

# Connecting the Dots Detailed Guidance

APRIL 2011

## Victim Assistance

in the Mine Ban Treaty and the Convention on Cluster Munitions  
& in the Convention on the Rights of Persons with Disabilities

CONNECTIONS, SHARED ELEMENTS and CROSS-CUTTING ACTION



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This Guidance Document is developed to enhance victim assistance by illustrating the importance of **accessibility, employment** and **education** for survivors and persons with disabilities within the frameworks of the Mine Ban Treaty, the Convention on Cluster Munitions and the Convention on the Rights of Persons with Disabilities.

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#### **FOR MORE INFORMATION:**

Mine Ban Treaty  
[www.icbl.org/treaty/text](http://www.icbl.org/treaty/text)

Convention on Cluster Munitions  
[www.stopclustermunitions.org/the-solution/the-treaty](http://www.stopclustermunitions.org/the-solution/the-treaty)

Convention on the Rights of Persons with Disabilities  
[www.un.org/disabilities](http://www.un.org/disabilities)

#### **OTHER USEFUL SITES:**

[www.icbl.org/Work/MBT/Victim-Assistance](http://www.icbl.org/Work/MBT/Victim-Assistance)  
[www.clusterconvention.org/index.php](http://www.clusterconvention.org/index.php)  
[www.internationaldisabilityalliance.org/](http://www.internationaldisabilityalliance.org/)  
[www.ratifynow.org/un-convention/](http://www.ratifynow.org/un-convention/)

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## Definitions

### Persons with Disabilities

The Convention on the Rights of Persons with Disabilities itself does not provide a fixed definition but says: "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 basis with others."<sup>2</sup> The preamble of the Convention on the Rights of Persons with Disabilities recognizes that "disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers."<sup>2</sup>

### Survivors

People injured by mines, ERW or cluster munitions, who lived.

### Victims

The Convention on Cluster Munitions, Article 2.1 defines cluster munition victims as "all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities;"

All persons directly impacted by cluster munitions, whether they are injured or killed, can also be referred to as casualties.

### Acronyms

CAP	Cartagena Action Plan
CCM	Convention on Cluster Munitions
CMC	Cluster Munition Coalition
CRPD	Convention on the Rights of Persons with Disabilities
DPO	Disabled People's Organization
ERW	Explosive Remnants of War
ICBL	International Campaign to Ban Landmines
MBT	Mine Ban Treaty
NAP	Nairobi Action Plan
NGO	Non-Governmental Organization
SP	State Party
UN	United Nations
VA	Victim Assistance
VAP	Vientiane Action Plan
VAFP	Victim Assistance Focal Point

<sup>1</sup> CRPD, Article 1.

<sup>2</sup> CRPD, Preamble (e).

## 1. Introduction

It is widely recognized that few survivors of incidents caused by landmines or explosive remnants of war, including cluster munitions, are fully included in all aspects of society. In most developing countries emerging from, or affected by conflict, the same can be said of the broader population of persons with disabilities in which many survivors can be included<sup>3</sup>. However, over the last decade or two, there has been a global upsurge of awareness around the rights of survivors and other persons with disabilities. As a result of such awareness and activism to promote survivors' and disability rights, there has been progress to address this exclusion through three distinct but closely related international treaties. Together, these three treaties create an important legal framework, or legal toolkit, to defend the rights and promote the inclusion of survivors and other persons with disabilities.

The first of these three treaties was the **Mine Ban Treaty** (MBT) or the Ottawa Convention, which is formally known as the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction<sup>4</sup>. Entering into force in 1999, the MBT is the first global disarmament treaty that binds each State Party "in a position to do so" to "provide assistance for the care and rehabilitation, and social and economic reintegration of mine victims..."<sup>5</sup>

The language of the treaty itself, in regards to victim assistance, is fairly broad and imprecise. However, through subsequent action plans, States Parties to the MBT have committed to achieve concrete actions to enhance the assistance provided to survivors and to develop the means to monitor progress in implementing these actions. At the end of 2009, States Parties agreed to the second and most recent of these, the Cartagena Action Plan 2010-2014 (CAP). This Plan sets the stage for implementing victim assistance in line with recent developments in human rights, such as the adoption and implementation of the Convention of the Rights of Persons with Disabilities.

The **Convention on Cluster Munitions** (CCM), which entered into force on 1 August 2010, is also a disarmament treaty banning the use of another class of indiscriminate weapons<sup>6</sup>. It was developed taking into consideration the lessons learned from the MBT and Convention of the Rights of Persons with Disabilities processes and contains stronger provisions on rights-based victim assistance. As stated by the Cluster Munition Coalition (CMC), "the CCM ensures the full realization of rights of all cluster munition victims by obligating states, in accordance with applicable humanitarian and human rights law, to adequately provide assistance, including medical care, rehabilitation and psychological support, and provide for their economic and social inclusion."<sup>7</sup>

<sup>3</sup>Please see definitions of survivor and person with disabilities, above.

<sup>4</sup>The full text of the MBT can be found at: [www.apminebanconvention.org/overview-and-convention-text/](http://www.apminebanconvention.org/overview-and-convention-text/).

<sup>5</sup>MBT, Article 6.3.

<sup>6</sup>The full text of the CCM can be found at: [http://www.clusterconvention.org/documents/full-text-enfres/the-convention/www.clusterconvention.org/pages/pages\\_ii/iaa\\_textenglish.html](http://www.clusterconvention.org/documents/full-text-enfres/the-convention/www.clusterconvention.org/pages/pages_ii/iaa_textenglish.html).

<sup>7</sup>«CMC, "CMC policy papers," May 2010, p. 20, [www.stopclustermunitions.org/campaign-resources/policy-papers/](http://www.stopclustermunitions.org/campaign-resources/policy-papers/).

Compliance with victim assistance measures included in the CCM is compulsory and States Parties are required to report on their progress in fulfilling victim assistance obligations, unlike the MBT, where reporting on victim assistance obligations is voluntary. In November 2010, States Parties to the CCM agreed on the Vientiane Action Plan (VAP), which defines roles and responsibilities and sets out concrete and measurable steps, actions and targets to be completed within specific time periods for the implementation of victim assistance obligations of the Convention.

On 3 May 2008, the United Nations **Convention on the Rights of Persons with Disabilities** (CRPD) entered into force, signaling a global recognition of disability as a human rights issue<sup>8</sup>. The UN Secretary General hailed this day as a “historic moment in our quest for realization of the universal human rights for all persons, creating a fully inclusive society for all.” Ratifications of the CRPD are now nearing 100<sup>9</sup>. Countries are beginning to put new laws and policies in place to promote the rights of persons with disabilities and are developing mechanisms to implement the treaty’s obligations.

While the treaties originate from different contexts, either disarmament or human rights, all three share the goal of promoting the full inclusion of survivors and other persons with disabilities within society. The principles and components of victim assistance, as outlined in the Action Plans of the MBT and in the CCM, correspond to the human rights of persons with disabilities as enumerated through the CRPD. For example, a State’s obligation to provide a landmine or cluster munition survivor with appropriate medical care corresponds to the CRPD’s Article 25 which recognizes that persons with disabilities have the right to the highest attainable standard of health without discrimination.

For each of these treaties, States Parties and civil society have designed a set of implementation tools; there is a core group of organizations and governmental agencies that are actively promoting them; and international monitoring mechanisms exist to track implementation progress.

**The key to making the most of these legal frameworks is the strategic connection between the themes, issues, stakeholders, mechanisms across the three treaties.** This document aims to enhance victim assistance by illustrating the importance of three themes, accessibility, employment and education for survivors and persons with disabilities within the frameworks of these treaties.

All persons with disabilities, among them landmine and cluster munitions survivors, face barriers to inclusion in society. The CRPD focuses on the rights of persons with disabilities. The MBT and CCM include obligations to assist survivors.

Though one is a human rights treaty, and the other two disarmament treaties with humanitarian assistance obligations, all three have something to say regarding these barriers to inclusion. Applying the CRPD helps enhance the rights-based components of victim assistance. At the same time, the disarmament treaties and the common understandings that grew around them put an emphasis on the availability and affordability of services for survivors, wherever they live.

**To make the most of the three treaties it is necessary to take steps both to improve victim assistance and to promote the broader rights of persons with disabilities. The following pages provide a practical guide to making such connections.**

We have also used other documents that offer guidance on best practices when implementing these treaties as starting points, such as the CAP<sup>10</sup>, the Recommendations on Implementing the CAP presented by the Co-Chairs of the MBT’s Standing Committee on Victim Assistance in 2009<sup>11</sup>, and the VAP<sup>12</sup>.

#### **This guide will:**

- Outline the general connections between the three treaties;
- Explore the connections between the treaties around each of the three thematic areas of accessibility, employment and education which can both enhance the implementation of victim assistance and the fulfillment of the rights of persons with disabilities<sup>13</sup>;
- Provide examples of gaps in policy and practice experienced in these same three thematic areas;
- Look at how these treaties and their action plans can be applied at the national level through advocacy, policy and legislation.

Finally, Annex A, parts I and II, takes a deeper look at accessibility and presents a case study from Uganda to provide guidance on how to tackle barriers to implementation, based on the experience in promoting accessibility in their countries gained by landmine and cluster munition survivors. Annex B shows current treaty status of relevant states with survivors.

We hope that this guide will help both Non-Governmental Organizations (NGOs) and governments better understand how they can use these three treaties to make progress in implementing victim assistance.

<sup>3</sup>The full text of the CRPD can be found at: [www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml).

<sup>4</sup>As of 31 December 2010, 97 countries had ratified the CRPD and 147 had signed. Updated information on ratification status is available at: [www.un.org/disabilities/index.asp](http://www.un.org/disabilities/index.asp).

<sup>10</sup>CAP, 11 December 2009, [www.cartagenasummit.org/decisions-and-documents/](http://www.cartagenasummit.org/decisions-and-documents/).

<sup>11</sup>Belgium and Thailand, “Assisting the Victims: Recommendations on Implementing the Cartagena Action Plan 2010-2014”, Cartagena, 30 November 2009, [www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/](http://www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/).

<sup>12</sup>VAP, 12 November 2010, [www.clusterconvention.org/1msp/meeting/1msp-documents](http://www.clusterconvention.org/1msp/meeting/1msp-documents).

<sup>13</sup>We chose to focus on these three areas because landmine and cluster munitions survivors have highlighted them as essential for their full social and economic inclusion in society.



## 2. Connecting the Dots Across the Three Treaties: The Big Picture

Victim assistance provisions in the MBT, CCM and the CRPD must not live in isolation one from another; each can have significant impact on the interpretation and implementation of the other. Understanding the overlapping content between the victim assistance provisions and the CRPD will enable a State Party performing its obligations under one regime to also fulfill responsibilities under the other. It will also help members of civil society to design the most strategic advocacy campaign to push for the effective implementation of any of the three treaties or their principles that are relevant in their countries.

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

The First Review Conference of the MBT recognized in its Final Report that steps to assist mine survivors can be viewed as part of a state's progress in promoting the rights of persons with disabilities<sup>14</sup>. By the same token, initiatives to promote the rights of persons with disabilities should be non-discriminatory and thus inclusive of mine survivors.

Individuals disabled by landmines are a sub-group of the larger community of persons with disabilities. Persons with disabilities face stigma, as well as physical and attitudinal barriers that prevent their full inclusion in society. The remedy lies in changing attitudes and removing barriers. The CRPD provides comprehensive guidance on how to create that fundamental change. Thus, implementation of victim assistance gains detail and direction by viewing it through the lens of human rights standards applied to persons with disabilities in general.

### The Convention on Cluster Munitions and the Convention on the Rights of Persons with Disabilities

The CCM refers to the applicability of the CRPD as a framework for implementing victim assistance. The CCM preamble states:

*Bearing in mind the Convention on the Rights of Persons with Disabilities which, inter alia, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability...*

CCM Article 5 states:

*Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion<sup>15</sup>.*

*The CRPD provides the applicable human rights standards, and should inform the way victim assistance is provided. Passing the various areas of victim assistance through the corresponding disability, development and human rights framework provided by the CRPD helps to clarify what victim assistance activities should be.*

<sup>14</sup>Final Report of the First Review Conference/Nairobi Summit, " 9 February 2005, [www.nairobisummit.org/documents/overview/](http://www.nairobisummit.org/documents/overview/).

