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Landmine Survivors and a Convention on the Rights of Persons with Disabilities

Since the 56th Session of the General Assembly, advocates have worked hard to get rights for persons with disabilities. Decisions made at the session have provided a number of opportunities for landmine victims and other disabled persons around the world.

by Akiko Ikeda, UNMAS

Introduction

Advocacy for a new international convention on the rights and dignity of persons with disabilities gained considerable momentum following the address delivered by President Fox of Mexico on 12 November 2001, at the 56th session of the General Assembly. In his speech, President Fox called upon the international community to combat poverty and social exclusion. He insisted that societies should involve all citizens as stakeholders and that a just world is an inclusive world.1 Mexico then proposed the formation of a "special committee" to examine the elaboration of an international convention that would aim to promote the political, legal, social, and cultural rights of people with disabilities.2

Over 600 million people, or approximately 10 percent of the world's population, have a disability of one kind or another. This includes the many survivors of landmine accidents. According to Landmine Monitor: Report 2002, approximately 20,000 innocent victims continue to be killed or maimed each year by landmines in over 70 affected countries. Since landmines are primarily designed to cause severe injuries to their victims, they are considered "a major cause of disability."3 Most persons with disabilities do not have access to adequate medical care, rehabilitation services, trauma care, and mental health services.4

Further, they face discrimination from the societies in which they live and are de facto excluded from both formal and informal labor markets. Such discrimination and exclusion is a clear violation of the fundamental human rights enshrined in the Universal Declaration of Human Rights and other legal instruments. Within the framework of these instruments, all persons with disabilities ought to be recognized as full members of their societies with equal dignity.

This article examines how recent international developments have tried to further promote and protect the rights of persons with disabilities by shifting the attention away from a strictly medical/social welfare focus and bringing in a social and human rights approach to the problem. It also examines the implications of these developments for landmine survivors and the victim assistance community.

Historical Review - From the Medical to the Human Rights Approach

In the 1970s, a broader "social model" emerged, recognizing that the medical model alone could not fully address the needs of persons with disabilities. This social model focuses on the social discrimination and barriers to which persons with disabilities are confronted, instead of focusing on their medical needs or the medical profession. It points to the problem as not residing in the persons with disabilities themselves, but as resulting from structural barriers and attitudes that prevent the individual from exercising his or her capabilities. Thus, the social model gives priority attention to the ways persons with disabilities want to live and to the rights they have to participate fully and equally in society.

A number of United Nations initiatives and meetings shaped the development of a human rights approach to the disability issue in the 1970s and 1980s. These include the adoption by the General Assembly, in 1982, of the World Programme of Action Concerning Disabled Persons, which considered equalization of opportunities as a guiding principle.9 Eleven years later, in 1993, the General Assembly adopted the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, a major outcome of the United Nations Decade of Disabled Persons (1981-1991).10 The Standard Rules consist of 22 Rules aimed at ensuring that all persons with disabilities can exercise their rights in the societies where they live.11 The adoption of the World Programme of Action and the Standard Rules at the UN General Assembly, Governments committed themselves to work towards the goal of equal opportunities for persons with disabilities. Although both instruments are "soft," i.e. non-binding, they have played a critical role in supporting the development of strategies, policies, and programmes that advanced the disability agenda locally, nationally and internationally.12

The Ad Hoc Committee on rights and dignity of persons with disabilities and a new international convention

Since there are already a number of international instruments protecting the rights of persons with disabilities, there is no need for a new international convention. This is the view of the organisations that support the "top of the list" convention (i.e. a convention on the rights of persons with disabilities).13 According to the Convention on the Rights of the Person with Disabilities (CRPD), there are several key elements:

- the right to the enjoyment of all human rights and fundamental freedoms
- the enjoyment of a range of other rights, such as the right to life, the right to personal autonomy, the right to the privacy of personal life, the right to freedom of thought, conscience and religion, the right to freedom of opinion and expression, and the right to freedom of association
- the right to the enjoyment of the highest attainable standard of physical and mental health
- the right to education
- the right to participate in cultural life
- the right to work
- the right to an adequate standard of living
- the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment
- the right to an effective remedy against violations of these rights

According to the "Guidelines for the Care and Rehabilitation of Survivors" developed by the International Committee of Red Cross and the United Nations on Landmine Survivors, the provision of a medical rehabilitation is not enough.14 It is necessary to establish a comprehensive network of services that includes immediate medical care, and all other rehabilitation services, in order to help landmine survivors to return to the society as viable human beings.

