

STUDY - AUGUST 2016
ADVOCACY



Victim assistance in the context of the use of explosive weapons in populated areas

Recommendations for a future political declaration



1. Executive summary

The international process underway to develop a political declaration on preventing civilian harm from the use of explosive weapons¹ in populated areas is making good progress. Meanwhile, the International Network on Explosive Weapons (INEW) and other national and international organisations are working alongside leading governments to ensure the declaration will be comprehensive and will effectively meet the expectations of those suffering from the consequences of explosive weapons use around the world.

Wishing to contribute to the political declaration drafting process, Humanity & Inclusion, supported by the Irish Department of Foreign Affairs and Trade, launched an initiative with a view to developing a shared understanding of the needs and rights of victims² of explosive weapons and proposing recommendations on the provisions on victim

assistance³ to be included in this declaration. Survivors, experts and humanitarian aid workers from countries including Afghanistan, Pakistan, Iraq, Jordan, South Sudan, Bosnia and Herzegovina and Palestine, as well as experts from several INEW member organisations, took part in this initiative. Together, they shared their experience of the reality faced by victims of explosive weapons in populated areas, expressed their aspirations for victim assistance provisions in the future political declaration and exchanged ideas by means of an online consultation and a workshop in Sarajevo.

This paper draws on these consultations to make the following recommendations, intended to ensure that the needs and rights of victims of explosive weapons will be adequately addressed in the future political declaration.

The participants in the initiative strongly urge states to mention victim assistance in a stand-alone commitment in order to acknowledge the tremendous impact of the use of explosive weapons on the lives of survivors, the families of those killed or injured and affected communities.

Building on the internationally-recognised victim assistance standard set forth in the Convention on Cluster Munitions, and emphasising the principle of non-discrimination, states shall ensure that survivors of explosive weapons, the families of those killed and injured, and affected communities from all impacted areas have:

- 1. Their basic needs met in a timely manner, including safety, protection, shelter, food, water, hygiene and sanitation;**
- 2. Safe and timely access to mainstream, personal support and disability-specific services, including emergency and long-term medical care, rehabilitation, psychological and psycho-social support, education, work, employment, social protection and social inclusion;**
- 3. Assistance to compensate for the loss of their homes and livelihoods due to explosive weapons.**

In addition to the stand-alone commitment on victim assistance, participants strongly urge states to include additional commitments on:

- **Reconstruction of public infrastructure**
- **Unimpeded access to principled inclusive humanitarian aid**
- **Cooperation and assistance**
- **Risk education and clearance**

1. Explosive weapons include explosive ordnance and improvised explosive devices (IEDs), such as mortars, rockets, artillery shells and aircraft bombs. These weapons use blast and fragmentation to kill and injure people in the area around the point of detonation. See: <http://www.inew.org/>

2. See page 8 for the definition of victim

3. See page 8 for the definition of victim assistance

2. Sarajevo workshop and online participants

ABU LAMZY Samah, Humanity & Inclusion, Palestine
ACHESON Ray, Reaching Critical Will, United States
AL-FAR Mohammad, Humanity & Inclusion, Palestine
ALIZADA Firoz Ali, International Campaign to Ban Landmines / Cluster Munition Coalition, Switzerland
AL-OSTA TASLIDŽAN Alma, Humanity & Inclusion, Belgium
ASHAGRIE Yenehun Azie, Humanity & Inclusion, South Sudan
BAILEY Sheree, victim assistance consultant, Australia
BOILLOT Laura, Article 36, United Kingdom
BOIVIN Jean-Marc, Humanity & Inclusion, France
BOUILLE Sandrine, Humanity & Inclusion, France
BROWN Kimberly, Save the Children, United Kingdom
CALZA-BINI Arianna, Gender and Mine Action Programme, Switzerland
HASSIN Ahmed Abdulkarim, Iraqi Health and Social Care Organization, Iraq
HERLEMONT ZORITCHAK Nathalie, Humanity & Inclusion, France
HOTTENTOT Elke, Humanity & Inclusion, Switzerland

HUNT Erin, Mines Action Canada, Canada
MOYES Richard, Article 36, United Kingdom
MBISAMAKORO Khelia, United Nations Mine Action Service, Switzerland
MUÑOZ Wanda, victim assistance and inclusive livelihoods consultant, Gabon
NASH Thomas, Article 36, United Kingdom
PALMER Tom, Humanity & Inclusion, Syria
PERSI VINCENTIC Loren, Landmine and Cluster Munition Monitor, Serbia
PIRIC Adnan, Association of civil victims of war, Bosnia and Herzegovina
RAZA SHAH KHAN Muhammad, Sustainable, Peace and Development Organization, Pakistan
RUTHERFORD Ken, Center for International Stabilization and Recovery at James Madison University, United States
SAMI Samiulhaq, Humanity & Inclusion, Afghanistan
SAUVAGE Emmanuel, Humanity & Inclusion, Jordan
STANIKZAI Mohammad Rasul, Humanity & Inclusion, Afghanistan

