International Journal for Multidisciplinary Research (IJFMR)
E-ISSN: 2582-2160 ● Website: www.ijfmr.com ● Email: editor@ijfmr.com

What Is 'Genocidal Disability': Respecting the Dead and Rehabilitating the Living

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ABSTRACT

Genocide is ranked as the crime of crimes. After its identification by Prof. Raphael Lemkin genocide is an act of denial of human existence on earth. As though the Convention on the Prevention and Punishment of Crime of Genocide, 1948 (Genocide Convention) aims to save the 'protected group' (national, racial, ethnic or religious), the actual victims are the human group itself. The introduction of the UN Tribunals (Yugoslavia and Rwanda) indeed contributed to understand the international criminology and penological traditions. Probably, in the truer sense, the decisions seen from the eyes of genocidal victims testified the worst forms of human victimisation. Agonisingly, in the physical world the state of absolute hopelessness for the genocidal victims. As the Chambers repeatedly affirmed in their factual and legal findings that the survivors had lost their all, the family, property, cultural traces, in systematic sexual violence, the spirit to live itself was absent so and so forth. All these pose the question: Is the term remedy any way relevant for the victims of genocide? With such state of desperate human affairs and almost remediless situation, the author aims to identify and promote certain remedies. To state, establishment of the truth about genocidal victims, remembrance of dead victims, and showing brotherly and sisterly affection to the survivors and working towards prevention of genocide are all prudential ways. In sum the concern is: The disability of the genocidal victim is the most composite. Only truthful efforts can heal their suffering. Methodology shall be analytical and multi-disciplinary.

Keywords: Genocidal Disability, Disability, Rehabilitation, Dignity.

Introduction

Genocide does not end with the cessation of violence. Its impact extends beyond the immediate destruction of life to the long-term impairment of physical, psychological, social, and economic experienced by survivors, communities, and entire nations. These enduring harms can be understood as "genocidal disabilities". The complex and lasting impairments arising directly from genocidal acts and indirectly through the consequences of torture, starvation, systematic sexual violence, forced displacement, etc.[1] This paper examines the meaning and nature of genocidal disability, the suffering of the dead and survivors, and the legal and moral imperative to rehabilitate affected persons and to address their plight. Though in some circumstances reparations provided but they are frequently symbolic, inaccessible, or poorly funded.[2] Particular attention is paid to women and children, who are frequently targeted both as bearers of future generations and as symbols of communal identity. It is tantamount to understand the

[1] Martha Minow, *Between Vengeance and Forgiveness* (Beacon Press 1998).
[2] Clara Sandoval, *Reparations for Victims of Armed Conflict* (CUP 2021).

impact of this in their social and civic life due to the never-ending trauma.[3] . In many genocides, disability is both a method and an outcome of violence.[4]

The Nature of Genocidal Disability

Genocidal disability encompasses more than bodily injury. It includes trauma, social exclusion, loss of livelihood, displacement, and the destruction of cultural identity. Survivors are frequently denied medical care, identity papers, or employment, entrenching their marginalisation decades after the atrocity.[5] The Convention on the Rights of Persons with Disabilities (CRPD) affirms the right to health, education, work, accessibility, and participation in cultural and public life.[6] Genocide often involves systematic discrimination based on ethnicity, race, or religion, coupled with mass killings, forced displacement, and acts intended to eradicate a population. Survivors bear the consequences for the remainder of their lives. Women frequently experience extreme gender-based violence, including rape, sexual slavery, and forced impregnation. In some genocides, women were told that they must carry the children of their persecutors, and many were killed when they resisted or were otherwise deemed expendable. Children were also targeted in some instances killed solely because of their ethnicity, while others were left orphaned, displaced, traumatized, or permanently injured. International criminal tribunals have historically focused on punishing perpetrators rather than repairing the structural harms experienced by survivors with disabilities.[7]

Psychological trauma was magnified by constant fear and displacement, as survivors hid in forests, hills, caves, or abandoned buildings. Elderly persons, women, and children were especially vulnerable, often left disabled or killed. In many communities, state actors including police and military personnel not only failed to protect civilians but directly participated in atrocities. Guards at checkpoints frequently exercised arbitrary power over life and death, sometimes deciding whether a person should be killed, raped, detained, or released based on ethnicity, personal bias, or the ability to pay. Women and girls, in particular, experience layered harms including stigma, reproductive complications, and exclusion from family and community life.[8]Sexual violence was also driven by propaganda that dehumanized targeted women and portrayed them as objects to be violated. Some women were mutilated or subjected to humiliating public abuse before being killed, while others were forced into long-term sexual servitude. Forced participation in violence within families also caused profound psychological injury; in some cases, spouses were compelled or persuaded through hate rhetoric to kill or betray their partners.

