Chapter 8

ASSISTING THE VICTIMS
KEY MESSAGES

- International humanitarian law includes definitions of victims.
- Victim assistance includes emergency and on-going medical care, rehabilitation, psychological support, economic empowerment, inclusive education and an effective legal and policy framework.
- Responsibility for victim assistance within an affected country normally rests with ministries of social affairs and health, or national human rights organs.
- Mine action organisations have a supporting role to play through data collection and dissemination, advocacy, and coordination.

INTRODUCTION

Assisting the victims and survivors of a particular weapon system, or victim assistance, is a relatively new concept. It was first seen in the legal text of the 1997 Anti-Personnel Mine Ban Convention (APMBC)\(^1\), the first multilateral disarmament or arms control treaty in history to make provision for the victims of a particular weapon. Following the entry into force of the Convention, the concept evolved greatly. With victim assistance obligations having appeared more recently in Protocol V to the Convention on Certain Conventional Weapons (CCW) and in the Convention on Cluster Munitions (CCM), there is now a uniform approach to what victim assistance means.

The international community now understands in very broad terms who or what a victim might be. It is widely accepted that victim assistance involves a wide range of activities. In addition it has been made clear that, while mine clearance and victim assistance are both aspects of mine action, there are differences in terms of what is involved in achieving the end state of each. Unlike humanitarian demining, which emerged in the mid-1990s as a new discipline, complete with its own standards and other professional trappings, victim assistance is part of broader long-established domains, such as health care, disability and human rights. This has important implications for responsibilities for victim assistance.
WHO IS A VICTIM?

The States Parties to the AP MBC understand that landmine victims are ‘those who either individually or collectively have suffered physical or psychological injury, economic loss or substantial impairment of their fundamental rights through acts or omissions related to mine utilisation.’ This broad approach implies that while a victim may be a woman, girl, boy or man directly impacted by mines or other explosive remnants of war, a victim could also be an affected family member, family or community.

A similarly broad approach to victimisation has been accepted in the 2008 CCM, which defines ‘cluster munition victims’ as ‘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’ including ‘those persons directly impacted by cluster munitions as well as their affected families and communities.’

In their 2008 Plan of Action on Victim Assistance, the High Contracting Parties to Protocol V to the CCW have accepted that ‘explosive remnants of war may not only affect the persons directly impacted by them, but also their families and communities.’

A broad approach to what is considered a victim has drawn attention to the full breadth of victimisation caused by landmines and other explosive remnants of war. Nevertheless, the majority of attention has naturally focused on providing assistance to those individuals directly impacted by mines and other explosive remnants of war. These individuals have specific needs for emergency and on-going medical care, rehabilitation, psychological support, economic empowerment, inclusive education and a legal and policy framework to guarantee their rights to participate in the civil, political, economic, social and cultural spheres of their societies on a basis equal with others.

The ultimate goal of participation on a basis equal with others suggests that the more empowering term survivor should normally be used in relation to those individual women, girls, boys and men who have been injured and left living with a disability as a result of contact with a mine or other explosive remnant of war. However, the term victim continues to be used, in part to avoid ambiguity with legal obligations given that the term appears in legal texts. In addition, the international community has defined victim broadly to go beyond the individual.
WHAT IS VICTIM ASSISTANCE?

Those injured by a mine or other explosive remnant of war require a range of age- and gender-sensitive assistance, including emergency and on-going medical care, rehabilitation, psychological support, economic empowerment, inclusive education and an effective legal and policy framework. An incident with a mine or other explosive hazard can cause a range of injuries to an individual including the loss of limbs, abdominal, chest and spinal injuries, visual and hearing impairment, scars, and less visible psychological trauma. Victims often acquire a lifelong disability.

Injuries suffered by people from mines or other explosive remnants of war require prompt and appropriate medical attention. Emergency and continuing medical care includes first-aid, emergency evacuation, and medical care including surgery, blood transfusions, pain management and other health services. The provision of appropriate emergency and continuing medical care, or the lack of it, has a profound impact on the immediate and long-term recovery of victims and is one of the main factors affecting mortality rates. In reality many affected countries lack trained staff, medicines, blood supplies, equipment and infrastructure to adequately respond to traumatic injuries.
Survivors may also need rehabilitation including the provision of services in physical rehabilitation and physiotherapy and the supply, maintenance and training in the use of assistive devices such as prostheses, orthoses, walking aids and wheelchairs. Physical rehabilitation focuses on helping a person regain or improve the capacities of her or his body, with physical mobility as the primary goal.

Rehabilitation services should apply a multidisciplinary approach involving a team working together, including a medical doctor, a physiotherapist, a prosthetic/orthotic professional, an occupational therapist, a social worker and other relevant specialists. The team should have both male and female professionals, as in many countries it is not appropriate for women and girls to be attended by men and vice versa.