Thanks also to the following people and organisations for their contributions to and feedback on this document:

BORRIE John, United Nations Institute for Disarmament Research, Switzerland
DOCHERTY Bonny, Human Rights Watch, United States
HERY Anne, Humanity & Inclusion, France
KASACK Sebastian, Consultant in Mine Action and in Conflict Transformation, Tajikistan
KRAMER Katherine, Geneva Call, Switzerland
LIBERTUCCI Marion, Humanity & Inclusion, France
United Nations Mine Action Service, Switzerland

Acknowledgements

Humanity & Inclusion would like to thank the Irish Department of Foreign Affairs and Trade for their interest in and support for this initiative. Many thanks to all the participants in the online platform and the Sarajevo workshop, and to everyone who shared their expertise throughout this initiative. Special thanks to Wanda Muñoz for her constant support in the initiative preparation, to the two survivors of explosive weapons, Oussama Mdawar and Ayman El Hashimi, beneficiaries of Humanity & Inclusion's EU-funded project, "*Empowering persons with disabilities and injuries within the Syrian population affected by the crisis*", for their testimonies during the workshop, and to Samah Abu Lamzy for her testimony as a Humanity & Inclusion humanitarian aid worker based in Gaza.

Sandrine Bouille, Advocacy Officer at Humanity & Inclusion, coordinated the writing of this document.

Contact

Alma Taslidžan Al-Osta
Arms Advocacy Manager
Operational Advocacy Unit
HI Federation

Rue de l'Arbre Bénit 44,
BTE 1/Gewijde-Boomstraat 44, BUS 1
1050 Bruxelles | Belgium

@: Alma.AIOsta@handicap.be
Tel: +32 (0) 2 233 01 08

3. Introduction

3.1 The impact of explosive weapons in populated areas

The use of explosive weapons in populated areas, whether urban or rural, especially those with wide area effects⁴, constitutes a serious threat for the civilian population, both in the short- and long-term:

Direct impact on people

Explosive weapons often create lethal injuries or permanent impairments. According to a study conducted between 2012 and 2013 among Syrian refugees and internally displaced persons benefitting from Humanity & Inclusion's projects⁵, 60% of the interviewees with new injuries resulting from the crisis had been injured by explosive weapons. Among them:

- 60% suffered from fractures
- 25% had undergone an amputation
- 7% suffered from spinal cord injuries
- 8% suffered from other injuries

Frequently, those who lived through bombardments and bombings also experience severe psychological trauma.

Reverberating effects of explosive weapons

As stated in a recent UNIDIR study, "the effects of the use of explosive weapons in populated areas extend beyond the immediate impact created at the moment and point of detonation, and reverberate outward in space and time. (...) people's lives and development are affected long after the blast

occurs. (...) in addition to killing and maiming people, explosive weapons often destroy vital infrastructure, which affects the delivery of services on which communities critically depend.

Damage to housing and places of work can result in people losing shelter and livelihoods. Destruction of utilities reduces water and electricity supply which can affect public health. Damage to hospitals and schools creates difficulties in accessing health care and education. Damaged transport routes affect the availability of food and humanitarian access."⁶

Humanitarian aid is also complicated by the contamination of urban and rural areas by explosive remnants of war, rendering affected populations inaccessible.

Furthermore, the use of explosive weapons in populated areas often forces the population to flee affected areas.

An obstacle to recovery after the conflict

Unexploded remnants of war represent a long-term danger for the civilian population, often preventing them from returning to their homes after the conflict and endangering their lives while conducting rubble removal. Moreover, the destruction of homes and other infrastructures prevent them from returning to a normal life, as basic services such as hospitals, schools, food production or power systems are made inaccessible, along with swathes of agricultural land.

3.2 History of victim assistance

The right to assistance for victims was first formalised in the humanitarian principles developed by the International Committee of the Red Cross (ICRC) in 1864, in the first Geneva Convention. This Convention addresses the status and rights of victims of armed conflict.

Within the disarmament context, the Mine Ban Treaty (MBT) was the first multilateral

disarmament treaty that aimed to assist victims. The notion of a shared commitment by all States Parties to addressing the needs of landmine victims was introduced in the text of the 1997 Treaty. However, victim assistance is only mentioned under article 6 on "international cooperation and assistance" and does not carry the same weight as other obligations. Nor does the article provide detailed information or a timeframe as it does

4. Due to their large destructive radius, i.e. large fragmentation or blast range; the spread of multiple munitions over a wide area; or the lack of precision of their launcher system.

