

The Ban Advocates: cluster munition victims' commitment to the implementation of the Convention on Cluster Munitions

Stan Brabant

I get angry, furious when I hear military experts arguing that they will improve this weapon and make it humane and safe. To drop a high number of bombs close to civilians is a criminal act. If there is anyone at this conference who cannot understand why we need to ban a certain type of cluster munitions, I tell him: ask us, the victims of cluster munitions! We can help you to understand!

There was a lot of anger in the room when we organized the first meeting of the Cluster Munition Ban Advocates in Belgrade, Serbia, in September 2007.² The initial group included individuals from communities affected by cluster munitions in Afghanistan, Lebanon, Serbia and Tajikistan. Participants did not express only anger: they discussed devastation, the death of parents and relatives, babies torn apart, terror, trauma, blindness, horror and poverty. There was also guilt and uncertainty—why am I the only survivor of the family? Why did “they” kill my little brother, my mother, our sheep even? What should I do now? What do I have to live for, since cluster munitions have killed my family and neighbours?

Beyond suffering, there was a growing sense that there was a real possibility for cluster munition victims gradually to shape the upcoming international agreement on cluster munitions and to develop a new norm on victim assistance. One of the very first—and maybe the strongest—interventions of the Ban Advocates was when Sladjan Vučković told participants at the Belgrade Conference of States Affected by Cluster Munitions about his experience clearing cluster submunitions just after the 1999 NATO bombing (and just before his accident):

In mid-April I was clearing an area near Kursumlija. The road and 50 metres on both sides of it were covered with cluster bombs. There wasn't a military target in the vicinity. I don't know why it was bombed, or at least I didn't know while I was travelling towards the spot. Right there, in front of a bridge, I saw a blue car. When I was about 100 metres away, I saw that all the doors were opened. The whole car was riddled by shrapnel from cluster bombs. I had to check the car and clear it of remaining cluster bombs. On the rear seat, full of blood, there was a kid's bag full of toys, also riddled with bombs. I don't know if they were dolls or small cars, it's not important, but they belonged to some children. Under the seat, there was a milk bottle with just a little milk left in it, also hit by some shrapnel. The bodies of the killed family, who had been fleeing the war, had already been removed.³

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The atmosphere in the room changed radically as Sladjan spoke. According to the words of a delegate attending the meeting, “I can remember it vividly. We couldn’t get too emotional, we couldn’t just burst out crying. But most people felt like crying as the story was so terrible and told in such a factual manner. Luckily it was followed by another Ban Advocate talking about the practicalities of victim assistance so we were able to recompose ourselves. These moments had real impact on diplomats who after all are only human. It also increased our motivation to get the Convention.”⁴

The Ban Advocates started formulating what they expected from the treaty before the formal treaty negotiations in Dublin—a complete ban on cluster munitions, nothing less: “Who would dare to try to explain to us what ‘safe’ cluster munitions are? My personal experience in clearing areas contaminated by cluster munitions tells me that there are no, and can never be any, ‘safe’ cluster munitions, weapons that will recognize and make a distinction between which persons to kill, maim or spare. We cannot make a distinction between different types or models or production dates of cluster munitions. All, literally all cluster munitions are killers, and that is their definition.”⁵ The Ban Advocates challenged states that were trying to weaken the treaty:

Cluster munitions destroyed my dreams. People laugh at me and have a negative attitude toward me. They see me as a beggar. They pity me. Do you still want to talk to me about ‘transition periods’ or ‘interoperability’? Do you still want to talk to me about ‘exceptions’? Please, stay focused on what is really important. I ask you to work for the strongest possible victim assistance provisions and to make sure that those provisions are urgently implemented. I expect you to sign the Wellington Declaration, and I expect to see you all in Dublin in May. I challenge you to be creative and imaginative, to offer to future generations a better and safer world. I challenge you to go home and persuade the states that are not involved yet in this process to join us! In 10 years I will be 26 years old. In 10 years, I want to look back at the Cluster Munitions Treaty, and I want to be proud of you and the work you are going to do this week.⁶