<sup>15</sup>CCM, Article 5.1.

### Reasonable accommodation

The CRPD defines reasonable accommodation as:

[N]ecessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms<sup>16</sup>.

Achieving equality, full participation and inclusion in society means avoiding explicit exclusion or restriction on the basis of disability, but it also requires providing reasonable accommodation. In the language of CRPD Article 5(3):

In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

The concept of reasonable accommodation is so central to the many rights and fundamental freedoms guaranteed by the CRPD that denial of reasonable accommodation is considered discrimination<sup>17</sup>.

Reasonable accommodation is a concept that is used in Articles on employment (Article 27) and education (Article 24) of the CRPD. The applicability of reasonable accommodation to victim assistance for landmine and cluster munitions survivors is easily evident. Reasonable accommodation may mean that an employer allows flexible work hours to address any needs that an employee with a disability may have. It may mean that a school must provide a student with a disability personal assistant for the student to be able to participate in the learning and activities.

### Universal Design

Universal Design is a rather new concept in countries which have been affected by mines and cluster munitions.

It means "the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design."<sup>18</sup> Doors that automatically open when a person moves near them, or an entrance that is fully accessible without having a ramp installed, are examples of universally designed products. The rationale is as follows:

The intent of universal design is to simplify life for everyone by making products, communications, and the built environment more usable by as many people as possible at little or no extra cost. Universal design benefits people of all ages and abilities.<sup>19</sup>

Article 2 of the CRPD defines universal design as "the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design." The CRPD definition also clarifies that "universal design shall not exclude assistive devices for particular groups of persons with disabilities where this is needed."<sup>20</sup>

<sup>16</sup>CRPD, Article 2.

<sup>17</sup>CRPD, Article 2, "Discrimination on the basis of disability."

<sup>18</sup>Center for Universal Design, North Carolina State University. [www.ncsu.edu/www/ncsu/design/sod5/cud/index.htm](http://www.ncsu.edu/www/ncsu/design/sod5/cud/index.htm).

<sup>19</sup>Center for Universal Design, North Carolina State University, "About", [www.ncsu.edu/www/ncsu/design/sod5/cud/index.htm](http://www.ncsu.edu/www/ncsu/design/sod5/cud/index.htm).

Furthermore, there is a general obligation for States Parties of the CRPD to “undertake or promote research and development of universally designed goods, services, equipment and facilities...which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities.” States Parties are also required “to promote their availability and use, and to promote universal design in the development of standards and guidelines.”<sup>21</sup>

If you are working on issues of accessibility, it is useful to keep the concepts and principles of universal design in mind and use them when possible.

### Age and gender perspectives

Children constitute a large sub-group among those injured or killed by landmines and cluster munitions. Nearly one third of annual mine/ERW casualties globally are children. Special measures must always be taken to guarantee children full protection of their human rights. When children are survivors of landmine or cluster munition incidents, necessary action must be taken to ensure their full rehabilitation and inclusion in society<sup>22</sup>.

While women and girls constitute only some 10% of landmine/ERW (5% each) or cluster munitions casualties for the period 1999-2008<sup>23</sup>, they face multiple barriers to rehabilitation and inclusion in society, necessitating a tailored response that ensures women an equal opportunity<sup>24</sup>.

The preambles of both the CAP and the VAP cite the need for a gender-sensitive, age-appropriate approach to victim assistance. This approach is repeated in Article 5 of the CCM as an overarching principle guiding the actual provision of victim assistance. Reference to the gender perspective is interspersed throughout the CAP and also included in the VAP. For example, in order to ensure that the full range of the needs and priorities of women are taken into account, data collected about victims must be disaggregated by sex (CAP Action #25), this must occur within a year of entry into force according to the VAP (Action #22), gender experts should be involved in all relevant activities (CAP Action #29 and VAP Action #30), and special care must be taken to address the accessibility needs of women (CAP Action #31).

The CRPD completes the picture by giving detailed guidance on how to protect the rights of women and children. Acknowledging that women and children are often subject to multiple discrimination, a dual approach is required to both fulfill rights and prevent discrimination<sup>25</sup>. Equality between men and women and respect for the evolving capacities of children with disabilities are

general principles (Article 3) of the CRPD<sup>26</sup>. An article on each issue—Women with disabilities (Article 6) and Children with disabilities (Article 7) lays down the need for special measures to counter the added discrimination they face. These articles also provide guiding principles on how to uphold their rights, for example by making sure that the best interests of children are given primary consideration. Parallel to that, wherever a right covered in the Convention is especially relevant to women (and girls) or to children, specific mention is made of the obligation to prevent gender or age discrimination and ensure their rights are protected<sup>27</sup>.

In the three areas addressed in this guidance document—accessibility, employment and education—gender and age perspectives are particularly relevant to landmine and cluster munitions survivors:<sup>28</sup>

- It has been reported that in some societies women are less likely to receive medical care and prostheses, particularly when resources are limited. The cost of investing time and money in rehabilitation programs for women or girls may appear to outweigh the perceived benefits.

- In some cultural contexts women can face difficulties in accessing adequate health care and rehabilitation if medical staff of the same sex are not available.

- The social consequences of injuries and disability are often different or worse for women. These can result in stigmatization, isolation and extreme poverty. Married women face a higher risk of being abandoned, and single women risk being deemed unmarriageable.

- In the area of employment women in general are marginalized, and survivors doubly so—as women with disabilities.

- Children need more frequent access to rehabilitation and prosthetic devices than adults as they are growing.

- In the area of education, children’s right to access free education—which is necessary to enable them to participate in society—is in jeopardy in many countries. The situation is much worse for children with disabilities, and among them, girls suffer even more from limits on their rights.

Connecting the dots in regards to women and children means including them in relevant, existing initiatives for this population and addressing their specific needs, while also taking special measures to address those areas where discrimination against women and children with disabilities is prominent.

<sup>20</sup>CRPD, Article 2.

<sup>21</sup>CRPD, Article 4 (f).

<sup>22</sup>See the Landmine and Cluster Munition Monitor factsheet “Impact of Mines/ERW on Children”, November 2010, [www.the-monitor.org/index.php/LM/Our-Research-Products/Factsheets](http://www.the-monitor.org/index.php/LM/Our-Research-Products/Factsheets).

<sup>23</sup>“Executive Summary” Landmine Monitor Report 2009, [www.the-monitor.org/lm/2009/es/mine\\_casualties.html](http://www.the-monitor.org/lm/2009/es/mine_casualties.html).

<sup>24</sup>See the Swiss Campaign to Ban Landmines factsheets, [www.scbi-gender.ch/](http://www.scbi-gender.ch/).

<sup>25</sup>The dual approach can be explained as the inclusion of women and children with disabilities in existing mainstream programs alongside special initiatives that enhance their capacity to participate in these programs.

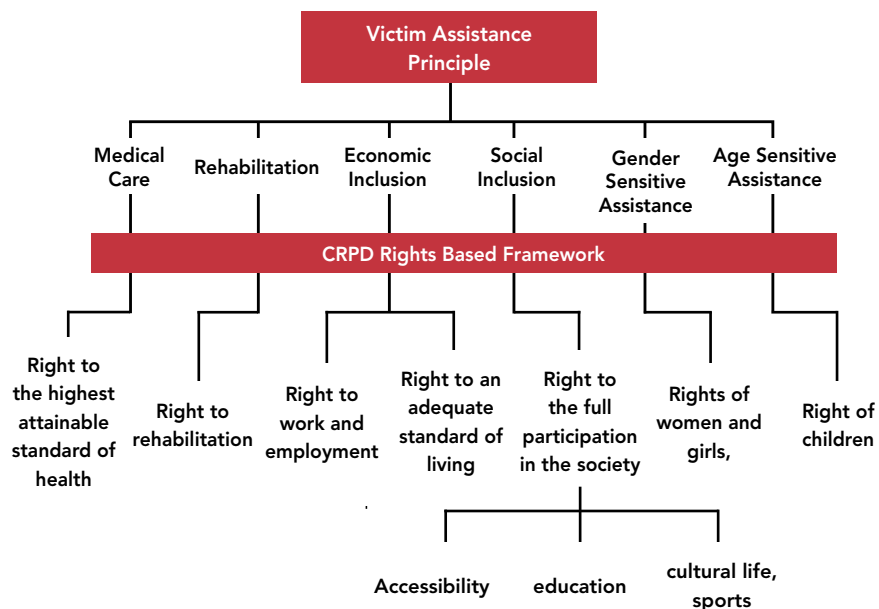
<sup>26</sup>CRPD, Article 3 (g) and (h).

<sup>27</sup>See for example: CRPD Article 13; Article 16, paragraphs 1, 2, 4, and 5; Article 25; and Article 28(b).

<sup>28</sup>Swiss Campaign to Ban Landmines, Gender and Mine Action Portal, [www.scbi-gender.ch/](http://www.scbi-gender.ch/).

## Connecting the Dots

The diagram below examines the main elements of victim assistance through the lens of the CRPD's human rights framework. Each victim assistance element is matched with the corresponding CRPD right. In this way, the human rights perspective of victim assistance is highlighted.



Connecting the Dots: Victim Assistance Principles<sup>29</sup>

As shown in the diagram, **economic inclusion** and **social inclusion** are among the major pillars of victim assistance. Achieving this inclusion requires **accessibility** to services and information, as well as equality and equal opportunity in **employment** and in **education**. The remaining sections of this publication will provide further detail on how to work towards inclusion and empowerment through these three areas, using the tools provided by the MBT, CCM and the CRPD.

<sup>29</sup>Based on: Survivor Corps, "Connecting the dots, Victim Assistance and Human Rights," December 2008, Revised November 2009.

## 3. Accessibility, Employment and Education

The aim of this guide is to be as concrete as possible. That is why we chose to focus on three areas that landmine and cluster munition survivors highlight as essential for their full social and economic inclusion in society.

### a. Accessibility

The CRPD defines States Parties responsibilities to ensure accessibility as follows:

To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas [and] include the identification and elimination of obstacles and barriers to accessibility ...<sup>30</sup>

The term accessibility can have multiple meanings. In the context of disability rights these include:

- The existence of services in a way which reaches the whole population, including rural and remote areas, and groups that are marginalized, such as persons with disabilities in general and women and children with disabilities in particular.
- The affordability of services necessary for health, rehabilitation and social and economic inclusion, so that people are not prevented from accessing them because of lack of money.
- The possibility for all people, including persons with disabilities, on an equal basis with others, to enter places that are open to the public, participate in public activities, use services provided to the public, access information and the media, and in doing so, not be blocked by physical or attitudinal barriers.

### Gaps that survivors face:

Accessibility is a major challenge in all countries with survivors<sup>31</sup>. Lack of access to social, economic and cultural public services including education, information, health and employment are the main barriers disempowering survivors and other persons with disabilities.

Following are some illustrative examples of challenges and gaps in accessibility from the experiences of ICBL national Victim Assistance Focal Points (VAFP)<sup>32</sup>.

<sup>30</sup>CRPD, Article 9.1.

<sup>31</sup>Annex B contains a list of countries which have survivors.

<sup>32</sup>Note: VAFPs were an initiative of the ICBL. The Cluster Munition Coalition had not engaged civil society victim assistance focal points at the time of publication.



## Accessibility- Gaps

### Gaps in Afghanistan<sup>33</sup>:

Hundreds of thousands of people with disabilities live in the mountains in Afghanistan where only very limited services are available—and they are inaccessible.

Very few persons using wheelchairs are visible in the streets of Kabul, because the vast majority of individuals using wheelchairs are stuck in their homes due the existence of physical barriers in paths and streets all around the city.

Almost all of the public buildings in Kabul are not accessible to persons with disabilities including landmine and cluster munition survivors. This situation drastically decreases opportunities for employment and education.