5. Humanity & Inclusion, *Causes and types of injuries encountered by Humanity & Inclusion while working with Internally Displaced Persons in Syria: a focus on the impact of explosive weapons*, 2014. http://www.handicapinternational.be/sites/default/files/bijlagen/nieuws/hi_factsheet-syria-21_01_2014_en.pdf

6. UNIDIR, *Understanding the Reverberating Effects of Explosive Weapons: A Way Forward*, 2016, p.3. <http://www.unidir.org/files/publications/pdfs/reverberating-effects-research-agenda-en-653.pdf>

for demining and stockpile destruction. At the First Review Conference in 2004, States Parties adopted the Nairobi Action Plan (NAP) which, among other things, provided the first framework for guiding victim assistance efforts. Eleven out of its 70 actions made reference to victim assistance. The NAP launched an international process intended to give clear and detailed indications of what States Parties need to do in order to comply with requirements for ever stronger victim assistance obligations in the context of the MBT.

In a process similar to that for landmines, civil society - through the Cluster Munition Coalition (CMC) - launched a campaign in 2003 calling for a ban on these weapons. In 2007, Norway initiated an international diplomatic process to this end.

In 2008, the Convention on Cluster Munitions was adopted and came into force on August 1st 2010. The victim assistance obligations of this Convention are woven into its entire fabric, with Article V being specifically dedicated to ensuring the rights of the victims.

These obligations are based on good practices developed under the MBT and the Convention on the Rights of Persons with Disabilities (CRPD), and have now become the most important guidelines for the provision of assistance to victims of landmines and explosive remnants of war (ERW).⁷

However, a lasting solution for addressing the needs of victims can only be ensured if assistance is incorporated into broader frameworks. Encouragingly, recent documents related to the Mine Ban Treaty and the Convention on Cluster Munitions, including the Dubrovnik and Maputo Action Plans, stress the importance of meeting victim assistance obligations as part of broader efforts. This is one of the two components of the integrated approach to victim assistance which, on the one hand, demands that specific victim assistance efforts benefit survivors, indirect victims and people impaired through other causes, and, on the other hand, requires that assistance provided through development, human rights and humanitarian initiatives also include survivors and indirect victims among the broader group of beneficiaries.

WHY DO WE USE THE TERM “VICTIM ASSISTANCE”?

“The “victim assistance pillar” was coined and promoted by the disarmament community well before the Convention on the Rights of Persons with Disabilities (CRPD). As a result, the terms used today deviate from those of the human rights community. During the development of the CRPD, there was a strong desire to overcome the charitable and medical model of disability, whereby people are taken care of by others and seen as ‘objects of charity’ or ‘assistance’, and move towards a human rights-based model that recognises the rights of all people with disabilities to enjoy their human rights on an equal basis with others. (...) **It is important for victim assistance stakeholders to demonstrate that, despite the language, their approach is empowering and non-discriminatory.** To overcome language barriers in a context where terminology matters, victim assistance stakeholders must stress the fact that there is now a common understanding of the social and rights-based model of disability and that the CRPD is the overarching framework for realising the human rights of people with disabilities, including those with impairments caused by landmines/ERW and explosive weapons”.

(In: Humanity & Inclusion, [The way forward on victim assistance: a consideration of the various aspects at play when integrating assistance to survivors into disability-inclusive development](#), July 2014, p.3)

7. ERW are unexploded shells, grenades, bombs, etc. left behind after a conflict. Humanity & Inclusion, [Policy Paper: Victim assistance in the context of mines and explosive remnants of war](#), July 2014, http://www.hiproweb.org/uploads/tx_hidrtdocs/PP11VictimAssistance.pdf

3.3 Towards an international political declaration

Since 2009 and Landmine Action's report on "Explosive Violence: The Problem of Explosive Weapons"⁸, followed by the United Nations Secretary-General's report on the protection of civilians in armed conflicts in which he drew attention to this issue, an increasing number of stakeholders have been calling for greater restrictions on the use of explosive weapons in populated areas. In 2011, a group of civil society organisations set up the International Network on Explosive Weapons (INEW) to address the impact of explosive weapons in populated areas. INEW calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas and urges states and other actors to⁹:

- Acknowledge that the use of explosive weapons in populated areas tends to cause severe harm to individuals and communities and increases suffering by damaging vital infrastructure;
- Strive to avoid such harm and suffering in any situation, review and strengthen national policies and practices on the use of explosive weapons and gather and make available relevant data;

- Work for full realisation of the rights of survivors, families of those killed and injured, and affected communities;
- Develop stronger international standards, including certain prohibitions and restrictions on the use of explosive weapons in populated areas.

2015 saw the start of international discussions aimed at finding a political response to the problem of the use of explosive weapons in populated areas. On 21-22 September, the government of Austria and UN OCHA hosted a meeting for states which acknowledge this problem and are interested in working together to address it. This meeting was the first step towards acting upon the Secretary General's call for policy statements¹⁰ and other actions on the part of states, the United Nations system, ICRC and civil society. A process is now underway to develop a political declaration to ensure better protection of civilians from the use of explosive weapons in populated areas.

