



**United Nations**  
Office on Genocide Prevention  
and the Responsibility to Protect

# **Guidance Note on Persons with Disabilities**

## **and Prevention of Genocide, War Crimes and Crimes Against Humanity**

**October 2024**

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# Foreword

International and national laws recognize worldwide that all human beings have inherent dignity and worth and are entitled to equal and inalienable rights and freedoms, without distinction of any kind. However, ableism “a value system based on certain standards of appearance, functioning and behaviour, which are assumed to be necessary for living a fulfilling life” [1] makes people with disabilities “less worth” than other people. As a result, people with disabilities are often discriminated against and judged as not being able to live fulfilling lives and a role in society.

The 1948 Convention on the Prevention and the Punishment of the Crime of Genocide recognises four protected groups, namely racial, national, ethnic, and religious. Within these communities, people with disabilities may be at enhanced risk of genocide and other serious international crimes, as war crimes and crimes against humanity. Indeed, they may be targeted not only because they belong to one of the protected groups but also because they have a disability.

The violation of the rights of persons with disabilities is historical and contemporary. Ensuring the effective protection of the rights of persons with disabilities on an equal basis with others is everybody’s responsibility and includes ensuring that they are subject to equivalent levels of protection as everyone else. This includes the protection from genocide, war crimes and crimes against humanity. When considering genocide and related crimes, persons with disabilities are in general at higher risk of becoming victims as they face greater difficulties, for example, to access assistive devices, to flee attacks, or to have access to humanitarian assistance. They are often exposed to the risk of abandonment and experience stigma, abuse, and psychological harm. Article 11 of the *Convention on the Rights of Persons with Disabilities* demands that States Parties take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict and humanitarian emergencies. This includes the risk of genocide and related crimes.

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[1] Special Rapporteur on the Rights of Persons with Disabilities, *Lives worth living: Fighting ableism and the devaluation of the lives of persons with disabilities*, UN Doc. A/HRC/43/41, 17 Dec. 2019.

This *Guidance Note on Persons with Disabilities and Prevention of Genocide, War Crimes and Crimes Against Humanity* aims to contribute to the protection of persons with disabilities in respect to the risk of these international crimes and in line with the *Convention on the Rights of Persons with Disabilities*. In this regard, the *Guidance Note* sheds light on how persons with disabilities are affected by the risk of genocide, war crimes and crimes against humanity, as well as hate speech as both are indicators and triggering factors for such crimes. Guidance and recommendations aimed at ensuring the consideration of their needs for effective protection when considering preventive actions is therefore presented.

Through this *Guidance Note*, the reader is guided on the use of the *Framework of Analysis for Atrocity Crimes*[2], developed by the United Nations Office of the Special Adviser on the Prevention of Genocide, through the lens of the *Convention on the Rights of Persons with Disabilities*, upholding the principles set forth in the *Convention on the Prevention and Punishment of the Crime of Genocide*, the *Geneva Convention* and the *Rome Statute of the International Criminal Court*.

This publication is also in line with the *United Nations Disability Inclusion Strategy* which places the concerns and experiences of persons with disabilities as an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all spheres. This is so that persons with disabilities benefit equally by any action taken by the United Nations, including those aimed at advancing the prevention of genocide, war crimes and crimes against humanity, and reaffirms my Office's commitment to leaving no one behind in this critical endeavor.



**Alice Wairimu Nderitu**

Under-Secretary-General and Special Adviser  
on the Prevention of Genocide

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[2] Available at [https://www.un.org/en/genocideprevention/documents/publications-and-resources/Genocide\\_Framework%20of%20Analysis-English.pdf](https://www.un.org/en/genocideprevention/documents/publications-and-resources/Genocide_Framework%20of%20Analysis-English.pdf)

# Introduction

The purpose of the Guidance Note is to shed light on the interrelationship between disability and the prevention of genocide, war crimes and crimes against humanity by highlighting how persons with disabilities are affected in situations of risk of these crimes. The Guidance Note also addresses how hate speech and incitement to violence target, impact and violate the human rights of persons with disabilities and, further, how intersecting forms of hate speech, including on the basis of race, ethnicity, nationality or religion[3] impact on persons with disabilities.

Disability is diverse and cross-cutting. The Convention on the Rights of Persons with Disabilities (CRPD) does not define disability but does express an understanding of disability consistent with a social model, rights-based perspective. According to the CRPD: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (Article 1(2)).

A significant barrier experienced by persons with disabilities refers to hate speech. Hate speech, as defined by the United Nations Plan of Action on Hate Speech is “any kind of communication in speech, writing or behaviour that uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.”[4] History demonstrates that hate speech can be a precursor and a trigger to the commission of genocide, war crimes, and crimes against humanity.

Genocide, as per Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) refers to the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group: a) killing members of the group; b) causing serious bodily or mental harm to members of the group; c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d) imposing measures intended to prevent births within the group; e) forcibly transferring children of the group to another group.

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[3] Article II of the Convention on the Prevention and Punishment of the Crime of Genocide.

[4] United Nations Strategy and Plan of Action on Hate Speech (2019).

The 1949 Geneva Conventions and their 1977 Additional Protocols as well as the Rome Statute of the International Criminal Court define war crimes and crimes against humanity. War crimes refer to acts committed against combatants or non-combatants. Victims in international armed conflicts include 1) the wounded and sick in armed forces in the field; 2) the wounded, sick and shipwrecked members of armed forces at sea; 3) prisoners of war; and 4) civilian persons. In non-international armed conflicts, victims of war crime include persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed out of combat due to sickness, wounds, detention or any other cause. Under the 1977 Additional Protocol II, victims of war crimes in both types of conflict can also include medical and religious personnel, humanitarian workers and civil defence staff. War crimes can be committed through, for example, wilful killing; torture or inhuman treatment, including biological experiments; causing great suffering or serious injury to body or health; extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly; compelling a prisoner of war or protected people to serve in the forces of a hostile Power; wilfully depriving protected people of the rights of fair and regular trial; unlawful deportation or transfer or unlawful confinement; taking of hostages.

Crimes against humanity encompass acts that are part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Such acts, as per Article 7 of the Rome Statute of the International Criminal Court include murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment; torture; sexual violence; persecution; enforced disappearance; apartheid; other inhumane acts that cause great suffering or serious injury to body or to mental or physical health.

This Guidance Note aims to support the United Nations (UN), Member States, regional and multilateral organisations, civil society organisations and tech and social media companies in reflecting a disability dimension in their work, particularly related to the prevention of genocide, war crimes and crimes against humanity. It considers the connections between these crimes, hate speech and persons with disabilities.

# Understanding Disability-Related Violations of International Human Rights



Persons with disabilities have been subjected to serious violations of international human rights and humanitarian law that is historical and contemporary in its occurrence.[5] Genocide, war crimes and crimes against humanity perpetrated against persons with disabilities have too often gone unnoticed and unaddressed.[6] For individuals with disabilities this lurid history includes mass murder and targeted killing; forced sterilization; involuntary medical and scientific experimentation; involuntary use of persons with disabilities as human shields and suicide bombers; sexual and gender-based violence; human trafficking; and forced disappearance.[7]

The precursor to such violence— including disability-related hate speech— is prevalent.[8] It is also underreported and little understood.[9] Fear, stigma and ignorance regarding the lives of persons with disabilities propels the false notion that persons with disabilities cannot enjoy a fulfilling life. Disability-related hate speech draws on perceived differences and divisions and can be vicious and dangerous. Disablist hate speech frames the subject in pejorative and dehumanising terms, as different, deviant and deserving maltreatment. It draws on a long history of disability devaluation associated with eugenics that included mass murder, violent castration, sterilisation, institutionalisation, and segregation of thousands of persons with disabilities across the globe.[10]



[5] William I. Pons, Janet E. Lord, and Michael Ashley Stein, "Disability, Human Rights Violations, and Crimes Against Humanity" *American Journal of International Law* (2021); William I. Pons, Janet E. Lord, and Michael Ashley Stein, "*Addressing the accountability void: War crimes against persons with disabilities*" *International Review of the Red Cross* (2022); Janet E. Lord, "Accounting for disability in international humanitarian law" *International Review of the Red Cross* (2022).

