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The intersections of international humanitarian law and the rights of persons with disabilities in armed conflict

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Abstract
Armed conflicts disproportionately affect vulnerable populations, including persons with disabilities. Yet, their specific needs and rights have historically been underrepresented in the discourse of International Humanitarian Law (IHL). This paper examines the intersections between IHL and the international human rights framework governing the protection of persons with disabilities during armed conflict. It explores how instruments such as the Geneva Conventions, Additional Protocols, and the Convention on the Rights of Persons with Disabilities (CRPD) converge to ensure dignity, non-discrimination, and inclusion in humanitarian response and post-conflict recovery. The paper argues for a harmonized interpretation of IHL and human rights law to enhance accountability and practical protection for persons with disabilities in conflict zones.

Keywords: International humanitarian law, disability rights, armed conflict, Geneva conventions, CRPD, human rights law

Introduction

Armed conflict imposes grave consequences on all civilians, but for persons with disabilities, the impact is uniquely devastating. Physical barriers, communication limitations, and social stigma exacerbate vulnerability during crises. International Humanitarian Law (IHL), traditionally focused on the protection of civilians and the conduct of hostilities, has evolved to encompass inclusive protection standards. Simultaneously, international human rights law, particularly the Convention on the Rights of Persons with Disabilities (CRPD), reinforces the need for equal protection and accessibility in conflict situations.

This paper explores how IHL and the rights of persons with disabilities intersect, overlap, and occasionally diverge, emphasizing the need for coherent implementation.

Who Are Persons with Disabilities?

1. General Definition

Persons with disabilities are individuals 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.

This definition is drawn from Article 1 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD, 2006) [3] — the primary international treaty concerning disability rights.

2. Understanding the Key Elements of the Definition

Long-term impairments: These are not temporary; they last over time and can affect various aspects of life.

Examples: paralysis, blindness, autism spectrum disorder, chronic mental illness.

3. Types of impairments:

3.1 Physical impairments: Affect body movement or function (e.g., loss of limbs, spinal cord injury).

3.2 Sensory impairments: Affect senses like sight, hearing, or speech (e.g., deafness, blindness).

3.3 Intellectual impairments: Affect understanding, learning, or decision-making (e.g., Down syndrome).

3.4 Mental impairments: Affect psychological or emotional functioning (e.g., bipolar disorder, PTSD).

Disability is not only a health condition. It results from the interaction between an individual's impairment and environmental, attitudinal, institutional, or communication barriers that restrict participation in society.

Example: A person using a wheelchair is not "disabled" by the wheelchair itself, but by the lack of ramps or accessible transportation.

4. Human rights perspective

Disability is understood today under a social and human rights model, not just a medical one. This means the focus is on removing barriers and promoting inclusion, rather than "fixing" the person.

Modern international law, particularly the CRPD, adopts the human rights model of disability. This model emphasizes that disability results from societal barriers, not merely from an impairment. Persons with disabilities are entitled to all human rights and fundamental freedoms. Governments have a duty to remove barriers and promote accessibility, participation, and equality.

International protection of human rights

International protection of human rights is achieved through the following mechanisms:

1. **International human rights law:** States are bound by obligations to respect, protect, and fulfill human rights by becoming parties to international treaties.

2. **International Covenants:** The International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) shape international human rights.

3. **Domestic legal systems:** Governments put into place domestic measures and legislation compatible with treaty obligations to protect human rights.

4. **Universal Declaration of Human Rights:** A common standard of achievement for all peoples and nations.

5. **Obligations of States:**

International law requires States to act in certain ways to promote and protect human rights. The international human rights movement was strengthened when the United Nations General Assembly adopted of the Universal Declaration of Human Rights (UDHR) on 10 December 1948[19]. Drafted as ‘a common standard of achievement for all peoples and nations', the Declaration for the first time in human history spell out basic civil, political, economic, social and cultural rights that all human beings should enjoy. It has over time been widely accepted as the fundamental norms of human rights that everyone should respect and protect. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights, form the so - called International Bill of Human Rights.

6. **International human rights treaties:**

A series of international human rights treaties and other instruments adopted since 1945 have conferred legal form on inherent human rights and developed the body of international human rights. Other instruments have been adopted at the regional level reflecting the particular human rights concerns of the region and providing for specific mechanisms of protection. Most States have also adopted constitutions and other laws which formally protect basic human rights. While international treaties and customary law form the backbone of international human rights law other instruments, such as declarations, guidelines and principles adopted at the international level contribute to its understanding, implementation and development. Respect for human rights requires the establishment of the rule of law at the national and international levels.

International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual complaints or communications are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.