But the Ban Advocates were not allowed to speak during the formal treaty negotiations on the prohibition. They therefore refocused their efforts on lobbying individual states. Testimonies from several diplomats and negotiators indicate that lobbying by the Ban Advocates has been critical to changing national policy.⁷ During the Dublin negotiations the Ban Advocates team concentrated a large part of its time and efforts on meeting with countries that had reservations about a complete ban on cluster munitions. The team rapidly realized that these regular meetings with delegations were having an impact, as the positions and attitudes of the delegations were evolving on a daily basis. According to one respondent quoted in the external evaluation of the Ban Advocates initiative: “The [Ban Advocates] got us away from victims as numbers which don’t mean much on a human level. It was much more powerful that the [Ban Advocates] were present in the form of living people and all that that means.” One of the key negotiators from a country that had strongly opposed a comprehensive ban

on cluster munitions even wrote a letter to the Ban Advocates on the final day of the Dublin Conference, saying:

During the 1999 Kosovo Campaign ... I was unaware of the terrible post conflict effects of cluster munitions ... I hope that the draft convention that we will adopt today and the contribution I have been able to make to achieving this historic goal to ban these arms that cause unacceptable harm will serve to redress the balance; so that in future civilians will not have to suffer the losses and injuries that you and your families have had to endure. ... I have been inspired by your fortitude and good humour in the face of adversity and wish you all the best for the future.⁸

One of the main lessons of the initiative is that “when people who are directly affected by an issue engage on a personal, emotional and human level with diplomats it can make a powerful difference to the way officials and diplomats understand and view an issue. It can also contribute, alongside other factors, to influencing government positions.”⁹

From agreement to implementation

After the adoption of the Convention on Cluster Munitions (CCM) in Dublin on 30 May 2008, the Ban Advocates expressed considerable joy and hope: “This process can help our lives. There is still a lot of work to do, and I will be really happy to return to Afghanistan with this strong treaty in mind, not only for myself, but for the thousands of victims in my country.”¹⁰ Six months later the same Ban Advocate said, “I am proud that our efforts and advocacy have led to this great convention that was adopted in Dublin this May. At that moment I felt as if I found my missing legs again. ... But it will stay just a piece of paper if the states do not sign, ratify and implement the Convention.”¹¹ Before leaving Dublin, several Ban Advocates asked what was going to happen next—what would be their role now that a treaty had been agreed? Together, we developed a plan to promote treaty implementation and universalization through national and international advocacy activities.

At the treaty signing conference in Oslo in December 2008, the Ban Advocates thanked all participants in the process: “It is an honor for us to be here before you today. We are proud of this treaty and particularly of the victim assistance provisions. You all have made a difficult decision, but it is the right decision. On behalf of all survivors, we stand here to thank you, to thank each and all of you, who have made this treaty a reality.”¹² They received a standing ovation from delegates.

While the signature of the Convention on Cluster Munitions by 94 states was a tremendous victory, it was also clear that it marked the beginning of a long road to treaty implementation. Based on the experience of the Mine Ban Treaty, years of work will be needed to ensure that the treaty actually makes a difference on the ground. The Oslo statement by the Ban

Advocates continued with a call for implementation of the victim assistance provisions, Article 5 of the Convention:

We believe Article 5 will make a real change in our lives. The question is no longer how assistance will be provided, but how quickly this assistance will be put in place. Please take urgent action now! Our Convention should not remain a piece of paper. Today I am 17 years old. I do not want to wait years until I am an old man to receive assistance in my community or to be able to get a job. People who are injured by cluster bombs should be able to receive emergency assistance and not be left to die in a hospital like I was until my father saved me. To do this we need countries to develop victim assistance national plans and budgets, including time frames; to designate a [victim assistance] focal point; to start collecting data and take steps to mobilize resources. We ask you to keep your promise. We, the Ban Advocates, are ready to work with you from tomorrow.¹³

The victim assistance provisions of the Convention are remarkably strong and clear. This is no coincidence: it results from concerted thinking and drafting by a series of actors, including affected and donor states, researchers, legal experts, practitioners, as well as the Ban Advocates.¹⁴ The strength of these provisions is due to four key elements, which will be essential to implementation and monitoring when the Convention enters into force.