[6] Pons, Lord & Stein (2021), above note 2.

[7] *Id.*

[8] A. Roulstone, & H. Mason-Bish, H. (Eds.). *Disability, hate crime and violence*. London: Routledge (2013).

[9] EU Fundamental Rights Agency, *Equal protection for all victims of hate crime: The case of people with disabilities* (2015); European Disability Forum. "EDF Position and Recommendation on Hate Speech and Hate Crime," (April 13, 2021); Scottish Disability Rights Commission (2004), *Hate crime against disabled people in Scotland: a survey report*.; The Australian Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (30 October 2020). *Interim Report*; Equality and Human Rights Commission (UK). *Hidden in plain sight: inquiry into disability-related harassment*, p. 59. (2011).

[10] M.P. Mostert, *Useless eaters: Disability as genocidal marker in Nazi Germany*. 36(3) *The Journal of Special Education* 157–170 (2002); David Pfeiffer, *Eugenics and Disability Discrimination*. *Disability & Society*, Vol. 9, No. 4, pp. 481-499 (1994).

Contemporary disability hate speech continues to be informed by the rhetoric of eugenics, for instance, the notion that persons with disabilities are useless, a burden on society, and that their lives are not worth living. These themes were reflected in the hate speech invoked by the perpetrator of the mass killings of persons with disabilities at a care home in Sagamihara, Japan, in 2016 where the murderer killed 10 women and 9 men and injured 26 more.[11] Following his arrest he told police that “all the handicapped should disappear” and had proposed in an earlier letter sent to the lower house of the Japanese legislature euthanasia for persons with multiple disabilities.[12] As this case demonstrates, hate speech and hate crime are interconnected.



Very often disablist hate speech capitalises on the vulnerability of specific sub-groups of persons with disabilities. Hate speech of any kind is a threat to advancing peace, security and the respect and enjoyment of international human rights and fundamental freedoms.

Disability hate speech harms people with disabilities by advancing negative stereotypes of individuals or groups based on their identity, either explicitly or implicitly.[13] While under-examined, disability hate speech has been known to stigmatise, marginalise, and enable discrimination on the basis of disability. Moreover, disability hate speech has incited hate crimes and large-scale violence against persons with disabilities, as the example of Nazi Germany so clearly illustrates[14] (See Box 1). War crimes perpetrated against and specifically targeting persons with disabilities have been largely met with impunity, despite such acts being included within the international human rights and humanitarian law obligation to prevent, investigate, and prosecute serious violations of human rights and humanitarian law without discrimination. Addressing this gap is crucially important from an accountability perspective and is required under international human rights law.[15]



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[11] M. Peckitt, *Disability hate crime & the Sagamihara victims*. (August 2016); Lord, Janet E. & William Pons. *Commemorating the ADA and Mourning the Mass Murder of Persons with Disabilities* (2023).

[12] Motoko Rich, *Japan Knife Attack Kills 19 at Center for Disabled*, New York Times, July 25, 2015.

[13] The United Nations understands hate speech as “any kind of communication in speech writing of behaviour that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words based on religion, ethnicity, nationality race, colour, descent, gender or other identity factor”, <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>

[14] M.P. Mostert, *Useless eaters: Disability as genocidal marker in Nazi Germany*. 36 (3) *The Journal of Special Education*, 157–170 (2002).

[15] Committee on Economic, Social and Cultural Rights. *CESCR General Comment No. 5: Persons with Disabilities*. OHCHR. UN Document E/1995/22, para. 31 (1994).



## Box 1: Persecution of Persons with Disabilities in Nazi Germany

In 1933, the German Ministry of Justice proposed legislation authorising physicians to grant “mercy deaths” in order to “end the tortures of incurable patients, upon request, in the interests of true humanity” and while legislation was never formally enacted, its objectives – not “euthanasia” but the mass killing of people with mental and physical disabilities – were implemented in the form of a program known by its code name, “Operation T-4,” a reference to the address of its headquarters in Berlin: Tiergarten Straße number 4. Under the T-4 program, institutions were mandated by the Interior Ministry to collect data on forms about the status of health and capacity for work of all patients. Completed forms were sent to expert assessors, frequently psychiatrists, who served in review commissions. Forms were marked “+” in red for those designated for death, “-” in blue for those designated to live, and “?” for cases requiring additional review.

The T-4 program served as a testing ground for the Nazi killing machine. In a test run in January 1940, patients diagnosed with mental disabilities were gassed to death in an experiment intended to show the effectiveness of poison gas over other methods of killing. Nazi techniques of fitting killing chambers with fake showerheads and bathroom tiling were developed under the T-4 program.

T-4 was officially halted in August 1941, after some 70,000 disabled people were killed. The halt related only to official operation of killing centres and to the use of poison gas. The mass killing of people with disabilities continued through the end of World War II, in institutions as well as concentration camps.

In October 1945, the United States Military Commission tried seven accused who were staff members at Hadamar for violations of international law for their role in the killing of over four hundred mentally disabled Polish and Soviet nationals. All accused in the Hadamar case were found guilty and three were sentenced to death and executed, one to life imprisonment and three for lengthy prison terms.

*Source:* Janet E. Lord, “Disability” in *Encyclopedia of Genocide and Crimes against Humanity* (Dinah L. Shelton, ed., Macmillan Reference USA, 2004).

The risk of atrocity crimes is heightened during armed conflict. One year following the adoption of the Convention on the Rights of Persons with Disabilities (CRPD), in 2007, the UN Secretary General noted the disproportionate impact of armed conflict on persons with disabilities and the lack of attention to the specific risks that conflicts posed to individuals with disabilities.[16] More than a decade later, in 2019, the Secretary-General’s annual report on the protection of civilians in armed conflict called for the creation of a comprehensive

[16] *Report of the Secretary-General on the Protection of Civilians in Armed Conflict*, UN Doc. S/2007/643, 28 October 2007, paras. 27-28; UNICEF (2018). *Children with Disabilities in Situations of Armed Conflict*.

approach to effectively protect and provide assistance to persons with disabilities impacted by conflict.[17] This in turn led to the unanimous adoption by the UN Security Council of Resolution 2475 in June 2019. Resolution 2475 affirms the specific obligations and protections owed to persons with disabilities under Article 11 of the CRPD[18] during armed conflict.

# Combatting Ableism

Discrimination and marginalisation of persons with disabilities in society is a structural problem, underpinned by ableism, a form of discrimination based on disability. According to the UN Special Rapporteur on the rights of persons with disabilities, “[a]bleism is a value system based on certain standards of appearance, functioning and behaviour, which are assumed to be necessary for living a fulfilling life. Many persons with disabilities do not meet those standards, so many people assume that they have a very low quality of life, no future to look forward to, and that they cannot live happy lives.”[19] Ableism perpetuates harmful myths and stereotypes about disability, including false claims about the cause of disability (e.g., curse, witchcraft, evil spirit, sins of parent(s)). Claims about contagion and cure also abound to perpetuate violence (e.g., rape of girl with disability is protective against HIV or removing body parts from persons with albinism to provide potions or charms for good luck or wealth).[20]

Persons with disabilities experience stigma, prejudice, hostility and hate speech differently in different cultural contexts. In some cultural contexts, persons with disabilities who cannot work are oppressed, isolated, and stigmatised. In other instances, persons with disabilities who are able to work are presumed to be incapable. The diversity of disability means that ableism takes on different forms and may vary according to the prejudices associated with different types of disability. Recognizing that persons with disabilities may identify with other identity characteristics can aggravate or further complicate the experience of disability discrimination.