Although physical wounds caused by mines and other explosive remnants of war are often horrific, psychological and social impacts are also significant. Difficulties in relationships and daily functioning can be considerable and the survivor may face social stigmatisation, rejection and unemployment. These negative consequences affect survivors in different ways. Both boys and girls may drop out of school as a result of an accident and may find it difficult to get married later in life. Adults who are no longer able to generate income for their families often experience frustration and depression.

Women and men with disabilities may be abandoned by their families if they are considered unable to take care of housework and the family. Appropriate psychological and psychosocial support has the potential to make a significant difference in the lives of survivors, and the families of those killed or injured. Psychological and psychosocial support may be necessary in the immediate aftermath of the accident and at different times throughout their lifetime.

For some survivors and the families of those killed or injured, the main priority is not medical care or rehabilitation but finding opportunities to be productive members of their communities. Economic empowerment includes activities that improve the economic status of survivors and the families of those killed or injured through education, vocational training, access to micro-credit, income generation and employment opportunities, and the economic development of the community infrastructure.

Economic empowerment is essential to promote self-sufficiency, independence, enhanced self-esteem and a sense of dignity. This is a particular challenge in many countries where there is a lack of opportunity for economic participation for the population as a whole.
Survivors also need a legal and policy framework in place that will guarantee their rights with a view to ensuring opportunities in one’s society on a basis equal with others. The 2008 Convention on the Rights of Persons with Disabilities (CRPD) provides significant guidance. As noted by the United Nations High Commissioner for Human Rights, Navanethem Pillay, ‘when survivors of mines and other explosive devices acquire a disability they fall under the scope of the CRPD.’

22 of the 50 articles of the CRPD are particularly relevant to assisting victims and survivors, including those on health, personal mobility, habilitation and rehabilitation, education, work and employment, social protection, independent living, participation in culture and sports, participation in political and public life, accessibility, awareness raising, statistics and data collection, non-discrimination and women and children with disabilities.

Parties to the APMBC, the CCM and Protocol V to the CCW have all noted the role of the CRPD in fulfilling each treaty’s promise to victims of mines and other explosive remnants of war.

In addition to emergency and on-going medical care, rehabilitation, psychological support, economic empowerment and an effective legal and policy framework, another important component of victim assistance is the set of efforts to understand the extent of the challenge. Without accurate and comprehensive data, such as that generated by an on-going injury surveillance system, it is not possible to fully understand the extent, location and quality of the challenges faced or to develop efficient, effective and timely responses.

Accurate sex and age-disaggregated data on landmine and other casualties, as well as data on the broader prevalence of disability and on injuries, are essential in order to use limited resources most effectively and to formulate and implement appropriate policies, plans and programmes.

PLACE OF VICTIM ASSISTANCE IN BROADER CONTEXTS

While victim assistance is referred to as an integral component of mine action, there are important contextual differences between humanitarian demining and activities related to assisting in the care and rehabilitation of landmine and other explosive remnants of war survivors. The problems associated with mine and other explosive remnants of war contamination are relatively distinct. Consequently, humanitarian demining has developed as a new and specialised discipline.
A responsive programme to clear mines or cluster munition remnants and to promote behavioural change through mine risk education is ultimately intended to finish, and in many instances already has. In contrast, the problems faced by survivors are similar to the challenges faced by other persons who have suffered injuries and who are living with disabilities. Many of the challenges they face will remain significant for the whole of their lives.

Survivors are individuals who are part of larger communities of persons with disabilities and of individuals requiring medical and rehabilitation services. Their needs – for medical care, rehabilitation, economic empowerment, etc. – do not warrant the development of new fields or disciplines. Rather, their needs call for ensuring that existing healthcare and social service systems, rehabilitation programmes, vocational training and employment initiatives and legislative and policy frameworks are adequate to meet the needs of all citizens – including landmine and other explosive remnants of war survivors.

As agreed by the States Parties to the APMBC, ‘victim assistance should be integrated into broader national policies, plans and legal frameworks related to human rights, disability, health, education, employment, development and poverty reduction.’ It is also important that it should be integrated into broader programmes for conflict victims.

It is widely understood that the call to assist victims should not lead to victim assistance efforts being undertaken in such a manner as to exclude any person injured or disabled in another manner.

For instance, the States Parties to the APMBC reaffirmed in 2009 that they are ‘resolved not to discriminate against or among mine victims, or between mine survivors and other persons with disabilities, and to ensure that differences in treatment should only be based on medical, rehabilitative, psychological or socio-economic needs of victims.’ The same reference with respect to cluster munitions victims can be found in Article 5 of the Convention on Cluster Munitions.

All actors should take great care to avoid developing responses to the victims of mine and other explosive remnants of war that run parallel to or are in isolation from broader efforts to meet the needs and guarantee the rights of those whom have been injured and/or who live with disabilities. Rather, assistance to victims and survivors should be viewed as a part of a country’s overall public health and social services systems. It is within these systems that efforts to fulfil the promise to survivors should be undertaken.
National injury surveillance mechanisms, if and when they exist, should incorporate data collection on individuals directly impacted by mines and other explosive remnants of war. Medical services should be accessible on an equal basis to the population as a whole, including to landmine survivors and others who require emergency or on-going treatment. Physical rehabilitation programmes should not discriminate on the basis of what caused the need for services but rather should be established in a sustainable manner to meet the needs of survivors and all others who may require such programmes.

