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Meeting of Experts of CCW Protocol V

Session on Victim Assistance

Geneva, 27 April 2012

The CRPD and its relevance for the implementation of CCW Protocol V

Talking points

Thank you Madame Coordinator for giving me the floor.

Excellencies,

Distinguished delegates,

Ladies and gentlemen,

It is a pleasure for me to participate in this meeting in my capacity as advisor on human rights and disability of the Office of the High Commissioner for Human Rights.

In my presentation, I would like to provide a brief overview of the Convention on the Rights of Persons with Disabilities (CRPD), and identify the provisions of the CRPD that States Parties to the CCW Protocol V on Explosive Remnants of War may wish to take into account in defining the appropriate measures to implement their obligations under article 8 (2) of the Protocol.

The Convention on the Rights of Persons with Disabilities

Madame Coordinator,

- The Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol were adopted in 2006 and entered into force in May 2008. To date, 111 States and one regional integration organisation, the European Union, have ratified the Convention. The Optional Protocol has drawn 67 ratifications.
- The CRPD is a comprehensive human rights treaty covering the full spectrum of civil, cultural, economic, political and social rights. Its aim is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity (article 1 (1)).
- The CRPD embodies a paradigm shift from a charity or medical approach to disability to one that is firmly rooted on human rights. This means that persons with disabilities are now regarded as holders of rights, and no longer as mere "objects" of protection.
- The Convention does not include a definition of disability or persons with disabilities in the strict sense. According to the CRPD, persons with disabilities *include* those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal

It urges "all States as well as international organisations and institutions in a position to do so" to cooperate and provide assistance (Action 3):

General obligations of States parties to the CRPD

- The CRPD identifies a number of general measures that States parties are required to adopt to implement their obligations under the Convention. Some of these measures are also relevant for achieving the goals of the Action Plan on Victim Assistance, which guides the implementation of victim assistance provisions under Protocol V, and include:
 - The obligation to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention (article 4 (1) (a));
 - The obligation to closely consult with and actively involve persons with disabilities in the development and implementation of legislation and policies to implement the Convention, and more broadly in other decision-making processes concerning them (article 4 (3));
 - The obligation to prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds (article 5 (2));
 - The obligation to adopt all appropriate measures to ensure the equal and effective enjoyment of all human rights and fundamental freedoms by women and children with disabilities (articles 6 and 7, respectively);
 - The obligation to collect appropriate information, including statistical and research data, to formulate and implement policies to give effect to the CRPD (article 31);
 - The obligation to designate a focal point and to consider establishing a coordination mechanism within Government to facilitate the implementation of the Convention (Article 33 (1) and (2)).

Conclusions

Madame Coordinator,

- International treaties do now exist in a vacuum. Both international humanitarian law (IHL) and international human rights law (IHRL) strive to protect the lives, health and dignity of individuals, albeit from a different angle. The former only applies in times of armed conflicts, whether international or non-international, while the latter applies at all times, i.e. both in peacetime and in situations of armed conflict.
- In implementing their obligations under international humanitarian law, States should take into account the obligations they have undertaken under relevant human rights treaties to which they are parties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.
- With regard to the latter, the CRPD – as the main international human rights treaty to promote and protect the human rights of persons with disabilities – represents *lex specialis* vis-à-vis Protocol V to the CCW, and should therefore be taken into account by the High Contracting Parties to the Protocol in identifying the appropriate measures

Background information:

The Convention on Certain Conventional Weapons

- 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 as amended on 21 December 2001 (CCW) is usually referred to as the Convention on Certain Conventional Weapons. It is also known as the Inhumane Weapons Convention.
- The purpose of the Convention is to ban or restrict the use of specific types of weapons that are considered to cause unnecessary or unjustifiable suffering to combatants or to affect civilians indiscriminately. The structure of the CCW – a chapeau Convention and annexed Protocols – was adopted in this manner to ensure future flexibility. The Convention itself contains only general provisions. All prohibitions or restrictions on the use of specific weapons or weapon systems are the object of the Protocols annexed to the Convention.
- The original Convention with three annexed Protocols were adopted on 10 October 1980 and opened for signature for one year from 10 April 1981.

Protocol V on Explosive Remnants of War

- The most recent of the Protocols annexed to the Convention, Protocol V on Explosive Remnants of War was adopted on 28 November 2003 by the Meeting of the States Parties to the Convention. The Protocol, which is the first multilaterally negotiated instrument to deal with the problem of unexploded and abandoned ordnance, is intended to eradicate the daily threat that such legacies of war pose to populations in need for development and to humanitarian aid workers operating in the field to help them. Pursuant to Article 5 Paragraph 3 of the Convention, Protocol V entered into force on 12 November 2006.
- To this date, the CCW Protocol 5 has drawn 76 ratifications. There are 57 States that have ratified both the CRPD and CCW Protocol 5.