

Victim Assistance and Widowhood

Briefing Paper

International Widows' Day

23 June 2015

On 23 June the international community recognizes the rights of widows and the need to address the poverty and injustice they and their dependents face in many countries:

Absent in statistics, unnoticed by researchers, neglected by national and local authorities and mostly overlooked by civil society organizations – the situation of widows is, in effect, invisible.¹

This International Widows' Day description of the global situation of widows applies equally to the victim assistance context and must necessarily be a cause for concern and greater action. This commemoration is an opportunity for highlighting the relevance of victim assistance to respecting, protecting, fulfilling, and promoting the rights of widows who are victims of mines, cluster munitions and other explosive remnants of war (ERW). It is also a reminder of the importance of fully applying the victim assistance principles of non-discrimination and gender-sensitivity.

The needs of widows have largely been overlooked among efforts to provide assistance for mine/ERW victims, even though States Parties have obligations under the Mine Ban Treaty and Convention on Cluster Munitions to ensure that the rights and needs of mine/ERW widows are met in accordance with relevant international law. Yet there is little information about how States Parties themselves are meeting those obligations. A lack of accurate and usable disaggregated data is among the barriers to effective victim assistance for widows.

Of the few victim assistance projects that include widows, the majority are focused on livelihood support and income-generation. In some countries, national laws and policies contain provisions for widows, yet these are for the most part focused on particular categories and are therefore, in effect, discriminatory.

States Parties have obligations and commitments to ensure that mine/ERW widows' receive adequate assistance and to raise awareness of these issues, challenges, and needs.

The accepted definitions of "victims" in the Convention on Cluster Munitions and Mine Ban Treaty clearly includes widows as affected family members of casualties of landmines, cluster munitions, and other ERW. **Victims** include those **persons directly impacted as well as their affected families and communities.**

More specifically the term "victim" as defined by the Convention on Cluster munitions includes "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 these weapons.²

Similarly in 2004, Mine Ban Treaty States Parties "adopted a definition of a 'landmine victim' that includes individuals, families and communities – those who either individually or collectively have suffered physical or psychological injury, economic loss or substantial impairment of their fundamental rights."³ By 2009, Mine Ban Treaty States Parties had come to recognize "that it may be necessary to seek to address to a greater extent the needs of families...as the impact on the family of those killed or injured should also be taken into account."⁴

In accordance with the definitions of "victims," widows who should have access to adequate victim assistance could include the wives of men killed by these weapons, and wives of survivors who have passed away, as well as widows whose husbands died of other causes who have a mine/ERW survivor among their dependents.

The following victim assistance provisions remain critically important with regard to States Parties' obligations and commitments to widows among victims:

- States should **collect data** that is disaggregated, reliable, and relevant with respect to victims.
- Victim assistance should be carried out in accordance with applicable **human rights law.**
- States should adequately provide **age- and gender-sensitive assistance.**

Data collection

Most casualties, including persons killed by mines, cluster munitions, and other ERW are men. On a global scale the data on mine/ERW victims' marital and family status is lacking. In most

cases, the family or dependent as well as carer status is not recorded. Yet each State Party to the Convention on Cluster Munitions is obliged to “make every effort to collect reliable relevant data” with respect to victims.⁵ In 2014, Mine Ban Treaty States Parties committed to do their utmost to assess the needs of victims, while taking into account sex- and age-disaggregated data.⁶

Applicable human rights law

States Parties to the Mine Ban Treaty and Convention on Cluster Munitions have committed to implementing victim assistance in accordance with applicable international human rights law.⁷ Unlike mine/ERW survivors, who should benefit significantly from the Convention on the Rights of Persons with Disabilities (CRPD) through the application of a rights-based approach to victim assistance, the CRPD has limited relevance to widows and the family members of people killed (or of survivors who subsequently died) who are not themselves persons with disabilities.⁸

To guide a rights-based approach to victim assistance for widows, states can apply the principles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁹ Implementation of CEDAW by States Parties to that convention should ensure the rights of widows and protect widows from discrimination and exploitation.¹⁰ The Committee of CEDAW General Recommendation 30 on women in conflict prevention, conflict, and post-conflict situations and General Recommendation 27 on older women and protection of their human rights, are also particularly applicable because they refer to the situation of widows and elaborate the committee’s view of the obligations assumed under the convention.