Because most individuals who survive an incident with a mine or other explosive remnant of war acquire a disability, special attention should be given to the place of victim assistance in broader approaches to disability and disability rights. Steps taken to ensure that all women, girls, boys and men with disabilities may participate in the civil, political, economic, social and cultural spheres of their societies on a basis equal with others are, in fact, steps taken to ensure that the promise made to mine and other explosive remnants of war survivors through the various conventional weapons treaties is met. The Convention on the Rights of Persons with Disabilities provides the guidance to do so. Efforts should be made to integrate a response to survivors into broader efforts to implement this landmark human rights convention.
RESPONSIBILITIES FOR VICTIM ASSISTANCE

The well-being and the guarantee of the rights of a state’s population are essentially matters within the domestic jurisdiction of each state. Meeting the needs, and guaranteeing the rights of, mine and other explosive remnants of war victims and survivors is the responsibility of each state in relation to individuals in areas under its jurisdiction or control. This is a particularly profound responsibility for the approximately 35 states which have indicated, or are presumed to be responsible for, significant numbers of victims and survivors.

Most such states are also in the process of clearing mines, cluster munition remnants and other explosive remnants of war and delivering mine risk education. Lead responsibility for victim assistance should not normally rest with those charged with these other matters. When it comes to humanitarian demining and mine risk education, it is clear that new kinds of state entities – national mine action authorities and centres – have been required to take lead responsibility.

Concerning victim assistance, it should also be clear that responsibility for what is required should be held by state entities that have existed for decades, such as ministries of social affairs and health, or national human rights organisations. Recognising where lead responsibility should lie, and reinforcing relevant state institutions to exercise responsibility, is the logical approach to ensure that the promise to victims and survivors is fulfilled in an efficient, sustainable and non-discriminatory manner.

While national mine action structures are not the appropriate entities to take the lead in the care, rehabilitation and reintegration of a State’s population, they do have a supporting role to play in assisting victims. The 2003 United Nations’ policy on the scope of action of MACs in victim assistance, highlights that ‘mine action centres are not designed to take the lead role in victim assistance, nor do they have the mandate, expertise or required resources,’ but suggests that MACs/ NMAAs can contribute to assisting victims in areas such as data collection and dissemination, advocacy, and coordination. Mine action entities can assist in a number of ways:

1. Awareness can be raised within the machinery of government of the important promise States have made to mine and other explosive remnants of war survivors through accession to various different international instruments.

2. Sex and age-disaggregated data on mine casualties collected by a national mine action programme should be fed into broader national injury surveillance and disability information systems.
3. Mine action programmes can leverage international interest in assisting the victims of mines and other explosive remnants of war in order to call for advances that should benefit a broader community of those who have been injured and/or are living with disabilities. This could include supporting accession to and implementation of the CRPD.

4. International interest in the landmine cause could be used by mine action programmes as a basis for resource mobilisation to benefit not only landmine and other explosive remnants of war victims and survivors but also the broader community of women, girls, boys and men who live with disabilities.

5. Mine action programmes could promote sound coordination between landmine survivors and their representative organisations, those interested in assisting them, and those state entities with lead responsibility for health care, social services and disability.
While ultimate responsibility rests with individual states, in many instances institutions have limited capacity and national ownership requires strengthening. In such instances, international organisations and international and national NGOs play vital roles in delivering services and enhancing national capacity. In addition, many states with the responsibility to meet the needs, and guarantee the rights of significant numbers of victims and survivors, lack the financial means to do so.

The APMBC, the CCM and Protocol V to the CCW each calls upon its parties to provide technical, material and financial support for victim assistance. In addition, the Convention on the Rights of Persons with Disabilities states that its ‘States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention.’

Since the entry into force of the APMBC, tens of millions of dollars in contributions specifically labelled as victim assistance have been generated. Undoubtedly the biggest form of support has come through development assistance contributions for health care which are not explicitly labelled as victim assistance. In recent years, annual development assistance flows to affected countries for matters such as basic health care, basic health infrastructure, health personnel, medical education and training, and medical services have been over ten times greater than funding specifically denominated as victim assistance.

The responsibilities of a ministry of social affairs or health, a national demining programme, a non-governmental organization and an international donor are different. However, all actors share the responsibility of ensuring the effective participation and inclusion of survivors and other persons with disabilities.

Survivors and other persons with disabilities have a unique perspective on their own situation and needs. They can and should be constructive partners in all victim assistance efforts and broader disability efforts. The principle of participation and inclusion is well understood in the context of the APMBC, the CCM and Protocol V to the CCW, with parties to each heeding the message of ‘nothing about us without us.’

Participation of persons with disabilities, including landmine and other explosive remnants of war survivors, in all aspects of planning, coordination, implementation, monitoring and evaluation of activities that affect their lives is essential.
ENDNOTES