First, victim assistance is a legal obligation under the Convention on Cluster Munitions: “Each State Party with respect to cluster munition victims in areas under its jurisdiction or control *shall* ... adequately provide age- and gender-sensitive assistance.” [emphasis added]. Second, victim assistance is defined, and includes “age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as ... social and economic inclusion.” In addition, states parties must “make every effort to collect reliable relevant data with respect to cluster munition victims.” This responds directly to a request from the Ban Advocates in September 2007.¹⁵

Third, Article 5(2) includes a series of concrete, specific and measurable steps that states parties must follow. Each state party shall: assess the needs of cluster munition victims; develop, implement and enforce any necessary national laws and policies; develop a national plan and budget, including time frames to carry out these activities; take steps to mobilize national and international resources; closely consult with and actively involve cluster munition victims and their representative organizations; and designate a focal point within the government for coordination of matters relating to the implementation of Article 5. This very important paragraph of the CCM, probably the most important for victims, directly echoes the Ban Advocates’ recommendations voiced during the Wellington Conference of February 2008:

A few practical steps to improve victim assistance implementation would be: establish or use an existing victim assistance implementation framework;

nominate a focal point with responsibility for the implementation framework; develop and implement a national plan of action with clear objectives and timelines, as part of the framework; incorporate national and international laws as well as public policies into victim assistance planning and implementation. Last but not least: guarantee the inclusion of survivors, their families and communities in all aspects of victim assistance planning and implementation. Furthermore, and this is an especially important point, clear reference should be made to the full participation of survivors and persons with disabilities in decision-making, monitoring and implementation of the future Treaty... . States Parties should be obliged to report on their victim assistance plans and on their progress in implementing those plans, using a standardised format. These reports should be accessible to civil society, especially to survivors. Indeed, it is through these reports that civil society and survivors will be able to monitor the effective implementation of the Treaty. ... The request [for assistance] should clearly indicate the assessment of the needs of victims, circumstances impeding the ability of the State Party to assist the victims, the nature of the proposed programmes, measurable objectives, a clear timeline for implementation, and any other information relevant to the request for assistance.¹⁶

Fourth, Article 2 of the Convention defines cluster munition victims as “all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities.” This broad definition echoes a statement by a Ban Advocate and wife of a clearance expert severely injured by a cluster submunition: “I often ask myself the question, and now I am asking you, too: who is the cluster bomb victim? Is it just the one innocent person, the victim him or herself, who is certainly suffering the most, or are we, the ones close to that person, also suffering too? The actual number of cluster munitions victims is much larger than what statistics show. Whole families, whole communities are affected by them.”¹⁷

Victim assistance implementation will require the involvement and resources of government departments that do not usually take part in the implementation of disarmament treaties. Victim assistance implementation will also require sustained political will from affected and donor countries, as well as sustained action by victim assistance operators. There are a number of factors though that should help with the implementation of the victim assistance provisions: the limited number of countries currently affected by cluster munitions,¹⁸ the recent entry into force of the Convention on the Rights of Persons with Disabilities, the experience of the Mine Ban Treaty (although a lot of work remains in the field of victim assistance under the Mine Ban Treaty) and, of course, the commitment and dedication of the Ban Advocates and of civil society in general.

In the coming years, the Ban Advocates will concentrate their efforts on the universalization and the implementation of the Convention on Cluster Munitions, with a particular focus on victim assistance. They will work both nationally and internationally, in close cooperation with civil society partners from the Cluster Munition Coalition and the International Campaign to Ban Landmines, as well as other key partners active in the Oslo process (governments and international agencies). Several Ban Advocates have already expressed interest in civil society-based monitoring of the treaty and may become involved in research for Landmine Monitor.¹⁹

National advocacy

National advocacy efforts in particular will be essential. To help these national efforts, the Ban Advocates took part in a 10-day residential capacity-building programme covering project management, influencing skills, computer skills, writing skills and event management.²⁰ The programme also included an introduction to psychotraumatology and individual coaching sessions, as well as feedback from an external evaluation of the Ban Advocates initiative. One of the objectives of the training course was to enable Ban Advocates to manage small grants. The Ban Advocates' language skills will also receive attention through the small grant system, provided by Handicap International, Belgium. In the Lao People's Democratic Republic our field colleagues are currently gathering a Laotian Ban Advocates group, which should be active by the First Meeting of States Parties.

