

COLLECTION development and strategies

Strategies

**Towards
Real Assistance
to Landmine
Victims**

*The Position of
Handicap International*

December 2000

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INTERNATIONAL**

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Real Assistance
to Landmine
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The collection Strategies is aimed at presenting the viewpoint and position of Handicap International through comprehensive texts on ethical, political and social questions relating to international solidarity. The texts published are updated on an annual basis and according to major events.

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By banning antipersonnel landmines, States committed themselves to ending the production, use, stockpiling and proliferation of this weapon.

They also committed themselves to providing assistance to those who have been victims or who still suffer from the effects of landmines.

Despite the efforts first made and the declarations of intention, much remains to be done in order that the States can honour their obligations as far as assistance is concerned.

1. Reinforcing the Landmine Ban Convention

1.1. Provisions of the Landmine Ban Convention relating to landmine victims

Drawn up in 1997, the International Landmine Ban Convention (Ottawa Treaty) was signed by 139 States, and ratified by 107 of them¹. Establishing the banning of landmines as the new international standard, the Convention makes several references to the victims, to the harm that they suffer, and to the necessity of helping them. If the principle of assistance is expressly mentioned in the Convention and, particularly some of the ways in which this assistance to the victims will be provided, it is therefore reasonable to consider that the commitments taken by the States-Parties necessarily creates not only obligations for the governments but also rights for the landmine victims.

1.2. Obligations of the States concerning Victim Assistance

Article 6, paragraph 3 is dedicated to Victim Assistance. This article states that "*each State in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of landmine victims and landmine awareness programs*".

The wording of this obligation to provide assistance to landmine victims takes into account the different levels of development and resources of the States. In accordance with this very pragmatic article, each State thus *can*, according to its means, *do something* for landmine victims, irrespective of the extent and form it may take (financial, social, political, legal, etc.), and without limiting it to the national territory.

1. Situation in November 2000. The number of signatures and ratifications of the Landmine Ban Convention is among the largest obtained by an international treaty.

Other provisions of the Convention concerning Victim Assistance refer to the principle of international cooperation, which is an essential element of international law. States therefore find themselves collectively responsible for repairing the damage caused by landmines.

and govern the allocation of aid;

- the organisations through which this assistance passes;
- the populations and groups benefiting from this assistance.

The spirit of the Convention, therefore, should be defended and supported by setting up operational mechanisms that will give tangible reality to the commitments to provide assistance.

1.3. Towards more transparency: initiating a reporting mechanism on Victim Assistance

In order to improve transparency and coordination of efforts made as far as assistance is concerned, a reporting mechanism should be set up, similar to the one already in place for prohibition (banning of use, production, transfer and stockpile destruction). In very concrete terms, the Convention should be seen to reinforce article 7 which governs the question of obligatory reports. Without waiting for the revision of the Convention, planned for 2004, a reporting mechanism on Victim Assistance should be set up on a voluntary basis. Such a mechanism would enable the affected States, as well as those who support them financially, to show, on an annual basis :

- their contributions (material or financial) to assistance;
- the components of assistance to victims which are supported;
- the policies which channel the assistance

2. Towards a better definition of victim assistance

Paragraph 3 of article 6 opens the field to a wide range of actions. By covering care, rehabilitation, socio-economic reintegration and prevention, it offers unlimited scope by encompassing all aspects of Victim Assistance.

Under these circumstances, it seems important to us to suggest a range of possibilities that could be developed by the States-Parties and by the actors, governmental and civil, national and international.

2.1. Towards an unrestricted definition of landmine victims

Taking into account the various definitions drawn up within the framework of the International Campaign to Ban Landmines (ICBL) and by the specialized United Nations agencies, Handicap International suggests that the following should be recognized as victims :

- all persons killed or injured by landmines, irrespective of the injury or disability caused, whether it be physical, psychological or sensory;
- family members of persons killed, injured, and/or disabled by landmines;

2. Mine Risk Education is part of a global assistance approach, even if, in many cases, it is carried out in coordination with demining operations.

- all persons who have suffered, collectively or individually, through actions or negligence linked to the use of landmines, economic and/or social damage or any serious restriction to their fundamental rights that prevent them from pursuing their normal activities.

2.2. Towards assistance including suitable mechanisms of reparation

The States-Parties of the Landmine Ban Treaty, being committed to doing everything within their power to *"provide assistance for the care and rehabilitation, social and economic reintegration of landmine victims, and for landmine awareness programs"*, it is advisable to present the various components of assistance which can be implemented according to the categories of people, their specific needs and the situation in which they live.

The main components of Victim Assistance are the following:

(Read detailed presentation in annex)

- Mine Risk Education²;
- pre-hospital care;
- hospital care;

- physical rehabilitation;
- social and economic reintegration (including policies, laws and compensation mechanisms).

Also, needs assessment, mobilization of resources and activity planning require:

- social and health monitoring capacities.

2.3. Ethics and policy of Victim Assistance

Assistance programmes should aim towards:

- reducing risk factors which lead to disability or increase vulnerability;
- supporting the development of the abilities and autonomy of injured and disabled people, and fulfilment of their life-style and life projects;
- adaptation of environmental, social and physical factors - and in that capacity, the appropriateness of services to people (individuals, families, groups, communities), and better access to supply and to services;
- the development of social participation to reduce situations of disability, vulnerability and exclusion.

Principles of action

Victim Assistance activities should aim at rapid improvement of the situation of injured and disabled people and their families, giving priority to the development of the supply of nearby care and local services.

