide an overview of the evolution of understandings in relation to victim assistance and to highlight the needs that States Parties may wish to consider to enhance implementation of the plan of action that was adopted in November 2008.

The Anti-Personnel Mine Ban Convention was the first multilateral disarmament treaty that aimed to assist the victims. Article 6.3 obliges 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 language is also reflected in Article 8.2 of Protocol V. In the early years after entry into force of the Mine Ban Convention, States Parties, who were mostly represented by disarmament experts, were not clear what needed to be done to assist the victims, how this should be done, and who was ultimately responsible.

The First Review Conference of the Convention in 2004 provided an opportunity for States Parties to formally clarify some of these questions, and to identify the key challenges to be addressed. Briefly, the States Parties agreed that victim assistance comprises six components: Understanding the extent of the challenges faced; Emergency and continuing medical care; Physical rehabilitation; Psychological support and social reintegration; Economic reintegration; and, the establishment, enforcement and implementation of relevant laws and public policies.

States Parties also adopted a clear understanding of principles to guide their efforts, including: that victim assistance efforts should not exclude any person injured or disabled in another manner; that assistance should be viewed as a part of a country’s overall public health and social services systems and human rights frameworks; and, providing assistance should be seen in a broader context of development and underdevelopment.

On the question of responsibility, flowing from some basic principles of the international system that has been in place for a few hundred years – such as the principles of sovereignty and individual state responsibility for domestic affairs, it is logical that it is a basic responsibility of a State to ensure the well-being of its population, including the well-being of landmine survivors and other persons with disabilities.

The work of the Mine Ban Convention’s Standing Committee on Victim Assistance and Socio-Economic Reintegration has been integral to advancing understanding and identifying the rights and needs in relation to mine victim assistance among the States Parties. Since 2005, efforts undertaken by all Co-Chairs of the Convention’s Standing Committee on Victim Assistance and Socio-Economic Reintegration have been based on the logic that the ultimate responsibility of meeting the rights and needs of landmine survivors within a particular state rests with that state. No external actor can define for it what can or should be achieved by when and how in meeting the needs of these survivors. Others may have the ability to assist in understanding challenges and in developing and monitoring the effectiveness and implementation of plans. However, real and sustainable progress rests with...
sovereign states articulating in their own voices their challenges and plans to overcome them. The experience of efforts to implement the victim assistance provision of the AP Mine Ban Convention has shown clearly what can or should be achieved by when and how is different for each State, given their unique characteristics.

The Co-Chairs have recognized that the best way to assure progress is to work intensively, on a national basis. The Convention’s Implementation Support Unit, supports this work with funding provided by Australia, Austria, Belgium, New Zealand, Norway and Switzerland.

In relation to victim assistance, the Implementation Support Unit works with 26 States Parties that have reported a responsibility for significant numbers of mine survivors; 8 of those States are States Parties to Protocol V. The primary focus of our work is to assist government ministries responsible for healthcare, rehabilitation, social services or disability issues more generally in the process of setting their own specific and measurable objectives and developing and implementing plans of action. Through the Convention’s sponsorship programme, experts from relevant ministries and agencies have participated in international meetings to advance understanding on the victim assistance issue.

In some countries, strategies already exist for the healthcare or disability sector or for poverty reduction more generally. When plans exist, the ISU works to ensure that mine survivors have access to the services and benefits enshrined within those plans and that the relevant ministries are aware of their States’ obligations under the Mine Ban Convention. In other countries, particularly those emerging from conflict, there is a need to engage all relevant ministries in the process of developing a comprehensive plan to address the rights and needs of mine survivors and other persons with disabilities.

On the basis of input provided by victim assistance experts participating in the work of the AP Mine Ban Convention, the ISU has recorded a 10 step approach to developing a national response to address the rights and needs of survivors. The 10 steps are as follows:

- Sensitise relevant ministries to Convention obligations. Many may not know that the State has accepted obligations in a weapons related treaty that concerns healthcare, rehabilitation, reintegration and human rights.
- Establish an inter-ministerial group, inclusive of survivors and civil society organisations, to oversee the process.
- Assign responsibility to various ministries according to competence.
- Organise a national workshop to begin a situation analysis and to develop goals.
- Complete the situation analysis, establishing an inventory of who is doing what and where, and, what plans and strategies are already in place. That is, many States may already have well-developed healthcare and disability strategies. The key is to see what is there and to ensure that it takes into account the specific needs of survivors.
- Review the situation analysis to project what the situation should look like in the future.
- Establish SMART objectives.
- Organise a second workshop to seek views on the development of a national plan.
- Complete a plan, taking into account plans and budgets of existing ministerial activities.
- Mobilise resources, ensuring integration into broader appeals for development assistance.

And so this is how “victim assistance” has come to be seen in the context of the AP Mine Ban Convention. What I would suggest is the same potential exists for understanding victim assistance in the context of Protocol V of the CCW.

What the AP Mine Ban Convention can provide to Protocol V is a method of fulfilling obligations to survivors – that is, in the context of broader State healthcare, rehabilitation, reintegration and human rights responses / structures, without discrimination according to cause of injury or disability.
The framework developed by the Anti-Personnel Mine Ban Convention and lessons learnt are equally applicable to addressing the rights and needs of all victims of explosive remnants of war. Several affected States have already used this framework to develop a comprehensive plan of action for mine and other ERW survivors and other persons with disabilities or to integrate actions into existing plans including Afghanistan, Albania, Angola, Bosnia and Herzegovina, Cambodia, El Salvador, Sudan, Tajikistan, Thailand and Uganda. We will hear from some of these States today.