The Ban Advocates' national activities will be based on a thorough and ongoing analysis of the situation and challenges at the national level, undertaken by the advocates in cooperation with civil society partners. Several factors blocking or driving signature, ratification or implementation of the Convention have been identified already. They include: level of political will, financial and/or national security concerns, level of technical expertise, international pressures, lobbying from the arms industry, level of awareness, and national (in)stability.

Each national context is different and will therefore require a specific approach, but national activities could include commemorations of cluster munition attacks, publication of reports, briefing parliamentarians and government officials, media events, speaking tours, supranational initiatives across regions, targeted lobbying to promote victim assistance implementation, as well as letter-writing campaigns. To ensure the success of these activities, the Ban Advocates will occasionally visit each other to provide mutual support and exchange expertise as well as lessons learned.

Ban Advocates' efforts to universalize the Convention will primarily cover non-signatory countries where a Ban Advocate is based. Such efforts can have impressive results: on 3 December 2008, intense lobbying by a Ban Advocate led to Afghanistan signing the treaty.²¹ A Ban Advocate from the United States also showed the way on the eve of the US election when she said: "It is time to stop being afraid to stand up and do what is right. How can we live with ourselves if we don't take action when we know something is so very wrong? We cannot

give a child back their arms, their legs or their lives. We cannot give a parent back their child but we can prevent any more of this tragedy from happening and care for those who have been impacted."²² Some encouraging signals from the new United States' administration will receive particular attention. One of the Ban Advocates who took part in a speaking tour of the United States' Midwest in late 2008 was hopeful after the United States announced its ban on cluster munition exports in March 2009:

Honestly I felt very happy. How it will be exciting and historic in the world when the USA joins the Oslo process and signs, ratifies and implements the Convention on Cluster Munitions—the CCM. I am sure that when the USA joins the Oslo process those states that are not yet part of the Oslo process will also join it. I am calling on all people in the United States of America, especially the US Congress and the US Senate to support the President Barack Obama and encourage him to sign the CCM and as well other global treaties and stop the suffering of millions affected people and communities in the world, it is really a gold chance and please support your president.²³

Other non-signatory countries²⁴ that will receive particular attention from the Ban Advocates include Ethiopia, Serbia, Tajikistan and Viet Nam. In Tajikistan, a combination of workshops with affected communities, briefings, meetings with embassies abroad and support from civil society colleagues from the region started generating results—a meeting with the Ministry of Foreign Affairs—in July 2009.²⁵ But more efforts will be needed. Growing support for the Convention is visible in Viet Nam, for example, but it still has not signed. As a Vietnamese Ban Advocate stated: "We, cluster bomb survivors, do hope that Viet Nam will soon consider participating in the convention so that Viet Nam can receive support from the international community to clear explosive remnants of war and help survivors. This is an opportunity to clean up contaminated land for our younger generations who will no longer endure the physical and spiritual sufferings we have been trying to overcome."²⁶

International activity

At the international level, the Ban Advocates will remain active within meetings of the Oslo process, in order both to promote and monitor the universalization and implementation of the Convention, as well as to collect and share information. Experience from the Mine Ban Treaty indicates that international advocacy and networking are essential to support national efforts and facilitate exchanges of information.

