

COSP19: War Crimes Against Persons with Disabilities in Ukraine – Rethinking International Humanitarian Law

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Thank you. I must start with my deep appreciation of the incredibly important work you are doing at Fight For Right. It was an honour to be with you two weeks ago in Ukraine calling for abolition of the guardianship system – I was deeply inspired by your clarity, that recovery and reconstruction will only succeed where it is just and ensures equality of persons with disabilities under the law.

I want to be clear about the starting point. Russia's full-scale invasion against Ukraine has caused immense human suffering. Where war crimes and other grave violations have been committed, there must be accountability. There must be truth. And there must be reparations.

This is not an abstract legal question. It is about people who could not flee bombardment. People abandoned in institutions. People who lost homes, assistive devices, support networks, documentation, medication, interpreters, personal assistance, community connections — and sometimes their liberty, dignity and lives.

The aggression itself has created disability.

Civilians have acquired disabilities through bombardment, torture, missiles, sexual violence, detention, displacement, trauma, and the collapse of health and support systems. Veterans have returned with physical, sensory, intellectual and psychosocial disabilities. Children and older people have acquired impairments in circumstances of extreme violence and deprivation.

That reality must fundamentally shape how we think about reparations, and must also inform the future Crimes Against Humanity treaty. Reparations are not only about compensating a fixed group of people who were already identified as persons with disabilities before the full-scale invasion. They must also respond to the mass creation of impairment through war.

The emerging international reparations architecture is important. The Register of Damage for Ukraine, and the planned International Claims Commission, represent serious efforts to record harm, assess claims and move toward redress. These mechanisms matter – and they must also ensure redress and reparations for persons with disabilities.

The first priority is access to justice.

Many persons with disabilities in Ukraine face systemic barriers long before they reach any reparations mechanism. Some remain under guardianship. Some live, or lived, in institutions where staff, directors or authorities may control documents, access to information, communication with the outside world, and even the ability to give evidence. Some have been displaced into poverty, homelessness or destitution.

A reparations mechanism that assumes every victim can simply submit a digital form, gather documentary evidence, explain complex harms, and navigate legal categories independently will exclude many of the people most severely affected.

So procedural accommodations, as guaranteed under Article 13 of the CRPD, are not a technical add-on. They are central in ensuring access to justice, and must be fundamental within reparations mechanisms – including in the Crimes Against Humanity treaty.

Every stage of the process must be accessible: outreach, information, applications, evidence collection, interviews, hearings, decisions, appeals, payments and follow-up support.

It also means recognising legal capacity. Persons with disabilities must be able to bring claims in their own name. Where support is needed, that support must enable the person's will and preferences — not replace them. Reparations cannot be mediated through the very legal structures that have historically silenced people.

The second priority is evidence.

War crimes against persons with disabilities are often invisible in mainstream documentation. Deaths in institutions may not be recorded as directly conflict-related. Forced transfers may be described as “evacuations.” Violence against people with psychosocial or intellectual disabilities may be dismissed as unreliable testimony. Loss of assistive technology, personal assistance, communication support or community-based services may not be understood as reparable harm.

Reparations mechanisms must therefore recognise disability-specific harms. Not only injury to the body, but loss of autonomy. Not only destruction of housing, but destruction of independent living arrangements. Not only displacement, but forced institutionalisation. Not only family separation, but separation from support persons, interpreters, assistants and chosen communities.

And for people who have acquired disabilities during the war — civilians and veterans alike — reparations must also recognise future needs: rehabilitation, long-term support, accessible housing, assistive technology, mental health and psychosocial support, income security, community inclusion, and protection against institutionalisation.

The third priority is the meaning of restitution – and I thoroughly endorse Fight For Right's call to ensure that international justice mechanisms don't exclude and silence people with disabilities yet again.

In classical terms, restitution means restoring the victim, as far as possible, to the situation that existed before the violation. But for many persons with disabilities in Ukraine, the pre-war situation was already one of segregation, guardianship, poverty, institutionalisation, and denial of choice.

So, we have to ask a difficult question: what does restitution mean when the previous situation was itself incompatible with the Convention on the Rights of Persons with Disabilities?

Surely it cannot mean returning a person to the same institution from which they were evacuated. It cannot mean restoring guardianship. It cannot mean rebuilding large residential institutions under the language of recovery. It cannot mean keeping groups of institutionalised people together in Europe, and then returning them as groups into segregated settings in Ukraine.

That would not be reparation. It would be the restoration of exclusion.

Restitution must be understood through the CRPD. It must mean restoring rights, not merely restoring placements. It must support legal capacity, independent living, family and community inclusion, access to housing, personal assistance, rehabilitation, assistive technology, income support, education, work, and participation in public life.

This is also where recovery and reconstruction become central.

Ukraine needs enormous international support to recover from Russia's aggression. That support must continue. But recovery cannot mean rebuilding the systems that failed persons with disabilities before the war. Reconstruction cannot mean new institutions, renovated institutions, expanded institutions, or “temporary” institutional solutions that become permanent.

And we need to be honest: at present, some international assistance is moving in the wrong direction – humanitarian responses or reconstruction plans reinforce residential institutions, segregated care, or group-based placements, they risk reproducing the very violations that the CRPD requires States to dismantle.

The answer is not to weaken accountability for Russia. The answer is to make reparations and reconstruction more ambitious.

Russia must be held accountable for the harm it has caused. And Ukraine also has duties toward its own citizens with disabilities. Justice for war crimes cannot be separated from justice in recovery. Ukraine's future cannot be built on the foundations of segregation, guardianship and institutionalisation.

This is also directly relevant to Ukraine's accession to the European Union.

If Ukraine's recovery from the full-scale invasion is to align with EU accession, then disability rights must be treated as central to the justice and fundamental rights agenda.

That means the EU also has responsibilities. The EU should ensure that CRPD standards are embedded in the accession process, including under the justice and fundamental rights chapter: access to justice, legal capacity, deinstitutionalisation, independent living, accessibility, inclusive services, and participation of organisations of persons with disabilities.

European support for Ukraine must not finance the reconstruction of institutions. It must finance the transition to community-based support.

Reparations for persons with disabilities must include compensation, but they cannot stop there. They must include rehabilitation, accessible housing, community-based support, restoration of legal capacity, replacement of assistive devices, psychosocial support, guarantees of non-repetition, and structural reform.

And they must be designed with persons with disabilities themselves: women with disabilities, children and young people with disabilities, people with intellectual disabilities, people with psychosocial disabilities, Deaf people, veterans with disabilities, older people, those still living in institutions, those displaced inside Ukraine, and those displaced abroad.

The test of these mechanisms will not only be how many claims they process. It will be whether the people most excluded from justice can actually reach them. Whether their testimony is believed. Whether their choices are respected. Whether reparations help them leave institutions rather than return to them. Whether it can fundamentally break with the old Soviet systems of segregation, institutionalisation and guardianship.

At COSP, twenty years after the adoption of the CRPD, this must be our message: accountability and transformation belong together.

Russia must be held accountable. Victims must receive reparations. Ukraine must be supported to recover and to join the European family. But persons with disabilities from Ukraine must not be restored to lives of segregation, silence or substituted decision-making.

They must be supported to rebuild lives of dignity, autonomy, equality and inclusion in the community.