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[17] *Report of the Secretary-General on the Protection of Civilians in Armed Conflict*, UN Doc. S/2019/373, 7 May 2019, para. 49.; Report of the Special Rapporteur on the Rights of Persons with Disabilities on the Rights of Persons with Disabilities in the Context of Armed Conflict, UN Document A/76/146, paras. 92-94 (19 July 2021).

[18] UNSC Res. 2475, 20 June 2019. According to Article 11 of the Convention on the Rights of Persons with Disabilities, “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

[19] Special Rapporteur on the Rights of Persons with Disabilities, *Lives worth living: Fighting ableism and the devaluation of the lives of persons with disabilities*, UN Doc. A/HRC/43/41, 17 Dec. 2019.

[20] Relebohile Phatoli, Nontembeko Bila and Eleanor Ross, “Being black in a white skin: beliefs and stereotypes around albinism at a South African University”, in *African Journal of Disability*, vol. 4, No.1, (2015); World Health Organisation & Mental Health and Poverty Project, *Mental health and development* (2010) 9 (WHO/MH); Janet E. Lord & Michael Ashley Stein. *Prospects and Practices for CRPD Implementation in Africa*, in 1 *African Y.B. Disability Rights* (2013).

Historically and contemporaneously, understandings of disability have been strongly associated with medical perspectives.[21] Medical model approaches have historically determined social approaches to disability, with an emphasis on “curing” or “fixing” an individual’s impairment to the exclusion of addressing barriers in society. The privileging of prevention of disability and cure over access and inclusion seriously limits opportunities for the participation of persons with disabilities in education, employment, public places and social life. Ableist views have provided the rationale for supremacist ideologies like the eugenics movement of the past century, which resulted in the sterilisation of countless women and girls with disabilities around the world[22], forced abortions, forced insertion of intrauterine devices, and the extermination of more than 300,000 people with disabilities during World War II under the law and policies of Nazi Germany, including the notorious T-4 program (See Box 1). Ableist ideas continue to be reflected in law and policy affecting “normalising” therapies, forced sterilisation, assisted dying and other medical and scientific practices concerning disability.[23]

Combatting ableist ideas and disability stereotypes, prejudice and harmful practices requires awareness-raising and strengthening anti-discrimination measures, but those alone are insufficient. Fostering respect for the rights and dignity of persons with disabilities is required. This means bringing the narratives of persons with disabilities about their own lives to the centre, amplifying the voice of persons with disabilities and advancing understanding of the contributions of persons with disabilities to society.

Failure to uphold the rights of persons with disabilities reduces their resilience and capacity to mitigate risk factors for genocide, war crimes and crimes against humanity. When considering genocide, for example, persons with disabilities in any of the protected groups under the Genocide Convention – national, ethnical, racial or religious groups – face greater challenges to seek protection from intentional acts aimed at their destruction in whole or in part. Persons with disabilities are also in general at higher risks of being victims of war crimes and crimes against humanity as they face greater difficulties, for example, to flee attacks, to have access to humanitarian response, to access assistive devices; to enjoy basic services. They are often exposed to the risk of abandonment and experience stigma, abuse and psychological harm. The difficulties experienced by persons with disabilities are compounded by hate speech that uses ableism to exacerbate pejorative or discriminatory language. The protection and safety of persons with disabilities should be ensured at all times in light of human rights and humanitarian laws.

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[21] Michael Ashley Stein. *Disability Human Rights*. 95 California Law Review 75–121 (2007).

[22] Jaime J. Miranda and Alicia Ely Yamin. *Reproductive health without rights in Peru*. The Lancet, Vol. 363, Issue 9402, pp 68-69 (2004).

[23] Special Rapporteur on the Rights of Persons with Disabilities, *Lives worth living: fighting ableism and the devaluation of the lives of persons with disabilities*, UN Doc. A/HRC/43/41 (17 Dec. 2019); Alexander Dorozynski, *Sterilisation of 14 mentally handicapped women challenged*. *BMJ*, Vol. 321, Issue 721 (2000); World Health Organisation. *Eliminating forced, coercive and otherwise involuntary sterilisation: An interagency statement of OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO* (2014).

# International Legal Protection against Hate Speech, Genocide, War Crimes and Crimes Against Humanity

Persons with disabilities are entitled to protection from hate speech and from genocide, war crimes and crimes against humanity under several provisions in the Convention on the Right of Persons with Disabilities (CRPD).[24] Of specific relevance to hate speech and hate crimes against persons with disabilities are provisions on the right to life (Article 10), the right to be free from torture (Article 15) and the right to be free from exploitation, violence and abuse (Article 16) together with state obligations to prevent all forms of such treatment, both within and outside the home, and to investigate and prosecute those responsible. Discrimination on the basis of disability is prohibited and persons with disabilities must be provided with reasonable accommodations and other accessibility measures to facilitate the enjoyment of all of their rights. These and other CRPD provisions are discussed in more detail below.[25]

General and specific protections also exist under international human rights law, international humanitarian law and international criminal law that accord protection to persons with disabilities in different risk contexts.[26] For instance, protection against genocide is set out in the Convention on the Prevention and Punishment of the Crime of Genocide where “direct and public incitement to genocide” is forbidden (Article 3(c)). The Rome Statute of the International Criminal Court provides for prosecution of individuals for genocide, crimes against humanity and war crimes.

The International Covenant on Civil and Political Rights (ICCPR) includes the right to freedom of expression (Article 19) and follows on with a prohibition of any advocacy of hatred that constitutes incitement to discrimination, hostility or violence (Article 20).[27] Articles 19 and 20 of ICCPR place limitations on restricting freedom of expression – those restrictions can “only be such as are provided by law and are necessary: (a) [f]or respect of the rights or reputations of others;” and “(b) [f]or the protection of national security or of public order, or of public health or morals.”[28] Other important expressions include the International Convention on the Elimination of All Forms of Racial Discrimination (Article 4).[29]

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[24] Lord, Janet E. and Michael Ashley Stein. *CRPD Introductory Note*. United Nations Audiovisual Library (2023); Dimitris Anastasiou, Ilias Bantekas & Michael Ashley Stein, eds. *The UN Convention on the Rights of Persons with Disabilities: A Commentary*. Oxford (2018).

[25] Convention on the Rights of Persons with Disabilities, UN Doc. A/RES/61/106, 24 January 2007 (entered into force 3 May 2008), Art. 11.

[26] CRPD, Art. 11.

[27] UN General Assembly, *International Covenant on Civil and Political Rights*, United Nations, Treaty Series, Vol. 999, p. 171 (16 December 1966).

[28] *Id.* at arts. 19 & 20.

[29] UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195.

Finally, the UN Strategy and Plan of Action on Hate Speech, emphasises that “incitement is a very dangerous form of speech, because it explicitly and deliberately aims at triggering discrimination, hostility and violence, which may also lead to or include terrorism or atrocity crimes.”[30]

The CRPD recognizes the heterogeneity of disability and the intersectional dimension of disability and its interaction with, for instance, gender or age. Intersectional identities play strongly into disability-based hate speech and hate crimes. Thus, persons with disabilities may face multidimensional discrimination based on religion, ethnicity, nationality, race, age, colour, descent, gender or other identity factor. Also included among the constituency of persons with disabilities are persons with albinism who face discrimination and serious threats to life on the basis of disability and colour/appearance[31] (See Box 2).