Despite being neither diplomats nor legal experts, the Ban Advocates have a particular interest in ensuring treaty progress, and can make detailed, technical contributions to aid implementation. For example, Mina Zunac made a very practical statement on stockpile destruction to the Berlin Conference on the Destruction of Cluster Munitions, which she had prepared in cooperation with the International Campaign to Ban Landmines:

The first point we want to make is that we want you to destroy your stockpiles now and not on the eve of the 8-year deadline. Good, early national planning is necessary to do that, including gathering the numbers, types and location of all cluster munitions stocks, how much it will cost, and what technical and financial assistance may be needed. ... States should have a plan in place within one year of entry into force and begin destruction within two years or less. Planning should not take into account the possibility of an extension. ... States should also let others know about any technical, financial or other challenges they are facing. Finally, since there is so little known now about stockpiles, we want to encourage states to make information on stocks known to-date, even before the treaty comes into force in order to build confidence, help understand what needs to be destroyed and make assistance in the future easier. ... In everyday language ... if you have a problem ... don't be quiet or shy, say it and you'll get help. If you see somebody else has a problem, help them ... because cluster munitions are really barbaric weapons and need to be destroyed. Now!²⁷

While more of these detailed statements on treaty implementation will be needed, the Ban Advocates will also keep stressing the practical, humanitarian nature of the Convention on Cluster Munitions in general. Branimir Kapetanović, one of the most visible Ban Advocates—and Spokesperson for the Cluster Munition Coalition—expressed this in Berlin in June 2009, when he said that “by the time of the First Meeting of States Parties next year in Laos, thousands and thousands of cluster bombs will already have been destroyed. By starting the practical implementation of this agreement already before entry into force states confirm that only agreements which are practically realized, have any meaning, and those that remain only words on paper are destined to be forgotten. This will not be the fate of the present agreement. It will endure as a landmark to both present and future governments, preventing them from using cluster bombs now or ever.”²⁸

The unique energy of the Oslo process resulted from a formidable alliance between a large number of actors driven and united by a common desire to address a humanitarian problem. The Ban Advocates are committed to their role as the voice of affected communities in this process: “... this treaty has great meaning for the whole world because we do not want to see people suffering and we don't want to see any more tears in the eyes of mothers and fathers. We need states to ratify and implement the Convention on Cluster Munitions urgently so no one has to be a victim of this horrible weapon. Once cluster munitions are banned, the future of humanity will be better.”²⁹

“I expect, and as a survivor I request, that States Parties accept their obligation to provide assistance to the victims, including affected families and communities. I want to see full responsibility taken for victims by affected states and at the same time by the international community, especially the countries that use cluster munitions. ... The new text is very strong because [cluster munition] survivors have been involved in writing it.”³⁰ Expectations of the

Convention were strong even before it was adopted: in the coming years, the Ban Advocates and civil society in general will be closely watching how effectively states implement their obligations under the CCM.

Eventually, the true measure of the success of the Convention on Cluster Munitions should be the satisfaction of affected individuals, families and communities. By accepting to involve such individuals in a diplomatic process, states have understood who their clients are. By continuing to listen to the voices of affected communities,³¹ states and the international community as a whole have a unique opportunity to satisfy two worlds that do not have much in common but that share a goal: banning cluster munitions forever.

