Victim Assistance and Disability Rights: Beyond the Rhetoric

Sheree Bailey
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.”

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” 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 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.

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.” 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, and adequate standard of living and social protection.

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 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.
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affected families and communities."5

directly impacted by cluster munitions as well as their
use of cluster munitions. They include those persons
impairment of the realisation of their rights caused by
been killed or suffered physical or psychological injury,
CCM included a broad definition of victim in its Article 2,
and the CCM understand that landmines and ERW
the Parties to the APMBC, Protocol V to the CCW,
comprehensively address the rights and needs of persons
lack the human and financial resources necessary to
marginalisation or substantial
are often
living in vulnerable situations. While the reality on
may be that victim assistance projects do not dis-
contribute, the perception remains that victim assistance
Integrating victim assistance into broader efforts will
remedy, victim assistance projects are not dis-
Treating and post-clearance activities. However, unless
mine action structures play an important role
authorities take the lead on victim-assistance efforts.

Government authorities with responsibility for
disability-related issues in affected countries often
low the human and financial resources necessary to
care and shelter. Often, they do not enjoy equal rights and
access to basic necessities such as food, clean water, cloth-
ing 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 caregiver. However, the
Parties to the APMBC, 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."5

Landmine, cluster munition and ERW contamination
impacts entire communities. It threatens community se-
curity, causes casualties and hinders social and economic
development. Nevertheless, victim assistance-related ef-
forts should not be diluted when ensuring that this broad
scope is addressed. Focusing attention on the most vul-
nerable individuals in affected communities, which may
include survivors and the families of those killed or in-
jured, will greatly affect the improvement of their quality
of daily life.

Survivors and other persons with disabilities are not
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 APMBC, 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.6

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