3.4 Online consultation and Sarajevo workshop on victim assistance provisions

As part of Humanity & Inclusion's contribution to the political declaration drafting process, the initiative entitled "Facilitating dialogue on the victim assistance provisions of a political commitment on preventing harm from explosive weapons in populated areas" proposes to build consensus on the victim assistance provisions to be included in the future declaration and draft recommendations on this issue to be used for advocacy in relevant meetings and forums. To this end, stakeholders with different expertise and from different areas impacted by explosive weapons were mobilised to ensure that victim assistance will be a key aspect of the political declaration.

The initiative was comprised of a six-week online consultation, from February to April 2016, bilateral meetings with core states and a two-day workshop in Sarajevo. The participants hope that the outcomes of this initiative will inspire states to ensure that the future political declaration meets the highest human rights standards and guarantees immediate and long-term improvement in the life of all survivors of explosive weapons, the families of those killed and injured and the affected rural and urban communities.

8. Landmine Action, *Explosive Violence: The Problem of Explosive Weapons*, London, August 2009, <http://www.inew.org/site/wp-content/uploads/2011/06/Explosive-violence.pdf>

9. International Network on Explosive Weapons <http://www.inew.org/about-inew>

10. United Nations Security Council, *Report of the Secretary-General on the protection of civilians in armed conflict*, November 2010, p.11

4. International references and principles

4.1 International references

The commitment on victim assistance should be in compliance with the following international frameworks:

The **Universal Declaration of Human Rights** and the **International Covenants** which proclaim that every person is entitled to all human rights and fundamental freedoms without distinction of any kind;

International Humanitarian Law, comprising the universally applicable **Geneva Conventions** and their **Additional Protocols**, and in particular the fourth Geneva Convention which affords protection to civilians;

The **Convention on the Rights of Persons with Disabilities**, which provides a legal framework articulating how all human rights apply to persons with disabilities and its **Optional Protocol** which allows for individual complaints to be submitted to the CRPD Committee by individuals and groups of individuals, or by a third party on behalf of individuals and groups of individuals, alleging that their rights have been violated under the CRPD;

The **Convention and Protocol relating to the Status of Refugees** which define the term 'refugee' and outlines the rights of the displaced, as well as the legal obligations of States to protect them;

The **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction** (or **Mine Ban Treaty**) and the accompanying 2014-2019 **Maputo Action Plan**;

The **Convention on Cluster Munitions** which comprises an article specifically dedicated to victim

assistance (Article V) whose obligations have become the most important guidelines on the provision of assistance to mine/ERW and are of the same legal relevance and value as the Convention's other major obligations, such as the prohibition of the use of cluster munitions and the requirement to destroy stocks and to clear contaminated areas; and the accompanying 2015-2020 **Dubrovnik Action Plan**;

The Convention on **Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects** and its **Protocol V on Explosive Remnants of War**, in particular its article 5: "Other precautions for the protection of the civilian population, individual civilians and civilian objects from the risks and effects of explosive remnants of war";

The **Charter on Inclusion of Persons with Disabilities in Humanitarian Action**, adopted during the World Humanitarian Summit in Istanbul in May 2016, which provides a political framework to ensure that people with disabilities have access to humanitarian response, both in terms of protection and assistance, without discrimination, and allowing them to fully enjoy their rights;

The newly-updated **United Nations Policy on Victim Assistance in Mine action** (2016), which aims at improving UN contributions to an effective and coordinated response to realise the human rights of mines and explosive remnants of war victims, and to move towards a broader approach, inclusive of other people with disabilities.

4.2 Principles

The following principles underpin the commitment on victim assistance:

Humanity

- Address human suffering wherever it is found and ensure respect for human beings.

Neutrality

- Do not take sides in hostilities and do not engage in controversies of a political, racial, religious or ideological nature.

Impartiality

- Carry out actions on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis

of nationality, race, gender, religious belief, class or political opinions.

Independence

- Be autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where actions are being implemented.

Non-discrimination and special attention to groups in situation of vulnerability

- Ensure there is no legal, policy-based or practical discrimination against victims, among victims, between victims of explosive weapons and victims of other weapons or between survivors and other people with disabilities.

- Implement specific measures to accelerate or achieve equality of opportunity, including reasonable accommodations to meet individual needs.
- Take the necessary measures, according to the context, to ensure that the most vulnerable (such as people living in conditions of poverty, migrants, people with dual or multiple impairments, indigenous groups and ethnic minorities, displaced people and refugees, children, older people and women) benefit from, and participate in, projects and programmes.

Full and effective participation and inclusion

- Ensure the active, free, informed and on-going participation of victims in the planning, implementation, monitoring and evaluation of plans, policies and services in all sectors relevant to victim assistance.

