

Review Conference of States Parties to the Convention on Cluster Munitions

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Item 5 of the provisional agenda

Presentation on the review of the Vientiane Action Plan

Review of the Vientiane Action Plan VII. Victim assistance

Submitted by the President to the Fifth Meeting of States Parties

Key messages

1. The Convention is a landmark humanitarian disarmament agreement: it was the first international treaty to contain precise obligations on assistance by States Parties to victims of a given weapon in areas under the State Party's jurisdiction or control. Assistance to survivors, and to their families and communities, is acknowledged as a key component of the remedy to the harm caused by cluster munitions, and is also a legal duty. Efforts to make assistance available and accessible have been reported over the past five years.

2. There are however, still many practical and financial challenges to ensure the full implementation of the actions dedicated to victim assistance in the Vientiane Action Plan. The gap between our ambitions and intentions, and the experiences of survivors as a result of our collective work to date, remains wide. Questions are raised as to whether one can yet observe measurable improvements that demonstrate a real difference to the lives of survivors. Increasing cooperation between affected States, among agencies, and linking efforts under the Convention on Cluster Munitions to activities which promote the rights of survivors as well as their families and communities under other instruments – such as the Convention on the Rights of Persons with Disabilities of 2006 – or national development efforts, remains essential for efficiency, sustainability and non-discrimination.

Scope

3. Article 5 of the Convention on Cluster Munitions is the result of the experience gained in the context of other international instruments, most notably the Anti-Personnel Mine Ban Convention and the Convention on the Rights of Persons with Disabilities. Since entry into force, 12 States Parties have reported, or have been reported to have, obligations under Article 5.

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4. Building on the Anti-Personnel Mine Ban Convention, the provision of Article 5 represents major steps forward in clarifying who bears the responsibility of assisting cluster munitions victims as it states that “Each State Party with respect to cluster munition victim in areas under its jurisdiction or control” shall, in accordance with applicable international humanitarian and human rights law, provide the assistance required.

5. In doing so, Article 5 places a substantial burden on affected States Parties. However, to spread this burden the Convention requires “Each State Party in a position to do so to provide assistance for the implementation of the obligations referred to in Article 5 of this Convention” as a means of helping affected States Parties to fulfil their obligations.

Progress

6. Three quarters of the States Parties with obligations under Article 5 and responsibilities for the wellbeing of cluster munition victims have reported on consistent efforts made throughout the past five years to implement actions contained in the Vientiane Action Plan related to victim assistance. The remaining three States Parties have either not submitted initial and/or annual transparency reports, or in any other way provided information in this regard.

7. Although none of the States Parties have implemented all the actions dedicated to victim assistance within the Vientiane Action Plan, key progress can be noted: ten States Parties with cluster munitions victims have designated focal points to coordinate the development, implementation and monitoring of victim assistance policies and plans; six States Parties saw progress in needs assessment of victims; and all seven States Parties with victim assistance coordination structures in place have involved survivors or their representative organisations in victim assistance or disability coordination mechanisms. Also, half of all States Parties with obligations under Article 5 have reported on awareness raising among victims about their rights and availability of services.

8. Many of these States Parties, however, continue to face significant challenges in providing holistic and accessible care to affected individuals, families and communities. Emergency medical care, physical rehabilitation services, and socio-economic inclusion still remain out of reach for many survivors and other people with disabilities as well as family members of those who have been killed, and members of affected communities. Most States Parties collected little information regarding age- and gender-sensitive assistance to cluster munition victims. Only a few States Parties reporting to have victims included relevant experts, and involved them in the work of government delegations, international meetings and in all activities related to the Convention.

Challenges highlighted since the First Meeting of States Parties

9. Ensuring that affected States Parties identify the needs of survivors efficiently, as well as the capacity gaps of the states to provide assistance, so as to be able to fulfil their victim assistance obligations.

10. Ensuring that victim assistance activities are based on the needs and priorities of those affected, and that resources are made available and used efficiently.

11. Creating sustainable services and programmes, and to ensure that the lifelong needs of victims are met.

12. Ensuring that all efforts are integrated with wider development, disability and human rights efforts, and to make best use of opportunities that allow for a holistic approach that encompass all victims of landmines and other explosive remnants of war as well as other people with similar need.

13. Improving collaboration and cooperation between States Parties and civil society actors working directly with victims.

14. Increasing the involvement of victims and their representative organisations in the policy development and practical implementation of victim assistance measures.

Recommendations

15. The Dubrovnik Action Plan should provide practical, time bound and purposeful guidance in the implementation of victim assistance provisions. In light of the progress made to date, and the challenges highlighted above, with respect to the legal obligations under Article 5, a key recommendation would be to build on the actions outlined in the Vientiane Action Plan, among them with regards to planning and monitoring making progress measurable (i.e. with time bound objectives and monitoring of implementation), including:

(a) Collect disaggregated data and report how data has been made available to all relevant stakeholders;

(b) Promote coordination among national authorities to effectively identify and assess the needs of victims;

(c) If possible, refer victims to existing services that may fulfil their needs;

(d) Ensure comprehensive rehabilitation services for victims (physical rehabilitation, psychological support and psycho-social support), which are also integrated with services for people with similar needs;

(e) Monitor and evaluate the integration of victim assistance into broader policies and frameworks to ensure that the needs and rights of victims are been taken into account; and

(f) In order to engage any newly affected State Party which may occur in future, States Parties should develop, by the Second Review Conference, a mechanism of rapid response which provides guidance on the implementation of the victim assistance obligations, with a view to preventing further victims.

16. Active involvement of victims and survivors:

(a) Ensure active involvement of survivors and their representative organisations in consultations and policy-making and decision-making processes on issues that concern them;

(b) Promote economic inclusion through self-employment or waged employment, as well as social protection measures; and

(c) Promote the inclusion of family and community representatives in accordance with Article 5.

17. Cooperation and assistance:

(a) Collaborate closely with related fields and related legal instruments – joining efforts and avoiding duplication can maximize the benefits for victims;

(b) Increase cooperation and assistance for victim assistance projects, not just through traditional mechanisms but also by increasing south-south, regional and triangular cooperation and in linking national focal points and centres;

(c) Promote good practices sharing as well as cooperation and assistance between expert centres and agencies;

(d) Promote a gradual upgrade in addressing the needs of family and communities in clearly affected areas of unexploded cluster munitions, based on the achievements of States Parties in the Vientiane Action Plan;

(e) Enhance and promote the capacity of survivor organisations, as well as disabled people organisations that are also representative of survivors, to deliver services (such as peer-to-peer support); and

(f) Promote the identification of capacities and resources that could be provided to states in need of capacity support in order to fulfil their victim assistance obligations.

18. Transparency:

(a) Ensure that information submitted in form H of Article 7 focuses on all victims of cluster munitions use, and not only the survivors; and

(b) Endeavour for information submitted in form H of Article 7 on victim assistance activities to demonstrate the results achieved and/or expected results.
