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## Victim Assistance and Disability Rights: Beyond the Rhetoric

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# Victim Assistance and Disability Rights: Beyond the Rhetoric

This article provides a brief overview of the evolution of victim assistance, the coherence between victim assistance and the *Convention on the Rights of Persons with Disabilities*, and stresses the importance of moving beyond disability rhetoric by turning ideas and words into concrete action.

by Sheree Bailey

Landmine survivors were first given an international voice to raise awareness of their rights and needs at the Review Conference of the *Convention on Certain Conventional Weapons* in Vienna in September 1995. Later, in October 1996 at a Canadian-hosted landmine conference in Ottawa, Landmine Survivors Network founders Jerry White and Ken Rutherford spoke in the plenary on behalf of survivors around the world and challenged delegates to do more to give survivors “a chance to be productive again, not to be dependent on charity.”<sup>1</sup>

In the early years of efforts to assist survivors of landmines and other explosive remnants of war, photos often depicted survivors as objects of pity with sad faces and amputees with no prosthesis. Over time, the Parties to the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction* (Anti-Personnel Mine Ban Convention or APMBC), Protocol V to the CCW and, more recently, the *Convention on Cluster Munitions*, came to understand that victim assistance is not about providing charity. Assisting survivors is no longer understood as merely a medical or rehabilitation issue. Rather, victim assistance is about empowering survivors and the families of those killed or injured to access their rights and opportunities through an integrated, rights-based approach.

## CRPD

The 2006 U.N. *Convention on the Rights of Persons with Disabilities* reinforced the importance of respecting human rights in the process of assisting survivors. Survivors and civil society played a role in the 1990s during the APMBC negotiations, which in turn encouraged the active participation of persons with disabilities in the negotiations of the CRPD. The catchphrase “nothing about us



The author with Tun Channareth in Siem Reap, Cambodia, February 2012.  
All photos courtesy of the author.

without us” has become significant as survivors and other persons with disabilities are recognized as constructive partners on issues affecting their lives.

The relevance of linking victim assistance and disability rights gained momentum as many States Parties and signatories to the CRPD are also parties to the APMBC, Protocol V to the CCW and/or the CCM. Nevertheless, is talk of linking victim assistance and disability rights simply rhetoric, or might real potential exist to impact and improve the daily lives of survivors?

Assisting the victims is a relatively new concept in international humanitarian law, having first appeared in

the 1997 APMBC. However, after more than a decade, clear principles and understandings now guide humanitarian efforts to assist victims of landmines, cluster munitions and other ERW.<sup>2</sup> These principles include: nondiscrimination; victim assistance in the context of disability, development and human rights; effective inclusion and participation; accessibility; gender equality and diversity; responsibility and national ownership; sustainability; and coherence with other instruments of international humanitarian and human rights law.

Likewise, the CRPD, often hailed as the first human rights convention of the 21st century, introduced a paradigm shift in approaches to disability. Persons with disabilities were previously viewed as objects in need of medical treatment, charity and social protection. However, the CRPD now promotes a social model where persons with disabilities are subjects of human rights, active in the decisions affecting their lives and empowered to claim their rights. The CRPD does not introduce any new rights not already covered in other human rights instruments. Instead, the CRPD sets out the State’s necessary obligations to meet the existing civil, cultural, economic, political and social rights in the specific context of persons with disabilities.

The CRPD is relevant to victim assistance, because many survivors of landmines, cluster munitions or other ERW incidents are left with a permanent disability and may require various forms of assistance throughout their lifetimes. Individuals with a disability have specific needs that require consideration in efforts to address obligations under relevant instruments of international humanitarian law to assist the victims. The CRPD aims “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms of all persons with disabilities.”<sup>3</sup> Of its 50 articles, many directly relate to assisting survivors; some of these are on issues such as

- Health
- Personal mobility
- Accessibility
- Habilitation and rehabilitation
- Education
- Work and employment
- Adequate standard of living and social protection



Sem Sovantha, landmine survivor and director of Angkor Association for the Disabled in Siem Reap, Cambodia.

- Living independently as a productive and contributing member of society
- Raising awareness of the capabilities and contributions of persons with disabilities
- Statistics and data collection
- Women and children with disabilities
- Equality and nondiscrimination
- Situations of risk and humanitarian emergencies
- National implementation and monitoring
- International cooperation<sup>4</sup>

Given the coherence between the three disarmament instruments and the CRPD, promoting greater efforts to link victim assistance and disability rights offers potential to improve the quality of daily life for survivors and their families. By bringing victim assistance into broader policy and planning processes for all persons with disabilities, a more systematic, sustainable, gender-sensitive and human rights-based approach may be possible.

## Challenges

Is this coherence in legal texts and understandings reflected in the reality of efforts on the ground in affected communities? What challenges and obstacles may prevent the progress of improving the quality of daily life of survivors?