CEDAW States Parties are duty-bound to take all appropriate measures to eliminate discrimination against women in areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights. States Parties to the convention must also “take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families.”¹¹ Those States Parties must ensure women’s rights to:

- Adequate housing, sanitation, electricity and water supply, transport, and communications
- Access to adequate healthcare facilities and information
- Access to credit and loans, marketing facilities, and appropriate technology
- Benefit directly from social security programs
- Organize self-help groups and co-operatives for economic opportunities
- Training and education of all types, including literacy
- Participate in all community activities
- Participate in development planning at all levels

Since age- and gender-sensitive assistance is a guiding principle for the provision of victim assistance services under both the Mine Ban Treaty and Convention on Cluster Munitions, and given that the vast majority of States Parties with mine/ERW survivors are also parties to the CEDAW, the greater recognition of widows as mine/ERW victims and their increased inclusion in victim assistance programs holds the promise of greater synergy.¹²

Implementation

There are currently a few victim assistance programs that are reported to include support to widows. Those activities that do include widows often come through broader support to female heads of households. Most are carried out by international organizations, particularly the ICRC, NGOs, as well as mine/ERW victims' representative organizations.

The majority of the victim assistance available to widows due to mine/ERW incidents focuses on livelihood support as many widows experience a dramatic decline in economic security upon the death of their partner. Widows frequently face social, economic, or educational barriers to entering the work force.¹³ The overall lack of recognition of the value of the work of women in informal and subsistence economies, including homes and farms, exacerbates the undervaluing of the socioeconomic needs and contributions of widows.

Research on widows more generally highlights additional difficulties surrounding land and property rights and exclusion by lack of enabling legal capacity¹⁴ as well as exclusion by formal and informal institutions. In some situations, especially where they do not have the legal capacity and with that, the right to inherit, widows can lose their property and workable land or otherwise be forced from their homes.¹⁵

ICRC programs in several Mine Ban Treaty or Convention on Cluster Munitions States Parties, including Eritrea,¹⁶ Iraq,¹⁷ Lebanon,¹⁸ and Somalia,¹⁹ as well as states not party Azerbaijan and Georgia,²⁰ provided a variety of support to groups including widows and female heads of households in 2013 and 2014. These programs included livelihood support and income-generating activities in Eritrea, Iraq, and Somalia; support to women's cooperatives in Lebanon; addressing basic needs through contributions of cash, food, and household items in Azerbaijan, Georgia, and Somalia; and assistance in overcoming gender-specific obstacles to registering for benefits in Iraq. Through these programs, widows and female heads of households are being included in wider victim assistance efforts without discrimination.

Transitional justice mechanisms in countries affected by landmines, cluster munitions, and other ERW may also provide some form of reparations to widows among the recognized categories of victims of armed conflict.²¹ The Monitor has identified several states (including Mine Ban Treaty States Parties Chile,²² Colombia, El Salvador, Peru, and Turkey,²³ and states

not party Nepal²⁴ and South Korea²⁵) with war compensation mechanisms or similar legislation that are reported to provide assistance of some kind to mine/ERW widows, along with other eligible persons. Following are some country examples:

In **Chile**, a draft law to provide reparations and assistance to mine/ERW victims defines a victim as someone who has been injured by, or the family member of someone killed by, a mine/ERW explosion.²⁶ Since 1998 the needs of mine/ERW widows have been among the concerns for the law. According to the draft law, widows are to receive once-off monetary compensation.²⁷

The law of victims (Law 1448 of 2011) in **Colombia** seeks compensation for both direct victims and indirect victims (family members) of the Colombian conflict, including mine/ERW victims. In the case that a direct victim receiving compensation dies, all monetary indemnities are provided directly to widows, children, parents, or siblings to help them continue the life that was provided by the husband, parent, or family member. This law prioritizes female heads of household, giving widows precedence to access the assistance.²⁸

Widows and the children of people killed in **Croatia** are entitled to pensions. Deminers have additional insurance, which can provide the families of people killed with financial support.²⁹