- Ensure victims actively participate in all work related to the implementation and monitoring of the political declaration.
- Ensure victims actively participate in all decision-making related to matters that affect their lives (health, rehabilitation, psychological support, social services, education, employment, etc.).

Age and gender

- Ensure age and gender considerations are taken into account in the design and planning of policy and programmes that address the needs of victims, to ensure every victim benefits and participates equally.
- Provide all the support needed to enable victims to access services and improve or maintain their quality of life with respect to, and in accordance with, their age and gender.

5. Definitions

5.1 Victim

The term “victim” refers to all those who suffer, directly or indirectly, from the use of explosive weapons. In the event that the term “victim” is not defined in the political declaration, states should acknowledge that the definition of victims mirrors the definition of victims mentioned in the Convention on Cluster Munitions, namely “*all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalization or substantial impairment of the realization of their rights caused by the use of [explosive weapons]. They include those persons directly impacted by [explosive weapons] as well as their affected families and communities*”¹¹.

This de facto includes those who have been forcibly displaced due to the use of explosive weapons.

Direct victims: People who have been directly impacted by explosive weapons. It includes people who have been killed or injured. Direct victims are also referred to as casualties.

Survivors: People who had an accident due to explosive weapons and survived it. Survivors are also direct victims.

Indirect victims: Family of the person directly affected by explosive weapons, as well as communities affected by explosive weapons and people who suffer emotional, social and financial loss due to an incident with explosive weapons, including those who have lost their house and/or livelihood.

5.2 Victim assistance

5.2.1 Elements of victim assistance

Building on the Convention on Cluster Munitions, we recommend that the political declaration recognises that the main elements of victim assistance include, but are not limited to:

- **Emergency and long-term medical care:** Emergency medical care provides acute trauma care: first aid, safe supply of blood, blood transfusions

and other immediate measures that prevent death and permanent impairments after a person survives an incident. Long-term medical care promotes the person’s full recovery, with measures such as pain management.

- **Rehabilitation:** enables survivors and other people with disabilities to reach and maintain their optimal physical, sensorial, intellectual and social levels of functioning. It includes prosthetics and orthotics

11. Convention on Cluster Munitions, 2008, article 2: Definition

services, assistive devices, physiotherapy, occupational therapy and speech therapy.

- **Psychological and psycho-social support:** prevents and responds to psychological distress in populations experiencing disabling injuries and traumas, such as an incident with explosive weapons, and prevents and responds to mental disorders, such as post-traumatic stress syndrome. Mental health services are important for those who have survived the shock of a direct incident with explosive weapons, but also for their family, and more generally, affected communities. It includes counselling by mental health professionals, such as psychologists and psychiatrists, and the provision of peer-to-peer support.
- **Education:** ensures all people are able to learn what they need and want throughout their lives. Inclusive education is a right in and of itself, and a way to facilitate the realisation of other rights (like access to health, employment and political participation). It includes early childhood care and education, primary education, secondary and higher education, non-formal education and lifelong learning.
- **Economic inclusion:** guarantees all people have enough income to ensure adequate standards of living through employment and social protection. Economic inclusion benefits a single person as well as the collective development of her/his family and community. Most victims and people with disabilities mention economic inclusion as their first priority. It includes self-employment, waged employment, technical and professional skills development, access to financial services, and social protection (social insurance and social assistance).
- **Social inclusion:** increases a person's self-reliance through gaining insights about him/herself and mobilizing his/her own resources, both internal and external (e.g. family, neighbours, community). Social inclusion is the result of supporting someone to gain direction in her/his life and realise his/her goals, find a place within his/her family, and participate in community life. It includes personalized social support, development of positive relationships and family life by changing negative attitudes on the part of family and community, and improving participation in cultural, sports and leisure activities.
- **National legislation and policies:** ensure victim assistance is provided in an effective, timely and sustainable manner. The situation of victims of explosive weapons must be taken into account in the development, implementation and enforcement of relevant national legislations and policies (i.e., disability, health, education, etc.).

5.2.2 Cross-cutting issues

- **Gender:** is an approach aiming at achieving gender equality. This approach recognises that the roles, rights, responsibilities, characteristics and qualities that a specific society associates with being male or female change over time and culture and that the same conditions are experienced differently by women and men.
- **Empowerment:** is a process through which people build their confidence, capacity and self-esteem to understand and assert their rights, make decisions, speak out and participate in all aspects of community life. The process ensures that people exercise self-determination and enjoy their rights and responsibilities on an equal basis with others.
- **Accessibility:** is a concept focusing on enabling safe access for all people to services, regardless of age, gender and disability. Accessibility ensures that the physical environment and information can be accessed by everyone, with no physical, communication or attitudinal barriers, with dignity and the highest level of independence.
- **Data collection:** is the process of gathering and measuring information that enables to evaluate the number, situation and quality of life of victims. Without relevant and precise data, it is impossible to propose effective policy options, establish a baseline to measure progress, mobilise resources and, more generally, plan and implement victim assistance effectively and strategically. Data needs to be disaggregated by gender, age and type of impairment.