### Gaps in Iraq<sup>34</sup>:

Persons with disabilities face acute challenges in the area of accessibility, both in the physical and non-physical senses. Even though attention is given to improving services for the general population, very low priority is accorded to providing those services in a manner which is accessible for persons with disabilities.

Physical barriers continue to prevent persons with disabilities from participating in the public life. Pathways, transportation, and public buildings are rarely accessible to persons with disabilities—or, in the best cases, only partially accessible.

The country lacks building codes to meet the requirements of its citizens with disabilities. Accessibility measures are the last things to be addressed by both public and private services providers in Iraq.

### Gaps in Ethiopia<sup>35</sup>:

Physical barriers in Ethiopia hinder the free movement of persons with disabilities and prevent them from accessing education, public offices and services provided to the public. Most buildings in the country are not accessible for persons with disabilities.

In an attempt to improve this situation, the government issued a Proclamation to ensure that new public buildings are accessible, including bathroom facilities for persons with different kinds of disabilities.

However, the Proclamation only came into force in May 2010 and the legislation does not apply retrospectively to buildings constructed before its introduction. Nor does the Proclamation include public transportation or components of other infrastructure such as pathways and roads.

## The Mine Ban Treaty and the Convention on Cluster Munitions on Accessibility

Accessibility is crucial in achieving inclusion in society, and is therefore seen as a central aspect of social inclusion. Both the MBT and the CCM emphasize social inclusion as one of the central pillars of victim assistance.

### The Cartagena Action Plan on Accessibility

Before listing the specific actions that relate to victim assistance, the CAP states overarching principles, including that victim assistance “shall be made available, affordable, accessible and sustainable<sup>37</sup>.” States Parties to the MBT commit to:

Increase availability of and accessibility to appropriate services for female and male mine victims, by removing physical, social, cultural, economic, political and other barriers, including by expanding quality services in rural and remote areas and paying particular attention to vulnerable groups.<sup>38</sup>

and

Ensure that appropriate services are accessible through the development, dissemination and application of existing relevant standards, accessibility guidelines and of good practices to enhance victim assistance efforts.<sup>39</sup>

The MBT’s Standing Committee on Victim Assistance gave further detail on what accessibility means in the context of victim assistance. This includes developing and implementing a national accessibility program based on international standards, adapting inaccessible construction to become fully accessible, and including accessibility in all laws and policies related to infrastructure and information.<sup>40</sup>

### The Vientiane Action Plan on Accessibility

Accessibility is one of the overriding lenses through which victim assistance is viewed in the VAP. In the VAP, States Parties agreed to:

Take immediate action to increase availability and accessibility of services also in remote and rural areas so as to remove the identified barriers and to guarantee the implementation of quality services.[Italics Added] <sup>41</sup>

<sup>33</sup>Email from Suliman Aminy, ICBL Victim Assistance Focal Point in Afghanistan, 10 November 2010.

<sup>34</sup>Email from Sardar Sidiq-AbdulKarim, ICBL Victim Assistance Focal Point in Iraq, 17 November 2010.

<sup>35</sup>Email from Bekele Gonfa, ICBL Victim Assistance Focal Point in Ethiopia, 20 November 2010.

<sup>36</sup>MBT, Article 6.3 used the term social and economic integration whereas the CCM, the newer convention, uses social and economic inclusion in Article 5.1.

<sup>37</sup>CAP, Paragraph 15.

<sup>38</sup>CAP, Action #31.

<sup>39</sup>CAP, Action #32.

<sup>40</sup>Belgium and Thailand, “Assisting the Victims: Recommendations on Implementing the Cartagena Action Plan 2010-2014”, Cartagena, 30 November 2009, [www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/](http://www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/).

<sup>41</sup>VAP, Action #25.

## The Convention on the Rights of Persons with Disabilities and Accessibility

Accessibility is central to the CRPD, with both the Preamble and General Principles including references to accessibility<sup>42</sup>. The CRPD Article 9, on accessibility, emphasizes the connection between accessibility and being able to “participate fully in all aspects of life.”<sup>43</sup>

Accessibility is applicable not only with regard to the physical environment such as roads, transportation, schools, housing, medical facilities and workplaces, but also to:

- Information;
- Communications;
- Electronic services;
- Emergency services; and
- Other facilities and services open or provided to the public<sup>44</sup>.

As noted in the quotes above, special mention is made of ensuring accessibility both in urban and in rural areas by the CAP (Action #31) as well as by the VAP (Action #25).

According to Article 9 of the CRPD appropriate measures by which to achieve accessibility include<sup>45</sup>:

- Developing standards and guidelines for the accessibility of facilities and services;
- Ensuring that all entities, even if private, that offer facilities or services to the public, take into account all aspects of accessibility for persons with disabilities;
- Providing training on accessibility issues;
- Providing, in facilities that are open to the public, information in accessible formats such as Braille, easy to read and understand forms and with sign language interpretation; and
- Promoting access to communications systems, including the internet.

### Accessibility through Personal Mobility<sup>46</sup>

Article 20 of the CRPD addresses an issue related to accessibility, that is crucial to ensuring accessibility for landmine and cluster munitions survivors: personal mobility. The actions to be taken by States Parties include:

- Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
- Facilitating access...to quality mobility aids, devices, assistive technologies and... assistance and intermediaries, including by making them available at affordable cost;
- Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities; and
- Encouraging entities that produce mobility aids...to take into account all aspects of mobility for persons with disabilities.

<sup>42</sup>CRPD, Preamble (v) and Article 3.

<sup>43</sup>CRPD, Article 9.

<sup>44</sup>CRPD, Article 9.

<sup>45</sup>CRPD, Article 9, Paragraph 2.

<sup>46</sup>CRPD, Article 20.

## Connecting the Dots on Accessibility

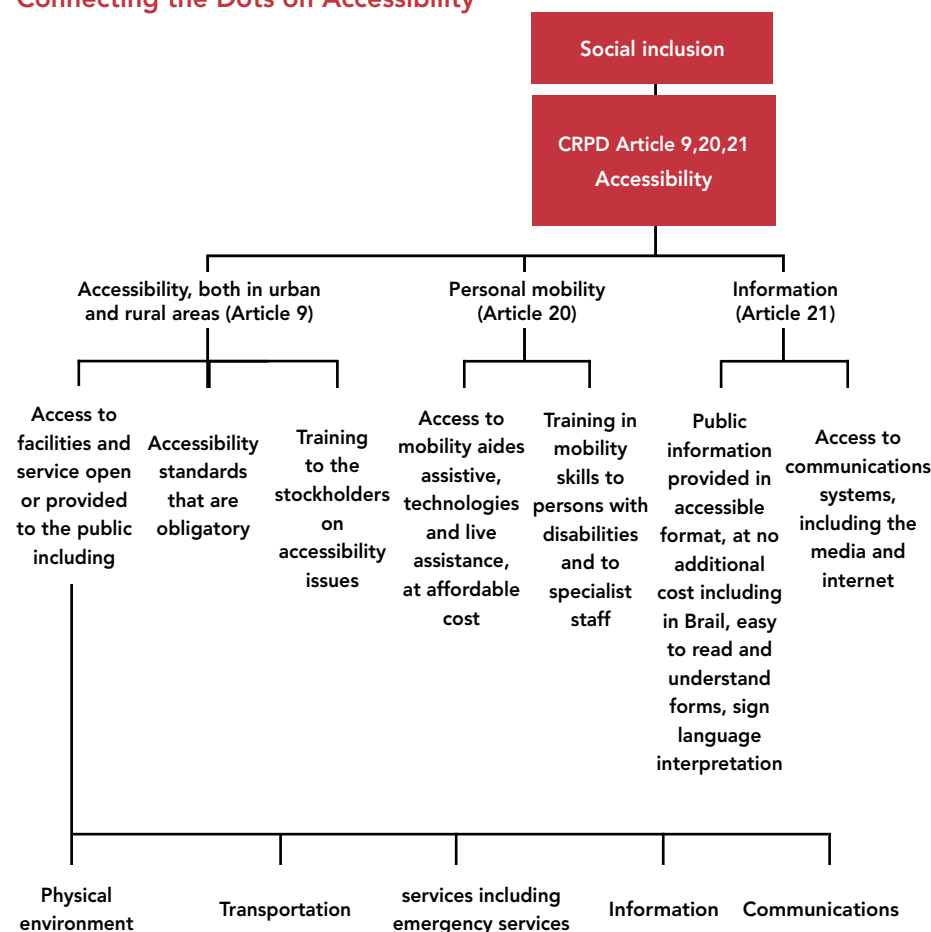


Diagram: Connecting the Dots on Accessibility<sup>47</sup>

A fully accessible environment, in the broadest sense of the word, is a necessary prerequisite for achieving social inclusion for survivors. Clarifying this link and examining how the three treaties obligate states to improve accessibility provide us with a set of concrete actions and tasks. These will help NGOs and governments alike in working towards social inclusion as a part of victim assistance. Accessibility of buildings, transportation, services, and information and communication affect all persons with disabilities, including survivors, and can be improved through addressing the systems level, such as requiring legislation and an accessibility standard.

Diagram <sup>47</sup>Based on: Survivor Corps, “Connecting the dots, Victim Assistance and Human Rights,” December 2008, Revised November 2009.

Considering the three treaties provides a full picture of accessibility. In order to achieve social inclusion for landmine and cluster munitions survivors, there must be full accessibility as evidenced by:

- Services that reach rural and remote areas as well as central locations;
- The development of services where these are lacking;
- Policies requiring accessibility embedded in the systems level—meaning that:
  - Facilities and services for the public are made accessible.
  - Accessibility standards exist to ensure quality, accessibility and uniformity, and are obligatory.
  - Public transportation is made accessible.
- Measures that address individual circumstances, for example ensuring personal mobility through provision of mobility aids and training;
- Mechanisms that cover all areas of life—in addition to the physical aspects such as ramps and elevators—also information, communication and media, and accessibility for persons with sensory disabilities (hearing, seeing) as well as psychosocial disabilities and intellectual disabilities; and
- Affordability of services for the user.

## **b. Employment**

Landmine and cluster munitions survivors emphasize economic marginalization as a devastating long-term effect of mines and cluster munitions. Harm does not stop at physical injury; an immediate and persistent challenge for survivors is finding a way to support themselves and their families. The degree to which survivors can find employment or generate income serves as one of the most revealing indicators of whether economic and social inclusion is being achieved.

### **Gaps that survivors face**

In many countries, up to 80% of persons with disabilities are unemployed<sup>48</sup>. A combination of attitudinal and environmental barriers obstructs the path to decent employment. Consequently, victim assistance must help dismantle stigmas, provide a support net that guarantees an adequate standard of living, create opportunities for return to work or for new gainful enterprises, make reasonable accommodation in and related to the workplace, and ensure accessibility to public places and services with particular focus on schools, workplaces, and health services.

<sup>48</sup>United Nations Department of Public Information, "Fact Sheet: Employment of persons with disabilities," November 2007, [www.un.org/disabilities/documents/toolaction/employmentfs.pdf](http://www.un.org/disabilities/documents/toolaction/employmentfs.pdf).

## **Employment-Gaps**

Following are some illustrative examples from the experiences of national ICBL VAFPs.

### **Gaps in the Democratic Republic of Congo<sup>49</sup>:**

There is no employment policy for survivors and persons with disabilities and the country has neither a disability rights law nor a disability action plan. The unemployment rate among persons with disabilities is much higher than for the non-disabled.

Persons with disabilities in general, among them survivors, face discrimination across different levels of their life and are often seen as a burden. Personal testimonies abound of survivors who lost their jobs after being injured because of an erroneous perception that they could no longer carry out the functions of their job. In addition, micro-credit institutions require guarantees that are beyond what most persons with disabilities can afford.

### **Gaps in Senegal<sup>50</sup>:**

In Senegal, survivors and other persons with disabilities lack the necessary education and vocational skills to get a job. One of the main reasons is lack of access to training. They encounter other difficulties as well. Many survivors want to run their own businesses—often their only choice to survive. However, they have problems securing micro-credit or bank loans.

