

# **Landmine Survivors Network ICBL Working Group on Victim Assistance**

**First Meeting of the States Parties Informal Consultations on Article 6 Victim Assistance, May 6 1999, Maputo, Mozambique**

**By Jerry White, Director, Landmine Survivors Network**

Landmine Survivors Network (LSN) currently chairs the ICBL Working Group on Victim Assistance. It is in this capacity, working together with over 20 humanitarian and development non-governmental organizations (NGOs), my ICBL colleagues and I welcome this opportunity to discuss Article 6 which covers States parties responsibility to provide "care and rehabilitation and social and economic reintegration of mine victims." In February 1998, the ICBL set four main goals:

1. To press the international community to commit up to \$3 billion over the next 10 years to support comprehensive victim assistance. (Note: the working group developed a matrix that outlines the baseline costs for comprehensive assistance; average estimated cost per survivor in mine-affected countries is roughly \$9,800.);
2. To support a wide range of assistance activities from acute care and physical rehabilitation to psychological support, vocational training and employment opportunities;
3. To promote sharing of information and assistance strategies among members to cause the best possible rehabilitation outcomes for mine victims. (In the spirit of the Ottawa Process, ICBL continues to work closely and collaboratively with all major players on victim assistance);
4. To promote and involve mine victims and landmine-infested communities in the planning and implementation of mine assistance programs. (This follows the U.N. Standard Rules on the Equalization of Opportunities for Persons with Disabilities. "Nothing about us, without us," as the saying goes in the disability rights movement).

To advance its goals, the ICBL Working Group has developed a set of programmatic guidelines to help promote meaningful victim assistance. Today, the ICBL is pleased to introduce the newly published ICBL Guidelines for the Care and Rehabilitation of Survivors. We ask that all governments adhere to these guidelines. They were developed in broad consultation with international organizations and local NGOs to help diverse actors, including donors and program implementers, develop and fund the most effective assistance programs.

Many ICBL members have been active in mined countries for decades, working to rehabilitate the injured. In fact, NGOs have been the primary implementers in the field, providing physical rehabilitation and other support such as training and small enterprise. The ICBL welcomes the invitation to join consultations on the proposed Strategic Framework for Victim Assistance. The question now is how do we all work together in the continuing spirit of the Ottawa Process? The ICBL will nominate key representatives to work in equal partnership with all states parties, international organizations such as the ICRC, and U.N. agencies such as UNICEF and the World Health Organization.

Let us be clear that a public health care approach is an important perspective and framework, but not the only approach to victim assistance. As we have heard before, no one-size model fits all countries. We must be flexible and creative to meet the urgent needs of persons with disabilities. We can also try to define mine victims in several different ways, but one obvious starting point is to look into the eyes of survivors and their families struggling to overcome personal trauma. They need our help. Yes, there are many hurting people to help in the world, but it so happens that this Treaty was created to prevent landmine injuries and to help rehabilitate mine-injured individuals and communities. Let us be very concrete and not forget this fact.

Our general goal is to improve rehabilitation outcomes to return persons with disabilities to productive lives. It may start with surgery and medical care, but that is just a life-saving beginning. The ICBL believes we must underscore the clear treaty obligation to provide for social and economic reintegration.

**As my colleague and ICBL ambassador Tun Channereth from Cambodia reminds us: a fake leg is great, but it doesn't put food on the table.**

Our challenge and philosophy is to treat the whole person, no matter how many limbs are missing. Prosthetics are important, but no cure-all. How do we offer appropriate psychological and social support? It is not easy to change societal attitudes toward the disabled, but we must raise awareness of the importance of investing in their future. This is good development policy, not simply charity.

In most mine-affected countries, less than 10 percent of persons with disability have access to proper medical care and rehabilitation services. City based services are obviously not reaching the communities most in need. What can be done to improve access to quality services?

