

Victim Assistance Technical Workshop
Cluster Munition Coalition Talking Points
15 April 2013

Thank you coordinators. Thank you to the panelists for your interesting and useful presentations.

- There are many strong mutually reinforcing linkages between the CRPD and the relevant areas of the CCM as they relate to cluster munition victims with disabilities. The CRPD addresses issues of rights-based programs and assistance and cross cutting themes such as meaningful participation, national ownership, gender and age sensitivity and awareness raising.
- Please note that above, I have said “cluster munition victims with disabilities”. I have chosen this language because there are cluster munition victims who have been impacted in other ways, such as the family members of people who have been killed by cluster munitions. The needs of these victims would not be addressed within the framework of the CRPD and so must be addressed through other frameworks. However, given the focus on the conversation today, I will focus my remaining points on how victim assistance for victims with disabilities can be addressed through the CRPD.
- We regard victim assistance as inextricably linked with, and in the long term will be best supported by, the CRPD.
- In the short to medium term, one thing that needs to be emphasized is that most cluster/mine survivors come from countries with high levels of poverty and relatively unsophisticated medical and education systems. Survivors themselves were typically among the lowest socio-economic group in the country to begin with, making them a particularly vulnerable sub-set even among the disabled population. However, given that many survivors are based in remote and rural areas, they may be among the last to receive services unless there is a focus on their needs.
- The CRPD is something that civil society in many countries is using to campaign on, to monitor and to assess the fulfillment of the obligations to provide assistance under the CCM. The participation of survivors’ representative organizations and NGOs working on victim assistance in CRPD implementation is vital in ensuring the progressive inclusion of victim assistance in the areas where survivors live.
- Each convention should be implemented to the highest standard possible. For the CCM that is “adequate” assistance. Clearly the “highest attainable standard” of medical services and to “ensure personal mobility” as well as “maintain maximum independence...and full inclusion and participation in all aspects of life,” as called for the CRPD, is a higher standard and should apply as the measure of what is adequate victim assistance implementation for victims with disabilities in States Parties to both conventions.

- Yet currently, in most cases, services in cluster munition- and mine-affected countries are far from adequate and the highest attainable standard would seem to be beyond the life-time of survivors. In these cases we should encourage states to report to both the CCM and the CRPD why they are not applying the highest standards in communities and what steps they are taking to reach these standards. To make this effective, survivors must be involved in both processes.
- To date too little, or nothing, on the needs of survivors has been presented in CRPD country reporting by States. We are aware of some isolated cases of survivor organizations contributing to CRPD shadow reporting and, as a campaign, we are working to increase this type of participation.
- To understand CCM victim assistance in the context of the CRPD, we might also ask: is the CRPD working as quickly or as well as VA? Can the implementation of the CRPD have an impact in the lifetime of survivors? We have not seen much evidence yet, but that doesn't mean that there is no progress.
- Since entry into force of the CCM, the Cluster Munition Monitor has tracked and reported on efforts to promote the effective —and coordinated— implementation of victim assistance obligations and broader obligations to support persons with disabilities, across the Mine Ban Treaty, the Convention on Cluster Munitions, and the CRPD in those cases where states were parties to two or more of these complementary conventions. There have been few examples so far; in some instances the role of the victim assistance focal points has been reassigned to the national focal point responsible for disability issues/CRPD implementation and in a couple of cases, Mine Action Centers and Disability Councils have indicated increased levels of coordination.

There are still a number of challenging areas to address in several States Parties with regard to the CRPD, and states could consider what can be done. These are some actual examples drawn from States Parties:

- One State Party has legislation that discriminates against persons with disabilities as it accords special treatment to some war victims.
- In another State Party, differences in legal status meant that most survivors are not eligible for the state benefits available to some other groups of persons with disabilities; and service providers sometimes discriminate against persons with disabilities.
- In another State Party, entitlement to rights and benefits for persons with disabilities is not based on needs but on status, with the result some persons with disabilities do not receive adequate financial benefits.
- In a fourth State Party, there is a lack of information on social welfare and health care and pension rights and entitlements, while the criteria for entitlements are not equally applied and legislation regulating specific rights is fragmented.

- We would like to take this opportunity to emphasize that victim assistance under the CCM is a legal obligation. Similarly the CRPD is a legal instrument and states must abide by its provisions. While it is not easy to achieve, discussing it is not a feel-good measure precisely because states are bound by these laws. Finding the most effective way to implement them is critical to ensure that the rights of victims are upheld.
- The CRPD through its optional protocol offers a legal mechanism to address issues of non-compliance that might also concern individual survivors. Survivors need to be made aware of all the legal processes available to them as well as the obligations of states.
- There is already a lot of information easily available on connecting dots between the CRPD and CCM, or enhancing synergies, including a detailed guidance document on three key areas produced by ICBL-CMC. We encourage states to use the information which is out there, and consult campaigners and survivors who are well aware of the linkages between the conventions and can advise on approaches to adopt.

Following up on the comments of the Belgian delegate regarding the question of “why” states need to report on victim assistance, we agree that victim assistance is at the heart of the Convention and I would add that it is also a legal obligation.

Thank you.