### **Gaps in El Salvador :**

In El Salvador, the main obstacles that prevent equal opportunity for employment include the following:

- Most persons with disabilities, including survivors, have very low educational levels.
- The inaccessibility of public transportation and buildings blocks persons with disabilities from reaching work.
- Employers lack awareness of the prohibition on discrimination, their obligation to provide reasonable accommodations, the many available ways in which accommodations can be made with minimum costs to employers, and the various capabilities of persons with disabilities and survivors.
- Laws lack the detail and the sanctions necessary for enforcement.
- Many survivors acquire a disability at a later stage in life, creating an additional challenge, since employers are reluctant to hire older workers for entry level jobs.
- Persons with disabilities, including survivors, have limited access to loans for self-employment.

<sup>49</sup>Email from Francky Miantuala and Andre Tabaro, the ICBL national Victim Assistance Focal Points in the Democratic Republic of Congo (DRC), 16 November 2010.

<sup>50</sup>Email from Mamady Gassama, the ICBL national Victim Assistance Focal Point in Senegal, 11 November 2010.

Even when employers are open to recruiting persons with disabilities, without accessible transportation, accessible public infrastructure, and inclusive education, and with continued pervasive discrimination, persons with disabilities will not see a change in their lives and will remain isolated and excluded from the workforce.<sup>51</sup>

### **The Mine Ban Treaty and the Convention on Cluster Munitions on Employment**

Economic inclusion is another central pillar of victim assistance in both the MBT and the CCM.

The use of the term economic inclusion (CCM, Article 5.1) or economic integration (MBT, Article 6.3) can encompass all forms of earning a livelihood. This is further clarified by the relevant article in the CRPD that relates to work and employment.

### **The Cartagena Action Plan on Employment**

A principle of the CAP is that victim assistance be incorporated into “broader national policies, plans and legal frameworks” including those for “**employment**, development and poverty reduction, while placing particular emphasis on ensuring that mine victims have access to specialised services when needed and can access on an equal basis services available to the wider population.<sup>52</sup>”

The MBT’s Standing Committee on Victim Assistance gives more detailed guidance, which reflects the substantial role that economic inclusion plays in the process towards full and equal inclusion in society.

The Recommendations on Implementing the Cartagena Action Plan address economic inclusion in its broadest sense, looking beyond the individual “to the economic development of the community infrastructure” as well:

“The challenge for many States is to build and develop sustainable economic activities in affected areas that would benefit not only those individuals directly impacted by mines, but their communities.<sup>53</sup>”

Many types of activities that states must conduct follow from this broad perspective on economic inclusion. According to the Recommendations on the CAP, it must address all aspects of economic inclusion, such as creating or facilitating access to education, vocational training, micro-credit, and sustainable income generation and employment opportunities. The Recommendations also refer to laws and policies promoting employment for persons with disabilities, instructing states and campaigners to monitor the implementation of these laws as activities promoting economic inclusion for survivors.

### **The Vientiane Action Plan and Employment**

Employment falls under economic inclusion targeted by the VAP. The VAP emphasizes the aspects of availability and accessibility of services that enable economic inclusion:

Review the availability, accessibility and quality of services in the areas of medical care, rehabilitation and psychological support, *economic* and social inclusion....  
Take immediate action to increase availability and accessibility of services also in remote and rural areas so as to remove the identified barriers and to guarantee the implementation of quality services.<sup>54</sup>

### **The Convention on the Rights of Persons with Disabilities on Employment**

The building blocks of the right to work and employment (CRPD, Article 27) obligate states to ensure equality and non discrimination in the workplace, at all stages and in all forms of employment, including conditions for recruitment, hiring, and career advancement, as well as just and favorable working conditions. In addition, states must take steps to employ persons with disabilities in the public sector and promote employment in the private sector, through providing incentives. They must also take steps to ensure access to:

- Vocational and professional rehabilitation and return-to-work programs.
- Vocational guidance and training programs.
- Services assisting finding, returning and maintaining employment.
- Opportunities for self-employment, entrepreneurship, and the development of cooperatives and one’s own business.

Reasonable accommodation is especially relevant in the context of employment. It is not sufficient to simply treat landmine and cluster munitions survivors like all other employees, despite their disability, as opposed to actively discriminating against them. The problem lies much deeper. In most countries, workplaces, work procedures, policies for accessing micro-credit schemes, and vocational programs, in effect, exclude persons with disabilities, perhaps because of scheduling, prerequisites for participation or other environmental factors. In addition to the need to create overarching change on the systems level, reasonable accommodation comes into play at the individual level and requires making those changes that will enable individuals with various types of disabilities to be included in the workplace.

The CRPD requires States Parties to “ensure that reasonable accommodation is provided to persons with disabilities in the workplace.” One way to ensure that is to provide incentives to employers in the private sector, for example through participating in the employer’s costs of making the workplace accessible.

<sup>51</sup>Email from Jesús Martínez, ICBL Victim Assistance Focal Point in El Salvador, 12 November 2010.

<sup>52</sup>Cartagena Action Plan, Paragraph 13.

<sup>53</sup>Belgium and Thailand, “Assisting the Victims: Recommendations on Implementing the Cartagena Action Plan 2010-2014,” Cartagena, 30 November 2009, p. 9-10, [www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/](http://www.cartagenasummit.org/daily-summaries-and-statements/day-2-monday-30-november/).

<sup>54</sup>Vientiane Action Plan, Action 25.

Examples of reasonable accommodation include making the work entrance and workstation of the individual accessible or providing computer software to enable a blind employee to fulfill her job.

### Connecting the Dots on Employment

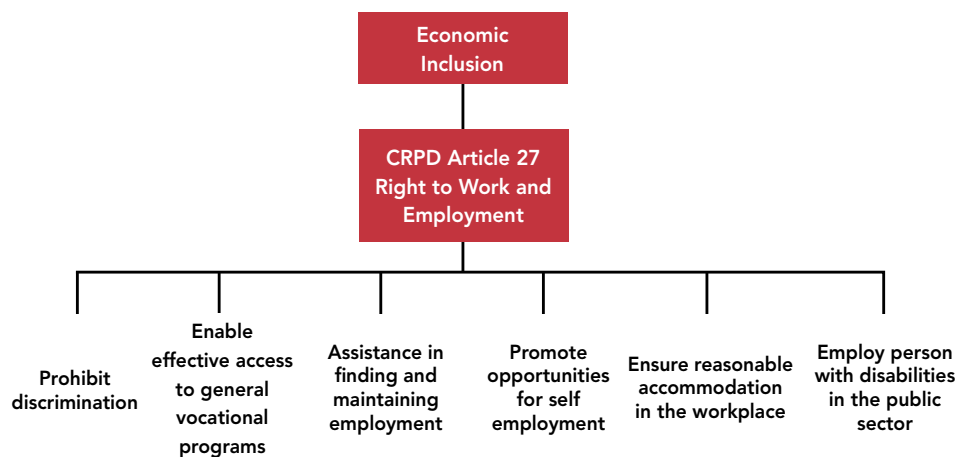


Diagram: Connecting the Dots on Employment<sup>57</sup>

The CRPD calls for both non-discrimination in the workplace and access to services that enable employment and are generally not accessible to persons with disabilities: vocational training, opportunities for self-employment and starting one's own business.

The MBT and the CCM provisions encompass entire communities impacted by the presence of mines, cluster munitions and other explosives and offer the means to link the economic inclusion and employment of survivors with broader development efforts in these communities.

Inclusive development is one means to achieve economic inclusion by creating opportunities for productive and gainful employment through the development framework. Many people are excluded from the economic opportunities of development because of disability, gender, ethnicity, age and poverty. Inclusive development strategies and programs are aimed at allowing all groups of people, including survivors and other persons with disabilities, to share the benefits of development, create opportunities and participate in decision-making<sup>58</sup>.

<sup>57</sup>Based on: Survivor Corps, "Connecting the dots, Victim Assistance and Human Rights," December 2008, Revised November 2009.

<sup>58</sup>ICBL, "Victim Assistance in Inclusive Development," [www.icbl.org/index.php/icbl/Home-Elements/Featured-News/p.5](http://www.icbl.org/index.php/icbl/Home-Elements/Featured-News/p.5); see also: International Disability and Development Consortium, Make Development Inclusive, [www.make-development-inclusive.org/inclusivedevelopment.php?spk=en](http://www.make-development-inclusive.org/inclusivedevelopment.php?spk=en).

In this regard, the CCM (Article 5.1 (c)) notes that victim assistance plans and budgets should be integrated into development frameworks. CAP paragraph 13 asserts that victim assistance should be integrated into broader national policies and plans, including those for development and poverty reduction. Donor states also have responsibilities in this regard as Action #41 of the CAP says that states should:

Ensure that international cooperation and assistance, including development cooperation, is ... inclusive of, and accessible to, persons with disabilities, including mine survivors.

The CRPD also calls for international development programs to be inclusive of, and accessible to, persons with disabilities<sup>59</sup>. The CRPD Preamble emphasizes the importance of inclusive development to the implementation of the convention as a means to mainstream disability issues as an integral part of relevant sustainable development strategies<sup>60</sup>.

### c. Education

It is widely acknowledged that reintegration/inclusion for landmine and cluster munitions survivors includes medical attention, yet goes far beyond it. Education is paramount to developing the full potential of the individual and sense of dignity and self-worth, and acquiring learning skills that will serve for life. Returning to a place of gainful employment is a key expression of economic inclusion. Increasingly, it is recognized that successful economic inclusion depends on the availability of educational opportunities. The more opportunities they have for education, the more chances and choices survivors have in the workforce.

A disproportionate number of children are hurt by landmines or cluster munitions— nearly one-third of annual casualties<sup>61</sup>. They are most vulnerable to the denial of the basic right to education—because they cannot walk to school and no transportation is in place, because the classroom is not accessible, or because their family cannot afford to pay for schooling in addition to needed medical services, or cannot compensate for less physical help in the household.

Survivors who are adults are also entitled to acquire secondary and tertiary education that will put them on an equal footing with others. Education is doubly important to survivors in order to prevent the narrowing of employment choices as a result of a disability and open the horizon for additional work-related opportunities.

<sup>59</sup>CRPD, Article 32.

<sup>60</sup>CRPD, Preamble (g).

<sup>61</sup>Landmine and Cluster Munition Monitor, "Factsheet on Landmines and Children," November 2010, [the-monitor.org/index.php/LM/Our-Research-Products/Factsheets](http://the-monitor.org/index.php/LM/Our-Research-Products/Factsheets).



## Gaps that survivors face

Gaps are found across many different educational settings. Stigma and stereotyping may prevent students with disabilities from being accepted in schools. Most schools around the world, and especially those in developing countries, lack the necessary internal support that would enable a student with a disability to access education.

Following are illustrative examples of various gaps and challenges from the experience of national ICBL VAFFPs.

### Education-Gaps

#### Gaps in Serbia<sup>62</sup>:

Discrimination and a lack of understanding leave gaps in education for persons with disabilities even where provisions exist on paper. Research conducted in 2007 found that only one of the 42 schools studied was accessible for students using wheelchairs. The Ministry of Education was found to have given approval to a large number of secondary schools to refuse enrollment by youth with disabilities. The vast majority of elementary and secondary schools remain inaccessible, with no adaptive devices or adjustments for students with disabilities. Some adjustments have been made to parts of some schools in bigger cities in recent years. Yet, even in these cases, none have made all the necessary areas and classrooms accessible.

New measures were passed in September 2010 to make the Serbian educational system more accessible and inclusive. However, mainstream school teachers are generally unprepared to respond to the educational needs of students with disabilities. They often immediately recommend home schooling and consider accessible arrangements for enrolled students—such as for examinations—a “favor” which they can grant at their discretion.

In some cases, even special schools for persons with disabilities are not fully accessible or inclusive. Milan Djuric from Assistance Advocacy Access–Serbia never received a reply to his formal request to a school for students with visual impairments to complete a questionnaire on accessibility. He found out later that this was because no one in the school administration could read Braille.

#### Gaps in Iraq<sup>63</sup>:

Persons with disabilities, including survivors, have not received equal learning opportunities within the public system.