States Parties to Protocol V now have a plan of action for victim assistance but based on the experience of implementing the victim assistance provision of the AP Mine Ban Convention I would suggest that the plan will remain nice words on paper unless the following issues are considered.

• States Parties with significant numbers of ERW survivors should acknowledge their responsibility to address the rights and needs of victims and develop a national response.
• There will be a need to ensure the involvement by relevant healthcare, rehabilitation and disability rights experts from affected States in the work of Protocol V.
• Some States Parties lack the capacity and resources to develop and implement national plans. International cooperation and assistance will be essential.
• In some States Parties there will be a need to improve collaboration between mine action centres and relevant ministries and other key actors in the disability sector to reduce the potential for inefficient and ineffective use of resources and for duplication in services.
• In some States there will be a need to address the issue of low priority given to disability issues.
• In many States there will be a need to increase the inclusion of persons with disabilities in decision making processes; and,
• Disability must be seen as a human rights issue not a charity issue.

To conclude, for a State that is fully implementing policies and programs that address the rights and needs of their citizens with disability, the victim assistance provisions of a disarmament convention should not raise concerns about new obligations but rather should focus attention on ensuring that the victims of a particular weapon system have access to existing services and infrastructure.

Nevertheless, if a meaningful difference is going to be made in enhancing the well-being and guaranteeing the rights of ERW survivors, victim assistance must be seen as a set of concrete actions for which specific States hold ultimate responsibility. Officials and experts from relevant ministries must be engaged in developing specific, measurable and time-bound responses to the needs of victims.

Success in victim assistance also means understanding victim assistance in the broader contexts of development and seeing its place as a part of existing State responsibilities in the areas of healthcare, social services, rehabilitation, vocational training and human rights.
Evolution of Victim Assistance and the needs

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Victim assistance in the context of the Anti-Personnel Mine Ban Convention

First multilateral disarmament treaty that aimed to assist the victims

- Not clear what needed to be done?
- How this should be done?
- Who was ultimately responsible?
Victim assistance in the context of the Anti-Personnel Mine Ban Convention

- Victim assistance has been defined by the States Parties to include:
  - Understanding the extent of the challenge faced (e.g. data collection)
  - Emergency and ongoing medical care
  - Physical rehabilitation
  - Psychological support and social reintegration
  - Economic reintegration
  - Relevant laws and public policies

Victim assistance: Understanding the broader context

Victim assistance in the context of disability:

"...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"
Victim assistance: Understanding the broader context

Victim assistance in the context of broader health care, social services, rehabilitation, reintegration, human rights efforts:

- Victim assistance does not require the development of new fields or disciplines
- Landmine victim assistance should be viewed as a part of a country's overall public health and social services systems and human rights frameworks

Victim assistance: Understanding the broader context

Victim assistance in the context of broader development:

- ...providing adequate assistance to landmine survivors must be seen in a broader context of development and underdevelopment....
Victim assistance:
Understanding responsibility

- It is a basic responsibility of a State to ensure the well-being of its population

Victim assistance

- Ultimate responsibility of meeting the rights and needs of survivors within a particular state rests with that state
- Real and sustainable progress rests with sovereign states articulating in their own voices their challenges and plans to overcome them
Victim Assistance

26 States Parties have indicated that they are responsible for significant numbers of landmine survivors:

- Afghanistan
- Albania
- Angola
- Bosnia and Herzegovina
- Burundi
- Cambodia
- Chad
- Colombia
- Croatia
- DRC
- El Salvador
- Eritrea
- Ethiopia
- Guinea Bissau
- Iraq
- Jordan
- Mozambique
- Nicaragua
- Peru
- Senegal
- Serbia
- Sudan
- Tajikistan
- Thailand
- Uganda
- Yemen

10 steps to developing a national response

- Sensitise relevant ministries to Convention obligations
- Establish an inter-ministerial group, inclusive of survivors and civil society organisations
- Assign responsibility
- Organise a national workshop
- Complete the situation analysis.
- Review the situation analysis
- Establish SMART objectives.
- Organise a second workshop
- Complete a plan
- Mobilise resources
Victim assistance in the context of the AP Mine Ban Convention

- AP Mine Ban Convention can provide a method of fulfilling obligations to survivors

Victim assistance in the context of the AP Mine Ban Convention

- Victim assistance framework is relevant for victims of all types of weapons and other traumatic injuries
Suggestions to enhance implementation of Protocol V Plan of Action

- Acknowledge responsibility
- Involve relevant experts
- Increase capacity and resources
- Improve collaboration between ministries and other actors
- Reduce potential for inefficient and ineffective use of resources and duplication of services
- Raise priority given to disability issues
- Increase inclusion of persons with disabilities
- Recognize disability as a human rights issue not a charity issue

Victim Assistance

- Victim assistance must be seen as set of concrete actions
- Victim assistance must be seen as State responsibility
- Victim assistance must be understood in its broader contexts
- Victim assistance should be undertaken in context of existing domains and responsibilities