Many affected countries are among the poorest and least developed in the world—one of the most significant challenges. The concept of disability rights has little resonance for many survivors who live in poverty and lack





An amputee soccer team in El Salvador. Most team members were survivors of landmines or other ERW.

access to basic necessities such as food, clean water, clothing and shelter. Often, they do not enjoy equal rights and are denied access to resources that would allow them to meet their basic needs.

Under the CRPD, implementation efforts should clearly focus on addressing the rights and needs of the individual—the person living with a disability—and to a lesser extent, the family and/or caregiver. However, the Parties to the APMB, Protocol V to the CCW, and the CCM understand that landmines and ERW affect not only direct victims but also have larger social and economic consequences and therefore may extend survivor assistance to families and communities. The CCM included a broad definition of victim in its Article 2, “Cluster munition victims’ means 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.”<sup>25</sup>

Landmine, cluster munition and ERW contamination impacts entire communities. It threatens community security, causes casualties and hinders social and economic development. Nevertheless, victim assistance-related efforts should not be diluted when ensuring that this broad

scope is addressed. Focusing attention on the most vulnerable individuals in affected communities, which may include survivors and the families of those killed or injured, will greatly affect the improvement of their quality of daily life.

Government authorities with responsibility for disability-related issues in affected countries often lack the human and financial resources necessary to comprehensively address the rights and needs of persons with disabilities, including landmine and other ERW survivors. Often mine action centers and mine action authorities take the lead on victim-assistance efforts. These mine action structures play an important role in assisting the community through clearance, risk education and post-clearance activities. However, unless activities to assist those directly impacted are integrated into the budgets and work plans of relevant ministries, the potential for sustainability will be limited.

In many affected countries, efforts are underway to raise awareness on the CRPD and disability issues among a wide range of stakeholders. However, victim assistance is rarely linked to these efforts. As a result, victim assistance remains somewhat unfamiliar outside of the disarmament community and in rural areas. In some instances, survivors do not have access to disability or development programs because of the perception that they

already benefit from victim-assistance programs or that victim assistance is the responsibility of other providers.

To ensure that limited resources are used efficiently, all actors should be more proactive in integrating victim assistance into efforts to implement the CRPD and other relevant activities at the national level. In order to ensure sustainability, addressing the rights and needs of survivors must not be viewed in isolation or promoted as a separate activity. Government authorities and other actors should be made aware of their State’s obligation to assist the victims under relevant instruments of international humanitarian law and ensure that all policies, programs and services are accessible to survivors and their families in their communities.

The time may have come to move beyond the concept of victim—to stop implementing victim assistance projects. Instead, all actors should be encouraged to implement projects and programs that are explicitly accessible to survivors, other persons with disabilities and all those living in vulnerable situations. While the reality on the ground may be that victim assistance projects do not discriminate, the perception remains that victim assistance is somehow a separate activity.


Integrating victim assistance into broader efforts will not remove the obligation of Parties to the disarmament conventions to report on their efforts to assist victims. However, in order to report appropriately, affected States must improve disability data information systems to clearly identify survivors who access services and other relevant programs.

### Transforming Words into Actions

Survivors and other persons with disabilities are not a problem to be solved; they are individuals with hopes and dreams for themselves and/or their families. They are assets with the capacity to be productive members of society. For more than a decade, I have been privileged to work with and for survivors at the national and international level. In many countries I witnessed the challenges of daily life for survivors and their families. I also saw the ability of empowered survivors to reach their full potential through access to their rights and opportunities. Many of these individuals are now effective advocates for change and positive role models for other persons with disabilities.

The APMB, Protocol V to the CCW, the CCM and the CRPD have given hope to survivors and their families that actions will be taken to improve the quality of their

daily lives and to ensure they enjoy equal opportunities to participate in the social, cultural, economic and political life of their communities. However, a vast majority of survivors live in countries with limited resources to address their rights and needs or those of others living in vulnerable situations.

The time has come to move beyond the rhetoric of victim assistance and disability rights and turn words into concrete actions in affected communities. Although short-term solutions such as vocational training and microfinancing help, efforts should focus on long-term developmental strategies. These strategies include raising awareness in communities where survivors do not enjoy their rights and others do not realize survivors’ true capabilities. In addition to the continuous need for targeted, disability specific policies and programs, governments, the donor community, international agencies, nongovernmental organizations and other service providers must provide an environment that will ensure survivors and other persons with disabilities enjoy equal rights and access to services and opportunities that could improve the quality of their daily life. Only then will they be empowered to reach their full potential. Only then will the promise of the conventions be realized. 

See endnotes page 66



Sheree Bailey lives in Brisbane, Australia and has worked with survivors for 12 years in more than 25 countries. From 2006 until recently, she served as Victim Assistance Specialist in the Implementation Support Unit of the Anti-Personnel Mine Ban Convention at the Geneva International Centre for Humanitarian Demining. She was appointed a Member of the Order of Australia in 2010 “for service to humanitarian aid through the International Campaign to Ban Landmines, and through programs assisting survivors.” Bailey continues conducting research and providing advisory services to advance the rights of survivors in the context of disability and development.

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