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ICBL-CMC

International Campaign to Ban Landmines-Cluster Munition Coalition

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GUIDING PRINCIPLES FOR VICTIM ASSISTANCE

International Campaign to Ban Landmines and Cluster Munition Coalition (ICBL-CMC)
January 2021

The goal of these guiding principles is to provide a framework for all concerned actors to plan, implement, monitor, and evaluate victim assistance.¹

These principles are based on Article 6 of the Mine Ban Treaty and Articles 5 and 6 of the Convention on Cluster Munitions, the Oslo Action Plan and the Lausanne Action Plan,² the International Mine Action Standards on Victim Assistance, as well as previous ones and other existing legal obligations and political commitments of States Parties under relevant International Humanitarian and Human Rights Law, foremost the Convention on the Rights of Persons with Disabilities (CRPD). They are guided by the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs) and rely on outcomes of the World Humanitarian Summit (WHS), including principles of localisation and equitable engagement in humanitarian response. These guiding principles recognize the vital role played by national and local non-governmental organizations (NGOs), including survivors networks, that resulted in the Grand Bargain Commitment made by donors to victim assistance to support National and Local Responders as well as the Charter on inclusion of persons with disabilities in humanitarian action and its related guidelines.

The ICBL-CMC will focus future advocacy, monitoring, and analysis of each country's progress on victim assistance on:

- a) Implementation of the objectives State Parties committed to through action plans,
- b) Adherence to the guiding principles for victim assistance according to the data collected, presented, and analyzed through the Landmine and Cluster Munition Monitor,
- c) The specific goals of the ICBL-CMC action plan.

For the purpose of these guidelines, the ICBL-CMC will use the definitions of victim and survivor as proposed below:

The term 'victim' refers to all persons who have, either individually or collectively, suffered physical, emotional and psychological injury, economic loss or substantial impairment of the realization of their rights through acts or omissions related to mines, cluster munitions, and explosive remnants of war (ERW). Victims include people injured and killed, their families, and communities affected by mines, cluster munitions and ERW.

The term 'survivor' refers to a person who has been injured as a result of an accident caused by a mine, cluster munition, or another explosive ordnance, and has survived. So, all survivors are victims but all victims are not necessarily survivors.

¹ These guiding principles are based on an earlier version, revised and updated by an ad hoc expert group initiated by Humanity & Inclusion (HI) in 2020. The group members included: the Ban Landmines Campaign Nepal (NCBL), the Cambodian Campaign to Ban Landmines and Cluster Munitions, Campaña Colombiana Contra Minas (CCCM), HI, the Survivors Recovery and Rehabilitation Organization (SRaRO), and ICBL-CMC and Landmine and Cluster Munition Monitor staff.

² The Lausanne Action Plan is not yet adopted as of January 2021.

Taking into consideration the legal background of the terms “victim” and “victim assistance” as well as their codification in International Humanitarian Law (IHL) and disarmament conventions, the word “victim” shall be preferred in statements, written submissions and reports related to the disarmament conventions and audience. On the contrary, the word “survivor” shall be preferred in disability and human rights contexts. Hence, the words “victim” or “survivor” will be used as it is deemed appropriate by the legal or social situation.³ This will not prevent to continue making efforts to protect and guarantee the rights of family members of people injured and killed and affected communities (indirect victims or caregivers) within human rights frameworks.

Victim assistance includes, but is not limited to, the following components: data collection, emergency first aid and ongoing medical care, physical rehabilitation, psychological and psycho-social support, peer support, education, socio-economic inclusion, and disability laws and policies.

Victim Assistance Guiding Principles

1. Human rights perspective: Victim assistance is a humanitarian and human rights issue based on the right of all people to an equal opportunity to participate in society through political, economic, social, and cultural activities. Limited access to these opportunities created by attitudes and legal, social, and physical barriers is a violation of these rights, which are protected by international human rights norms. The CRPD complements the Mine Ban Treaty and the Convention on Cluster Munitions by further articulating the rights of persons with disabilities.

2. Political participation and inclusion:⁴ Victims should be actively consulted and participate meaningfully in all decision-making processes that affect them; including the planning, design, implementation, monitoring, and evaluation of projects and programs. For effective response, victims’ voices must be heard and considered at all levels of decision-making and at program and project design that refer to their rights. Similarly, survivor groups’ activities must be supported. This includes victim assistance, explosive ordnance risk education (EORE), as well as clearance and land release programs.

In addition, victims should participate in all democratic election as a candidate, elector, or observer.

3. Non-discrimination: Victim assistance efforts should not discriminate between or against survivors or other persons with disabilities and those with similar needs or experience of marginalization on the basis of any characteristic such as ethnicity, race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as disability and its cause, age, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation or the person’s civilian or military status. Likewise, poverty reduction and socio-economic development programs and projects (including microfinance schemes, unemployment services, and pensions) should not discriminate against survivors or other persons with disabilities.

Affirmative action to overcome decades of cultural stereotyping of people with a visible disability will be preferred.