International humanitarian law (IHL)

International humanitarian law (IHL), or the law of armed conflict, is the law that regulates the conduct of armed conflicts (jus in Bello). It comprises "the Geneva Conventions and the Hague Conventions, as well as subsequent treaties, case law, and customary international law. It defines the conduct and responsibilities of belligerent nations, neutral nations and individuals engaged in warfare, in relation to each other and to protected persons, usually meaning civilians.

1. **The nature and scope of IHL**

International humanitarian law, just in Bello regulates the conduct of forces when engaged in war or armed conflict. It is distinct from jus ad bellum which regulates the conduct of engaging in war or armed conflict and includes crimes against peace and of war of aggression. Together the jus in Bello and jus ad bellum comprise the two strands laws of war governing all aspects of international armed conflicts.

The law is mandatory for nations bound by the appropriate treaties. There are also other customary unwritten rules of war, many of which were explored at the Nuremberg War Trials. By extension, they also define both the permissive rights of these powers as well as prohibitions on their conduct when dealing with irregular forces and non-signatories. Serious violations of international humanitarian law are called war crimes.

Persons with Disabilities and the Impact of Armed Conflict

Persons with disabilities constitute approximately 15% of the global population, and their number increases significantly in conflict zones due to war-related injuries, landmines, and inadequate healthcare. Displacement, loss of assistive devices, and lack of access to information further compound their suffering. For instance, during the Syrian conflict, persons with disabilities faced heightened risks of abandonment and barriers to evacuation and humanitarian assistance.

These realities challenge the adequacy of traditional IHL frameworks, which, though universal, often lack explicit disability-inclusive provisions.

International Humanitarian Law and the Protection of Persons with Disabilities

1. **Geneva Conventions and Additional Protocols**

The Geneva Conventions of 1949[1] and their Additional Protocols of 1977 [2] are the core instruments of IHL. They obligate parties to respect and protect civilians, the wounded, sick, and those hors de combat. Article 12 of Geneva Convention I requires humane treatment without adverse distinction based on physical condition, while Article 75 of Additional Protocol I ensures fundamental guarantees for all persons in the power of a party to the conflict.

Although disability is not explicitly referenced, the principle of non-discrimination encompasses it. Moreover, the obligation to provide medical care “to the fullest extent practicable” includes those with pre-existing disabilities and those newly disabled due to conflict injuries.

2. **Customary IHL**

Customary IHL reinforces the protection of persons with disabilities through norms prohibiting discrimination and mandating the humane treatment of all individuals. Rule 88 of the ICRC’s Customary IHL Study emphasizes that persons with disabilities must be treated humanely and protected against any adverse distinction.

The Convention on the Rights of Persons with Disabilities (CRPD) and Armed Conflict

Adopted in 2006, the CRPD represents a paradigm shift from the medical to the social model of disability, recognizing persons with disabilities as rights-holders. Article 11 of the CRPD explicitly requires States Parties to ensure the protection and safety of persons with disabilities in situations of risk, including armed conflict and humanitarian emergencies.

The CRPD thus complements IHL by demanding proactive measures—accessibility, inclusion, and participation—beyond mere non-discrimination. It also reinforces obligations of states and humanitarian actors to provide accessible shelters, communication, and services.

Intersections and Complementarities between IHL and Disability Rights

IHL = International Humanitarian Law → Law of armed conflict. Geneva Conventions + Additional Protocols.

Disability Rights = CRPD → Convention on the Rights of Persons with Disabilities 2006 + African Disability Protocol 2018[3, 34] In war, persons with disabilities are hit twice: by the conflict, and by systems that ignore them. IHL and Disability Law were developed separately, but they protect the same people. When read together, they close protection gaps.

1. The core intersection: who are "Persons with disabilities" in war?

IHL doesn't use the word "disability". It protects Civilians Art 4 GC IV, Persons hors de combat Art 3 Common GC, Wounded and sick Art 12 GC I, Detainees Art 13 GC III. CRPD Art 1 says: "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments..."

African Disability Protocol Art 1: Adds "environmental barriers" as part of disability.

2. The Intersection

A person becomes a "person with disability" in war in 3 ways: Pre-existing disability: Blind, deaf, wheelchair user, autistic person in a conflict zone Conflict-caused disability: Amputation from landmine, PTSD, spinal injury from bombing Situational disability: Elderly who can't run, pregnant women, children separated from caregivers. IHL protects categories 2 and 3 as "wounded/sick" and "civilians". CRPD protects all 3 always. Together they cover the full lifecycle.

IHL and the CRPD therefore intersect in several key areas:

2.1 Protection during hostilities: Both bodies of law protect civilians, including persons with disabilities, from direct attack and require distinction between combatants and civilians.

2.2 Humane treatment: IHL's humane treatment principle aligns with CRPD Articles 15 and 17, which prohibit torture and guarantee respect for physical and mental integrity.

2.3 Access to humanitarian assistance: IHL mandates impartial relief, while the CRPD requires accessibility and participation, ensuring aid reaches persons with disabilities equitably.