## **Box 2: Combating Hate Crimes against Persons with Albinism**

- Persons with albinism are a constituency of persons with disabilities. While access to the protection framework is often granted to them on the basis of their visual impairment alone, persons with albinism also face discrimination stemming from their unusual appearance, in particular their colouring.
- The Independent Expert on the enjoyment of human rights by persons with albinism noted in her first report some 500 civil society reports of attacks against persons with albinism across 26 countries in 2016, including physical assault, murder and sexual violence tied to witchcraft beliefs and practices. Women and girls with albinism are victims of multiple discrimination including physical attacks, mutilation, rape, forced expulsion, domestic violence, abandonment and trafficking of body parts.
- Civil society activists believe far more cases go unreported owing to family collusion and the secrecy surrounding witchcraft practices.
- Victims of attacks and their families are left deeply traumatised and are in dire need of assistance in rebuilding their lives and restoring their dignity, including psychosocial assistance.

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[30] United Nations Strategy and Plan of Action on Hate Speech (2019).

[31] Report of the Independent Expert on the enjoyment of human rights by persons with albinism, Ikponwosa Ero, Enjoyment of Human Rights by persons with Albinism, A/71/255 (29 July 2016).

- Albino children have dropped out of school or have been withdrawn by their family to remain under the protection of their parents as the security of children both on the way to school and at school cannot be ensured.
- Measures to be taken include: 1) Implementation of the African Union Plan of Action to End Attacks and Other Human Rights Violations Targeting Persons with Albinism (2021–2031) at the national level; and 2) Strengthening relationships between stakeholders, States, national human rights institutions, civil society organisations, persons with albinism and others in order to tackle hate crimes and harmful practices related to accusations of witchcraft and ritual attacks, particularly within countries where known attacks and ritual killings have been reported.

Sources: Report of the Independent Expert on the enjoyment of human rights by persons with albinism, Ikponwosa Ero, Enjoyment of Human Rights by persons with Albinism, A/71/255, 29 July 2016.

### ***Protection in situations of risk***

The Convention on the Rights of Persons with Disabilities (CRPD) builds on the equal application of all human rights and fundamental freedoms to all people under Article 3 of the ICCPR and the obligation of States under Article 2 to ensure the realisation of these rights in areas within its territory and under its jurisdiction. The CRPD reinforces these important protections.

The CRPD contains an innovative provision—Article 11—addressing the protection needs of persons with disabilities in situations of risk, including armed conflicts, humanitarian emergencies, and natural disasters.[32] Article 11 incorporates international humanitarian law, international human rights law, and other international legal instruments, such as the Genocide Convention, the Geneva Conventions and the Rome Statute of the International Criminal Court, into its frame in order to protect individuals with disabilities including from genocide, war crimes and crimes against humanity. Likewise, it requires the identification, investigation, and prosecution of serious disability-based international humanitarian law and human rights violations, including via international criminal law processes.[33] This includes a requirement to prosecute violations committed against persons with disabilities.

[32] CRPD, art. 11.

[33] Pons, Lord, and Stein, above note 1, p. 71. Janos Fiala-Butora, Disabling Torture: The Obligation to Investigate Ill-treatment of Persons with Disabilities, 45 Colum. Hum. Rts. L. Rev. 214 (2013).

Article 11 should be read in conjunction with other CRPD provisions to inform State implementation of obligations that bear upon combating hate speech and preventing atrocity crimes against persons with disabilities. For instance, its principles of non-discrimination, inclusion, participation, and accessibility, among others, inform how international mechanisms of accountability can be made more inclusive of persons with disabilities and responsive to their specific needs.

### **Positive duties in respect of exploitation, violence and abuse**

Articles 15, 16, and 17 of the CRPD provide specific protection against torture and other cruel, inhuman or degrading treatment or punishment, from exploitation and abuse and violations of physical and mental integrity. Article 16 requires parties to the Convention “to take all legislative, administrative, social, education and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects”. Here, for instance, States should undertake to investigate disability bias motivations of an offence when there are indications for its existence as a clear measure of implementation. Article 16 also addresses the need for information and education on how to avoid, recognize and report incidents of exploitation, violence and abuse. It also requires the provision of protection services and victim support, the monitoring of facilities and programmes by independent authorities, and the investigation and prosecution of violence and abuse.[34]

The prohibition of discrimination on the basis of disability (Article 5) and the requirement that reasonable accommodation be provided as an element of non-discrimination serves as an additional check against limitations and exclusions grounded in disability animus. Moreover, article 4(3) expresses the general obligation that States must consult persons with disabilities when developing and implementing legislation and policies to give effect to the CRPD and in other decision-making processes of concern.



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[34] Manfred Nowak. *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. United Nations Human Rights Council. UN Document A/HRC/7/3, paras. 38 and 39 (15 January 2008).

## **Combating ableism and disability animus**

The need to combat ableism is reflected in the CRPD in Article 8, on awareness-raising. It recognizes and requires States to adopt immediate, effective and appropriate measures to “combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.” Among the various measures enumerated to that end, Article 8 includes measures to encourage “all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention.” The connections between stigma, prejudice, hate speech and hate crimes in the context of disability are increasingly well documented.[35] Stigma acts as a key factor in the production and reproduction of hate speech.[36]

## **Accessible justice and accountability**

Article 13 recognizes that persons with disabilities must be able to access justice, including to redress violations of their human rights. Fact-finding and accountability mechanisms must bring perpetrators to justice who have committed genocide, war crimes and crimes against humanity against persons with disabilities. They have the right to have their complaints investigated and be afforded effective remedies.[37] Further, justice mechanisms, facilities and processes must be made accessible to persons with disabilities.[38] This means, among others things, providing disability accommodations for witnesses with disabilities to appear, sign language interpretation for deaf witnesses, accessible venues for persons with physical disabilities, or accessible formats for witnesses who are blind or who have print disabilities.[39]

The international human rights law framework accordingly provides a framework for combating incitement to violence as well as genocide and related crimes often referred to as atrocity crimes – encompassing genocide, crimes against humanity and war crimes – perpetrated against persons with disabilities.

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[35] Emerson, E., & Roulstone, A. *Developing an evidence base for violent and disablist hate crime in Britain: Findings from the life opportunities survey*. *Journal of Interpersonal Violence*, Vol. 29, No. 17, pp. 3086–3104 (2014).

[36] Katherine Quarmby, *Getting away with murder. Disabled people’s experiences of hate crime in the UK* (2008); Neil Jarman, Agnieszka Martynowicz, Katy Radford, Mary-Katherine Rallings & Fred Vincent. *Hate Crime Against People with Disabilities: A baseline study of experiences in Northern Ireland*. *Institute for Conflict Research* (2009).

[37] UN Special Rapporteur on the Rights of Persons with Disabilities, *International Principles and Guidelines on access to justice for persons with disabilities*. (2019), Principle 8.

[38] *Id.*

[39] *Id.*



# Disability Hate Speech

Serious violations of international human rights and international humanitarian law committed against persons with disabilities are more often than not preceded by online and offline hate speech - or other communication in speech, writing or behaviour that attacks persons with disabilities either on an individual or group basis based on their actual or perceived identity.