Health, medico-social, technical, and socio-economic measures must fully respect the principle of non-discrimination between categories of victims and types of disabilities. Victim Assistance should respond both to suffering and specific damage, and participate

in a global approach of treatment of trauma and disability.

The proposed activities must be integrated into the national policies of public health and social assistance, as well as in reconstruction and development programmes. They must respect existing institutional and sectoral frameworks, and ensure the permanence of committed processes through the implementation of partnerships. They will rely as much as possible on appropriate techniques and technology, and on available resources at the local or regional level. They will contribute to reducing phenomena of substitution and dependency of affected countries and populations with regard to international actors.

On a professional level, the initiatives undertaken must respect principles of precaution: *Primum non nocere* (do not harm) and contribute to the protection and respect of people (dignity, status, image).

3. The specific question of compensation

3.1. Legal provisions for compensation

To formulate an obligation to provide assistance to landmine victims is to both confirm the particular character of their traumatism and to recognise their specific rights.

It is important to define legal provisions, both under international and national law (for mine-affected countries) in order to enable socio-economic reintegration, in particular through compensation.

It is important to start thinking on an international scale, in order to determine the nature of this compensation, as well as the means through which it could be implemented. Therefore, we must think about competent jurisdictions, the types of possible recourse and procedures, and the amount and methods of compensation.

We must as well think about the mechanisms, as much at an international as national level, enabling all the States to take part in international solidarity in favour of landmine victims.

Therefore, States-Parties must support research and development efforts which enable procedural avenues open to landmine victims to be devised, in order that they obtain assistance including the right to compensation. Such a process could take its inspiration from the success recorded within the framework of the International Criminal Court, where the principle that victims have a right to compensation was recognized.

Recommendations to States

We ask that States put their total support behind the ban on landmines and quickly make available sufficient resources to:

- contribute more effectively than they have done until now by funding demining, Mine Risk Education and Victim Assistance with more coherence and transparency;
- redouble diplomatic efforts to make the Treaty universal;
- take the initiative to start a new project, wholly linked to the Treaty: the creation of an international mechanism to recognise the rights of landmine victims, including their right to compensation.

Without such a mechanism, the Landmine Ban Treaty, negotiated and signed in the name of the suffering inflicted on civilian populations, will be misconceived as an act of auto-amnesty.

This action should be aimed at reinforcing the Convention when it comes up for revision, scheduled to take place in 2004.

Annex: Assistance to landmine victims and its components

I. Assistance to direct victims

Beneficiaries:

- 1°) Persons injured and/or with disabilities, whether physical, psychological or sensory.
- 2°) Family members and dependents of persons killed, injured, or with disabilities.

1. Development of medical and paramedical capacities

1.1. Pre-hospital care

- Evacuation, first aid and transfer to reference health structures

1.2. Hospital care

- Medical-surgery care
- Surgery
- Post-surgery medical care
- Pain management

1.3. Physical rehabilitation and psychological support

- Physiotherapy and other rehabilitative therapies
- Provision of adapted equipment (orthopedic appliances and other technical devices)
- Care and psychological support, to victims and their families, as well as to medical and social staff, support for the announcement of the disability

2. Development of support capacities for social and economic reintegration of victims and their families

2.1. Social and economic measures

- Education and public awareness programs (against exclusion and in favour of integration)
- Promotion of associations of people with disabilities, peer groups, associations of families, and their initiatives
- Measures facilitating mobility and access to transports
- Access to skills and vocational training and development of adapted training
- Support and access to income generating projects and initiatives
- Access to employment and/or anterior job
- Access to cultural and sports activities

2.2. Promotion of the rights of people with disabilities

- Definition of disabled people's integration policies, recognizing their specific rights and addressing all State bodies (Parliament, Ministers, etc.) to implement activities facilitating their integration and exercise of citizenship, and to mobilize the necessary resources for it
- Implementation of disability laws, decrees, and regulation (legal tools) for the realisation of integration policies
- Identification and implementation of information and right protection bodies and/or

mechanisms

- Implementation of national funds to facilitate access to health care and medical treatment (contributions by Social Security/Welfare, public contributions, voluntary insurance, work risks insurance, the relevant ministries : Defence, Veterans, etc.)
- Implementation of bodies for national level coordination and dialogue between governmental and non-governmental organisations, focusing on disability issues.

2.3. Definition and implementation of legal measures for compensation attribution for landmine victims

Creation of national and/or international funds (read page 5, *The specific question of compensation*)

3. Development of health monitoring, social work and research capacities

Implementation and development of bodies and programs to collect and analyse epidemiological data (collection, sorting, analyse, reporting, dissemination)

II - Assistance to threatened populations and socio-economic victims

Beneficiaries:

People suffering from restrictions of their fundamental rights or socio-economic damage that prevent them from pursuing their normal activities.

1. Development of Mine Risk Education

- Development of data collection capacities and activities relating to landmine presence and accidents
- Development of Mine Risk Education capacities and activities
- Development of demining, consisting of capacities and activities of :
 - verification of areas suspected to be mined;
 - delimitation, registration and marking of mined areas;
 - detection, location, identification and destruction of landmines.

2. Rehabilitation and socio-economic development of demined zones

Logistic, technical and socio-economic support to local populations, to refugees and displaced persons, reinstalled in zones which have been demined and made accessible

3. The development of legal, social and economic measures in favor of mine-affected communities

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