2.4 Accountability and Reparations: Violations of IHL that disproportionately affect persons with disabilities can constitute war crimes. CRPD mechanisms, alongside human rights courts, can reinforce accountability through reporting and complaint procedures.

2.5 Principle of Distinction: Art 48 API: Must distinguish civilians from combatants and CRPD Art 11: States must take measures to protect PWDs in situations of risk.

2.6 Protection of Wounded & Sick: Art 12 GC I: Must be respected, protected, treated humanely and CRPD Art 25: Right to health including rehab, assistive devices.

2.7 Humane Treatment in Detention: Art 13 GC III: POWs treated humanely. Art 27 GC IV: Civilians and CRPD Art 14, 15: Liberty, freedom from torture. Art 13: Access to justice and CRPD Art 11: Risk situations. Art 9: Accessibility.

2.8 Evacuation & Assistance: Art 17 GC IV: Parties shall facilitate evacuation of wounded, sick, infirm.

2.9 Prohibition of Discrimination: Art 3 Common GC: "without adverse distinction and CRPD Art 5: Equality and non-discrimination

2.10 Data & Participation: IHL silent while CRPD Art 31: Statistics. Art 4(3): Participation of PWDs.

3. Critical areas where the meet in practice

3.1 Accessibility in humanitarian action

Problem: In Sudan 2023, IDP camps had latrines with steps. Deaf people missed aid announcements. IHL + CRPD solution:

IHL: Art 23 GC IV requires free passage of medical supplies.

CRPD: Art 9 requires physical, information, and communication accessibility.

→ **Result:** Aid agencies must build accessible WASH, use multiple formats for warnings.

3.2 Mental health and psychological support

Problem: War causes PTSD, depression, anxiety.

IHL: Art 12 GC I "wounded and sick" includes mental illness. Must be treated.

CRPD: Art 25 Health, Art 17 Integrity. Prohibits forced treatment.

→ **Result:** Mental health services must be voluntary, community-based, not institutional.

3.3 Inclusion in disarmament: Landmines and ERW

Problem: 70% of landmine victims are civilians. Many become PWDs.

IHL: Ottawa Treaty 1997 bans anti-personnel mines. API Art 51 prohibits indiscriminate weapons.

CRPD: Art 10 Right to life. Art 26 Habilitation and rehabilitation.

→ **Result:** States must not only clear mines, but provide prosthetics, rehab, and socio-economic inclusion per Art 26 CRPD.

3.4 Protection from violence

Problem: PWDs in institutions during war are at high risk of abuse, abandonment.

IHL: Art 27 GC IV "protected from violence".

CRPD: Art 16 Freedom from exploitation and violence. Art 19 Living independently.

→ **Result:** Evacuation of institutions must be prioritized. Cannot leave people behind.

3.5 Participation in peace and recovery

Problem: Peace talks and DDR programs exclude PWDs.
IHL: Silent on participation.
CRPD: Art 4(3) "Nothing about us without us". Art 29 Political participation.
→ **Result:** Peace processes, truth commissions, reparations must include DPOs. This is now the African Union (AU) policy.

African Context: The missing link

Africa has the highest rate of conflict-caused disability globally. Key African instruments: African Disability Protocol 2018 [34]: Art 29 "Persons with disabilities in situations of risk". First treaty to explicitly mention war. Requires inclusive humanitarian action. Kampala Convention 2009: Art 9: IDPs with special needs including disability must get protection. ACHPR: Purohit v The Gambia 2003: Mental health care is a right even in detention.

Case example: Endorois v Kenya 2009 + displacement. If Endorois had members with disabilities, state duty would be even higher under Protocol Art 29.

Case Studies

1. Syria

In the Syrian civil war, persons with disabilities experienced systematic exclusion from humanitarian aid due to inaccessible facilities and communication barriers. Reports by Human Rights Watch (2019) [6] highlighted instances where individuals were abandoned during evacuations because vehicles could not accommodate wheelchairs. Multiple UN and NGO reports document that children and adults with disabilities in Syria have been repeatedly left without access to health care, prosthetic/assistive devices, education, and social services during active fighting and displacement. This leaves them at far greater risk of injury, death and long-term marginalization.

People with mobility or sensory impairments often could not evacuate during bombardments or could not reach humanitarian distribution points because of inaccessible shelters/transport and discriminatory practices. Humanitarian actors repeatedly flagged a lack of inclusive programming.

UN reporting has recorded gross human-rights violations suffered by returnees and detainees — including people with disabilities — on return to government-held areas (ill-treatment, denial of medical care). The Independent International Commission of Inquiry on Syria and OHCHR have highlighted that person with disabilities are “forgotten victims.”