Reporting by a wide range of stakeholders including States, intergovernmental organisations, organisations of persons with disabilities and researchers reveals a wide range of hate speech and hate crimes directed at persons with disabilities on account of perceived or actual disability identity.[40] These include threats and attacks against persons with disabilities and attacks against properties used by persons with disabilities. Several examples show that the crimes may have been based on more than one bias, such as disability and ethnic origin, migratory status, religion and sexual orientation.[41] Interventions to combat disability hate speech are beginning to emerge (See Box 3).

## **Box 3: Addressing Hate Crimes by Helping Communities to Prevent and Respond to Disability-Related Hate Crimes**

The United States Department of Justice Community Relations Service (CRS) helps communities address and prevent hate crimes and tensions based on actual or perceived disabilities. CRS works with law enforcement, local and state officials, community groups, civil rights organisations, disability rights organisations, educational institutions, and others to reach a common understanding of the issues surrounding conflicts, including those on the basis of disability, and create sustained methods for preventing and resolving future conflicts. Responses include:

**Providing strategies and best practices** to law enforcement officials, first responders, and service providers to ensure respectful interactions with community members with disabilities and prevent misunderstandings.

**Facilitating dialogues** with administrators, teachers, and students at schools and universities to address issues impacting students with disabilities, such as bullying and harassment.

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[40] Katherine Quarmby, Getting away with murder. *Disabled people's experiences of hate crime in the UK* (2008); EU Fundamental Rights Agency, *Fundamental Rights Survey: Crime, Safety and Victims' Rights* (2021); Mark Sherry, *Don't ask, tell or respond: silent acceptance of disability hate crimes*. (2003).

[41] Disability Rights Commission, *Hate crime against disabled people in Scotland: a survey report*. (2004).

**Convening meetings** between law enforcement, city officials, and disability advocacy organisations to address tensions following alleged hate crimes and bias incidents on the basis of disability.

Source: United States Department of Justice Community Relations Service (CRS), Addressing Conflict Based on Disability, n.d. <https://www.justice.gov/file/1376386/download>.

Additionally, obligations found in the Convention on the Prevention and Punishment of the Crime of Genocide, in international human rights and humanitarian law and in customary international law establish legal obligations to prevent and to punish genocide, and other atrocity crimes.[42] International courts and tribunals have also referred to these obligations and clarified their specific content.

# Disability Hate Crime

Disability hate crime is a criminal offence involving violence or harassment targeted at an individual or group on the basis of disability or perceived disability. Persons with disabilities (or those perceived to be disabled) may also be impacted by hate incidents not arising to the level of a crime committed against them. Hate crimes and hate incidents against persons with disabilities can take a variety of forms and include bullying, harassment, name-calling, physical abuse, threats, intimidation and damage to or theft of property.[43]

Documented hate crimes include the following:

- **Physical attacks** – these can include physical assault, sexual abuse, damage to property, offensive graffiti, arson, or murder. For persons with albinism, they include attacks and removal of body parts for the purposes of witchcraft.
- **Verbal and other written abuse** – offensive language, name calling related to the person’s disability or presumed disability, bullying in schools, spreading rumours and false allegations (e.g., regarding adults with learning difficulties being accused of sex offending simply because of false negative stereotypes relating to their impairment). Persons with disabilities may also be targeted through other forms of abuse, including ‘cyber bullying’, online abuse, offensive texts, letters or emails.

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[42] Kayess, Rosemary, Janet E. Lord, William I. Pons and Michael Ashley Stein. *The U.N. Process for a Crimes Against Humanity Treaty Has Finally Started. Will It Account for Persons with Disabilities?* Just Security (2023).

[43] Sherry, Mark. *Hate Crimes Against Disabled People*. Social Alternatives, Vol. 19, No. 4, pp. 23-30 (2000).

- ▶ **Threat of attack** – these include various forms of intimidation, obscene or abusive text messages, telephone calls, threatening letters or emails, direct verbal threats, or groups congregating around a person’s home, street, or neighbourhood to cause fear and intimidation.
- ▶ **Abuse of a position of power** – this could include, for example, incidents perpetrated by those in positions of power such as governmental agency staff, guardians, paid caregivers or family members.

Preventing disability-based hate speech and hate crime means addressing social and cultural attitudes that underpin disability-based stigma and the shame associated with it; curbing disability discrimination and violence, including incitement to violence; and creating pathways or space to counter exclusion and discrimination of persons with disabilities and ensure their active engagement in decision-making.

## Barriers in Reporting Disability Hate Speech and Hate Crime

Too often, hate crimes against persons with disabilities are not reported at all. Research suggests that many reasons account for this phenomenon of underreporting. These include internalised shame on the part of the victim, fear of retaliation, or fear of not being believed. Other reasons include lack of information on how to report hate crime, a lack of accessible forms for reporting, a lack of training of responsible officers, and deprivation of interactions with the outside world for those living in institutions. These all impact the accurate reporting of hate crimes against persons with disabilities.[44] In addition to underreporting, there is limited data available on persons with disabilities who have been victims of hate speech and hate crimes. These barriers may be broken down into the following categories: (1) Disability bias, myths, stereotyping; (2) Lack of awareness by victims; (3) Segregation and exclusion; (4) Physical and communication barriers; (5) Impact of hate speech and hate crime on persons with disabilities (See Diagram 1).

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[44] J. McDevitt, J. Balboni, L. Garcia, & J. Gu. *Consequences for victims: A comparison of bias- and non-bias-motivated assaults*. 45(4) *American Behavioral Scientist* 697–713 (2001).



**Diagram 1: Barriers to Reporting for Persons with Disabilities**

***Disability bias, myths and stereotypes***

Disability-based bias, myths and stereotypes impact the reception of persons with disabilities in the justice sector to report a crime or participate in proceedings as witness. Within the criminal justice system, ableist notions about impairments and health conditions may be used to discredit the views and opinions of persons with disabilities. This is particularly relevant for individuals who are labelled or identify as persons with intellectual or psychosocial disabilities and who often are denied legal capacity and with it the right to state their views and to participate in decision-making about their lives.

***Lack of awareness of the victims***

In some cases, victims with disabilities may not be aware of their rights, may not know how to file a complaint, may believe that the crime may not be regarded as serious enough, or that their complaint will not be believed because of their disability.

This specifically affects women or children with disabilities, and persons with intellectual or psychosocial disabilities, especially persons placed under guardianship and other regimes depriving them of their legal capacity. Additional barriers include a lack of adequate support in their daily life to report the offence, especially when the perpetrator is someone they know (e.g., a caregiver, a guardian, or family member). In addition, persons with intellectual disabilities may not always realise that they have been victims of hate crime or may accept such treatment as part of their daily lives.

***Segregation and exclusion***

Persons with disabilities often live in segregated, isolated environments, whether in institutions or group homes, or within their own homes. This circumstance can make it difficult or impossible to report crimes, especially where the perpetrator is an employee of the institutional or group home. Often, incidents that occur within such environments lead to an unacceptable and bureaucratic response, such as moving the perpetrator to a different area of work.

## ***Physical and communication barriers***

Numerous barriers present serious obstacles for persons with disabilities in accessing justice and in realizing their right to equality before the law as guaranteed by the ICCPR (Article 26) as well as the CRPD (Articles 12, 13). Inaccessibility of the built environment, including inaccessible police stations and courts create barriers for persons with physical disabilities. Inaccessibility of communication with people working for the justice system and inaccessible information, for instance for persons with disabilities who are deaf, create barriers to report, investigate and sanction offences. In addition, complaint procedures are not always accessible for persons with disabilities where information is not available in Easy to Read, Braille and/or sign language. Reinforcing these barriers, first responders, such as police, are rarely trained in disability equality and are ill-informed about how to assess the accessibility of police/prosecution/victim support processes.