- Schools are not accessible for children with disabilities, apart from a number of institutions that teach blind and deaf children; children with disabilities in small towns and remote areas have no choice whatsoever.
- The mainstream educational system has not included children with disabilities, except for a few experimental schools, supported by the Ministry of Education in Northern Iraq.
- Teachers lack skills to appropriately teach children with disabilities.
- Poor roads and the inaccessibility of the transportation present physical barriers that hamper the possibility of attending school.

#### Gaps in Uganda<sup>64</sup>:

In Uganda, obstacles to educational opportunities include:

- Inaccessibility—While most primary education is free, some schools are too far from where persons with disabilities and survivors live.
- Exclusion from active participation in the classroom and in extra-curricular activities—Classrooms lack interpreters, and extra-curricular activities are not inclusive. No effort is made to include students with disabilities and survivors in sports activities in schools.
- Lack of implementation of policies regarding persons with disabilities—While education policies prioritize children with disabilities, the reality on the ground is that persons with disabilities are the last to attend school; many remain at home and some are even sent to beg.

### The Mine Ban Treaty and the Convention on Cluster Munitions on Education

Although education is not mentioned explicitly in these treaties<sup>65</sup>, it is understood to be a crucial component of social inclusion and reference to education has been included in subsequent action plans.

Schools are where the potential of children and youth is developed and the chances for opportunities in life to a large extent determined. Schools are where the opportunity can be seized, or missed, to educate the next generation—children and youth—to respect difference and diversity. The more education acquired, the more choice and chances one has in the realm of work.

<sup>62</sup>Email from Jelena Vicentic, ICBL Victim Assistance Focal Point in Serbia, 14 November 2010. Study results taken from “Polozaj mladih sa hendikepom u srednjem obrazovanju,” (“The status of youth with disabilities in secondary education”), Association of Students with Disability, Belgrade, 2007.

<sup>63</sup>Email from Sardar Sidiq-AbdulKarim, ICBL Victim Assistance Focal Point in Iraq, 17 November 2010.

<sup>64</sup>Email from Dorothy Osman, ICBL Victim Assistance Focal Point in Uganda, 18 November 2010.

<sup>65</sup>The CCM refers to the specific activity of “risk reduction education” for affected populations, but does not mention education in a victim assistance context.

## The Cartagena Action Plan on Education

In line with the recognition of the importance of education in attaining economic and social inclusion, education appears a number of times in the CAP. Most directly, it appears under the requirement that victim assistance:

...be integrated into broader national policies, plans and legal frameworks related to disability, health, *education*, employment, development and poverty reduction, while placing particular emphasis on ensuring that mine victims have access to specialised services when needed and can access on an equal basis services available to the wider population.[Italics added]<sup>66</sup>

Education is mentioned in the Recommendations on Implementing the Cartagena Action Plan as an explicit component of “Social and economic reintegration/inclusion.” It appears often in the document as an area where accessibility and equal opportunities must be guaranteed<sup>67</sup>.

## The Vientiane Action Plan on Education

Education is not mentioned in the VAP as directly as it is mentioned in CAP. However, several actions, including actions on coordination and standardization, refer to education:

[E]stablish such a coordination mechanism actively involving cluster munition victims and their representative organizations as well as relevant health, rehabilitation, social services, *education*, employment, gender and disability rights experts within one year of the Convention’s entry into force for that State Party.[Italics added]<sup>68</sup>

and

Implement existing international standards, guidelines and recommendations in the areas of medical care, rehabilitation and psychological support as well as social and economic inclusion, inter alia through *education*, training and employment incentive programmes of persons with disabilities in both public and private sectors, as well as through the micro-crediting possibilities and best practices, recognizing in particular the vulnerability of women with disabilities.[Italics added]<sup>69</sup>

## The Convention on the Rights of Persons with Disabilities on Education

CRPD Article 24 requires that persons with disabilities not be excluded from the education system and from free and compulsory primary or secondary education, on the basis of disability.

As elaborated above, the prohibition of discrimination goes beyond refraining from certain acts, and requires positive action as well. Access must be ensured to the schools, in line with the requirements of CRPD Article 9 on Accessibility (see above).

In many cases, enabling children with disabilities to equally access education entails the making of “[r]easonable accommodation of the individual’s requirements.”<sup>70</sup> The article specifies what reasonable accommodation may mean in the case of education:

“[...]States Parties shall ensure that:

- d. Persons with disabilities receive the support required, within the general education systems, to facilitate their effective education;
- e. Effective individualized support measure is provided in environments that maximize academic and social development, consistent with the goal of full inclusion.<sup>71</sup>”

One very common way of discriminating against persons with disabilities in education is either barring them from learning in inclusive settings, with their peers without disabilities, or refraining from providing support and reasonable accommodation to enable them to study with their peers. The result may be that these children stay at home instead of attending school, or attend separate schools which are segregated settings. CRPD Article 24 highlights time and again the principle of inclusion in the general education system, the obligation to ensure an inclusive education system at all levels, and the requirement to provide reasonable accommodation that will enable persons with disabilities to access an inclusive education in the communities in which they live.

Special emphasis is put on facilitating the learning of Braille and other means of communication, orientation and mobility skills, as well as sign language. Special care must be taken to deliver learning in environments which maximize academic and social development. This may mean having group learning of these skills to ensure expertise, quality and resources.

Finally, Article 24 explains that the right to education goes beyond primary and secondary education, to include tertiary education, vocational training, adult education, and lifelong learning. This is especially relevant to adult survivors who find themselves in need of such education in order to be able to return to work after their injury.

<sup>66</sup>Cartagena Action Plan, chapter IV (Assisting the Victims), paragraph 13.

<sup>67</sup>Belgium and Thailand, “Assisting the Victims: Recommendations on Implementing the Cartagena Action

<sup>68</sup>Vientiane Action Plan, Action 23.

<sup>69</sup>Vientiane Action Plan, Action 28.

<sup>70</sup>CRPD, Article 24(2)(c).

<sup>71</sup>CRPD, Article 24(2)(d)-(e).

## Connecting the Dots on Education

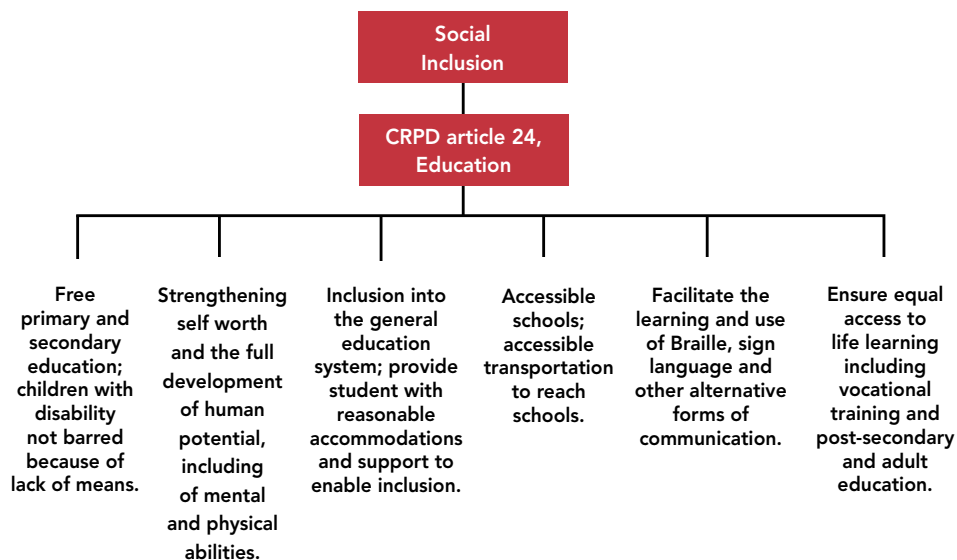


Diagram: Connecting the Dots on Education<sup>72</sup>

The existence of all three treaties—the landmine and cluster munitions treaties and the CRPD—is of particular importance in the case of education.

First, survivors have rightly pointed to the importance of education in order to turn the exclusion they face into inclusion, even if education is not included by name in the landmine and cluster munitions treaties. Subsequent inclusion of education in action plans underscores the widespread acceptance of this importance.

Second, the CRPD provides the framework for the obligation to ensure equal opportunity in education and its inclusivity, translating these principles into concrete obligations on the systems level—eliminating discriminatory practices and ensuring the accessibility of schools and the curriculum, and on the individual level—providing individualized support and reasonable accommodations.

Third, the landmine and cluster munitions treaties enable the targeting of survivors who, due to their disability may be especially vulnerable to barriers to accessing education. The treaties also provide the framework for addressing the particular barriers to education that survivors face, within the broader context that characterizes most countries affected by landmines or cluster munitions. Free and compulsory primary and secondary education are not a reality for the general population in many mine-affected countries. Children in many regions,

particular those that are rural and remote, face huge hurdles in attending schools because of lack of services. Efforts at promoting education for landmine and cluster munitions survivors can only be successful if conducted as part of the broader national education framework.

## 4. Translating These Connections into Practice

As shown above, the three treaties complement and reinforce each other in the areas of accessibility, employment and education. They do so with regard to many other elements as well, such as in implementation and monitoring, in data collection, designation of focal points, progressive implementation and a national plan, international cooperation and assistance, and reporting.

Understanding the tools that each treaty provides to ensure implementation is necessary in order to harness the full potential of the three treaties. Some examples for the beneficial effects of aligning the treaties are given below and can serve as guidance for governments and advocacy tools for NGOs.

### Multiple sources of obligation and monitoring

Understanding victim assistance in light of the CRPD strengthens its obligatory nature. Victim assistance is required by both humanitarian and human rights principles and treaties. Mechanisms to ensure its implementation can be utilized from both realms.

- Strengthening civil society advocacy

Both victim assistance and the rights of persons with disabilities are promoted by vibrant civil society constituencies. Joining forces in a strategic manner clearly strengthens advocacy on both issues.

- Annual meetings to monitor implementation

The yearly Meetings of States Parties and intersessional meetings in between, for the landmine and cluster munitions treaties, serve as fertile ground to monitor progress on victim assistance. In addition, governments that are also States Parties to the CRPD can be held accountable to their obligation to provide victim assistance in the framework of the CRPD Conferences of States Parties.

- Monitoring and reporting

Both the MBT and the CCM also require annual transparency reporting that can serve as an important source of information. In the case of the CCM, detailed reporting on victim assistance is obligatory. Although MBT reporting on victim assistance is voluntary, States Parties often do include information on it, and can now be encouraged to use the detailed reporting form of the CCM to facilitate such reporting.

<sup>72</sup>Based on: Survivor Corps, "Connecting the dots, Victim Assistance and Human Rights," December 2008, Revised November 2009.

- The CRPD's monitoring mechanism

Since victim assistance and promoting the rights of persons with disabilities share so many common elements, in addition to reporting on progress within the framework of the landmine and cluster munitions meetings, governments can be monitored on compliance within the framework of their reporting to the UN CRPD Committee of Experts. The CRPD establishes such a committee to monitor compliance with CRPD obligations through the submission of reports by States Parties, and NGOs, which are considered by the Committee<sup>73</sup>. States Parties to the CRPD must report initially within two years of accepting the Convention and thereafter provide updates every four years.

Incorporating victim assistance issues within these reports takes thorough understanding of the common elements, as well as open communication channels and ongoing collaboration between survivor organizations and those of persons with disabilities.

The first step to achieving this level of collaboration is recognizing the potential to connect victim assistance with progress in CRPD implementation. Inaccessibility of services and lack of employment and education opportunities for landmine and cluster munitions survivors may very well be part of the broader issue of discrimination and barriers faced by persons with disabilities, or by the population at large. Conscious incorporation of victim assistance within these mechanisms gives yet another boost to victim assistance implementation.

### **Multiple funding streams**

All three treaty structures include the concept of international cooperation and assistance among states, calling on states in a position to do so to assist other states in carrying out their obligations within the treaties<sup>74</sup>. International assistance can provide funding streams to various relevant governmental departments in developing countries. Some target victim assistance programs. Others target the rights of persons with disabilities more generally. Still others address broader human rights and development mechanisms.