The Dead and the Survivors

The cruelty of genocide extended beyond killing itself. In many cases, victims were stripped of dignity even in death. Bodies were left exposed, decomposing in public view, while those who attempted to conduct burials risked accusations of supporting the enemy. This violated deep-rooted cultural and religious traditions requiring respect for the dead and caused lasting anguish for survivors. Survivors describe perpetrators treating mass murder as routine work, returning daily to continue the killing. Others

[3] Gerard Quinn, 'Personhood, Disability and Legal Capacity' (2010) *NQHR* 163
[4] ICTR, *Prosecutor v Akayesu* (Judgment) ICTR-96-4-T (1998).
[5] UNSC, 'Report of the International Commission of Inquiry on Darfur' (2005).
[6] Convention on the Rights of Persons with Disabilities 2006, arts 25–27.
[7] Charles T Hunt, 'Transitional Justice and Disability' (2017) *IJTJ* 1.
[8] United Nations, *Guidance Note on Reparations for Conflict-Related Sexual Violence* (2014).

who initially escaped were later deceived into returning home under assurances of safety, only to be killed. Mass graves and skeletal remains stand as stark reminders of the systematic nature of extermination. Establishing an accurate death toll is essential for historical truth, justice, and prevention of denial. However, unreliable census data, forced identity manipulations, and interethnic marriages complicate numerical assessments. What is undisputed is that hundreds of thousands of lives were lost, and the demographic and psychological consequences persist through generations.

Survivors' Rights to Justice and Compensation

Genocide leaves many survivors destitute including widows, orphaned children, and communities stripped of property. International law recognizes the right of victims to restitution, compensation, and rehabilitation, although access to legal redress remains uneven. Vulnerable groups such as elderly widows or children often lack awareness, resources, or proximity to courts to assert their rights, meaning they are excluded from compensation mechanisms unless proactive support is provided. At the same time, some individuals exploit legal processes for personal benefit, illustrating the need for transparent and fair reparations systems. Justice must therefore balance the protection of genuine victims with safeguards against abuse. Dignity is not merely a philosophical principle; it is a legal and moral obligation requiring States and institutions to acknowledge harm, restore agency, and ensure non-repetition.[9] Rehabilitation, remembrance, and social inclusion form the core of this obligation.

Genocidal Disability in International Human Rights Law and International Criminal Jurisprudence

The Convention on the Rights of Persons with Disabilities (CRPD) recognizes disability as an evolving concept arising from the interaction between individual impairments and societal barriers. Article 1 includes persons with long-term mental impairments, while Article 16 obliges States to ensure the protection, recovery, rehabilitation, and reintegration of persons with disabilities who have been victims of violence, exploitation, or abuse. This must occur in environments that respect dignity, autonomy, and gender and age sensitive needs. Survivors of genocide clearly fall within this framework. Physical injuries, psychological trauma, sexual violence, displacement, and social stigmatization all create disabling conditions requiring sustained assistance and protection.

The jurisprudence of international criminal tribunals further illustrates how genocide generates disability. The findings of ICTY's in Prosecutor v. Radovan Karadžić demonstrated that detainees suffered inhumane conditions including inadequate food, medical care, sanitation, and shelter, as well as routine torture and sexual violence. Many victims endured permanent physical and psychological harm. Similar findings of mass killings, forced displacement, and terrorization arose in Prosecutor v. Musema and other cases. These judgments confirm that genocide is not limited to killing. It also encompasses policies intentionally inflicting serious bodily or mental harm and creating conditions of life calculated to destroy a group.

Prevention of Genocide and the Elimination of Genocidal Disability

Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide,1948 imposes a duty on States not only to punish but also to prevent genocide. The United Nations initiatives including the work of the Office on Genocide Prevention and the Responsibility to Protect emphasize education, early-warning mechanisms, monitoring of hate speech, and promotion of inclusion and respect for

[9] Universal Declaration of Human Rights 1948, art 1.

diversity. Genocide is rarely spontaneous. It is often preceded by xenophobia, racism, dehumanization, and political manipulation, including hate speech amplified through media and technology. The United Nations Strategy and Plan of Action on Hate Speech calls for addressing structural causes, supporting victims, fostering peaceful and inclusive societies, and engaging media responsibly while respecting freedom of expression.

The doctrine of the Responsibility to Protect (R2P) reinforces that each State must protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity. Where States fail or are themselves complicit, the international community has a duty to act through peaceful and lawful means, consistent with the UN Charter. Women and children warrant particular protection. Security Council Resolution 1325 (2000) calls for the prevention and punishment of sexual and gender-based violence in conflict, while Resolution 1612 (2005) strengthens accountability for grave violations against children. These frameworks must be fully implemented to address the intersection of genocide, gender, and disability.

Rehabilitation, Dignity, and Memory

Beyond legal obligations, there is an ethical duty to restore dignity to both the dead and the living. The Basic Principles and Guidelines on the Right to a Remedy further recognise rehabilitation as a form of reparation.[10] Survivors must receive medical, psychological, social, and economic support, including access to education, employment, and community reintegration. Property restitution and compensation are essential components of justice. Equally important is truth-telling and memorialization. Recording accurate histories prevents denial and honours the humanity of the victims. Respectful burial, preservation of memorial sites, and recognition of suffering promote healing and reconciliation. However, rehabilitation must go beyond medical intervention. A purely clinical model risks pathologizing survivors rather than empowering them.[11]

States therefore carry *positive duties* toward survivors, including long-term medical care, psychosocial support, accessible housing, and community reintegration.[12]A justice-centred model integrates disability rights, trauma-informed care, and survivor-centred decision-making. Community-based rehabilitation models that restore agency rather than dependence have proven particularly effective.[13] Culturally sensitive approaches matter as well, because stigma, customary law, and gender norms can either enable or undermine recovery.[14] Economic rehabilitation is equally critical. Genocide often destroys livelihoods and narrows economic opportunities for persons with disabilities, pushing them into generational poverty.[15] Inclusive employment policies, social protection, and reparations programmes must be carefully designed to avoid bureaucratic exclusion or traumatisation.[16] Survivors should never have to repeatedly prove their suffering to access support.