## ***Impact of hate speech and hate crime on persons with disabilities***

The impact of hate speech perpetrated against persons with disabilities underscores the need for strong measures to prevent atrocity crimes, strengthen human rights protection obligations, sustain peaceful societies, achieve disability equality and support children and adults with disabilities.

Hate speech and hate crimes against persons with disabilities can create anxiety, fear and trauma and hinder their inclusion in society. If incidents are not reported and/or recognized as crimes or offences, and perpetrators are not held accountable, victims are at a high risk of experiencing repeat victimisation and bias-motivated harassment.

When repeated incidents do not receive attention by police or the criminal justice system, persons with disabilities, like other at-risk groups, may internalise their oppression and marginalisation – wrongly concluding that they are responsible for the violence and injustice experienced.

# **Ending Impunity for Crimes against Persons with Disabilities**

The CRPD requires the protection of persons with disabilities in situations of risk and requires the identification, investigation, and prosecution of serious disability-based violations of international human rights law and international humanitarian law.[45] The European Court of Human Rights decided in favour of a man with intellectual and physical disability who faced hate speech and disability-based harassment as well as physical assault (See Box 4).

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[45] Pons, Lord, and Stein, at 71.

#### **Box 4. European Court of Human Rights Judgment on Disability Hate Crime: The Case of *Đorđević v Croatia***

Dalibor Đorđević, a person with physical and intellectual disabilities, was a victim of harassment and violence from July 2008 to February 2011. He resided with his mother, Radmila, who helped him with daily care. Both individuals complained of persistent harassment by students at the primary school near their flat.

The harassment was initially psychological but eventually escalated to physical attacks. Instances of violence included shouting heinous slurs, vandalization of the applicants' property, cigarette burns, and slapping. These incidents adversely impacted Dalibor's health and left him in a state of perpetual fear and anxiety. Numerous complaints were lodged to state authorities, including the police, social services, the primary school, and the local ombudsman. Despite this, little was done to address the hateful behaviour of the children and prevent future abuse from occurring.

In 2012, the European Court of Human Rights (ECtHR) determined the harassment endured by the applicants met the threshold for protection by Articles 3 and 8 of the European Convention on Human Rights (ECHR). Article 3, which expressly prohibits torture, applied to the repeated instances of abuse and mistreatment suffered by Dalibor. The right to respect for one's private and family life is enshrined in Article 8 ECHR. While Radmila Đorđević was not directly exposed to violence, the frequent incidents disrupted her daily life, thus engaging Article 8.

Further, the ECtHR drew upon the UN Convention on the Rights of Persons with Disabilities (CRPD) to highlight the State's positive obligation to fight discrimination and actively ensure the wellbeing of members of the disability community. Relevant CRPD Articles referenced by the ECtHR included Article 1 (purpose), Article 4 (general obligations), Article 5 (equality and non-discrimination), Article 8 (awareness-raising), Article 15 (freedom from torture or cruel, inhuman, or degrading treatment or punishment), Article 16 (freedom from exploitation, violence, and abuse), and Article 17 (protecting the integrity of the person).

The ECtHR stressed in its judgement that although the Croatian State agencies were made aware of the ongoing harassment, no systemic approach to resolving the matter was taken. As the State had failed to take adequate steps in addressing the severity of the situation, the rights and safety of Dalibor and Radmila Đorđević were impinged.

This landmark case signifies a meaningful step forward in raising awareness of the prevalence of disability hate crimes and drawing attention to the crucial role State authorities play in investigating and combating disability-related abuse. It is a victory not only for Dalibor Đorđević and his mother, but for the entire disability community.

Source: *Đorđević v. Croatia*, App no 41526/10 (ECtHR, 24 July 2012).

Some States are making progress in tracking hate crimes against persons with disabilities. Good practices include research into hate-based speech and hate crimes undertaken by State authorities and by organisations of persons with disabilities.[46] Providing guidance to justice sector personnel on factors that are often associated with disability crimes reflects another good practice (See Box 5). Law reform initiatives combating hate crimes include addressing legislative stereotyping through eliminating derogatory language regarding persons with disabilities in laws and policies and government discourse.[47] Other initiatives include identifying and dismantling barriers in accessing justice, including through increasing victim and witness support to persons with disabilities who are victims of hate crimes.

### **Box 5. Crown Prosecution Service in the United Kingdom Guidance on Disability Hate Crime**

#### Guidance on Common Factors in Disability Hate Crime

The Crown Prosecution service provides the following guidance concerning factors common to disability hate crimes that may assist prosecutors in the features of such crimes:

Incidents escalate in severity and frequency over time including financial or sexual exploitation; making the victim commit minor criminal offences such as shoplifting; using or selling the victim's medication; taking over the victim's accommodation to commit further offences such as taking/selling drugs, handling stolen goods and encouraging under-age drinking.

Opportunistic criminal offending becomes systematic and there is regular targeting, either of the individual victim or of their family/friends, or of other disabled people.

Perpetrators are often partners, family members, friends, carers, acquaintances, or neighbours. Offending by persons with whom the disabled person is in a relationship may be complicated by emotional, physical and financial dependency and the need to believe a relationship is trusting and genuine, however dysfunctional.

Carers, whether employed, family or friends, may control all or much of the disabled person's finances. This provides the carer with opportunities to abuse, manipulate and steal from the disabled person.

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[46] Disability Rights Commission, *Hate crime against disabled people in Scotland: a survey report*. (2004); Griffiths, Miro. *Disability Hate Crime: A guide for disabled people's organisations, law enforcement agencies, national human rights institutions, media and other stakeholders*. Dublin: ENIL. Pp. 15 and 18. (2004).

[47] Organisation for Security and Co-operation in Europe (OECD). *Hate Crime Laws: A Practical Guide* (2009).

There are a number of common triggers for crimes against disabled persons, for example: access or equipment requirements, such as ramps to trains and buses, can cause irritability or anger in perpetrators; perceived benefit fraud; jealousy in regard to perceived "perks", such as disabled parking spaces.

Multiple perpetrators are involved in incidents condoning and encouraging the main offender(s) - for example, filming on their mobile phones and sending pictures to friends or social networking sites.

False accusations of the victim being a paedophile or "grass".

Cruelty, humiliation and degrading treatment, often related to the nature of the disability: for example, blindfolding someone who is deaf; destroying mobility aids.

Barriers to, and negative experience of, reporting to criminal justice agencies, which leads disabled people to feel that they are not being taken seriously.

Disabled people have a tendency to report incidents to a third party rather than to the police.

Source: United Kingdom Crown Prosecution Service, Disability Hate Crime and Other Crimes against Disabled People: Prosecution Guidance (3 March 2022), <https://www.cps.gov.uk/legal-guidance/disability-hate-crime-and-other-crimes-against-disabled-people-prosecution-guidance>.



# Preventing Genocide, War Crimes and Crimes Against Humanity against Persons with Disabilities

Preventing genocide, war crimes and crimes against humanity is primarily the responsibility of individual States. It requires a multisectoral, whole-of-society approach that relies on strategies to mitigate and minimise the impacts on targeted individuals and groups, including persons with disabilities. Accountability for these crimes against persons with disabilities can play a role in deterring violations and ending a long-standing impunity for such crimes. Moreover, addressing the disability dimension is integral to a successful reconciliation process and the consolidation of peace in post-conflict societies.