4. Gender and diversity: Development of services for people critically injured by mine/ERW and other traumatic injuries, for persons with disabilities, including survivors, and other with similar needs should take into account the gender, age, disability, ethnicity, and other diversity factors into consideration, and particular efforts should be made to ensure access to and availability of services to all. The provision of services should be tailored to the needs of the population, taking into account all diversity factors. Programs funded with victim assistance earmarked support should also consider the needs of the survivor’s spouse, children, and affected community members, to ensure long-term support for the family’s socio-economic development.

³ Exceptions shall be made in disarmament fora, where reference is made to individuals and organizations defining themselves as survivors. Similarly, exceptions will apply where the term “victim” is coherent with human rights provisions including the optional protocol of the CRPD.

⁴ Political participation and inclusion is one of the three prongs of accountability to affected population. See principle 13.

5. Twin track and integrated approaches:

5.1 Twin track approach. On the one hand, it is necessary that existing services (health, education, social services, employment, etc.) are inclusive and accessible to mine/ERW victims through awareness-raising and strengthening of capacities, if necessary. On the other hand, we must support initiatives by mine/ERW victims and organisations of persons with disabilities to raise their awareness of their rights, advocate for their interests, and contribute to implementing the initiatives.

5.2 The ‘integrated approach’ entails two pillars. On the one hand, the multi-sector engagement by non-mine action actors that reach people that are injured, survivors and people otherwise impacted. On the other hand, the mine action sector should undertake specific victim assistance efforts. As such, victim assistance should be integrated into programs aimed at achieving the SDGs. Special services should ensure to meet everybody’s needs and leave no one behind. Victim assistance should be considered in developing poverty reduction, human security, humanitarian disarmament, COVID-19 response, and environment and climate change strategies.

6. Accessibility: Services should be made accessible to all victims. Hence, accessibility aims to ensure that the physical and attitudinal environment, as well as information can be accessed by everyone, with no physical, communication or attitudinal barriers, with dignity and the highest possible level of independence. This includes accessibility to education, education material, and accessibility to teaching and learning process.

Six criteria underlie the concept of access, namely: availability, accessibility, affordability, acceptability, accountability, and good technical quality. All services, including those in mine/ERW affected areas should meet these six criteria of accessibility. Additionally, and according to the time and territory, emergency responses should take into consideration and remove specific obstacles hindering the access to services.

7. Full socio-economic inclusion: Victims have the right to access social and economic inclusion services, such as access to education, capacity-building, employment referral services, microfinance institutions, business development services, rural development and social protection programmes, including in rural and remote areas.

8. Variety, comprehensiveness, and holistic nature of services: Victim assistance should be provided through an integrated approach that includes all of the six components of victim assistance, which are interrelated and all essential to the success of each component. Referral systems and networks should be in place and reinforced to guarantee that victims obtaining one type of service can access all the other components of assistance they require.

9. Capacity building, sustainability, and ownership: Victim assistance needs to be conceived as a long-term activity since it will need to be undertaken through the lifetime of all current and future victims. Victim assistance efforts should therefore emphasize from the beginning the training, recruitment and retention of local workers to be responsible for all aspects of project planning, design, implementation, monitoring and evaluation. States and international NGOs should plan distinctly to replace international services with national or local ones, also with adequate funding in line with the Grand Bargain.

10. Funding for victim assistance: States must also ensure the sustainability of these programs by diversifying funding sources and mainstreaming the activities into general development programs and projects. Victim assistance being a long-lasting obligation, states should provide support to victim assistance through the mine action budget and/or make support available to victims as part of broader development, human rights and humanitarian efforts. By doing this, states should prioritize localized funding. States in a position to do so should provide adequate technical and financial assistance to affected states having reported victim assistance obligations.

11. Coordination of actors and stakeholders: Planning and implementing victim assistance efforts should be coordinated among all stakeholders as appropriate including the government, the mine action sector, international and non-governmental agencies, United Nations clusters, civil society, and the private sector. This should happen at all levels: local, national, regional, and international. It is important that all relevant sectors of the government are involved, including line ministries and large departments that have a significant impact on victim assistance and disability rights efforts (health, social welfare, education, labor) and all other sectors that may be concerned, such as foreign affairs, planning, disaster response, finance, and other development authorities.

12. Data collection and analysis for a tailored approach: Victim assistance should be tailored to the requirements of each specific person and the affected community, and appropriate for the country's specific situation. This requires good data that is easily available to planners and practically relevant. As such, casualty and beneficiary data shall be collected, analysed, and disaggregated by gender, age, and disability and should inform, whenever possible, if victims had an impairment prior to the accident.⁵ It also requires careful monitoring to make sure no one is left behind.

13. Accountability to the affected population: By using the term accountability to victims, the ICBL-CMC refers to adequate data collection and appropriate analysis used to inform change, regular and transparent reporting, and the active consultation with and participation of victims, including survivors and persons with disabilities in all decision-making processes affecting them. By calling on states, international and national organizations to remain accountable to victims, the ICBL-CMC strives to ensure victims are being reached by all means available, including amongst the broader group of the population, other service users and in accessing all relevant health, social welfare, development and human rights efforts.

⁵ Such information will serve to inform inclusive EORE.