5.2.3 Additional elements to be addressed in the commitment on victim assistance

The "traditional" elements of victim assistance mentioned above do not cover basic needs, such as safety, protection, shelter, food, water, sanitation and hygiene and assistance for rebuilding homes and livelihoods. However, these elements should be taken into account when addressing victim assistance in the context of the use of explosive weapons in populated urban and rural areas. Continuous and cumulative damage to critical public infrastructure, homes and livelihoods are among the main impacts of the use of explosive weapons. It seriously hampers people's ability to meet their basic needs, exposes them to great risk or causes them to flee impacted areas to other urban or rural areas, where explosive remnants of war may also be present.

We therefore urge states to include references to basic needs and assistance for rebuilding homes and livelihoods in the commitment on victim assistance.

6. Recommendations on victim assistance

6.1 Commitment on victim assistance

6.1.1 Purpose / aspiration

We strongly urge states to mention victim assistance in a stand-alone commitment in order to acknowledge the tremendous impact of the use of explosive weapons on the lives of survivors, the families of those killed or injured and affected communities.

The purpose of the commitment on victim assistance should be to promote, protect and ensure the full and equal realisation of all human rights and fundamental freedoms **for all victims of explosive weapons from all impacted areas**, and to promote respect for their inherent dignity.

6.1.2 Recommendations on the commitment on victim assistance

We urge states to commit to the following:

Building on the internationally-recognised victim assistance standard set forth in the Convention on Cluster Munitions and emphasising the principle of non-discrimination, states shall ensure that survivors of explosive weapons, the families of those killed and injured, and affected communities from all impacted areas have:

1) Their basic needs met in a timely manner, including safety, protection, shelter, food, water, hygiene and sanitation.

Due to the extreme vulnerability caused by the use of explosive weapons and the potential damage to vital public infrastructures, it is of utmost importance to ensure that victims' basic needs are met in all settings: this implies ensuring their access to humanitarian aid and to regular essential services once they have been reestablished through reconstruction efforts.

2) Safe and timely access to mainstream, personal support and disability specific services, including emergency and long-term medical care, rehabilitation, psychological and psycho-social support, education, work, employment, social protection and social inclusion.

By **safe and timely access** we mean that victims should have risk-free access to the services they need as rapidly as possible in order to prevent death and additional injuries and impairment.

The following criteria underpin the concept of "access to services": availability, accessibility, acceptability, affordability, accountability and good technical quality.¹²

Availability: functioning services, where goods and programmes are available in sufficient quantity;

Accessibility: accessibility of the physical environment (including transport and buildings), services within safe physical reach, including in rural areas, and accessibility of health information and communication;

Acceptability: services are culturally appropriate, respectful of medical ethics and different values, needs and interests within communities;

Affordability (economic accessibility): services are affordable for all;

Accountability: services and programmes are designed and implemented to respond to the needs and interests of all the community, including marginalised groups. Services actively consult and involve their users (including people with disabilities and their representative organisations) at all stages;

Good technical quality: with reference to health, services should be "scientifically and medically appropriate", where quality refers to staff competence, drugs, medical equipment, water and sanitation, etc.

12. For more details see: Humanity & Inclusion, [Access to services for persons with disabilities in challenging environments](http://www.hiproweb.org/uploads/tx_hidrtdocs/AccessToServicesAmman.pdf), July 2010, p.8. http://www.hiproweb.org/uploads/tx_hidrtdocs/AccessToServicesAmman.pdf

By mainstream services we mean general services such as education, vocational training, health care, social assistance, social housing, public transportation, leisure services, etc.

By personal support services we mean services aiming to increase the self-determination and participation in society of people with disabilities, such as personal assistance, assistive devices, sign language interpreters, support teachers, adapted transportation, supported employment, home support, etc.

By disability specific services we mean the services needed to address the more complex needs of people with severe/multiple disabilities, such as specific rehabilitation services, early intervention and individual needs assessment, day care centres, special education, sheltered employment and sheltered community housing, etc. Survivors of explosive weapons, the families of those killed and injured, and affected communities, whether in urban or rural areas, have the right to

access mainstream, personal support and disability-specific services, according to their needs. In addition, these services need to be available in a timely manner so as not to create permanent injuries or impairment and exacerbate vulnerability and further marginalisation.

3) Assistance to compensate for the loss of their homes and/or livelihoods due to explosive weapons.

The loss of homes and livelihoods due to explosive weapons creates vulnerability and poverty and is an important causal factor of displacement.¹³ People are forced to live in temporary or insecure shelters, often outside urban areas, and therefore are more vulnerable to physical violence (including sexual violence), disease, etc. Their economic independence is impeded by the loss of livelihood. People have to rely on external support to survive which creates additional vulnerability and marginalisation.