Just as States have a primary responsibility under Article 11 of the CRPD as well as international law to protect their populations of persons with disabilities from genocide, war crimes and crimes against humanity, they also have the obligation under the CRPD as well as international conventional and customary law to see that those responsible for acts of genocide, war crimes and crimes against humanity perpetrated against persons with disabilities are made accountable and that victims have a right to an effective remedy from accessible legal processes.[48] Together with other transitional justice mechanisms, prosecutions give recognition to the lived experience of victims and their families and contribute to the restoration of their dignity that they may have lost or had compromised as a result of the crime.

## Assessing the Risk of Genocide, War Crimes and Crimes Against Humanity and Persons with Disabilities

Knowing what happened in the past, who was responsible and why it happened, paves the way for preventing a recurrence of violence, for putting in place early warning mechanisms and developing strategies for prevention.

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[48] William I. Pons, Janet E. Lord, and Michael Ashley Stein, *Addressing the accountability void: War crimes against persons with disabilities*, International Review of the Red Cross (2022).

The UN Office on Genocide Prevention and the Responsibility to Protect (UNOSAPG) developed a *Framework of Analysis for Atrocity Crimes*[49], a risk analysis guidance tool intended to be applied flexibly in all parts of the world, allowing the identification of those countries and groups most at risk of genocide, war crimes and crimes against humanity.

The *Framework* identifies 14 risk factors for atrocity crimes. Each risk factor presents indicators which may be used to guide the assessment of information and consider the potential impact on particular groups, including persons with disabilities. For example, taking risk factor 11, on signs of a widespread or systematic attack against any civilian population, a monitor or analyst can use the *Framework of Analysis for Atrocity Crimes* to form an assessment of whether and how any of the indicators are present and impacting persons with disabilities when considering the prevention of genocide, war crimes and crimes against humanity.

The effective use of the *Framework of Analysis for Atrocity Crimes* depends on the systematic collection of reliable information that can enable the identification of a risk factor. The *Framework of Analysis* has eight common risk factors and six specific ones that reflect the definitions of genocide, war crimes and crimes against humanity as well as case law from the work of international courts and tribunals.

The *Framework of Analysis for Atrocity Crimes* is a public document and UNOSAPG encourages its use by various stakeholders for early warning, monitoring, assessment and forecasting the signs of genocide, war crimes and crimes against humanity. Its use can help identify areas of success and gaps in atrocity prevention strategies at the national, regional, and international level.

The chart below applies selected indicators to 13 out of the 14 risk factors and suggests how they could be contextualised to scope risks of atrocity crimes against persons with disabilities. The illustrative disability linkage in the chart below (third column) is not exhaustive and is presented as an example of how to reflect a disability dimension when considering the risk factors for genocide, war crimes and crimes against humanity.

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[49] United Nations. *Framework of Analysis for Atrocity Crimes: A Tool for Prevention* (2014), available at [https://www.un.org/en/genocideprevention/documents/publications-and-resources/Genocide\\_Framework%20of%20Analysis-English.pdf](https://www.un.org/en/genocideprevention/documents/publications-and-resources/Genocide_Framework%20of%20Analysis-English.pdf)

## Chart 1: Disability-Based Risk Assessment

Examples of application of the Framework of Analysis for Atrocity Crimes – Risk Factors and Indicators for a Disability-Based Risk Assessment		
Common Risk Factors	Indicator	Illustrative Disability Linkage
<b>Risk Factor 1:</b> Situations of armed conflict or other forms of instability	1.9 Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities.	Persons with disabilities are more likely to live in poverty, experience unemployment and inequalities, all factors that are risk factors for atrocity crimes.
<b>Risk Factor 2:</b> Record of serious violations of international human rights and humanitarian law	2.1 Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals.	Targeting persons with disabilities or sub-groups of persons with disabilities for forced sterilisation; forced segregation; euthanasia all of which have occurred in States with records of serious violations of human rights.
<b>Risk Factor 3:</b> Weakness of state structures	3.6 Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims.	Weak state structures decrease protection for groups at risk, as illustrated by killings of persons with albinism with impunity in some countries.
<b>Risk Factor 4:</b> Motives or incentives	4.7 Ideologies based on the supremacy of a certain identity or on extremist versions of identity.	Ideologies that associate disability identity with impurity, genetic inferiority and the like.
<b>Risk Factor 5:</b> Capacity to commit atrocity crimes	5.4 Strong culture of obedience to authority and group conformity.	Instances of mass atrocities against persons with disabilities have occurred in States where group conformity was strong (e.g., Nazi Germany and North Korea)

<p><b>Risk Factor 6:</b> Absence of mitigating factors</p>	<p>6.1 Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves.</p>	<p>Societies with weak networks of organizations of persons with disabilities and weak legal protections have facilitated serious violations of human rights law against persons with disabilities who often lack knowledge of their rights.</p>
<p><b>Risk Factor 7:</b> Enabling circumstances or preparatory actions</p>	<p>7.8 Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them.</p>	<p>Actions restricting fundamental rights of persons with disabilities suggesting trajectory, as in laws restricting marriage, allowing for involuntary sterilization of disabled people, or mass segregation and institutionalization.</p>
<p><b>Risk Factor 8:</b> Triggering factors</p>	<p>8.7 Acts of incitement or hate propaganda targeting particular groups or individuals.</p>	<p>Hate propaganda targeting persons with disabilities as “useless eaters” or “drain on society” or morally unworthy.</p>
<p><b>Specific Risk Factors</b></p>	<p><b>Indicators</b></p>	<p><b>Illustrative Disability Linkage</b></p>
<p><b>Risk Factor 9:</b> Intergroup tensions or patterns of discrimination against protected groups</p>	<p>9.4 Past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities, participation in decision making processes, security, expressions of group identity or to perceptions about the targeted group.</p>	<p>Disaffection among ex-combatants with disabilities with government based on failure to meet needs.</p> <p>Forced removal and disappearance of children with disabilities from families.</p>

<p><b>Risk Factor 10:</b> Signs of an intent to destroy in whole or in part a protected group</p>	<p>10.1 Official documents, political manifests, media records, or any other documentation through which a direct intent, or incitement, to target a protected group is revealed, or can be inferred in a way that the implicit message could reasonably lead to acts of destruction against that group.</p>	<p>Disability hate speech meeting the threshold of direct intent or incitement to acts of destruction against persons with disabilities.</p> <p>Forced abortion/euthanasia on the basis of disability.</p>
<p><b>Risk Factor 11:</b> Signs of a widespread or systematic attack against any civilian population</p>	<p>11.1 Signs of patterns of violence against civilian populations, or against members of an identifiable group, their property, livelihoods and cultural or religious symbols.</p> <p>11.2 Increase in the number of civilian populations or the geographical area targeted, or in the number, types, scale or gravity of violent acts committed against civilian populations.</p>	<p>Patterns of violence directed at persons with disabilities or groups of persons with disabilities, for example, targeting institutions or attacks against persons with albinism.</p>
<p><b>Risk Factor 12:</b> Signs of a plan or policy to attack any civilian population</p>	<p>12.8 Facilitating or inciting violence against the civilian population or protected groups, or tolerance or deliberate failure to take action, with the aim of encouraging violent acts.</p>	<p>Systemic failure to address disability hate crimes or to act against them.</p>
<p><b>Risk Factor 13:</b> Serious threats to those protected under international humanitarian law</p>	<p>13.5 Conduct that dehumanizes the enemy or particular groups within the population, or that exhibits disrespect for their religious, ethnic or, in general, cultural traditions, morals and values, objects or institutions.</p> <p>13.6 Adoption of measures that severely curtail the rights of those protected under international humanitarian law, including those aligned or perceived as aligned with opposing parties but not taking active part in hostilities.</p>	<p>Hate speech directed at persons with disabilities on the basis that they are “sub-human” or “impure.”</p> <p>Persons with disabilities, specifically protected under international humanitarian law, are particularly at risk during armed conflict, and may face serious risk especially when isolated in institutions or in their home communities.</p>

The application of risk analysis tools can and should be utilised for assessments in the context of a specific group that experiences heightened risks. For persons with disabilities, this means:

- ▶ Applying a disability-specific risk assessment (inclusive of a disability analysis of political, contextual, historical and cultural analysis).
- ▶ Integrating a disability lens into risk assessments as a matter of course.
- ▶ Engaging with organisations of persons with disabilities in risk analysis.