Several non-governmental organisations (NGOs), such as Disabled People's International, Concern International, Handicap International, Madre Inc Landmine Survivors Network (LSN), Support Coalition International, World Blind Union and World Federation of the Deaf participated in the work of the Convention. In a significant development, the disability and humanitarian categories joined forces for the first time, as a "newly emerging community," to promote the fundamental and universal human rights of persons with disabilities.15 Differences of opinion remain, however, particularly amongst governments, regarding the need to elaborate a new convention. While the Government of Mexico is a strong advocate of the pro-convention movement and wants to see a concrete output at the end of the process (i.e. a convention), other governments merely support a "process" and work "toward" a convention.

To facilitate further discussion on this and other issues, the Ad Hoc Committee recommended the adoption of a declaration at the 57th session of the General Assembly in the fall of 2002, and the organisation of additional meetings of the Ad Hoc Committee and of regional technical and expert groups.

The human rights perspective and victim assistance

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Earlier this year, for instance, a survey was conducted by the authors of this paper and 10 co-chairs of the Standing Committee on Victim Assistance and Socio-Economic Reintegration in order to gather priority areas of work in which the Committee could make meaningful contributions over the next two years. The questionnaire was distributed to all focal persons identified by States Parties to the Anti-Personnel Mine Ban Convention, to major international organizations and non-governmental organisations, to groups of survivors, and to experts in the field of disability. In their responses to the survey questionnaire, landmine survivors consistently ranked employment and economic reintegration as their top priorities,16 while placing medical assistance as the second priority.

...the most acute need of landmine survivors are not the medical rehabilitation services provided, but assistance in helping the survivors become productive community members and contribute to their families. Socio-economic reintegration, therefore, has been sorely neglected as an issue to be dealt with by national governmental initiatives or by international relief organisation efforts.17

A case study conducted in Cambodia by the Geneva International Centre for Humanitarian Demining (GICHD) in 2002 supports the same viewpoint. It notes that physical rehabilitation is "fairly well covered" in Cambodia where it is accessible to at least 80 percent of all persons with disabilities.18 There have been in-depth discussions on most of these nine areas of activities, including medical and socio-economic reintegration issues. It seems, however, that the latter has received increased attention within the victim assistance community as a result of the development of the human rights approach to disability.
Landmine Survivors & Victim Assistance

Implications of the proposed convention for the victim assistance community

The adoption of a convention on the rights and dignity of persons with disabilities would have potentially three positive implications for the victim assistance community, landmine survivors in particular. First, it would set a new and important precedent that significant progress has already been made in this regard with the entry into force of the Anti-Personnel Mine Ban Convention where, for the first time, the aspirations and needs of persons with disabilities—mine victims in this instance—are specifically addressed in an international humanitarian and disarmament law instrument. Under Article 6 of Convention, States Parties “in a position to do so” have an obligation to “provide assistance to its own citizens when they fall victim to landmines.” The proposed convention on the rights of persons with disabilities could therefore play a complementary role by making it legally binding for governments to assume responsibilities with regard to persons with disabilities and landmine survivors, thereby providing them with the assistance they need.

The adoption of a convention on the rights and dignity of persons with disabilities could also have positive financial implications for landmine survivors. It could make it easier for landmine survivors to claim additional resources from existing social funds. A fund such as the Trust Fund for Human Security (TFHS) supports initiatives to address the protection of human security, various threats to human lives, livelihoods, and dignity, including landmine, environmental degradation, conflicts, landmines, refugee problems, illicit drugs, and infectious diseases such as HIV/AIDS. Because landmine survivors are dependent on human beings, TFHS is interested in projects related to survivor assistance. This interest is therefore essential to ensure that landmine survivors, who are not just passive recipients of social welfare and charity but bearers of rights and freedom, are involved in all ongoing discussions concerning the new convention. As was recently noted by Adnan Al Aboudy, director of LANHAMAN, Jordan, himself an amputee, “support for the human rights of landmine survivors is crucial in expediting integration back into society as full and equal participants.”

Endnotes

2. This proposal was subsequently adopted by the General Assembly in resolution 56/169 of 19 December 2001. Throughout this paper, references to persons with disabilities include landmine survivors, persons with sensory disabilities, and persons with psycho-social disabilities.

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