These practices violate Syria’s obligations under international human-rights and humanitarian law (right to life, health, non-discrimination, protection of civilians in armed conflict) and run counter to the CRPD’s requirement to ensure equal access to services and protection.

2. Ukraine

The 2022 Ukraine conflict underscored similar challenges. Many older persons and those with disabilities were trapped in inaccessible buildings or left behind during evacuations. The United Nations has since emphasized disability-inclusive humanitarian response plans under the IASC Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action (2019) [5].

The Russian invasion has caused widespread damage to hospitals, rehabilitation centers, prosthetic services and accessible transport — services many people with disabilities rely on. That damage has directly caused loss of life, deterioration of medical conditions, and abandonment of people who cannot reach care.

Forced isolation, institutionalization and inadequate care for older people and those with disabilities: Amnesty and other organizations documented that displaced older people and people with disabilities were left isolated, faced neglect, and in many cases had no practical options for safe, dignified housing or continuity of care after displacement.

Failures and discrimination in evacuations / filtration processes: Reports by UN bodies and NGOs show people with disabilities were sometimes deprioritized or unable to be evacuated from combat zones; some were subjected to “filtration” and ill-treatment where they were detained or forcibly transferred. There are documented cases of forcible transfers / deportations of Ukrainian civilians (including vulnerable groups), which international bodies have condemned.

Detention, torture and ill-treatment in occupied areas and in detention facilities: UN reporting and investigative journalism have documented torture, beatings and other ill-treatment of Ukrainian detainees; while not all documented victims are described by disability status, the UN found systemic mistreatment of civilians in detention centers operated by Russia — which places high-risk detainees (including those with medical needs or disabilities) in grave danger when medical care and safeguards are absent.

These actions contravene obligations under international humanitarian law (protections for civilians, prohibition on forced transfer/deportation, protections for the wounded and sick) and human-rights law (non-discrimination, right to health). Forcible transfers and large-scale deportations are also elements considered by international bodies when assessing possible war crimes and crimes against humanity.

Challenges in Implementation

Despite the legal convergence, significant challenges persist:

1. **Silo thinking:** Military lawyers know IHL. Disability advocates know CRPD. They don’t talk.
2. **Data gap:** 90% of humanitarian data is not disability-disaggregated. So PWDs are invisible.
3. **Resource excuse:** "We have no accessible tents". CRPD says progressive realization, but IHL says immediate obligation.
4. **Institutionalization:** During evacuation, states dump PWDs in institutions = violates CRPD Art 19. Attitudes: Assumption that PWDs "can’t" participate in civil defense.
5. **Lack of awareness:** Many military and humanitarian actors lack disability-inclusive training.
6. **Data scarcity:** Absence of disaggregated data on persons with disabilities in conflict zones impedes effective planning.
7. **Accessibility barriers:** Shelters, information systems, and transport infrastructure are often inaccessible.
8. **Limited participation:** Persons with disabilities are rarely included in peacebuilding or post-conflict reconstruction processes.

These challenges call for integrated implementation strategies combining IHL obligations with CRPD principles.

The Way Forward

Train armed forces: IHL training must include disability module. "Distinction" = include PWDs in civilian protection planning.

1. **Inclusive Humanitarian SOPs:** All evacuation, aid distribution, camp design per IASC Guidelines on Inclusion of PWDs 2019 [5].
2. **Ratify + Domesticate:** 19 AU states still haven't ratified African Disability Protocol. Nigeria ratified 2020 but needs implementation law.
3. **Data:** Collect disability data in all conflict assessments. Use Washington Group Questions.
4. **Accountability:** Use ACHPR and African Court to litigate violations of Art 29 Protocol + Art 3 Common GC together.

   To enhance the protection of persons with disabilities in armed conflict:
5. **Mainstream disability inclusion** into military training, humanitarian planning, and post-conflict reconstruction.
6. **Adopt national action plans** aligning IHL obligations with CRPD commitments.\
7. **Ensure participation** of persons with disabilities and their representative organizations in humanitarian decision-making.
8. **Strengthen accountability mechanisms** to address disability-related violations as potential war crimes or human rights violations.

Conclusion

The intersection between International Humanitarian Law and the rights of persons with disabilities reveals both progress and persistent gaps. While IHL ensures general civilian protection, the CRPD introduces the specificity and inclusivity required for meaningful protection. A harmonized approach—where IHL is interpreted through a disability rights lens—can ensure that no one is left behind in times of war or peace. HL gives: Urgency, rules for conduct in war, protection of "wounded and sick". Disability Rights gives: Definition of disability, accessibility, participation, long-term inclusion Together they mean: It's not enough to not shoot a person with a disability. You must also: Warn them of attack in accessible format Evacuate them peacebuilding As CRPD Art 11 + Common Art 3 read together show: Humanity in war requires accessibility in peace. "No one left behind" is not a slogan. In IHL + Disability Law, it's a legal duty.

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