# Conclusions

Research demonstrates that persons with disabilities the world over, and particularly in conflict and post-conflict and transitioning countries, experience stigma, prejudice and social isolation, combined with lack of education, social support networks, and system preparedness to appeal injustices at the family, community, national or international level. These challenges expose persons with disabilities to even greater vulnerabilities related to the risks of genocide, war crimes and crimes against humanity.



The recommendations that follow are designed to address the documented barriers that inhibit the prevention of disability-based hate speech and hate crimes and promote accountability for violations of international human rights law and international humanitarian law against persons with disabilities.





# Recommendations

## States





-  Contribute to changing discriminatory social norms and ideas relating to persons with disabilities by raising awareness throughout society, particularly among policymakers, public officers, service providers and the media regarding the inherent dignity and rights of persons with disabilities, including by challenging negative stereotypes and prejudices and raising awareness of their value, capabilities, and contributions.
-  Support activities undertaken by public authorities to involve persons with disabilities in decision-making processes related to issues that directly or indirectly affect them in line with article 4(3) of the CRPD and General Comment no. 7 of the CRPD Committee, including consultation meetings, technical briefings, online consultation surveys, calls for comments on draft legislation and policies, among other methods and mechanisms of participation.
-  Adopt provisions to abolish and eliminate derogatory language on persons with disabilities in laws, policies, and government discourse.
-  Address and counter hate speech against persons with disabilities through collaboration with multiple stakeholders, including civil society organisations and organizations of persons with disabilities, faith-based organisations, and the media.
-  Legislate to abolish harmful practices against persons with disabilities, including women and children, such as invasive and irreversible involuntary treatment and practices linked to witchcraft accusations, forced ingestion of unclean water or other harmful substances to cure mental illness, chaining of persons with disabilities.
-  Ensure that criminal law provisions relating to hate crime cover all grounds of discrimination equally, including disability.
-  Prohibit as criminal offences serious and extreme instances of incitement to hatred against persons with disabilities, including persons with albinism, where they meet the threshold of severity, intent, content, extent, likelihood or probability of harm occurring, imminence and context.

-  Adopt civil laws with diverse procedural and substantive remedies (e.g., restoring reputation, preventing recurrence, and providing financial compensation).
-  Conduct social dialogue and engagement to prevent hate crimes with stakeholders, including the media, in order to proactively promote the voices of persons with disabilities who are systematically targeted by hate speech and hate crime.
-  Conduct awareness raising and education on harmful practices and hate crimes against persons with disabilities, including on root causes.
-  Establish appropriate monitoring bodies and complaint mechanisms, including national human rights institutions, to investigate reports of hate crimes against persons with disabilities, including persons with albinism.
-  Break down barriers to access to justice, including through increasing victim and witness support to persons with disabilities who are victims of hate crimes.
-  Research and collect data regarding hate crimes against persons with disabilities to aid policy formulation and evaluation, including disaggregated data regarding types of abuses and attacks, perpetrators, and profiles of victims.
-  Fulfil the rights to truth, to rehabilitation, and to redress and restitution of persons with disabilities who are victims of atrocity crimes.
-  Undertake, with the support of UN actors, memorialization efforts that respect the right to truth for persons with disabilities and recognize the experiences of communities of persons with disabilities that have experienced atrocity crimes.
-  Recognize, monitor, collect data and analyse trends on disability-related hate speech and hate crimes, including speech that can result in atrocity crimes, at national and local levels to support effective responses.
-  Promote the moral repair approach to disability-based violence and welcome survivors with disabilities back into their communities and encourage their re-acceptance and reintegration instead of isolating and stigmatising them.
-  Train persons with disabilities in peer-to-peer counselling to support survivors of violence, including gender-based violence.
-  Implement international and national legislation to prevent disability-based violence.





-  Combating stigmatisation and exclusion based on negative beliefs or attitudes concerning persons with disabilities, including those based on customary, religious, or medical worldviews.
-  Training and education for communication and media professionals on the human-rights based approach to disability to facilitate media coverage to raise the visibility of persons with disabilities in society, amplify their voice and image in inclusive settings and to raise awareness about human rights violations against persons with disabilities.
-  Train law enforcement officers on indications of bias motivation when investigating crimes.
-  Initiate trust-building measures to encourage reporting by victims with disabilities of bias-motivated or other forms of crime.








## ***UN Agencies and Bodies***

-  Condemn disability-based hate speech, express solidarity with victims and support those who challenge and counter such expressions while recognizing the fundamental importance of freedom of opinion and expression in societies based on the rule of law, democracy, and human rights.
-  Recognize, monitor, collect data and analyse trends on disability-related hate speech, at national and global level to support effective responses.
-  Convene relevant actors – including Member States, regional organisations, media and social media platforms, organisations of persons with disabilities and other civil society organisations, and faith actors – to develop strategies to identify, address and counter disability-related hate speech at the national and global levels, in accordance with the United Nations Strategy and Plan of Action on Hate Speech.
-  Ensure coverage of persons with disabilities in efforts undertaken by the Special Adviser on the Prevention of Genocide to advance national and international efforts to protect populations from genocide, war crimes and crimes against humanity, as well as their incitement.

## ***Social Media Companies and Online Platforms***

-  Encourage social media companies and online platforms to adopt disability-inclusive definitions of hate speech and adapt community standards recognizing that disability hate speech can repeat historical patterns of discrimination, negative stereotypes and incite hostility and violence.
-  Promote consultations by social media companies with a wide variety of stakeholders, including organisations of persons with disabilities and other civil society organisations and representatives of communities of persons with disabilities that have experienced atrocity crimes, to ensure that appropriate context-specific moderation efforts are being undertaken to address online hate speech.

## ***Organisations of Persons with Disabilities and Other Civil Society Organisations***

-  Take action to increase public awareness and community involvement in responding to disability bias, prejudice, intolerance and hate crime.
-  Condemn and advocate against disability-based violence, in all its forms.
-  Participate in coordinated planning processes, task forces and institutional frameworks to promote community stability and to respond to hate groups.
-  Provide assistance to survivors of hate crimes.
-  Advocate for reforms of school curricula to include topics on diversity, hate speech, conflict resolution and information about disability hate crimes.
-  Strengthen through training of media professionals the responsible and accurate media coverage of hate speech and hate crimes.
-  Advocate for the establishment of mechanisms for repairing harm to community, including a “healing of memories” approach to disability-based violence and promote the welcoming back survivors of disability-based violence into their communities and encouraging their re-acceptance and reintegration.

## **Researchers**



Research and collect data on hate crimes against persons with disabilities to aid policy formulation and evaluation, including disaggregated data regarding types of abuses and attacks, perpetrators, and profiles of victims.



Advance research that brings to light discriminatory social norms and ideas relating to persons with disabilities, including those persons belonging to other identity groups.



Identify sustainable solutions through situational analyses of persons with disabilities, including persons with disabilities and persons with albinism in order to better understand the various enabling factors in attacks on them and in transborder crimes, including trafficking.

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