Notes

1. Dejan Dikic, Ban Advocate, intervention during the Ban Advocates press conference, Dublin, 26 May 2008. All the Ban Advocates' statements cited in this article can be found at <www.banadvocates.org>.
2. Handicap International, Belgium founded the Ban Advocates initiative as a pilot project in September 2007, thanks to the support of Norway, Germany and the Cluster Munition Coalition. The initiative is now supported by Australia, Ireland, the Netherlands, Norway and the Diana, Princess of Wales Memorial Fund. For more information on the first meeting of the Ban Advocates, see Stan Brabant, "What Do Survivors Think of Cluster Munitions?", 22 October 2007, at <disarmamentinsight.blogspot.com/2007/10/what-do-survivors-think-of-cluster.html>.
3. Sladjan Vučković, Ban Advocate, Statement to the Belgrade Conference of States Affected by Cluster Munitions, 3 October 2007.
4. Ruth Mayne, 2009, *External Evaluation of the Ban Advocates (BAs) Initiative*, July.
5. Sladjan Vučković, Ban Advocate, Statement to the Wellington Conference on Cluster Munitions, 19 February 2008.
6. Soraj Ghulam Habib, Ban Advocate, Statement at the opening session of the Wellington Conference on Cluster Munitions, 18 February 2008.
7. Ruth Mayne, op. cit.
8. John S. Duncan, United Kingdom Ambassador for Multilateral Arms Control and Disarmament, Open letter to the victims of cluster munitions present at the Dublin intergovernmental meeting, 30 May 2008.
9. Ruth Mayne, op. cit.
10. Soraj Ghulam Habib, Ban Advocate, cited in "The Ban Advocates' Thoughts on the Treaty (2/2)", blog by Stephanie Castanie, made at Dublin, 30 May 2008.
11. Soraj Ghulam Habib, Ban Advocate, Geneva, 28 November 2008.
12. Berihu Mesele, Ban Advocate, Statement at Oslo Signing Conference, 4 December 2008.
13. Soraj Ghulam Habib, Ban Advocate, Statement at Oslo Signing Conference, 4 December 2008.
14. The final wording of Article 5(2) of the Convention is largely based on a proposal tabled by 14 states: Proposal by Argentina, Ecuador, Guatemala, Uruguay, Dominican Republic, Mexico, Nicaragua, Panama, Peru, Costa Rica, Chile, Honduras, Zambia and Guinea for the Amendment of Article 5, document CCM/70, 21 May 2008, available at <www.clustermunitionsdublin.ie/pdf/CCM70.pdf>. For more information on the process that led to the adoption of the victim assistance provisions, see *Ban Newsletter*, no. 23, September 2008, p. 4, at <blog.banadvocates.org/public/Ban_Newsletter_23_EN.pdf>.
15. See Dejan Dikic, Ban Advocate, Statement to the Belgrade Conference of States Affected by Cluster Munitions, 3 October 2007.

16. Dejan Dikic, Ban Advocate, Statement to the Wellington Conference on Cluster Munitions, 20 February 2008.
17. Dusica Vučković, Ban Advocate, Statement during a victim assistance session of the Wellington Conference on Cluster Munitions, 20 February 2008.
18. While cluster munitions have been used in about 30 countries, we recorded cluster submunitions casualties in 24 countries and areas. For more information, see Handicap International, 2007, *Circle of Impact: The Fatal Footprint of Cluster Munitions on People and Communities*, Brussels, May, pp. 148–149.
19. Landmine Monitor recently extended its scope to include monitoring of the Convention on Cluster Munitions.
20. The training was mainly provided by trainers from The Centre for Strategy and Communication (London) and supported by The Diana, Princess of Wales Memorial Fund.
21. See "Afghanistan Signs Cluster Bomb Treaty", *The New York Times*, 3 December 2008.
22. Lynn Bradach, Ban Advocate, Statement to the meeting of the Fifth Session 2008 of the Group of Governmental Experts, Convention on Certain Conventional Weapons, 3 November 2008.
23. Soraj Ghulam Habib, Ban Advocate, "Soraj's Reaction to the US Cluster Bomb Export Ban", Ban Advocates' blog, 31 March 2009.
24. As of 1 March 2010.
25. Umarbek Pulodov's report on the meeting with the Tajikistan Ministry of Foreign Affairs is available at <blog.banadvocates.org/index.php?post/2009/07/15/Umarbeks-report-on-an-important-meeting-with-the-Foreign-Ministry-of-Tajikistan>.
26. Pham Quy Thi, Ban Advocate, Statement to the National Workshop on Victim Assistance, Hanoi, 7 July 2009.
27. Mina Zunac, Ban Advocate, Statement to the Berlin Conference on the Destruction of Cluster Munitions, 25 June 2009.
28. Branislav Kapetanović, Cluster Munition Coalition Spokesperson and Ban Advocate, Statement to the Berlin Conference on the Destruction of Cluster Munitions, 26 June 2009.
29. Raed El Rahman Mokaied, Ban Advocate, Speech at the Ecumenical Service, Oslo, 2 December 2008.
30. Dejan Dikic, Ban Advocate, Intervention during the Ban Advocates press conference, Dublin, 26 May 2008.
31. See Handicap International, 2009, *Voices from the Ground: Landmine and Explosive Remnants of War Survivors Speak out on Victim Assistance*, Brussels, September.