Becoming familiar with the overlapping issues between the three treaties provides insight on how to tap into the various funding streams that originate from the different departments.

For example, establishing health services for survivors in areas that currently lack adequate health services can be presented as a project to promote accessibility and health services to survivors under the auspices of victim assistance funding. However, it can also be formulated as a case for achieving accessibility and the right to health for persons with disabilities, and appeal to funding streams that promote the rights of persons with disabilities in general.

Thirdly, the project can be formulated as a contributing component to a national inclusive development campaign for establishing health services in rural and remote areas, thus opening up the possibility of other potential donors.

### **Progress in victim assistance and for all persons with disabilities**

Identifying multiple sources of monitoring, implementation and resources for victim assistance helps guarantee that victim assistance efforts are both inclusive and cost-effective. Equally important is close collaboration between victim assistance and disability constituencies, both between the different agencies within the government and among civil society.

Awareness of the common elements between the treaties promotes the understanding that resources can be pooled, and that all sides will benefit by addressing the needs of persons with disabilities in general when promoting victim assistance—and vice versa—by including landmine and cluster munitions survivors' needs when promoting the rights of persons with disabilities.

For example, even if funding for a project on medical services originated from a victim assistance funding stream, the services that will be established would eventually cater to a group larger than survivors only. After all, the principle non-discrimination is promoted in all treaties, and discrimination based on the cause of disability or injury is clearly against victim assistance principles. Consequently, the services should be made accessible to persons with disabilities in general, and take into account aspects of accessibility that are necessary to enable persons with all types of disabilities—not only physical disabilities—access to the newly established services. In such a manner, both issues—that of landmine and cluster munitions survivors and that of persons with disabilities in general—will have advanced.

## **5. National Level Action**

Advocacy for the effective implementation of the MBT, CCM and the CRPD must occur at many levels, with national advocacy being the most important. Governments that have committed to being States Parties to any or all of these treaties have agreed to a set of obligations; experience has shown that, in most cases, the fulfillment of these obligations will require a concentrated effort by both civil society actors and governments, ideally working in cooperation. The overlapping and complementary aspects of these treaties present new opportunities for work among NGOs and additional advocacy strategies for NGOs to overcome persistent challenges to implementation of the treaties.

<sup>73</sup>CRPD, Articles 34-39.

<sup>74</sup>MBT, Article 6.3; CCM, Article 6.7; CRPD, Article 32.

## Broadening coalitions

National campaigns for victim assistance emerged as mine and cluster munition survivors have demanded the fulfillment of their rights as outlined by the MBT and subsequent action plans and, more recently the CCM. Natural allies have varied from country to country but often include affected communities (included under the definition of 'victims' according to the CCM), deminers and former deminers, and military and veterans' associations.

However, even in the most mine and cluster munition-affected countries, these groups make up only a small constituency within the many post-conflict interest groups, with competing demands for government attention. Strength comes from multiple voices that are unified in their message.

The CRPD, as well as the non-discrimination principle within the CCM, underscore that equal rights for persons with disabilities derive from inherent dignity and worth of the human person and are not a function of the source of disability, thereby providing a solid platform for building common interests between various groups within the communities of persons with disabilities and survivors. In many countries, there is already a strong disability movement that could benefit from the experience and insight of victim assistance campaigners, just as national victim assistance campaigns stand to benefit from stronger links with broader disability efforts, while advancing a common agenda on disability rights. Following is an illustrative example from the perspective of a national ICBL victim assistance focal point.

## Getting started in coalition building-Progress

### Case study: progress in Afghanistan<sup>75</sup>:

Lack of access to available services is one of the most significant challenges facing persons with disabilities in Afghanistan. For example, a student using a wheelchair rarely reaches school if she lives in a rural area or far from the school.

Afghan Landmine Survivors' Organization and other local organizations have been building ramps and adapting entrances and toilets of schools in different parts of the country. However, building ramps is not sufficient to achieve full accessibility. The broader environment must be made accessible in order for persons with disabilities to benefit. Ultimately responsibility lies with the government to ensure accessibility.

To address these gaps the Afghan Landmine Survivors' Organization, in collaboration with civil society organizations for survivors and other persons with disabilities, organized a conference to promote physical accessibility and peer support on 1 August 2010. The conference included relevant ministries such as the Ministry of Labor, Social Affairs, Martyrs, the Ministry of Transportation and Civil Aviation and Ministry of Urban Development.

<sup>75</sup>Case study based on interview with Suliman Aminy, ICBL Victim Assistance Focal Point, 10 November 2010. Recommendations available at: [www.afghanlandminesurvivors.org](http://www.afghanlandminesurvivors.org).

A central advocacy objective of the conference was for the Ministry of Urban Development and municipalities to integrate accessibility regulations into the construction master plan, and for the Ministry of Transportation to incorporate accessibility into transportation policies.

Victim assistance advocates, survivors, campaigners, and disability practitioners prepared recommendations to inform and encourage the government of Afghanistan in these actions. At the same conference, it was decided to organize a training workshop for provincial mayors of Afghanistan to increase their knowledge with regard to importance of accessibility.

The recommendations were presented to the high level representatives of the government. This resulted in a government commitment to follow up on the recommendations by establishing working groups which involve civil society.

In September 2009, the Ministry of Labor, Social Affairs, Martyrs and Disabled (MOLSAMD) organized a training workshop on accessibility for all provincial mayors of Afghanistan.

## Consultation

All three treaties speak to the need to include persons with disabilities in their effective implementation. Both the CAP and the VAP call on governments to include survivors and their representative organizations in fulfilling victim assistance obligations. Within the CCM, this requirement is explicit. Inclusion should be meaningful and comprehensive as governments must "closely consult with and actively involve cluster munition victims and their representative organizations"<sup>76</sup> The parallel requirement in the CRPD makes clear how comprehensive consultation should be—"(i)n the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities..."<sup>77</sup>

Thus, survivor organizations should have an active role in all aspects of victim assistance coordination, including planning, monitoring and evaluating plans, and in the implementation of victim assistance programs. On paper, most States Parties to the MBT have developed mechanisms to coordinate and consult with survivors. States Parties to the CCM have begun to develop such mechanisms, where they do not already exist. How effective these mechanisms really are varies from country to country—in some cases, survivors participate in regular coordination meetings and have a role in making decisions while in other cases, meetings are infrequent and may serve only to disseminate information without opportunity for input.

<sup>76</sup>CCM, Article 5.2 (f).

<sup>77</sup>CCM, Article 4.3.



In order to ensure that survivor consultations with governments lead to more effective victim assistance, national campaigns must work to open doors to government victim assistance and disability focal points (appointed as part of the implementation of the landmine or cluster munitions treaties, or the CRPD) and, where needed, strengthen their capacity to contribute in meaningful ways. In cases where governments are not States Parties or have not yet developed a consultation mechanism, there is more work to be done. However, at the very least, there are existing models that demonstrate how governments can include survivors in a way which leads to better outcomes in policy development and implementation.

### What does a transparent and effective consultation look like?

Following is an illustrative example from the perspective of a national ICBL victim assistance focal point.

### Consultation-Progress

#### Case study, NGO- Government consultation in Croatia.

The NGO MineAid in Croatia has been working closely with government bodies to create an objective in the national victim assistance action plan to amend employment legislation. The amendment is needed in order to ensure entitlement to a disability allowance even if an individual has found some form of employment. The process of consultation was conducted within a governmental working group representing several ministries. The process, although slow, was rewarding. An attempt is made to arrive at a shared understanding of the obligations of the government as well as the rights and needs of affected communities.

#### Tools to achieve effective consultation:

- Build a strong knowledge base about the relevant national legislation and international conventions;
- Maintain solid and mutually respectful relationships with key government actors by contacting them regularly and informing them about national and international activities;
- Use the trust built through other projects, such as providing services, to demonstrate that the same sound judgment is applied to advocacy on the issues of the conventions;
- Obtain good guidance on key issues before taking them up with government bodies;
- Provide concrete proposals and solutions to the relevant institutions and coordination bodies;
- Engage international support and cooperation; and
- Work in cooperation with national NGOs which have shared interests.

## Crafting policy and legislation

### Role of legislation and policy

Developing, implementing, and enforcing any necessary national laws and policies is an essential step towards providing victim assistance that is human rights-based. Both the CRPD and the CCM highlight this aspect<sup>78</sup>. Laws and policies are also the vehicle through which to connect with the broader frameworks of disability, development and human rights; in order to influence the system's level, victim assistance will have to appear in the form of laws and policies.

Laws are the appropriate vehicle for creating change at the systems-level, such as health, education, employment, or social affairs systems. Policies, more flexible by nature, could specifically target landmine and cluster munitions survivors, and even specific groups among them, where the targeted approach is necessary, such as those living in rural and remote areas where services are scarce.

### Checklist for types of laws and policies that must be in place, with a focus on Accessibility, Employment and Education

National legislation is a major indicator of whether rights are recognized and opportunities provided in the areas of accessibility, employment and education. Following is a list of such indicators to begin with<sup>79</sup>:

#### Does your country have a law protecting and promoting the rights of persons with disabilities?

- Does the law **ensure equality** to persons with disabilities?
- Are there **sanctions** for non-compliance and **remedies** for the violation of rights?

#### Does the law on accessibility address reaching public places and maneuvering within, using public transportation, accessing services, and receiving information?

- Does it refer to **obligatory accessibility standards**?
- Are standards concrete, **translating accessibility into numbers and technical requirements** (instead of vague guidelines such as "make it easy for persons with disabilities to enter")?
- Is there an **obligatory timeframe** for achieving full accessibility (instead of open-ended aims)?

<sup>78</sup>CRPD, Article 4 (1) (a)-(d), and CCM, Article 5.2(b).

<sup>79</sup>Based on: Survivor Corps, Connecting the dots, Victim Assistance and Human Rights, December 2008, Revised November 2009.

Does the law on **employment prohibit discrimination on the grounds of disability?**

- Does it require employers to make **reasonable accommodations** in the workplace?
- Does it provide economic **incentives** for employers to employ persons with disabilities, such as **state contribution to the cost of making the workplace accessible**?
- Does it provide for **opportunities for vocational training, assistance in finding employment, self employment?**
- Does it require that **employment services (vocation training, job placement services, etc.) be accessible** to persons with disabilities?
- Does it require that the **public sector take special measures** to employ persons with disabilities?

Does the law on **education** ensure **free primary and secondary education?**

- Does it ensure that **children with disabilities are not excluded** from the general education system, and that they can access **inclusive education with their peers**?
- Does it require that schools be **accessible**?
- Does it provide for either an accessible school nearby or accessible transportation in cases in which a student **needs accessible transportation to reach school**?
- Does it require that the education system provide students with **reasonable accommodation and support** to enable them to study in inclusive settings?
- Does it facilitate the learning of Braille, orientation and mobility skills, and sign language for children with visual or hearing disabilities?
- Does it ensure that students in families whose livelihoods have been affected by landmines or cluster munitions **are not barred from school because of their family's lack of means**, and that they are supported in attending school?

## 6. Conclusion

The persistent challenges that landmine and cluster munition survivors face will only be overcome through concerted efforts by both governments and NGOs. As can be seen through the illustrative examples provided above by ICBL victim assistance focal points, gaps remain in numerous countries in ensuring accessibility and extending equal opportunities for employment and education. In some cases, laws exist but are not sufficiently comprehensive; in others, laws are not implemented; finally, in some countries, there are still no laws or national policies in place requiring the protection of survivors' human rights. Most affected countries struggle with limited national budgets and competing humanitarian and development priorities.

The three treaties discussed in this guidance document make it clear that the promotion of these rights is not optional, even in the face of financial hardship. The majority of landmine or cluster munition affected countries are States Parties to one or more of these treaties and this obligates these countries to work towards the full inclusion of survivors using the appropriate combination of national and international resources. However, governments themselves as well as NGO advocates may lack a complete understanding about what it means to implement these treaties.