In **Serbia**, a draft “Law on Veterans with Disabilities and Families of those Killed” would significantly erode or remove entirely existing rights to assistance if implemented as it stands. Efforts to amend the draft law include public discussions and more than 480 official complaints, but have not yet been successful in changing the draft, which includes harsh discriminatory provisions, such as widows losing all rights and benefits in the case of “documented extramarital relationships.” Widows will only be eligible for rehabilitation assistance if more than two family members have been killed.³⁰

In **South Sudan**, victim assistance is overseen by the War Disabled, War Widows, and War Orphans Commission. The definition of war widow as “a woman whose husband’s death was directly caused by the 1983-2005 SPLA Armed conflict in Southern Sudan” also covers the widows of mine/ERW casualties during that period. The inclusion of war widows in the commission has ensured that widows are not forgotten.³¹ The commission has provided support to war widows in the form of affordable housing, vocational training, and social welfare programs. They also are building a database of target groups, including widows.³²

The Parliament of **Uganda** adopted a resolution calling on the government to create a gender-sensitive reparations fund to offer reparations to women and men affected by armed conflict, which once enacted could include widows.³³

South Korea, a non-signatory to the Mine Ban Treaty and Convention on Cluster Munitions, adopted a specific Special Act on Compensation for Civilian Landmine Victims, in April 2015 that includes reparations for the claimant category of “family of the deceased” meaning family members with the right of inheritance to the victims who were either killed, or who are believed to have subsequently died, as a result of a landmine incident.³⁴ The as yet untested legislation could provide lump sum compensation to cover the lost wages of a husband killed by a landmine by multiplying their average monthly wage at time of death by the expected number of months of the working life of the deceased.

The types of benefits available through each law or administrative program vary, but can include financial compensation, health and rehabilitation services, as well as improvements to the national rehabilitation infrastructure that would benefit all persons who use it. While some laws are quite comprehensive, in other cases benefits are limited to a one-time payment or may be considered token compared to the impact of the mine/ERW incident on the family. States may focus support specifically to widows in their national policies and plans.

In several countries widows of military personnel killed during military service, including by mines/ERW, can receive a small welfare payment. In some cases, payments and benefits to war widows are only provided for the care of children who are below the prescribed working age.

There are known to be many more states with similar systems addressing war victims, but the extent of assistance available through such schemes to fulfil responsibilities for mine/ERW victims has not been adequately reported.

Concluding note

States Parties have obligations to ensure that the rights and needs of women directly and indirectly affected by the impact of mines, cluster munitions, and ERW are adequately met, including widows. To effectively fulfill the rights and needs of widows, states should ensure that victim assistance programs are gender-sensitive and actively reach out to widows as well as mine/ERW survivors and other family members of people killed and injured.

¹ “To give special recognition to the situation of widows of all ages and across regions and cultures, the United Nations General Assembly declared 23 June 2011 as the first-ever International Widows’ Day, to be celebrated annually.” UN, [“International Widows’ Day – June 23.”](#)

² Convention on Cluster Munitions, Article 2.1.

³ Mine Ban Treaty Second Review Conference, “Final Report,” ([APLC/CONF/2009/9](#)), 2009, para. 99; See also Mine Ban Treaty First Review Conference, “Final Report,” 2004, para. 64).

⁴ Mine Ban Treaty, Second Review Conference “Final Report,” ([APLC/CONF/2009/9](#)), 2009, para. 99.

⁵ Convention on Cluster Munitions, Article 5.1.

⁶ Maputo Action Plan, Action 12.

⁷ These commitments are found in the text of the Convention on Cluster Munitions Article 5.1 and Article 5.2c and in Mine Ban Treaty action plans: Nairobi Action Plan 2004–2009 Action #33, Cartagena Action Plan 2010–2014, para. 12, and Actions #26, #27, #28, & #33, and Maputo Action Plan 2014–2019 Action #17.

⁸ In recognition of the particular importance of the CRPD it has particular mention in the ninth preambular paragraph of the Convention on Cluster Munitions.

⁹ Among other relevant rights law, the Committee on Economic, Social and Cultural Rights overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights elaborates on the right to social security (Article 9), in General Comment No. 19.