The ICBL Guidelines offer baseline recommendations for emergency medical care, physical rehabilitation, prosthetics, psychological and social support; employment and economic integration; capacity building and sustainability; legislation and public awareness; access and data collection.

We applaud the Mozambican government's important initiative to address a whole range of services and to identify gaps, resources and funding needs. All States parties are in a position to help. To make any strategic framework a reality for victims will require States parties to contribute resources to NGO implementers, to track these contributions transparently and to monitor progress.

It's time to give the Mine Ban Treaty legs, hands and eyes; that is, concrete assistance that makes a difference in the lives of families held hostage to landmines. As we all know, in the end it's about action, not just committee work, declarations and data collection. We must guard against any interpretation of data collection as the same thing as real victim assistance. The ICBL guidelines are clear on this point. The goal of all information-gathering must be to help governments make timely, informed and life saving decisions. The guidelines state that "the collection of information about mine victims must translate quickly into humanitarian action and serve the purpose of improving services for mine victims to integrate socially and economically into their communities."

The ICBL looks forward to working in partnership and full collaboration with governments during the coming months to prepare and participate in inter-session meetings. The ICBL also welcomes the initiative put forth this morning to develop a framework for inter-session meetings. The ICBL Working Group on Victim Assistance will remain an important focal point for NGOs' input and collaboration. We will be an active partner and important resource to ensure compliance with Article 6 of the Mine Ban Treaty.

**Landmine survivors did not survive to be "counted" or studied, but to resume productive lives.**

At this conference, LSN introduced its new legal memorandum, State Responsibility for Landmine Survivor Assistance, during consultations on victim assistance. The legal memorandum, developed in cooperation with Arnold & Porter law firm, finds that, "States have binding obligations to prevent landmine injuries to individuals and to make accommodations for those injured." The memorandum was circulated to key donor governments with a call for their specific pledge in Maputo to fund survivor-assistance programs. Jerry White, LSN Director and Chair of the ICBL Working Group on Victim Assistance, stated "We need to help survivors and implement programs now. The ICBL calls on governments to provide up to \$3 billion over the next 10 years to support effective assistance programs in mine-affected countries."

### **State Responsibility for Landmine Survivor Assistance**

In his most recent report on the landmine crisis, the U.N. Secretary General said that a proper response to the landmine crisis includes the "rehabilitation of landmine victims and their return to income-generating

activities in order to reintegrate them into society." State responsibility for assistance to landmine survivors can be established in international humanitarian law and international human rights law. Under such law, States have binding obligations, which they must perform in good faith; to prevent landmine injuries to individuals and to make accommodations for those injured. In particular: The Landmine Ban Convention requires States to do their utmost to provide assistance to survivors.

The use of landmines is inconsistent with both treaty law and customary international humanitarian law in that their use can never guarantee civilians the protection that this body of law was designed to ensure. State practice indicates that there is an emerging norm of international law that the use of landmines is illegal.

International human rights law imposes duties on States with respect to treatment of persons under their jurisdiction. Particular duties include the obligation to guarantee the rights of persons with disabilities; the right to development; and the right to the highest attainable standard of health. Applying these rights, either separately or collectively, to survivors, States are obliged to ensure that survivors receive reasonable accommodations, which may necessitate special treatment, to guarantee their equal enjoyment of these rights. Such treatment includes access to proper medical treatment and comprehensive rehabilitative care.

The principle of co-responsibility in the U.N. Charter provides that, in joining the United Nations, States pledge to take "joint and separate action" to implement rights guaranteed in other States. Thus, in some circumstances, States that are not themselves mine-infected have a duty to help other States to provide landmine survivor assistance.

Under international law, States must pay reparations for breaches of international obligations. This applies when injuries are sustained as a result of illegal use of landmines, or in cases where States fail to fulfill rights guaranteed under international human rights law. Thus, demands for compensation by survivors which are grounded in international humanitarian or human rights law is based on a solid legal foundation.