This publication has provided advocates with an approach they can use to analyze and thus maximize the different components of each treaty by connecting the dots across these three treaties. This enables advocates to demonstrate to national governments what actions they must take to improve the lives of survivors. Each treaty has something to say on all of the thematic areas discussed in this paper, be it accessibility, employment or education, as well as many others, such as psychological support or medical care. These different perspectives translate into legal obligations that can be mutually reinforcing tools in a comprehensive victim assistance advocacy campaign. Using the approach presented here, effective advocates and campaigners can determine which tools will be most effective to improve victim assistance in their countries.

### Overcoming advocacy barriers in challenging environments by Connecting the Dots

National advocacy on victim assistance can be stymied when working in a challenging political environment in which the government is closed to civil society input and lacks accountability. Confronting and overcoming such barriers is difficult. The solution is not a uniform one size fits all approach. However, some common basic elements to nevertheless make progress under difficult circumstances emerge.

The convergence of the three relevant treaties provides national victim assistance campaigners with the advantage of multiple entry points and different frames through which to form alliances with government representatives. In some cases, governments may refuse to share information with campaigners but may still file one or more national transparency reports, as required under all three treaties. In other instances, 'victim assistance' may be seen as a sensitive political issue, due to ongoing or recently ended armed conflict or violence, whereas disability rights may be free from such political baggage. Alternatively, advocating for 'rights' might raise government eyebrows, while calling for victim assistance may be less controversial. Thinking creatively about victim assistance advocacy, without undermining core human rights principles, may lead to better outcomes when establishing a foothold with challenging governments.

By connecting the dots across the MBT, CCM and CRPD, on specific thematic areas, NGOs can also form relationships with relevant civil society and government partners that can strengthen their efforts. Working together with disability rights campaigners, victim assistance practitioners and survivors amplify their voices while also contributing to disability rights campaigns. Engaging with government victim assistance focal points and disability focal points, who may not be in the same position or even within the same ministry, can be a good opportunity for both advocacy campaigns and civil society-government cooperation. Identifying these entry points becomes clearer once one has reviewed all three treaties and has seen what coordination mechanisms governments have been required to establish.

The rewards to connecting the dots across the MBT, CCM and CRPD are just as relevant for governments as for NGOs. With three treaties sharing the goal of inclusion for persons with disabilities and survivors, efforts now can be channeled to support the universalization and full implementation of each so that victim assistance can be further improved, to the benefit of survivors and all other persons with disabilities.

## **Annex A. Part I:**

### **Case study on Accessibility: The Meaning of Inclusive Accessibility**

From among the various possible meanings of accessibility as outlined above (i.e. the spread of services; their affordability; and the opportunity for all, including persons with disabilities, to equally access them), this section will focus on the aspect of accessibility that is related to enabling persons with disabilities equal access to places and services.

Accessibility is often associated with building a ramp or an accessible route. But it is about much more than that. Accessibility is a stepping-stone to living

independently and participating fully in all aspects of life. Inclusive accessibility is made up of the following aspects:

- The way society structures its physical spaces, but also services, information, communications and procedures.
- Addressing the needs of persons with all types of disability—physical, sensory, psychosocial and intellectual.
- It encompasses making it possible to:  
reach a place, and maneuver within it; use a service; receive information issued by a public place or service; and participate in the activities provided by a public place or service.

All this on an equal basis with others, with dignity, independence, and safety.

### **Physical accessibility and beyond**

Accessibility entails understanding its relation to areas of life beyond just the physical environment. Areas that are often overlooked are access to services, information and communication which are an integral part of making a barrier-free society and address the accessibility needs of persons with sensory, intellectual and psychosocial disabilities as well.

Most landmine and cluster munitions survivors have accessibility needs related to the physical environment, as a result of a physical disability. However, efforts to promote accessibility should keep in mind the broader concept of inclusive accessibility, both because survivors themselves may have additional needs due to sensory disabilities (hearing, seeing), as well as psychosocial disabilities as a result of the trauma they experienced, and because of the overarching principle that victim assistance be incorporated within the broader national context to ensure effectiveness, coherence and sustainability.

To take an example from the issue of accessible health services: There is no sense in investing in making a health clinic accessible for individuals who have certain physical disabilities, and stop at that, without at the same time making the clinic accessible to persons using wheelchairs, and addressing the needs of individuals with other types of disabilities as well. This may include ensuring that an effective way exists for communication with deaf people utilizing the health services, and training the medical and administrative staff on how to provide services for consumers who have an intellectual or psychosocial disability.

Every person at some stage in life faces barriers as a result of how society has structured the physical space, services, and exchange of information and communication. Therefore making the environment accessible and barrier-free to persons with disabilities benefits not only persons with disabilities but all persons in society.

## Essential components of laws and policies on accessibility

Accessibility should be addressed in a methodological manner and be incorporated into laws and policies. Below is a list of 10 key components that are essential for a comprehensive law and policy on accessibility.

1. Representation of aspects of **accessibility as they pertain to all persons with disabilities**, including persons with physical, sensory, intellectual or psychosocial disabilities.

A law about inclusiveness cannot itself exclude.

2. **Reference to obligatory standards**—accessibility means the obligation to comply with a clear set of accessibility standards.

Many standards already exist worldwide, and can serve as a basis for creating a national one.

3. Standards are concrete, **translating accessibility into numbers and technical requirements** (instead of being vague—'ramps that make it easy for persons with disabilities to enter buses', etc.).

Accessibility is an area of expertise. It cannot be left for the public authority making accommodations to determine what accessibility entails.

4. **Applying accessibility obligations to new and existing infrastructure.**

The requirement to build new infrastructure in accordance with an obligatory accessibility standard should be of immediate application, while the obligation with regard to existing infrastructure can be set within a reasonable timeframe.

Very low costs are involved in creating accessible new infrastructure from the start. Existing infrastructure cannot be forgotten—so much of it already exists—but accommodations can be put in place gradually, as long as the finish-line is clear, obligatory and reasonable.

5. Attention to accessibility **beyond physical infrastructure: services, communication, information, media.**

The public arena is made up not only of physical infrastructure, but also of services, communications, information, and media. If not addressed, these public spaces will continue to exclude persons with disabilities.

6. **Limited exemptions to the rule of accessibility**—there will be balancing involved with the right to accessibility, especially with regard to making existing infrastructure accessible. Exceptions should be limited and minimal, defined in advance and monitored.

7. Reference to licensed accessibility experts—**accessibility experts must be part of the process.** It has been proven worldwide: Involving accessibility experts at the start of the process will result in better results and lower costs.

Otherwise, an expenditure of resources may end in the realization that an incline is too high or that certain accommodations were forgotten, and that it is more costly to correct this error.

8. **Sanctions, remedies, enforcement:**

Laws should include:

- (a) Sanctions against those who violate their obligations;
- (b) Remedies for those whose rights were violated; and
- (c) Enforcement tools for the prescribed authority.

These are the teeth for implementation.

9. **Reasonable timeframes for implementation**—a delicate balance between being ambitious and realistic.

New infrastructure should be built accessible. To achieve that, it is necessary immediately to establish standards and the obligation to abide by them. However, it will take time to address the accessibility of what is already built.

10. **Close consultation with disability rights organizations** in the writing of the law and regulations, and their implementation.

This is in line with the CRPD principle of consulting and actively involving persons with disabilities in the development of legislation and policies and other processes relating to persons with disabilities. In other words: Nothing about us without us.

## Why is a law necessary?

Laws are the appropriate vehicle for creating change at the system's level. Making various aspects of accessibility an *obligation* is essential to actually achieving accessibility on the ground. These include: the types of places and services that must be made possible, and under what circumstances are exemptions allowed; where to look for technical guidance on making infrastructure, services, information and communication accessible; sanctions that apply if obligations are not kept; the need to include an accessibility expert in the approval of a building or a service, and more.

A comprehensive effort to address accessibility will most probably be a combination of law, regulations, a standard, and policies.

Law:

- Laws should contain the overarching principles, rights and responsibilities that the government wants to ensure, and all matters of policy (definition, which places have to be made accessible, what happens if they are not, etc.).
- These should be obligatory and provide tools for action in the case of non-compliance.

- The law, where open-ended, must designate a body in charge of promulgating specific implementing measures.

Regulations:

- These should be significantly more specific and detailed than the law; they can determine some of the technical details and methods of carrying out the principles.

- Where technical specifications are needed, the regulation should refer to a code or schedule.

Standard/Schedule/Code:

- These should give the technical requirements about the “how”—how steep can a gradient be? How wide must a door be? What are the measurements of an accessible toilet, parking space, entrance, pathway? etc.

Policy:

- Policies are more flexible by nature, and could serve as a vehicle by specific governmental ministries or agencies to target specific groups, establish specific arrangements, or coordinate among various involved governmental agencies, such as a policy that determines that any person or agency receiving governmental money to carry out a public event must fulfill certain accessibility requirements for the event.

### Where in the “law book” should a law on accessibility be inserted?

A law addressing accessibility will usually be part of a broader law addressing various rights of persons with disabilities. In some cases, laws regulating accessibility will be found within building code laws.

Though there is certainly a connection between building codes and accessibility, the limits of using this track to promote accessibility should be recognized. Building codes generally address the physical space, and are not the place where other components of inclusive accessibility services, such as communication and information, are addressed. Building code laws tend to focus on the point-in-time of the approval of individual building plans; they do not lend themselves naturally to systematic plans for making existing places accessible. A disability rights law would also be a more natural home for establishing the overarching principle of accessibility from which the details follow—equality, independence, full participation in all aspects of life—than a building code law.

If the track of the building code law is chosen to serve as a home for accessibility of the physical environment, special care must be taken not to neglect the other non-physical aspects of accessibility elsewhere in the law, and to ensure consistency and internal reference between the different laws.

### Finding partners to promote accessibility in-country

Promoting accessibility is an excellent example of an issue that is high on the priority list for both **organizations of landmine and cluster munitions survivors, and organizations of persons with disabilities**. Organizations of persons with disabilities are a most natural partner for promoting an accessibility law. If some action exists in a country to promote accessibility, these organizations are most probably involved and it is highly advisable for landmine and cluster munitions organizations to team up with the organizations of persons with disabilities to promote the issue in a collaborative form.

Often it is organizations representing persons with physical disabilities who are at the forefront of this work. However, as explained above, inclusive accessibility is relevant to persons with all types of disabilities. **Groups representing diverse disabilities**, including sensory, intellectual and psychosocial disabilities, should be part of the process as well.

Examples of **governmental ministries** that must be engaged in the process are: the ministry serving as the governmental focal point for promoting the rights of persons with disabilities; the ministry of justice—with regard to the legislative aspects, which is central to accessibility—and the ministry of infrastructure or public buildings. In addition, all ministries which touch upon types of services that must be made accessible should be involved: the ministry of health with regard to health facilities, the ministry of education with regard to **schools, and so on**.

**International funders** (such as United States Agency for International Development, the World Bank) often are interested in accessibility—so much so, that some of them require that all their programs adhere to the requirements of accessibility. Advocates for accessibility should consider the possibility of involving these funders in the issue—for example, asking them to make accessibility a precondition to continued funding of national projects.

**International experts** can be of great help in providing technical expertise on an accessibility standard. Some international organizations have developed expertise in developing accessibility standards for various contexts worldwide, including in countries with developing economies. Examples are Access Exchange International on the issue of public transportation and the Danish organization Dansk Handikap Forbund.



### What if my country does not have a law on accessibility?

Accessibility is a good issue around which to begin advocating with regard to legislation. Today, as a result of developments in the rights of persons with disabilities, there is widespread recognition of the need to change the way society is built in order to include persons with disabilities. The obstacle is usually the issue of cost. (Other rights are in dispute not only because of cost but also because the understanding of the need to make a paradigm shift has not yet been widely accepted.) For ways to address the issue of cost see below.

In order to advocate effectively, it is of paramount importance to find out which of the advocacy organizations of persons with disabilities are involved in the issue, and team up with them.

If your country has ratified the CRPD, one of its fundamental obligations is to adopt appropriate legislation to bring into effect the rights recognized in the treaty (Article 4). A key right is that of accessibility (Article 9) which includes the requirement to develop obligatory accessibility standards and guidelines. Depending on the particular circumstances, national courts and international tribunals, such as reports to the UN CRPD Committee of Experts, can be utilized to compel the enactment of an accessibility law.