Dignity lies at the heart of post-genocide reconstruction. Survivors frequently describe the erasure of dignity through humiliation, degradation, and the objectification of their bodies as one of genocide's most

[10] UNGA Res 60/147 (2005).
[11] Tom Shakespeare, *Disability Rights and Wrongs Revisited* (Routledge 2013).
[12] UN Committee on the Rights of Persons with Disabilities, General Comment No 7 (2018).
[13] WHO, *Community-Based Rehabilitation Guidelines* (2010).
[14] Dyan Mazurana, 'Gender and Post-Conflict Reconstruction' (2004) *SSRC Working Paper*.
[15] World Bank, *Disability and Development Report* (2019).
[16] Pablo de Greiff, *The Handbook of Reparations* (OUP 2006).

painful legacies.[17] Restoring dignity means recognising survivors as rights-holders rather than passive recipients of aid. Consultation, participation, and informed consent must therefore structure all interventions affecting persons with genocidal disabilities.[18] Ethically grounded care also requires acknowledging intersectionality. Disability interacts with age, gender, ethnicity, and displacement, meaning that a single policy can affect groups in radically different ways.[19] For example, widows with disabilities may face property dispossession or forced remarriage, while disabled men may confront stigma linked to cultural expectations of masculinity.[20]

International and domestic courts have begun to acknowledge the specific harms of genocidal disability, yet justice mechanisms must do more to enable testimony by survivors whose disabilities impede participation.[21] Accessibility, assistance, and trauma-sensitive procedures are therefore essential components of dignified justice.[22] Memory plays a crucial role in dignity as well. To forget the disabled survivors of genocide is to perpetuate the violence symbolically. Inclusive memorialisation helps correct the historical record and validates the lived experience of survivors.[23] Museums, curricula, and commemorative spaces must ensure that persons with disabilities are represented not as objects of pity but as active historical subjects.[24]

Conclusion

Genocidal disability represents one of the most devastating legacies of mass atrocity. It is not confined to physical injury; it encompasses long-term psychological trauma, social exclusion, economic deprivation, and the rupture of cultural and familial bonds. When disability caused by genocide is erased from public history, survivors experience a second form of invisibility.[25] International human rights law particularly the CRPD and the Genocide Convention recognizes the need to protect survivors, ensure accountability, and prevent recurrence. Preventing genocide requires confronting hate, promoting dignity and equality, strengthening legal institutions, and ensuring that the rights of women, children, minorities, and persons with disabilities are fully respected. Rehabilitation of survivors and respect for the dead are central to this effort. Truth commissions, historical archives, and survivor testimony programmes should therefore document medical, psychological, and socio-economic impairments as integral features of genocidal strategy.[26] Only by acknowledging and addressing genocidal disability can societies move toward justice, restoration, and the protection of future generations. Reparations must similarly reflect the continuing nature of disability-related harm rather than treating it as a one-time event.[27] Teaching future generations about genocidal disability fosters empathy and prevents dehumanisation, a key precursor to mass atrocity.[28] Survivor-led education initiatives are especially valuable because they restore narrative authority to those whose voices were once silenced.[29] The challenge for the global community is not

[17] Elaine Scarry, *The Body in Pain* (OUP 1985).
[18] CRPD, art 4(3).
[19] Kimberlé Crenshaw, 'Mapping the Margins' (1991) *Stanford Law Review* 1241.
[20] Human Rights Watch, *'As If We Weren't Human'* (2010).
[21] Rome Statute of the International Criminal Court 1998, arts 68–75.
[22] ICC, *Victims Participation and Reparation Section Guidelines* (2010).
[23] James Young, *The Texture of Memory* (Yale UP 1993).
[24] UN Special Rapporteur on Truth, Justice and Reparations, Report A/HRC/45/45 (2020).
[25] Pierre Nora, 'Between Memory and History' (1989) *Representations* 7.
[26] Priscilla Hayner, *Unspeakable Truths* (Routledge 2010)
[27] Inter-American Court of Human Rights, *Velásquez-Rodríguez v Honduras* (1988).
[28] UNESCO, *Education About the Holocaust and Preventing Genocide* (2017).
[29] Barbara Harff, 'No Lessons Learned?' (2012) *Genocide Studies and Prevention* 61

simply to acknowledge the existence of genocidal disability, but to ensure that survivors live not as symbols of suffering, but as full and equal members of the human family.[30]

[30]. UNGA, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (2015).