¹⁰ As of 1 June 2015, CEDAW had 189 States Parties. [Convention on the Elimination of All Forms of Discrimination against Women](#), New York, 18 December 1979.

¹¹ Including their work in the non-monetized sectors of the economy. [CEDAW, Article 14](#).

¹² Somalia and Sudan are the only Mine Ban Treaty States Parties that have responsibility for significant numbers and of victims of mines, cluster munitions, and other ERW and needs that have not signed CEDAW. Among other States Parties to the Mine Ban Treaty the Holy See and Tonga have not signed, nor has state not party Iran. State Party Palau has signed CEDAW but not ratified, and state not party United States also remains a signatory.

¹³ UN, “[International Widows’ Day – Background](#),” June 2011.

¹⁴ Legal capacity in this context meaning what a person can do within the framework of the legal system.

¹⁵ See for example, UN Entity for Gender Equality and the Empowerment of Women (UNWOMEN), “[Realizing Women’s Rights to Land and other Productive Resources](#),” 2013 (HR/PUB/13/04), p. 16; World Bank, “[Inclusion Matters: The Foundation for Shared Prosperity](#),” 2013, p. 77; and ICRC, “[Widowhood and armed conflict: challenges faced and strategies forward](#),” 6 November 1999.

¹⁶ ICRC, “Annual Report 2014,” Geneva, May 2015, p. 141.

¹⁷ ICRC, “Annual Report 2013: Iraq,” Geneva, May 2014, p. 480.

¹⁸ ICRC, “[How did the ICRC help people affected by conflict in Lebanon during 2014?](#),” 17 January 2015.

¹⁹ ICRC, “Annual Report 2013,” Geneva, May 2014, pp. 192–193.

²⁰ Azerbaijan Red Crescent Society, “[Weapon Contamination Program of the Azerbaijan Red Crescent Society has implemented ‘Social support to families who lost of one of breadwinners as a result of mine/ERW accidents’ project in Beylagan district](#),” undated.

²¹ Megan Burke and Loren Persi Vicentic, “Remedies and Reparations,” in *Weapons Under International Human Rights Law*, Cambridge University Press, Stuart Casey-Maslen Ed., 2014, pp. 571–572.

²² Chamber of Deputies of Chile, “[Bill on Reparation and Rehabilitation Assistance to victims of Mines or Other Explosive Devices](#).”

²³ The Monitor, “[Frameworks for Victim Assistance: Monitor key findings and observations](#),” December 2013, p. 10.

²⁴ Nepal Monitor, “[Government Relief Efforts for Nepal Conflict Victims](#).”

²⁵ ICBL documents, “[Special-Act-On-Landmine-Victim-Assistance](#),” (in Korean), 15 October 2014.

²⁶ [Proyectos de Ley](#) (Law Projects), Oficio de Ley a Cámara Revisora (Report to the Review Committee), 13 January 2015.

²⁷ The level of compensation proposed is approximately US\$38,000 for each widow. Of the eight women involved in the process from the outset, seven are widows of people killed by antivehicle mines and the other, due to ERW. Email from Elir Rojas Calderón, Director, Centro Zona Minada, 27 May 2015.

²⁸ Email from Camilo Serna, Colombian Campaign to Ban Landmines, 28 May 2015.

²⁹ Email from Marija Breber, Social Worker, Mine Aid, 27 May 2015.

³⁰ Interview with Jovanka Pavlovic, Association of Veterans with Disabilities and Families of the Killed, Zrenjanin, 2 June 2015.

³¹ The fact that this definition only refers to a past conflict may raise concerns about discrimination against widows from more recent conflicts.

LANDMINE & CLUSTER MUNITION MONITOR

Victim Assistance and Widowhood

23 June 2015

³² Email from Geoffrey Luo Duke, South Sudan Action Network on Small Arms, 12 May 2015; and Government of the Republic of South Sudan, "[War Disabled, War Widows and War Orphans Commission](#)," undated.

³³ UN Women, "[Ugandan Parliament adopts resolution to address needs of war-affected women](#)," 23 April 2014.

³⁴ English translation of "Special Act on Compensation for Civilian Mine Victims, 16 April 2015," received by email from Peace Sharing Association/Korean Campaign to Ban Landmines, 29 May 2015.