7. Additional recommendations

Participants in the initiative urge states to also include the following commitments in the political declaration to ensure the needs of victims of explosive weapons are properly addressed and their rights realised.

7.1 Commitment in reconstruction of public infrastructure

Destruction of public infrastructure, such as hospitals, schools, roads, power stations, etc. prevents the provision of effective and timely assistance to victims. Thus, reconstruction of public infrastructure is a crucial requirement in the context of the use explosive weapons in populated urban and rural areas.

We strongly urge states to adopt an additional commitment on the reconstruction of public infrastructure.

7.2 Commitment on cooperation and assistance

Affected countries may face multiple challenges that impede the swift and effective implementation

of victim assistance, such as on-going and protracted conflict, lack of access to affected communities due to area contamination, widespread poverty and lack of sufficient human, technical and financial resources. As such, the goal of cooperation and assistance is to support states that lack sufficient resources to meet their commitments on victim assistance, thus ensuring the rights of victims are enforced and their quality of life is improved.

Cooperation and assistance should provide adequate, long-term and coordinated support for the implementation of victim assistance through technical, financial and material support in the form of earmarked funding or by ensuring development, human rights and humanitarian initiatives count victims of explosive weapons amongst their beneficiaries.

We strongly urge states to mention the provision of support to affected states and stakeholders to ensure the implementation of victim assistance in an effective and efficient manner.

13. Right to adequate housing in context of explosive weapons is also underscored in the Shadow report to Committee on Economic, Social and Cultural Rights 58th session on Explosive Weapons and the Right to Health, Education and Adequate Housing: http://wilpf.org/wilpf_publications/explosive-weapons-and-the-right-to-health-education-and-adequate-housing-extraterritorial-obligations-of-france-sweden-and-the-uk-under-cescr/

7.3 Commitment on unimpeded access to principled inclusive humanitarian aid

Most vulnerable people, including people with injuries, with disabilities or chronic disease, women and children, older people and people from ethnic, religious or other minorities, face difficulties accessing humanitarian aid due to personal and environmental factors (non accessible information or infrastructure, discrimination, etc.). They are therefore at higher risk of falling through the cracks of humanitarian aid and thus being denied access to basic services.

We strongly urge states to mention the need for unimpeded access to principled humanitarian

inclusive of all those affected by the use of explosive weapons, including those most at risk of being left behind.

7.4 Commitment on risk education and clearance

Unexploded ordnance prevent the safe resettlement of displaced people and economic recovery. They also prevent or hinder the delivery of humanitarian assistance to affected populations.

We strongly urge states to ensure strong provisions for risk education and mine/ERW clearance in both emergency and post-emergency responses.

8. Testimony

Abdallah, 11, Marj – Beqaa Valley (Lebanon), January 2016



“I’d like to go out and see my brothers again”

Abdallah, 11, was injured in a bombing raid in Syria. He is now paraplegic and lives with his mother, brothers and sisters in a shelter for refugees in Lebanon. Since he arrived in the Beqaa Valley in September 2015, Humanity & Inclusion’s team has been helping him to gradually recover and adapt to his new situation.

“It was Eid. We were out with my son doing some shopping to prepare for the celebrations,” explains

Farida, Abdallah’s mother.

“He was always very helpful and insisted on coming with me. When we reached the main street in the souk, everything happened so quickly. We caught sight of the airplanes and then the bombing started. A lot of people around us died. When I lifted my head, Abdallah was on the ground and he looked terrified. At first, I thought he had thrown himself down because he was frightened by what was going on. But then I realised he had been hit. We took him to the nearest hospital for treatment but he had to wait ten or so hours for an operation. The following day they told me my son would never walk again.”

Cynthia, Humanity & Inclusion’s physiotherapist, begins the session with Abdallah in the family’s bedroom. She decides to start with a few stretching exercises for his arms and legs. Abdallah seems unwilling and worried at first: he is still in a lot of pain, both physical and psychological. But little by little, Cynthia manages to gain his trust. He relaxes and even manages a smile when the physiotherapist does a high five.

As she continues Abdallah’s therapy, Cynthia explains his situation: “We have been working with Abdallah since he arrived in Lebanon. His family lived in various places in the Beqaa valley before moving to this shelter for refugees (run by another NGO) in March. Here, Abdallah’s mother doesn’t have to pay rent, which she can’t afford because she’s on her own with five children. The only problem is that the family lives in the only available room which is on the fourth floor.” So for the moment, Abdallah cannot go outside.

"I'd like to go out and see my brothers again," he says wistfully.