Even if your country is not yet a State Party to the CRPD, the Meetings of States Parties to the MBT and the CCM provide an effective framework to advocate with your government to make progress in the area of accessibility, since, as explained above, they are so strongly linked with victim assistance.

### What if a law exists but its provisions do not guarantee satisfactory accessibility?

In some cases accessibility laws are “outdated” and do not live up to the CRPD standard, for example if they require that only governmental buildings (and not any building open to the public), or a third of public buses, be made accessible. In other cases the law may be formulated too vaguely, requiring only that “easy access” be facilitated and not explaining what that means. As more and more laws, regulations, standards and policies on accessibility are being developed worldwide, we have a clearer idea of what accessibility requirements should be.

A powerful tool in advocating for a change in the law and policy is presenting the legislator or the government with concrete suggestions, and even exact formulations, on how the law should be changed. Examples of laws and standards from other countries, preferably of similar contexts, are helpful in putting together the recommendations for the needed changes. International experts are also a useful tool.

If your country is a State Party to the CRPD, it is obliged to modify existing laws and regulations if they do not meet the standard of the CRPD. National courts and international tribunals, as well as other forums such as the Meetings of States Parties to the MBT and CCM are all applicable tools in the case of changing laws as well.

### What if a law exists but is not implemented?

From among the various tools available as detailed above, in the case of non-implementation of an existing law, special consideration should be given to approaching domestic courts to compel the government to fulfill its obligations. If organizations representing persons with all types of disabilities as well as landmine and cluster munitions survivor groups collaborate and approach the court together, impact is increased.

If enough leverage exists or can be created, another tactic may be to negotiate an implementation plan with the government, with milestones along the years that can be monitored. Here, too, effectiveness is increased if organizations can present concrete suggestions for the plan.

### The issue of cost

Achieving equality where discrimination has been practiced for so long costs money. Implementing treaties, among them the CRPD and the victim assistance provisions of the MBT and CCM, has a cost which can also be seen as an investment in the overall development of society. But there are ways to spread out this investment and implement some parts of the treaties gradually.

The CRPD gives guidance on progressive realization of treaty obligations. A distinction is made between two types of rights: Rights that are civil and political by nature, such as liberty (Article 14), freedom from torture (Article 15), freedom from violence (Article 16), and others in the CRPD, must be implemented immediately. However, with regard to economic, social and cultural rights, the situation is different. According to the CRPD:

[E]ach State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights...<sup>80</sup>

Two elements stand out:

The first element is that of international cooperation. International cooperation is a factor that is intended to assist countries with costs associated with implementing the CRPD. Since accessibility is a component of victim assistance, the framework of international assistance according to the MBT and CCM can be utilized as well to direct funds to implementing accessibility.

<sup>80</sup>CRDP, Article 4.2.

As demonstrated above, promoting accessibility for persons with disabilities and for landmine or cluster munitions survivors are interwoven. Advocates of victim assistance can help guide states and international donors to allocate funds for this endeavor.

The second element is that of the practical constraints of available resources and progressive realization. These are two qualifying limits with regard to the implementation pace of social and economic rights. These qualifiers do not exempt a state from implementing these rights, nor do they allow postponing implementation indefinitely or unreasonably. It is accepted in national and international law that a reasonable timeline has to be established.

A question arises over some of the rights, whether they are civil or political by nature and therefore must be implemented at once, or economic, social or cultural and therefore subject to progressive implementation. For example, is accessibility (CRPD, Article 9) a civil right or a social and economic right? Where does education fall (CRPD, Article 24)?

Whichever is the case, in the area of accessibility it is reasonable to differentiate between new public facilities and existing facilities. New facilities should be built as of now in an accessible way. The cost of constructing a building to be accessible from the start is vastly lower than making it accessible after it has already been built. Accommodations to existing facilities can be spread out over time. An implementation plan then becomes crucial. The plan should determine a reasonable timeframe for making accessible existing buildings that are open to the public or offer services to the public, and mid-term goals set in time as well. In some countries, a time frame is set for every type of existing public facility: existing hospitals and public clinics should be made accessible within a certain period of time; existing schools within a certain period of time; and so on.

The importance of the participation of organizations of survivors and persons with disabilities in the process of determining such an implementation plan cannot be over-emphasized.

### **The importance of an accessibility standard and how to promote it**

What makes an accessible building entrance; how should signs be constructed in a manner which can be read by people with visual impairments; how can a classroom be made acoustically accessible to a student who is hard of hearing?

The answer to these questions cannot be left to a case-by-case determination. Even if a law is in existence, all too often money is invested and accommodations are made that achieve a poor quality of accessibility.

Accessibility is an area of expertise. A uniform standard must be developed with the aid of experts and serve as the technical blueprint for how to achieve accessibility. Once a standard is in place, the law and regulations can refer to the standard for the actual technical details that make up accessibility.

## **Annex A. Part II:**

### **Case Study: Making progress to achieve greater accessibility in an imperfect world: Uganda**

Uganda is a State Party to the CRPD and MBT and a Signatory to the CCM.

Uganda has a legislative framework promoting the rights of persons with disabilities. Its Constitution prohibits discrimination on the grounds of disability, and requires the state to take affirmative action in favor of marginalized groups, among them persons with disabilities, in order to redress imbalances that exist against them. Uganda's 2006 Persons with Disabilities Act includes a chapter on accessibility and discrimination in relation to goods, services and facilities, as well as regulations.

However, little is implemented in the area of accessibility. In some areas of Uganda, including the capital, Kampala, as much as 95% of buildings serving the public are inaccessible to persons with disabilities.

Uganda has a vibrant community of organizations advocating for the rights of persons with disabilities, as well as survivors organizations who are involved in promoting the rights of persons with disabilities. They have taken a number of steps to address this lack of implementation in general, and in particular of the accessibility articles:

#### **a. Creating an accessibility standard**

Uganda National Action on Physical Disability (UNAPD) described a large gap that is partially responsible for the very little progress made on accessibility: [A] major hurdle to a barrier-free environment is the lack of Standards on accessibility that can serve as a basis for improving accessibility in Uganda.[Italics added]

UNAPD proceeded to step in to fill in the gap and create a standard. They did so through:

...extensive consultations with a wide range of stakeholders, line ministries and literature in the field of accessibility and disability ... an in-depth review and analysis of ... laws and policies on disability ... and field visits ...

[Using these,] UNAPD developed a classification scheme and then established the core content.

UNAPD sought assistance from international experts as well, notably the Dansk Handikap Forbund for the technical side, and Survivor Corps for the conceptual side. The draft standard that was developed addresses the physical environment. Its purpose is:

- To provide a blueprint for creating an accessible physical environment;
- To provide a tool for measurement and auditing of accessibility of the environment.

Special care was taken to list accommodations that are relevant to persons with disabilities other than physical—for example requirements applying to signs, that enable people with impaired vision and with intellectual disabilities to read and understand the signs. UNAPD also clarified that:

Accessibility entails understanding its relation to areas of life beyond just the physical environment. Areas that are often overlooked are access to services, information and communication which are an integral part of making a barrier-free society and addressing the accessibility needs of persons with sensory, intellectual and psychosocial disabilities as well. These aspects should be addressed in a set of complementary Standards.

In such a manner, UNAPD helped get across the message of what inclusive accessibility means.

The Accessibility Standard was launched in June, 2010. Steps are now being taken to popularize the Standard. People must be made aware of its existence and what it entails.

Though action on implementation is still very basic, mechanisms have been put in place to assist in implementation:

#### **- Creating models**

UNAPD and the Ministry of Gender Labor and Social Development (MGLSD) have established an "Accessibility Corner" where illustrations for the Accessibility Standards book are designed and put on display for the general public. These models act as a practical guide to those who wish to implement the Accessibility Standards. The Accessibility Corner is at the UNAPD offices.

#### **- Advocacy materials**

UNAPD and MGLSD have set up a resource center stocked with documentaries, books, fliers, and banners for use in advocacy campaigns in support of the Accessibility Standards. One of the books displayed is Accessibility Nightmare, which captures the challenges that persons with disabilities experience with regard to accessibility.

#### **- Engagement with the Ministry of Works**

The Ministry of Works is in the process of drafting a Building Control Bill, to

be presented to parliament. UNAPD and MGLSD are engaging the Ministry of Works to include the interests of persons with disabilities in the Bill, as reflected in the Accessibility Standards.

#### **- National Accessibility Audit Team**

A team of engineers is being trained and empowered to audit buildings and assess whether or not they comply with the provisions in the Accessibility Standard.

#### **- Uganda Society of Architects**

UNAPD and MGLSD are also engaging the Uganda Society of Architects to influence developers at the stage of designing the structures.

- Engagement of physical planners and engineers at the district level

In the face of a decentralization policy in Uganda, UNAPD and MGLSD are engaging engineers in all districts to adapt the Accessibility Standard when constructing buildings and roads.

#### **- Involving institutions of higher learning**

Institutions of higher learning, especially the departments of engineering and architects at Kyambogo, Mbarara, Makerere, and Gulu Universities are engaged in developing curriculum that includes an accessibility component.

#### **- General collaboration with and within the government**

Various meetings take place with all relevant ministries, in order to involve them in implementing the Accessibility Standard and increase the Standard's cross-cutting impact. There is a high level of collaboration especially with the Ministry of Gender Labor and Social Development, which has set up a separate desk to address issues concerning persons with disabilities and the elderly.

### **b. Other steps**

Parallel to these steps, other organizations have taken action on additional levels. One such type of action, coordinated by Legal Action for Persons with Disabilities, Uganda (LAPD) is going to the Constitutional Court in Uganda, to challenge non-implementation by the government and public agencies of their obligations under law related to accessibility.

The second type of action involves the reporting process to the UN CRPD Committee of Experts. NGOs are preparing a report that will be submitted to the Committee in parallel to the government's report, and which will present the Committee with civil society's perspective on the state of implementation of the CRPD in Uganda. Within this report gaps in implementation of the accessibility obligations can be highlighted.

## Annexe B. Treaty status of relevant states with survivors

	SP to MBT		SP to CCM		SP to CRPD	
	Signed only	Ratified	Signed only	Ratified	Signed only	Ratified
1 Afghanistan		X	X			
2 Albania		X		X	X	
3 Angola		X	X			
4 Azerbaijan						X
5 Bosnia & Herzegovina		X		X		X
6 Burundi		X		X	X	
7 Cambodia		X			X	
8 Chad		X	X			
9 Colombia		X	X		X	
10 Croatia		X		X		X
11 DRC		X	X			
12 El Salvador		X		X		X
13 Eritrea		X				
14 Ethiopia		X				X
15 Georgia					X	
16 Grenada		X			X	
17 Guinea-Bissau		X		X		
18 Iraq		X	X			
19 Israel					X	
20 Jordan		X				X
21 Kuwait		X				
22 Lao PDR				X		X
23 Lebanon				X	X	
24 Montenegro		X		X		X
25 Morocco						X
26 Mozambique		X		X	X	
27 Nicaragua		X		X		X
28 Peru		X	X			X
29 Russia					X	
30 Rwanda		X	X			X
31 Saudi Arabia						X
32 Senegal		X	X			X
33 Serbia		X				X
34 Sierra Leone		X		X		X
35 Sudan		X				X

	SP to MBT		SP to CCM		SP to CRPD	
	Signed only	Ratified	Signed only	Ratified	Signed only	Ratified
36 Syria						X
37 Tajikistan		X				
38 Thailand		X				X
39 Turkey		X				X
40 Uganda		X	X			X
41 United Kingdom		X		X		X
42 Yemen		X				X
43 Zambia		X		X		X
<b>Total</b>	<b>0</b>	<b>34</b>	<b>10</b>	<b>14</b>	<b>10</b>	<b>24</b>

Sources: [icbl.org](http://icbl.org) [stopclustermunitions.org](http://stopclustermunitions.org) [un.org/disabilities/](http://un.org/disabilities/)



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