Two of Abdallah's older brothers have stayed behind in Syria, along with his father. Farida has not had heard from her husband in months, but she is comforted by calls from her sons with whom she has managed to keep in touch. *"We call each other a lot. They tell me there's not enough food and they are still being bombed. They tell me that people are dying every day and that we were right to leave."*

The session continues and Cynthia gets Abdallah to do some exercises to help develop the muscles in his arms. Humanity & Inclusion has given Abdallah a wheelchair so he can get around. He used to be very active and his favourite pastime was horse-riding. *"We had a horse in our farm in Syria," he tells the organisation's staff. "But he's dead now. The neighbours ate him because they were hungry. Our house has also been flattened by bombs."*

Farida listens carefully to her son and shares her concerns: *"Our situation is so different now, but I want to do everything I can to make sure he has a bright future. I want my children to go to school at the start of the next school year."* For the moment, Abdallah spends his days indoors playing cards and other games with his brothers and sisters. He looks at his mother and adds: *"I'm looking forward to going back to school too..."*



"A few months ago, Abdallah didn't want to even think about school," says Cynthia. "I'm glad to hear that he's looking forward to going back. That means he's made progress." Abdallah smiles, does another high-five and his thirteenth physiotherapy session comes to an end.

Abdallah will continue to receive physiotherapy sessions from Humanity & Inclusion's staff which will help him become more self-reliant. He will also start psychosocial sessions soon so that he can learn to accept his situation and this new stage in his life in Lebanon.



Abdallah and Cynthia during a physiotherapy session ©Elisa Fourt/Humanity & Inclusion

9. Annex: summary of the online contributions

Main needs identified among victims

The participants in the online platform identified the following needs among victims of explosive weapons in populated areas:

- **Primary and long-term health care**
- **Rehabilitation:** Including assistive mobility devices.
- **Income and livelihoods:** In most developing countries caught up in conflict, there are no or very limited first aid response and social protection mechanisms in place. Therefore, family members are usually those who provide support to direct victims. This can cause long-term financial challenges, on top of the psychological trauma already suffered by family members.
- **Education**
- **Social participation:** Victims need to be included in all decisions, projects and plans concerning them.
- **Psychological support:** Peer support, mainly in areas where mental health services have not yet been developed or have broken down.
- **Physical accessibility**
- **Access to humanitarian relief:** Ensuring respect for humanitarian aid workers assisting victims.
- **Basic safety during conflict:** Helping people have access to bomb shelters, better protection from shelling, etc.
- **Mine Action:** Delivering much-needed humanitarian aid to affected populations is increasingly dangerous, most of it being distributed by roads that run through highly-contaminated areas. People live with the constant threat of being injured or killed by ERW when returning home, trying to clear rubble and debris, burning waste, farming, etc. Humanitarian mine action is therefore a prerequisite for delivering humanitarian aid.
- **Reconstruction of private and public infrastructures**
- **Adequate shelter**
- **Food**
- **Water, Sanitation and Hygiene**
- **Protection of women and children from abuse:** Meeting the specific needs of children and women, either as survivors or as partners who have lost their breadwinners.

Main barriers to accessing services for victims

The fulfilment of the above-mentioned needs and the realisation of related rights are impeded by numerous obstacles that restrict or prevent access to services. Below are the main obstacles faced by victims of explosive weapons in their attempts to access necessary services, as identified by the participants in the online discussion:

Related to availability:

- Services have been destroyed/damaged
- No first aid available to assist victims during and after an attack
- Key services are lacking
- No information on the availability of services (when they exist)

Related to affordability:

- Lack of money/cash to obtain services and go to service providers

Related to accessibility:

- Lack of transport to cover the distance between the victim and the service
- Fighting in the area prevents civilians from accessing services
- Check point/military activity prevent access to services
- Facilities are not physically accessible for survivors with impairments
- Cultural barriers, restriction of movement for women, for example

Related to acceptability:

- No use of local social structures and non-governmental service offers (tribal networks, private sector etc.)

Related to good technical quality:

- Poor quality of services

Related to accountability:

- Poor funding by the government and international community
- Corruption
- Lack of data on casualties and coordinated data management

Main facilitators for accessing services for victims

Despite the numerous barriers, facilitators have been identified by the participants in the online consultation which could improve access to services for victims.

- Adapting interventions to the context (early response, early recovery)
- Ensuring that humanitarian actors reach the most vulnerable by using an age-, gender- and disability-sensitive approach
- Ensuring access to services in rural and remote areas and, when this is not possible, providing transport, child-care and accommodation to

facilitate access

- Ensuring information about services is available in an accessible format
- Providing a personalised approach to support access to services
- Carrying out initial humanitarian mine action
- Ensuring the participation of vulnerable people through inclusive Monitoring and Evaluation (including feedback and complaints mechanisms)

The views and opinions contained in this document should not be seen as necessarily reflecting the views of the Irish Department of Foreign Affairs and Trade.



An Roinn Gnóthaí Eachtracha agus Trádála
Department of Foreign Affairs and Trade

Published by Humanity & Inclusion, 2016

Website: www.hi.org

Blog: <http://blog.hi.org>

Layout and Design: www.atelier-volant.fr

